

REQUEST FOR CONTRACT APPROVAL

TO: ADMINISTRATIVE SERVICES

**ATTN: MARK A. COWART
DIRECTOR/CIO**

**FROM: BARBARA J. LEVEY
ASSESSOR-RECORDER**

SUBJECT: SOE SOFTWARE CORPORATION DBA SCYTL

**SUMMARY: APPROVE AGREEMENT WITH SOE SOFTWARE CORPORATION DBA
SCYTL FOR ELECTION NIGHT REPORTING SOFTWARE AND
SERVICES.**

**REQUESTED ACTION: REQUEST THE DIRECTOR/CIO OF ADMINISTRATIVE
SERVICES WITH CONCURRENCE OF COUNTY COUNSEL TO APPROVE AND SIGN
THIS CONTRACT WITH SOE SOFTWARE CORPORATION DBA SCYTL TO PROVIDE
ELECTION NIGHT REPORTING SOFTWARE AND SERVICES.**

APPROVAL DATE: (ADMINISTRATIVE SERVICES USE ONLY)

rev. 4/4/05

1 2 2 6 5⁴

C 9/13/16

SCANNED

SEP 23 2016



**CONTRACT ABSTRACT
AND
ROUTING FORM**

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<input type="checkbox"/> RENEWAL CONTRACT		<input checked="" type="checkbox"/> OTHER MOU																																										
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Department Name			Commodity Code																																									
Elections																																												
Name of Department Contact Person			Department Telephone Number																																									
BARBARA LEVEY			(209) 385 - 7346																																									
Name of Contracting Individual / Company			Individual / Company Telephone No.																																									
SOE Software Corporation dba Scytl			(571) 290 - 0951																																									
Contracting Individual / Company Address			Approval Date – BD <input type="checkbox"/> A.S. <input checked="" type="checkbox"/>																																									
5426 Bay Center Drive, Suite 525			9 / 13 / 16																																									
City			State / Zip Code																																									
Tampa			FL / 33609																																									
Subject Matter																																												
Merced County Elections would like to enter into an MOU with the SOE Software Corporation dba Scytl to obtain Election Night Reporting services.																																												
<table style="width:100%; border:none;"> <tr> <td style="width:30%;"></td> <td style="width:20%; text-align:center;">Draft Review</td> <td style="width:20%;"></td> <td style="width:20%; text-align:center;">Final Review</td> <td style="width:10%;"></td> </tr> <tr> <td rowspan="7">From: Barbara Levey, Assessor-Recorder</td> <td>To: Admin. Services</td> <td><input type="checkbox"/></td> <td>To: Admin. Services</td> <td><input checked="" type="checkbox"/> <i>KTN</i></td> </tr> <tr> <td>Human Resources</td> <td><input type="checkbox"/></td> <td>Human Resources</td> <td><input type="checkbox"/></td> </tr> <tr> <td>EEO / AA Officer</td> <td><input type="checkbox"/></td> <td>EEO / AA Officer</td> <td><input type="checkbox"/></td> </tr> <tr> <td>Risk Management</td> <td><input type="checkbox"/></td> <td>Risk Management</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>Auditor</td> <td><input type="checkbox"/></td> <td>Auditor</td> <td><input type="checkbox"/></td> </tr> <tr> <td>County Counsel</td> <td><input type="checkbox"/></td> <td>County Counsel</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>Executive Office</td> <td><input type="checkbox"/></td> <td>Executive Office</td> <td><input type="checkbox"/></td> </tr> <tr> <td>Other:</td> <td><input type="checkbox"/></td> <td>Other: CEO Budget</td> <td><input type="checkbox"/></td> <td></td> </tr> </table>							Draft Review		Final Review		From: Barbara Levey, Assessor-Recorder	To: Admin. Services	<input type="checkbox"/>	To: Admin. Services	<input checked="" type="checkbox"/> <i>KTN</i>	Human Resources	<input type="checkbox"/>	Human Resources	<input type="checkbox"/>	EEO / AA Officer	<input type="checkbox"/>	EEO / AA Officer	<input type="checkbox"/>	Risk Management	<input type="checkbox"/>	Risk Management	<input checked="" type="checkbox"/>	Auditor	<input type="checkbox"/>	Auditor	<input type="checkbox"/>	County Counsel	<input type="checkbox"/>	County Counsel	<input checked="" type="checkbox"/>	Executive Office	<input type="checkbox"/>	Executive Office	<input type="checkbox"/>	Other:	<input type="checkbox"/>	Other: CEO Budget	<input type="checkbox"/>	
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Merced County Election Office

Proposal for Election Night Reporting

September 7th, 2016

Matt Peterson
Sales Director
matt.peterson@scytI.com



ScytI

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1 Cover Letter

Barbara Levey
Registrar of Voters
2222 M. Street, Room 14
Merced, CA 95340

September 7th, 2016

Ms. Levey,

Thank you for the opportunity to provide you with a proposal. I am confident that based on our discussions you will find these solutions to be meaningful to both you and your stakeholders.

The services and cost estimates in the following proposal represent the best solution to the stated project parameters at competitive prices. This proposal is valid for a period of thirty (30) days from the date of presentation. In the event that Merced County and ScytI cannot agree upon a mutually agreeable contract within a thirty (30) day period, ScytI reserves the right to make any necessary adjustments to the scope, time estimates, or investment price for the project.

This proposal does not serve as a binding agreement for either party represented. Binding agreements will be acknowledged as a definitive contract, executed and delivered.

We look forward to building a relationship with Merced County. All inquiries to this proposal should be directed to Matt Peterson, Sales Director, 5426 Bay Center Drive, Tampa, Florida 33609. Matt can be reached at (571) 290-0951 or by email: matt.peterson@scytI.com.

Sincerely,

Matt Peterson
Sales Director, North America
ScytI
(951) 290-0951
5426 Bay Center Drive,
Tampa, Florida 33609

2 About Scytl

Scytl is a privately held independent software vendor that provides Federal, State, and Local election jurisdictions with innovative technology to help more effectively manage costs, time, training, and transparency. Established in 2001 as a developer of custom election and eGovernance technology, Scytl quickly built a reputation for highly transparent, secure, and easy to use solutions and a helpful and hardworking team to support Scytl's clients. Scytl partnered with many leading election minds across the US to build its portfolio and to provide an array of best of breed election administration solutions. During this time Scytl grew its client base to over 1,500 jurisdictions, in 35 states, across the US.

Scytl's election modernization solutions represent the most innovative and robust solutions available to election officials today. Our primary focus is putting control over costs and data back into the hands of the election jurisdictions. We accomplish this by making all of our solutions intuitive and easy to use, open to send and receive data in standard formats, and highly configurable to your unique needs. Scytl has run 19 of the 21 binding online elections across the globe and holds 41 international security patents related to the protection of the integrity and anonymity of the voting process. With the acquisition of SOE Software Corporation in 2012 (which was established in 2002), Scytl gained a respected presence in North America and strengthened its position as the global leader in electoral modernization with a full range of solutions that cover the election process from end to end, including:

- Voter registration
- Election management systems
- Secure internet voting
- Online ballot delivery
- Election day dashboards
- Help desk support
- Asset and warehouse management
- Poll worker management
- Mobile applications
- Election planning system
- Online voter registration
- Voter information web portals
- Electronic poll books
- Campaign finance reporting
- Election night reporting
- Online poll worker training

Proven Reliability

www.scytl.com

Scytl works with companies like Microsoft, Amazon, and other best of breed software and hosting providers, to ensure that Scytl's solutions are the most reliable and responsive available. Scytl's business model and large client base allows us to leverage economies of scale when providing our hosted solutions. Thus, we are able to provide a more robust infrastructure at a lower cost than if election officials purchased and supported their own hardware. Additionally, our staff of Account Managers act as an extension of election staff on Election Day and in the months leading up to it. Our staff will work hand-in-hand with the client's team through Logic & Accuracy testing to ensure that there is no duplication of efforts. It is because of this commitment to excellence that over 1,500 jurisdictions, across 38 states, have used our solutions successfully in thousands of elections across North America. Our infrastructure, and our experience, has been battle tested over the past 12 years and has stood the test of time.

The eDemocracy platform approach

Since its founding, Scytl has been engaging the leading minds in technology and elections to evaluate the global election market and determine areas where innovation would benefit election officials by allowing them to save costs or provide better services to their voters. The result of our analysis was that the challenges faced by most election officials were fairly consistent:

- Increasing costs
- Lack of visibility
- Event (or election day) driven
- Success usually from extraordinary effort
- Decreasing budgets
- Demanding clients
- High visibility
- No margin for error

While elections are unique, we were able to draw some parallels to other industries and how they addressed similar issues. The result is Scytl's eDemocracy Platform, which is Scytl's organizational principal for all of our solutions. The platform is based on the concept of "Client Relationship Management" (CRM), which many service-oriented industries have used to streamline their workflows. The benefit of this approach is that the election industry will have an end-to-end, web based solution set that it will be able to leverage as needed or on demand. All of Scytl's solutions will send and receive their data from the eDemocracy Platform. These modules can be turned on independently and the eDemocracy Platform is included with every Scytl product. This allows the user to add modules as required, and with each additional module, the user is able to gain a deeper view of what is happening in and around their elections.

Financial Stability

ScytI has received a great deal of attention from the investment community over the last 5 years, both in the US and abroad. The investment community looks very favorably on ScytI's year over year growth, our security credentials, our product and patent portfolio, and our global leadership in online elections. ScytI has a long-standing relationship with Balderton Capital, one of the largest venture capital funds in Europe. Balderton Capital is dedicated to nurturing innovative, world-leading companies by providing both experience, skills, and capital to support companies that are targeting markets of significant size which are ripe for transformation or poised for significant growth. Balderton saw the global election industry as ripe for innovation and modernization and saw ScytI as uniquely positioned, with a vision to provide leadership over that transformation.

In 2014, ScytI received \$104M in venture capital investment from Vulcan Capital and Sapphire Ventures, among other venture capital firms. Vulcan Capital is the investment arm of Vulcan Inc., founded by Paul Allen, co-founder of Microsoft, and Sapphire Ventures is the venture capital arm of SAP, which is the world's largest business software company, providing end-to-end systems that optimize business operations. The directive from these investors was to lead innovation in North America and provide transformative solutions in a way that helps elections control costs, and provide better services to voters. There is no other company that is a better long term partner in the elections space than ScytI because of our financial strength and capital commitment to innovation.



Balderton.
capital

SAPPHIRE
VENTURES

3 Election Night Reporting (ENR)

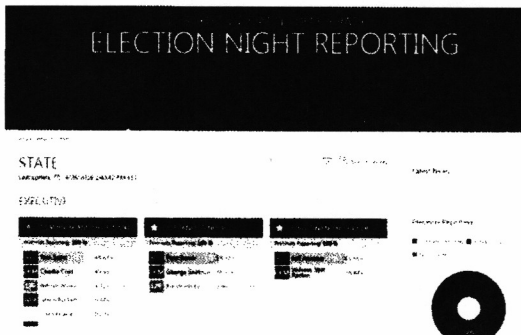


Display captivating, in-depth State-wide election results with ScytI's ENR. This tool allows elections officials to display visually appealing, graphical results along with State maps to illustrate voter turnout, totals by vote type, and results by precinct. With brilliant, colorful display this product is a must have for the public and the media on Election Night.

Highlights Include:

- Hosted Delivery – NO Hardware, Software, or Bandwidth Burden on your Office
- Graphical Presentation of Election Night Results – Maps, Bar Charts, Downloadable Reports
- No Direct Internet Connection to Tabulation Equipment

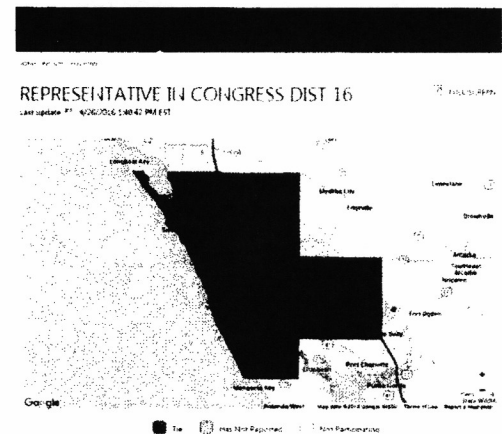
GRAPHICAL PRESENTATION



ENR enhances your web presentation of election night returns by empowering every web visitor to search for and find the information they desire. Bar chart presentation for each contest or issue on your ballot visually highlights the leading vote getters while also providing granular detail down to the actual number of votes received, where those votes were received, and votes by vote type (election day, absentee, provisional, etc.).

STATE AND COUNTY MAP DISPLAY

Candidates, political parties, voters, and media outlets appreciate the information display provided by ENR. For every political contest or question on the ballot, ENR provides engaging maps showing each contest within the State with details including precinct and vote type. The solution displays unique information, thus empowering web visitors to locate the information they are most interested in learning. ENR's map display delivers instant feedback on voting trends, minimizing inbound requests and maximizing voter education and transparency for your office.



VOTE TYPE BREAKDOWN

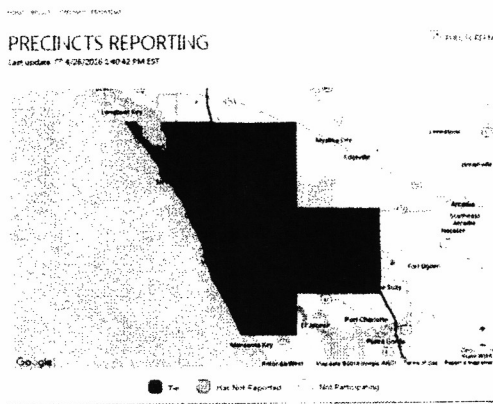
Today's web visitors demand customized information. **ScytI ENR** delivers with queryable reports detailing election night information, including county and precinct specific results, contest or question specific results, and vote type breakdowns. The vote type breakdown tab provides granular detail regarding the votes received, outlining early voting numbers, absentee voting numbers, Election Day returns, etc. This level of detail makes **ENR** the election industry's most comprehensive election night reporting tool.

RESULTS VOTE TYPES

99 / 99 Precincts Reporting

Party	Candidate	Polling	Early Voting	Absentee	Votes
REP	Vern Buchanan	38,808	15,347	24,523	78,678
DEM	Henry Lawrence	32,426	14,006	27,274	73,706
	Joe Newman	4,472	1,092	2,060	7,624
	Write-in	568	149	370	1,087

PRECINCT REPORTING UPDATE



While it is important to know which candidate or position is leading in each contest or question, it is also important to know the status of reporting for each precinct. **ENR** provides this detail through our visually appealing county map display feature. Each election precinct displays their level of reporting, where gray indicates the county has not reported, purple indicates the county has partially reported, and green indicates the county has completely reported. This enhances the level of detail displayed on your website and minimizes inbound requests for information.

RECIPIENT LISTS

ENR assists election directors in distributing the multitude of report requests on election night. The product includes an automated delivery system managed through Recipients Lists. This feature allows administrators to preload an unlimited number of recipients and their email addresses or secure FTP address prior to each election. Upon completion of each upload, these recipients will automatically receive a CSV or excel file containing the most recent update. This feature has been praised by our customers for expediting reporting to their state authorities and local media.

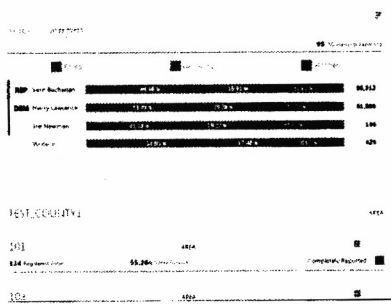
Demis General Election - Select Recipients

RECIPIENTS

Select	Destination	Type	CSV	XML	Alternate File
<input type="checkbox"/>	smarden@issosoftware.com	Email	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	mduke@issosoftware.com	Email	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	ez@issosoftware.com	Email	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>



REPORTS & FILTERING



ENR's ability to produce detailed breakdowns of contest information, vote type details, and precinct totals by city, district, and township in addition to summary totals is what truly sets **ScytI ENR** apart from a static presentation of a simple document. This level of detail helps to reduce phone calls, increase transparency, and provide overall better service to your voters, the media, and the public at large on Election Night and year-round.

4 Services to be provided

4.1 Services to be provided by Scytl

The services to be provided by Scytl in this proposal for the initial implementation are:

- Single point of contact for the County for project management.
- Actively collaborate with the County.
- Provision of the ENR as a service (SaaS) for the County.
- Design of the banner for the ENR platform.
- Creation and setup of County's instance.
- Deployment and validation of the solution on Scytl's data center in the US that will allow high availability during the production period.
- Technical management of the project in those parts corresponding to Scytl.
- Setup and Configuration of the platform.
- Perform a user acceptance test (UAT) to get the County's approval before the election period.
- Provision of the platform documentation.
- Remote training to the County to ensure that it is able to setup the platform for each election.
- All services to be provided remotely unless otherwise specified.

The services to be provided by Scytl in this proposal for the ongoing support are:

- Provide support to the County for the election setup (8 hours of support included per year) and monitoring of the platform on election night (Account Management and IT Engineer).
- Hosting of the solution on Scytl's data center in the US.
- Operation and maintenance of the infrastructure, including monitoring, and security (including automatic security copies) and vulnerabilities management.

4.2 County's involvement

The County will be required to provide the following services to assure the success of the project:

- A single point of contact for Scytl.
- Actively collaborate with Scytl to provide the requested data in the requested timescale. The County should devote necessary time (30 hours estimated for the implementation).
- Provide the necessary data (in electronic format) to configure the system.
 - Provide sample historical files for Primary and General at kickoff.
 - Provide map files at kickoff.
- Validate acceptance of the platform during the user acceptance test (UAT).
- Ongoing support: Perform election setup as trained by Scytl.

- Any other services not provided by ScytI.

5 Pricing

Scytl would like to offer Merced County the following licensing options for the proposed solution.

5.1 Proposed fees

Scytl Election Night Reporting (Implementation and 8 Month Contract)	
Implementation and Training	\$5839.00
8 Months of Annual Assurance (September 7 th , 2016 to May 6 th , 2017)	\$3984.00
Total Contract Price	\$9823.00

5.2 Payment terms

Scytl proposes the following payment schedule (Payment Terms are Net 30 from date of invoice):

- i. Implementation and annual assurance fees due upon receipt of invoice.

5.3 Assumptions

The following assumptions¹ have been made for the price quoted:

- i. Prices in USD and without taxes (unless otherwise stated).
- ii. The license applied reflects the 99,553 registered voters in Merced County.
- iii. ENR implementation assumptions:
 - a. 3 elections per year.
 - b. County tabulator: ES&S.
 - c. Implementation timeline to be mutually agreed by both parties.
 - d. County will provide KML map files.
- iv. License maintenance includes the following:
 - a. Technical support (Tier 3), limited to six (6) hours per eight (8) month term.
 - b. Bug-fixing.
 - c. Software Upgrades in accordance with product lifecycle.

¹ Scytl has based its preliminary quotation on assumptions. Any deviation regarding the elements included in this quotation and/or any additional service or material to the scope of this quotation, will require a detailed study which may require an updated quotation that will substitute the previous ones submitted.

- v. No customization or development services are included within the proposed price.
- vi. The proposed solutions are hosted on ScytI's Data Center.
- vii. All services to be provided remotely. On-site services are optionally available at an extra cost.

**SERVICE AGREEMENT
Between**

**Merced County
&
SOE SOFTWARE CORPORATION**

PREAMBLE

This SERVICE AGREEMENT (the "Agreement") is entered into as of this 7th day of September, 2016 ("Effective Date"), by and between **SOE SOFTWARE CORPORATION (d/b/a SCYTL)**, a corporation existing under the laws of Florida, with principal offices at 5426 Bay Center Drive, Suite 525, Tampa, FL 33609 ("SCYTL"), and **Merced County**, a political subdivision of the State of California located at 2222 M. Street, Room 14, Merced, CA 95340 ("CUSTOMER"). Collectively, SCYTL and CUSTOMER shall be referred to as the "Parties" and each separately as the "Party".

RECITALS

- A. SCYTL is a technology company specializing in the development and commercialization of highly secure electoral and e-democracy solutions, and in the provisioning of related products and services. SCYTL has developed and is the rightful owner of an Election Night Reporting (hereinafter referred to as ENR or the Software).
- B. CUSTOMER desires to retain SCYTL to provide a license on the Software and related services for its 2016 through 2018 elections for (Merced County) which will take place in (Merced, CA) (hereinafter referred to as the "Project") in accordance with the proposal prepared by SCYTL and submitted to the CUSTOMER on (August 16th, 2016) which is attached hereto as Appendix 1, being integral part of this Agreement (hereinafter referred to as the Proposal).

NOW, THEREFORE, in consideration of the foregoing and the mutual promises set forth below, the PARTIES agree as follows:

ARTICLE 1 – SERVICES AND SCOPE OF WORK

- 1.1. CUSTOMER hereby appoints and authorizes SCYTL to provide the services set forth in the Proposal. SCYTL hereby accepts the appointment and shall use its best efforts to perform its obligations under this Agreement and to provide the services in accordance with the timings, service level requirements and specification set forth in the Proposal.
- 1.2. CUSTOMER acknowledges that SCYTL's ability to deliver the services described in the Proposal is dependent upon CUSTOMER's full and timely cooperation with SCYTL, as well as the accuracy and completeness of any information and data CUSTOMER provides SCYTL.

- 1.3. SCYTL will not be liable for any delays to the delivery schedule specified in the Proposal caused by CUSTOMER or resulting from CUSTOMER's failure to fulfill any of its obligations.

ARTICLE 2 – SERVICE FEE AND PAYMENT

- 2.1. For the services to be performed by SCYTL under this Agreement SCYTL will charge CUSTOMER the Fees set forth in the Proposal. The Fees include the temporary license for the Software and all the services to be provided by SCYTL in accordance with the Proposal except for optional services and onsite support during elections, which may be requested by the CUSTOMER upon agreement on the relevant fees.
- 2.2. SCYTL shall invoice the Fees according to the Proposal.
- 2.3. CUSTOMER shall pay the invoices within thirty (30) days from the invoice date.

ARTICLE 3 – CHANGE REQUEST

- 3.1. A "Change Request" means an agreed upon change or modification to the services described in the Proposal.
- 3.2. Either PARTY may request a Change Request but all Change Requests must be in writing and prepared by SCYTL. Change Requests must be processed as soon as it is reasonably possible.
- 3.3. All Change Requests must be mutually agreed by the PARTIES. Pending such agreement, SCYTL will continue to perform and be paid as if the Change Request had not been requested or recommended.
- 3.4. Change Requests will be documented and will include the following: (i) a description of any additional work to be performed and/or changes to the performance required of either PARTY; (ii) the estimated timetable to complete the work specified in the Change Request and the impact, if any, on the delivery schedule, pricing and payments; (iii) specific individuals with management and coordination responsibilities; (iv) the documentation to be modified or supplied as part of the work.

ARTICLE 4 – CUSTOMER DATA

- 4.1. As between SCYTL and the CUSTOMER, the CUSTOMER exclusively owns all rights, title and interest in and to all its Data.
- 4.2. SCYTL shall not access CUSTOMER's Data, except to prevent or respond to service or technical problems or otherwise at CUSTOMER request. SCYTL shall not disclose any Customer Data except as compelled by law or as expressly permitted in writing by Customer.

ARTICLE 5 – DATA PROTECTION

- 5.1. In order to provide maintenance and any support services, if so requested, under this Agreement SCYTL may need to have access or process personal data under the control of the CUSTOMER. In that case, SCTYL, as data processor, undertakes to comply with the requirements set forth in the applicable data protection laws and regulations and, in particular:
 - a. to process the personal data only in accordance with the instructions provided by the CUSTOMER as data controller;
 - b. to not apply or use the personal data for a purpose other than set out in this Agreement, and;
 - c. to not communicate the personal data to other persons even for their preservation.
- 5.2. SCTYL warrants to have in place the required security measures to avoid loss or unauthorized access or use of the personal data to be processed by SCTYL on behalf of the CUSTOMER under this Agreement.
- 5.3. Upon termination of this Agreement pursuant to Article 5, SCYTL shall destroy or return to the CUSTOMER personal data processed by SCYTL on behalf of the CUSTOMER under this Agreement together with any support or document containing personal data.

ARTICLE 6 – CUSTOMER RESPONSABILITES

- 6.1. CUSTOMER is responsible for all activities that occur in its account and for its compliance with this Agreement.
- 6.2. CUSTOMER shall, notwithstanding other obligations set forth in this Agreement: (i) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all CUSTOMER Data (ii) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Software, and notify SCYTL promptly of any such unauthorized access or use; (iii) comply with all applicable local, state, provincial, federal and foreign laws in using the Software; (iv) provide SCYTL with the required information in a proper and timely manner; (v) comply with all reasonable instructions/recommendations from SCYTL provided in operating documentation or otherwise in writing; and (vi) put in place and maintain effective security measures to safeguard the Software and the operating documentation from access or use by any unauthorized person.
- 6.3. Furthermore, the CUSTOMER acknowledges that SCYTL shall be relying on the CUSTOMER's cooperation to perform its obligations under this Agreement. CUSTOMER agrees to cooperate with SCYTL so as not to hinder or prevent the performance by SCYTL of its obligations under this Agreement.

ARTICLE 7 – LICENSE AND INTELLECTUAL PROPERTY RIGHTS

- 7.1. Grant of License Subject to the terms and conditions of this Agreement and payment of the Fees, SCYTL hereby grants CUSTOMER a non-exclusive, non-perpetual, non-transferable, non-sublicensable license for the use of the Software for the term and the purpose of the Project and in accordance with the Proposal.

- 7.2. Reservation of Rights The Software is licensed, not sold. SCYTL and affiliates own and shall retain all right, title and interest (including without limitation all patent rights, copyrights, trademark rights, trade secret rights and all other intellectual property rights), in and to the Software and any copies, corrections, bug fixes, enhancements, modifications, updates, upgrades, or new versions thereof. The CUSTOMER shall keep the Software free and clear of all liens, encumbrances and/or security interests. No rights are granted to the CUSTOMER pursuant to this Agreement other than as expressly set forth in this Agreement.
- 7.3. Restrictions The CUSTOMER shall not (and shall not allow the voters and/or any other permitted user or any third party) to: (a) modify, translate, reverse engineer, decompile, disassemble, or create derivative works based on the Software and its documentation, except to the extent that such restriction is permitted by applicable law; (b) circumvent any user limits or other license timing or use restrictions that are built into the Software; (c) sell, resell, rent, lend, transfer, distribute, license, sublicense or grant any rights in the Software and its documentation in any form to any person; (d) remove any proprietary notices, labels, or marks from the Software and/or its Documentation; (e) unbundle any component of the Software and/or its documentation; (f) build a product or service that is competitive with the Software; (g) copy any ideas, features, functions or graphics of the Software and/or its documentation; (h) copy, frame or mirror any part of the Software; (i) permit any third party to access the Software or (i) use the Software and/or its Documentation in violation of applicable laws.

ARTICLE 8 – TERM AND TERMINATION

- 8.1. The term of this Agreement shall be effective as of the Effective Date and shall remain in full force and effect until completion of the services set forth in the Proposal and the full payment of the Fees set forth in the Proposal.
- 8.2. This Agreement may be terminated, for cause upon thirty (30) calendar days prior written notice in the event a PARTY hereto:
- a. is in material breach of this Agreement and fails to remedy such breach within thirty (30) calendar days after receipt of prior written notice by the non-defaulting Party pursuant Article 15.1 of this Agreement;
 - b. becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
- 8.3. Upon termination or expiration of this Agreement the CUSTOMER shall unless otherwise set forth in this Article immediately cease the use of the Software and if applicable delete and/or destroy all copies of the Software from its servers and systems.
- 8.4. Termination shall not relieve the CUSTOMER of the obligation to pay any fees accrued or payable to SCYTL prior to the effective date of termination. Upon termination, CUSTOMER will pay SCYTL for all work performed and charges and expenses incurred by SCYTL up to the date of termination.
- 8.5. Notwithstanding the termination of this Agreement Articles 9, 11 and 13 shall survive.

ARTICLE 9 – INTELLECTUAL PROPERTY INFRINGEMENT INDEMNIFICATION

- 9.1. Subject to this Agreement, SCYTL shall defend, indemnify and hold the CUSTOMER harmless against any loss, damage or costs (including reasonable legal fees) incurred in connection with claims, demands, suits, or proceedings made or brought against the CUSTOMER by a third party alleging that the use of the Software as contemplated hereunder infringes the intellectual property rights of a third party (each an “Infringement Claim”); provided, that the CUSTOMER (a) promptly gives written notice of the Infringement Claim to SCYTL; (b) gives SCYTL sole control of the defense and settlement of the Infringement Claim (provided that SCYTL may not settle or defend any Infringement Claim unless it unconditionally releases Customer of all liability); and (c) provides to SCYTL all reasonable assistance and information.
- 9.2. If (a) SCYTL becomes aware of an actual or potential Infringement Claim, or (b) CUSTOMER provides SCYTL with notice of an actual or potential Infringement Claim, SCYTL may (or in the case of an injunction against CUSTOMER, shall), at SCYTL’ sole option and determination: (i) procure for CUSTOMER the right to continue to use the Software; or (ii) replace or modify the Software with equivalent or better Software so that CUSTOMER’s use is no longer infringing; or (iii) if (i) and (ii) are not commercially reasonable, as determined by SCYTL in its sole discretion, terminate the license(s) for such Software and refund to CUSTOMER all paid Fees.
- 9.3. The indemnity in this Article does not extend to (1) any Infringement Claim based upon infringement or alleged infringement of any patent, trademark, copyright or other intellectual property right by the combination of the Software furnished by SCYTL with other products or services not provided or approved by SCYTL; (2) any Infringement Claim related to or in connection with any modification of the Software by anyone other than SCYTL; (3) any Infringement Claim in respect to any version of the Software other than the most current version; or (4) any use, distribution, sublicensing or exercise of any other right outside the scope of the license granted in this Agreement.

ARTICLE 10 – WARRANTIES

- 10.1. SCYTL warrants that it is the owner of the Software which is free of any charges or encumbrances that would prevent CUSTOMER from using it as specified in this Agreement, and that the use of the Software by CUSTOMER as specified in this Agreement is not an infringement of the Intellectual Property rights of third parties.
- 10.2. SCYTL warrants that the Software will operate in accordance with the Requirements and Specifications specified in the Proposal.
- 10.3. In the event that any defect, error or malfunction is observed in the Software during the term of this Agreement, SCYTL undertakes to provide, at no additional cost to CUSTOMER, any services required in order to repair any defects, errors or malfunctions in the Software that might impede its operation in accordance with

requirements of the Software. Likewise, CUSTOMER undertakes to co-operate reasonably with SCYTL in its provision of the services provided under this warranty.

- 10.4. Except for the warranties established in this Article 10, SCYTL does not commit to any other warranties in relation to the Software.
- 10.5. SCYTL is not obliged to provide the warranty repairs specified in this Article 10 in cases when the defects, errors and malfunctions of the Software are due to the following causes (whenever those causes are not attributable to SCYTL, its providers, sub-contractors or agents):
 - a) Implementation, installations, maintenance, repair, use or replacement by CUSTOMER, its providers, sub-contractors or agents without complying with this Agreement or with reasonable instructions or written consent from SCYTL;
 - b) Accident, negligence, abuse, bad usage, user error by CUSTOMER, its providers, sub-contractors or agents.
- 10.6. The warranties set forth in this Article 10 shall be valid and shall be in force for the term of this Agreement.

ARTICLE 11 – LIMITATION OF LIABILITY

- 11.1. LIMITED LIABILITY IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL LOSSES OR DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF REVENUE, LOSS OF CUSTOMERS OR CLIENTS, LOSS OF GOODWILL OR LOSS OF PROFITS ARISING IN ANY MANNER FROM THIS AGREEMENT AND THE PERFORMANCE OR NON-PERFORMANCE OF OBLIGATIONS HEREUNDER.
- 11.2. Limitation of SCYTL's Liability Except for the intellectual property indemnification set forth in Article 9, to the extent SCYTL is held legally liable to CUSTOMER, SCYTL's liability is limited to the actual payments received from CUSTOMER.

ARTICLE 12 – NATURE OF THE RELATIONSHIP BETWEEN THE PARTIES

- 12.1. Nothing in this Agreement shall be deemed to create an agency relationship or the relationship of employer and employee, master and servant, franchiser and franchisee, partnership or joint venture between the PARTIES.
- 12.2. It is understood that the relationship between the PARTIES shall be that of independent contractors.

ARTICLE 13 – CONFIDENTIAL

- 13.1. Each PARTY agrees and shall undertake to ensure that any and all information received by it in connection with this Agreement which is derived from the Agreement or another PARTY (however acquired and in whatever form) and which is designated

by means of appropriate text to be or otherwise should be seen to be of a proprietary or confidential nature shall be treated by it as confidential, and neither PARTY shall disclose all or any part of it to any third-party or otherwise seek to exploit all or any part of it without the prior written consent of the other PARTY. This Article 13 shall not apply to information which at any time comes into the public domain through no fault of any PARTY.

- 13.2. Each PARTY agrees to make all reasonable efforts to prevent any of its employees or personnel or any other person(s) from obtaining or making any unauthorized use of, or affecting any disclosure of, any confidential information.
- 13.3. Any confidential information furnished by a PARTY shall remain the property of the PARTY from which it is derived and, upon termination of this Agreement for any cause whatsoever, the other PARTY shall cease to use the same and shall destroy or return the same to the PARTY from which it is derived together with all related documents and copies.
- 13.4. Notwithstanding Article 8 with respect to the term of this contract, the obligations in this Article 13 shall bind the PARTIES during the term of this Agreement and for three (3) years after this Agreement is terminated for whatever cause.
- 13.5. This Agreement imposes no obligation upon a Recipient with respect to Confidential Information which (a) was known to the Recipient before receipt from the Discloser; (b) is or becomes publicly available through no fault of the Recipient; (c) is rightfully received by the Recipient from a third party without a duty of confidentiality; (d) is disclosed by the Discloser to a third party without a duty of confidentiality on the third party; (e) is independently developed by the Recipient without a breach of this Agreement; or (f) is disclosed by the Recipient, without a confidentiality requirement imposed on the third party receiving the disclosure, with the Discloser's prior written approval. If a Recipient is required by a government body or court of law to disclose Confidential Information, the Recipient agrees to give the Discloser reasonable advance notice so that Discloser may contest the disclosure or seek a protective order.

ARTICLE 14 – NOTICE

- 14.1. All notices given pursuant to this Agreement shall be given personally or be sent by facsimile, e-mail or hand delivery; or by express delivery/courier service to a PARTY's address set forth in Articles 14.2 and 14.3, with all postage or other charges of conveyance prepaid and shall be effective upon the actual receipt thereof.
- 14.2. Unless and until otherwise notified to SCYTL, CUSTOMER's address for the purposes of this agreement shall be:

Merced County
2222 M. Street, Room 14
Merced, CA 95340
USA
Attention: Mark Cowart, Chief Information Officer
mcowart@co.merced.ca.us

- 14.3. Unless and until otherwise notified to CUSTOMER, SCYTL's address for the purposes of this agreement shall be:

SOE SOFTWARE CORPORATION
5426 Bay Center Drive, Suite 525
Tampa, Fl 33609
USA
Attention: Marc Fratello, GM NA
Marc.fratello@scytl.com

With copy to:
Scytl Secure Electronic Voting S. A.
1-3 Plaça Gal·la Placidia
08006 Barcelona
Spain
Attention: Mrs. Sílvia Caparrós de Olmedo, Corporate Counsel
Email: silvia.caparros@scytl.com

- 14.4. Any of the PARTIES may modify its address and/or email addressed for the purpose of communications and notifications by sending notice to the other PARTY as specified in this Article 14, effective seven (7) business days after the sending of the notice of modification.

ARTICLE 15 – OTHER PROVISIONS

- 15.1. Cure: Any failure by a Party to meet any of its obligations under this Agreement, must be brought to the other Party's attention, in writing. The defaulting Party shall have thirty (30) days after receiving such notification to cure such failure and meet its obligations.
- 15.2. No Waivers: The failure of either Party to exercise any of its rights hereunder upon breach by the other Party or any condition, covenant or provision contained in this Agreement shall not be construed as a waiver thereof, nor as a waiver of the same or any other default subsequently occurring.
- 15.3. Headings: The headings of the articles and sections in this Agreement are used for the convenience of reference only and do not form a part hereof and in no way modify, interpret or construe the meanings of the Parties.
- 15.4. Severability: If any provision of this Agreement is determined to be unenforceable, the remaining provisions of the Agreement shall remain in effect to the extent possible in the absence of the unenforceable provision.
- 15.5. Authority: Each Party represents and warrants that the undersigned has full authority to execute this Agreement and to bind the Party to the terms and provisions herein.
- 15.6. Force Majeure: Neither Party shall be responsible for any failure to perform hereunder due to unforeseen circumstances or cause beyond the non-performing Party's reasonable control including, without limiting the foregoing, an act of God or the

elements, fire, flood, or accidents, an act of war or conditions arising out of or attributable to war, laws, rules, and regulations of any governmental authority, procedures relating to environmental matters, delay in the issuance of required permits or approvals with respect to any operations or activities, or any other matters or conditions which are beyond the reasonable control of such Person, whether or not similar to the matters and conditions herein specifically enumerated. This Article 11.6 does not apply to excuse a failure to make payments when due for completed services.

- 15.7. **Disputes:** The Parties shall exercise their best efforts to settle amicably any claim, controversy, or dispute (hereinafter collectively "Disputes") concerning questions of fact or law arising out of or relating to this Agreement or to performance of either Party hereunder. The Parties agree that in any action related to this Agreement, the prevailing Party shall be entitled to recover its reasonable lawyers' fees and costs from the non-prevailing Party.
- 15.8. **Governing Law:** The Agreement and the rights and liabilities of the Parties hereunder shall be governed by and construed in all respects in accordance with the laws of the State of California (USA).
- 15.9. **Jurisdiction:** Any dispute arising out of or relating to the Agreement shall be submitted and finally resolved by the Courts of Merced County, California.
- 15.10. **Entire Agreement:** This Agreement contains the entire agreement between the Parties related to the transaction contemplated hereby, and all prior or contemporaneous agreements and understandings, oral or written (including, without limitation, any correspondence, proposed drafts or term sheets) are merged herein and superseded hereby. No modification, waiver, amendment, discharge or change of this Agreement shall be valid unless done so in writing and signed by both Parties.
- 15.11. **Further Assurances:** The Parties shall, at any time upon request of the other and without further consideration, take such actions or cause to take such actions and execute, acknowledge and deliver such agreements, contracts, licenses or other documents, as may be reasonably necessary to give effect to the purposes of this Agreement.
- 15.12. **Transfer of Right:** Neither Party shall transfer or assign any of its rights or obligations under this Agreement without the prior written consent of the other Party. Consent shall not be unreasonably withheld.
- 15.13. **Counterparts:** This Agreement may be executed in two or more counterparts and to one sole effect. Each counterpart shall become binding when the other(s) has or have been signed as if it had been signed by each Party. Facsimile signatures shall be considered original signatures for the purposes of execution and enforcement of the rights and obligations described herein.

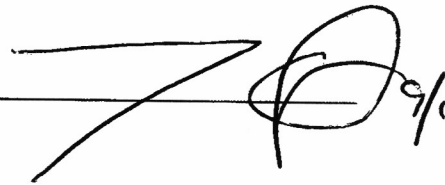
IN WITNESS WHEREOF, the Parties have duly executed this Agreement on this date first written above intending to be bound thereby.

SOE SOFTWARE CORPORATION

CUSTOMER

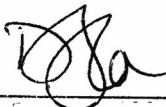
By 

Authorized Signature
Marc Fratello, GM NA

By 

Authorized Signature
Mark Cowart
Merced County Chief Information Officer

APPROVED AS TO LEGAL FORM
JAMES N. FINCHER
MERCED COUNTY COUNSEL

BY:  9-19-2016
Deanne H. Peterson
11142-012