



August 15, 2010

Supplemental Agreement  
Amendment #1

Project Title: San Mateo County Election Equipment Maintenance and Warranty Services

Contract Title: Agreement Between The County of San Mateo and Hart InterCivic, Inc.

Description of Change:

This Supplement Agreement, Amendment #1, to the Agreement Between The County of San Mateo and Hart InterCivic, Inc. dated August 15, 2006 (the "Agreement") is entered into as of this 15th day of August, 2010, by and between the County of San Mateo, California ("County") and Hart InterCivic, Inc. ("Hart"), hereinafter collectively sometimes called the "Parties."

Whereas the County has already purchased various services and goods as set forth in the Agreement which purchase included certain warranties as set forth therein; and

Whereas, the Parties wish to amend the Agreement to expand the scope of services to be rendered by Hart for Maintenance and Support and to provide for the County's purchase of optional Extended Hardware Warranty and Preventative Maintenance services ("the Deliverables") as set forth herein;

In consideration to the mutual terms, promises and conditions contained herein, the Parties do hereby agree to amend the Agreement in the following, and only the following respects:

I. Scope of Deliverables to be Provided by Hart and Related Charges:

Hart shall provide to the County in accordance with this Amendment #1 and the Agreement the following:

Item	Description	Qty	Unit Price	Ext Price	Remarks
1	Maintenance & Support*	3 years	\$226,615.00/yr	\$679,845.00	Fixed Price. Term: Aug 15, 2010 – Aug 14, 2013.

2	Extended Hardware Warranty**	3 years	\$39,550.00/yr	\$118,650.00	Term: Aug 15, 2010 – Aug 14, 2013. To begin after Preventative Maintenance Services have been completed, estimated completion by July/Aug 2010. Warranty covers 425 JBCs, 1656 eSlates, 1654 VBOs.
3	Preventative Maintenance	1	\$24,690.00	\$24,690.00	To be performed by Hart on 525 JBCs at a mutually agreed upon time between July/Aug 2010. Net of 425 JBCs after HVS exchange.
4	Credit	1	N/A	(\$18,000.00)	To be used only against the Preventative Maintenance Services reflected in item 3 above
5	Credit	3 years	(\$7,166.67/yr) and (\$38,333.33/yr)	(\$21,500.00) and (\$115,000.00)	Credit from HVS hardware exchange. To be used only against the Extended Hardware Warranty reflected in item 2 above.
6	Pre-payment Credit	1	N/A	(\$2,966.25)	To be used only against a full advance payment in 2010 that



					covers all 3 years of the Extended Hardware Warranty. 2.5% discount of \$118,650 is \$2,966.25.
<b>TOTAL</b>				<b>\$665,718.75</b>	

\* Maintenance & Support will be invoiced on an annual basis. The annual Maintenance & Support fee is required for the ongoing use of the HVS equipment and related applications.

\*\*Extended Hardware Warranty will be invoiced at \$39,550.00/year less a \$45,500/yr credit (the sum of two credits \$7,166.67/year and \$38,333.33/year). If the full payment of \$118,650.00 is made in 2010 to cover all three years of warranty the \$136,500 credit (the sum of two accumulated, 3 year credits \$21,500.00 and \$115,000.00) and an additional discount of \$2,966.25 will be applied.

II. Terms:

Hart and the County of San Mateo agree to these additional terms in accordance with this Amendment #1 and the Agreement:

- A. An exchange of HVS equipment: One-time credits of \$21,500 and \$115,000 will be applied across three years to the Extended Hardware Warranty price. If the price for all three years of Extended Hardware Warranty is paid in advance and paid in 2010 an additional one-time credit of \$2,966.25 will be applied. Since the County has less HVS equipment, there will be a correlated reduction of annual M&S by \$7,740 and \$38,900 (a total of \$46,640). This reduction is already reflected in the value represented in Part I, Item1, Scope of Deliverables.
- B. Pursuant to the Agreement Between The County of San Mateo and Hart InterCivic, Inc. dated August 15, 2006, past California state sales taxes totaling \$33,343.00 (\$9,696.00 for 2007, \$10,632.00 for 2009, and \$13,015.00 for 2009) have been paid by Hart to the State of California.
- C. The Parties agree that any state sales taxes which may be payable to the States of California or Texas as a result of this Supplemental Agreement will be the responsibility of the respective purchaser(s). Thus, to the extent that sales tax, if any, is owed to the State of California or the State of Texas for the optional warranties and maintenance agreements set forth herein, such sales tax, if any, shall be the responsibility of the County. To the extent that sales tax, if any, is owed to the State of California or the State of Texas as a result of the County's return of equipment and Hart's extension of related credits as set forth herein, such sales tax, if any, shall be the responsibility of Hart InterCivic.
- D. As noted above, Hart will provide the discounted services for three (3) years of Extended Hardware Warranty as provided above in Part I., Item 2, Scope of Deliverables to be Provided by Hart and Related Charges.
- E. As noted above, Hart will provide the discounted services for preventative maintenance on current HVS equipment the County owns.
- F. As noted above, Hart will extend the credit to San Mateo and apply it to extended hardware and preventative maintenance services.
- G. Separate from Amendment 1, Hart may need to acquire additional used HVS inventory in which Hart will offer to procure used such equipment as needed from San Mateo. A per unit price for HVS equipment is currently set at \$250.00 for the 2010 year. This per unit price may decline over time as depreciation occurs. The eSlate unit price of \$250 includes the VBO and the booth. This equipment must be in working order as determined by Hart technicians evaluating this equipment from the Austin, Texas facility.
- H. As Hart acquires used HVS equipment from the County, there will be a correlated reduction in the annual M&S fee. For purposes of this agreement, a per unit price for HVS equipment will be: \$65.00 for a JBC; \$65.00 for an eSlate; \$65.00 for an eSlate/DAU; and \$25.00 for a VBO. That



unit amount will be applied as a reduction against annual Maintenance & Support. For future purchases, if any, Hart will provide a separate quote for the reduction in annual M&S fees.

- I. A change in the definition of "election cycle" in the Agreement on Page 20, section 47 (e) (1). The change would define the election cycle from 90 days preceding any election and continuing through 28 days after the election to "60 days preceding any election and continuing through 28 days after the election".
- J. This Agreement must be executed by September 14, 2010 or else a re-quote will be required.

III. Filing Instructions

A copy of this Amendment will be filed with all affected documents, and appropriate change information annotated for reference.

IV. The Agreement in Full Force and Effect

In all other respects not inconsistent with the above, the Supplemental Agreement shall be and remain in full force and effect as written.

The Supplemental Agreement (Amendment #1) along with the Agreement contains the entire agreement between the Parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or incorporated by reference. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this Supplemental Agreement or the Agreement are not binding. To the extent any provisions in this Supplemental Agreement contradict the Agreement; the provisions of this Supplemental Agreement shall control and supersede the Agreement.

No alteration or variation of the terms of this Supplemental Agreement shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions to the Supplemental Agreement are valid or binding on COUNTY or HART unless authorized by COUNTY and HART in writing.

COUNTY OF SAN MATEO

By: \_\_\_\_\_  
President, Board of Supervisors, San Mateo County

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Clerk of Said Board

Hart InterCivic

Contractor's Signature, John Thornborrow, CFO

Date: 9.7.10