

Subject: RE: Public Records Request (NM-OTERO-22-0140) (OC File #22PRR017)
Date: Friday, February 4, 2022 at 1:38:17 PM Eastern Standard Time
From: Sylvia Tillbrook
To: AO Records
CC: rnichols@co.otero.nm.us
Attachments: image001.jpg, Sylvia C Tillbrook.vcf

EXTERNAL SENDER

Good Morning,
Below you will find the link to the public documents you had requested.
Please do not hesitate to contact me, if you any questions.
This completes this public records request.

You can view "Scan2010.pdf" at:
<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:3b2ddaea-5bf3-3b9c-b566-b7e424447420>

<p>Sylvia C Tillbrook Otero County Administration Executive Assistant</p> <p>(575) 437-7427 Work stillbrook@co.otero.nm.us</p> <p>1101 New York Ave Alamogordo, NM 88310</p>	
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Sylvia Tillbrook

From: cgriffin@co.otero.nm.us
Sent: Wednesday, February 2, 2022 2:30 PM
To: Sylvia C Tillbrook
Subject: FW: Audit Proposal

From: Pamela Heltner <pheltner@co.otero.nm.us>
Sent: Wednesday, December 29, 2021 11:35 AM
To: 'erin hughs' <erin_hughs@yahoo.com>; stillbrook@co.otero.nm.us
Cc: cgriffin@co.otero.nm.us; vmarquardt@co.otero.nm.us; 'gmatherly' <gmatherly@co.otero.nm.us>; rnichols@co.otero.nm.us
Subject: RE: Audit Proposal

Good morning Erin,

Thank you for the email. RB will need to reach out to the company and prepare a professional services agreement to add to the agenda for the Monday deadline.

Thank you.

Pamela



Pamela Heltner, CPO, CPS
County Manager
1101 New York Ave. Room 106
Alamogordo, NM 88310
Tel: 575-437-7427
Fax: 575-443-2928
pheltner@co.otero.nm.us

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From: erin hughs <erin_hughs@yahoo.com>
Sent: Wednesday, December 29, 2021 11:28 AM
To: pheltner@co.otero.nm.us; stillbrook@co.otero.nm.us
Cc: cgriffin@co.otero.nm.us
Subject: Audit Proposal

Dear Pamela,

Please find attached the full proposal for the Otero County audit. The total comes to \$49,750. I realize that is over the \$30,000 estimate that we discussed in the November County Commission meeting. If the higher cost is going to be a problem - we have partners who are willing to help fundraise the difference.

Please let me know if you have any edits or questions you want to discuss.

Thank you,
Erin Clements
575.680.4004



December 29, 2021

V.A. Shiva Ayyadurai, PhD
EchoMail, Inc.
701 Concord Avenue
Cambridge, MA 02138
e: yashiva@yashiva.com
m: 1-617-631-6874

Gerald Matherly, Couy Griffin, and Vickie Marquardt
Commissioners for Otero County Commission
101 New York Avenue
Alamogordo, NM 88310

RE: Otero County Audit of 2020 Election

Dear Honorable Commissioners:

EchoMail, Inc. (“ECHOMAIL”) is pleased to serve Otero County, (“CUSTOMER”) in the auditing of the November 2020 General Election (“Election”). Per our understanding, ECHOMAIL will be serve as the prime contractor and be responsible for the deployment of the EchoMail® Election Systems Integrity™ (ESI) platform to perform the audit for the Election. Based on our review of the requirements, EchoMail will provide the following:

- (1) **Integrated Data Warehouse** - Creaton of an integrated data warehouse that will include such data as following: County’s Voter Rolls, Participating Voter List, Cast Vote Records (CVRs), Images of the Return Ballot Envelopes, Ballot Images (from the Election Management System – EMS), Paper Ballot Scans, Door-to-Door Canvass data. Ref. Schedule A.
- (2) **Data Analytics** – Data analysis will include evaluation of registrations and votes cast at the precinct level and by vote type.
- (3) **Processing of Ballot Images** - Employ EchoMail to analyze approximately up to 25,000 Ballot Images. The Ballot Images are defined to be those images that are produced from the scanning of paper ballots by the County during the Election from their election management system (“EMS”) . EchoMaill will perform image analysis of the Ballot Images to calculate the vote counts for the Races. These vote counts will be compared with the Cast Vote Records (“CVR”). A formal report will be submitted of the findings. Ref. Schedule B.
- (4) **Paper Ballot Scan Comparison with Ballot Images** – Perform image analysis of the Paper Ballot Scans to calculate the vote counts for the Races (Paper Ballot Scans are the images generated by the scanning of the paper ballots). These vote counts will be compared with the Cast Vote Records (“CVR”). EchoMail will perform Image processing to determine the paired Paper Ballot Scan with its Ballot Image, and then evaluate if the vote counts across the pair are the same; and if not, will denote the discrepancies. A formal report will be submitted of the findings. Ref. Schedule C.
- (5) **Return Ballot Envelope Signature Presence Detection** - Perform EchoMail® Pattern Recognition Classification to determine presence of Blanks, Scribbles, and Signature on Return Ballot Envelope Images. A formal report will be submitted of the findings. Ref. Schedule D.



- (6) **Return Ballot Envelope Signature Verification Error Determination** - Perform an independent calculation of the error rates of the Count’s Signature Verification by employing EchoMail® Pattern Recognition Classification capabilities to determine how many of the signatures on unique EVB return envelopes would be classified as “Good Signatures” or “Bad Signatures” before any curing process is executed. Ref. Schedule E.
- (7) **Full Voter Registration Canvass** - Perform door-to-door canvass of Otero County voter registration database to determine accuracy of voter registration database. Canvass will be staffed by volunteers under the direction of New Mexico Audit Force (“Volunteers”) with guidance from EchoMail.

Total investment for this effort from Otero County will be \$49,750 as outlined in Schedule A. The Payment Schedule is as follows:

Timing		Amount
Upon execution of this letter and Master Agreement and Schedule A	-	\$24,875.00
February 1, 2022	-	\$24,875.00

Note: Schedules B through E will be funded by EchoMail's partners.

Sincerely,

Dr. Shiva Ayyadurai
 President/CEO
 EchoMail, Inc.

Encl: Master Agreement
 Schedules A-E



SCHEDULE A

Customer Name: Otero County Commission ("CUSTOMER")
Customer Address: 101 New York Avenue, Alamogordo, NM 88310
Effective Term: January 1, 2022 – May 1, 2022
County: Otero County ("County")
Election: 2020 General Election ("Election")

Title: Integrated Data Warehouse and Analytics

Statement of Work

- (1) Integrated Data Warehouse - Creation of an integrated data warehouse that will include such data as following: County's Voter Rolls, Participating Voter List, Cast Vote Records (CVRs), Images of the Return Ballot Envelopes, Ballot Images (from the Election Management System – EMS), Paper Ballot Scans, Door-to-Door Canvass data.
(2) Data Analytics – Data analysis will include evaluation of registrations and votes cast at the precinct level and by vote type.

Pricing Schedule

Table with 6 columns: Part Number, Part Description, Units, Unit Cost, One-Time, Recurring. Rows include Professional Services (Project Planning, Data Warehouse, Hardware Forensics, Data Analytics and Reporting) and Licenses (EchoMail® DataWarehouse) with sub-totals and a final NET-Total of \$49,750.00.

Other Terms:

Additional charges shall apply at the Unit Price set forth above in the event that quantity of use of the foregoing licensed Software and Services exceeds purchased amounts hereunder. Such additional charges shall be billed to the CUSTOMER on monthly basis. ECHOMAIL shall issue no credits to CUSTOMER for any licenses not used by CUSTOMER On the expiration date, and unused licenses may not be carried over into subsequent periods.

In the event CUSTOMER requests ECHOMAIL with prior written confirmation to ECHOMAIL to take specific actions, for example travel for onsite training or strategy meeting, shipping data on physical media such as tapes or disks etc., costs of shipping, telecommunications, mailing, traveling and out-of-pocket expenses incurred by EchoMail, Inc. in the performance of such actions are not included herein, and will be billed directly to CUSTOMER on a monthly basis.



This Schedule is governed by the EchoMail Software & Services Licensing Agreement. If there is any conflict between this Schedule and the EchoMail Software & Services Licensing Agreement, all terms of the EchoMail Software & Services Licensing Agreement shall control, except payment terms. Payment is due prior to start of work and use of Software and Services. Both parties agree to the foregoing as of this ___ day of _____ in the year of 2022, and to execute their performance obligations as set forth herein.

ECHOMAIL Authorized Representative

CUSTOMER Authorized Representative

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____



SCHEDULE B

Effective Term: January 1, 2022 – May 1, 2022

County: Otero County (“County”)

Election: 2020 General Election (“Election”)

Est. Number of Voters: 25,000 +/- 10%

Number of Races: All Races in Otero County (“Races”)

Number of Ballot Types: TBD (“Ballot Types”)

Title: Processing of Digital Ballot Images

Statement of Work

Employ EchoMail to analyze approximately up to 25,000 Ballot Images. The Ballot Images are defined to be those images that are produced from the scanning of paper ballots by the County during the Election from their election management system (“EMS”) . EchoMail will perform image analysis of the Ballot Images to calculate the vote counts for the Races. These vote counts will be compared with the Cast Vote Records (“CVR”). A formal report will be submitted of the findings.

County Provided Data - County will provide ECHOMAIL the following data:

1. Ballot images from EMS in a commonly used digital format e.g. TIFF;
2. CVR database;
3. Ballot Types templates, each pre-encoded by County for Races

County is expected to provide the above data to ECHOMAIL, ideally shipped on a hard drive. Other methods may be used; however, unless the data is not substantially large upload and download times may be significant. ECHOMAIL will provide training to Volunteers on how to encode a Ballot Type template.

ECHOMAIL Processing – EchoMail will perform the following processing on each ballot image per ballot type:

1. Use the Ballot Type information provided by County to process a Race
2. Pre-process i.e. auto-align, size calibrate, etc. the ballot image
3. Identify choices for each of the Races
4. Store results in relational database for reporting and analysis

ECHOMAIL Deliverables - EchoMail will deliver the following data:

1. Tabulated counts for Races
2. Comparison of EchoMail tabulated counts with that reported in CVR for Races

Pricing Schedule

Part Number	Part Description
	Professional Services
EM-DW-IMG-SETUP	Setup of EchoMail Data Warehousing for Image Processing including receipt and uploading of all Ballot Images
EM-RPT-Services	Preparation of Final Report for submission to Attorney General or Election Official.
EM-PS-PROJ-MGT	Project Management



	Licenses
EM-BI-10EPU-SVR	EchoMail Ballot Image Processing Server (up to 10 EPU ¹)

¹ One (1) EPU equals for 10,000 Ballot images.



SCHEDULE C

Effective Term: January 1, 2022 – May 1, 2022

County: Otero County (“County”)

Election: 2020 General Election (“Election”)

County: Otero County (“County”)

Est. Number of Voters: 25,000 +/- 10%

Number of Races: TBD (“Races”)

Number of Ballot Types: TBD (“Ballot Types”)

Title: Paper Ballot Scan Comparison with Ballot Images

Statement of Work

This Statement of Work assumes that Ballot Image processing has been completed through another Schedule. For this Statement of Work, ECHOMAIL will receive scanned versions of the Paper Ballots (“Paper Ballot Scans”) from County. EchoMail will perform image analysis of the Paper Ballot Scans to calculate the vote counts for the Races. These vote counts will be compared with the Cast Vote Records (“CVR”). ECHOMAIL will perform Image processing to determine the paired Paper Ballot Scan with its Ballot Image, and then evaluate if the vote counts across the pair are the same; and if not, will denote the discrepancies. A formal report will be submitted of the findings.

County Provided Data - County will provide ECHOMAIL the following data:

1. Paper Ballot Scans in a commonly used digital format e.g. TIFF;
2. CVR database (if not already provided from previous Schedule)
3. Ballot Types templates, each pre-encoded by County for Races (if not provided from previous Schedule)

County is expected to provide the above data to ECHOMAIL, ideally shipped on a hard drive. Other methods may be used; however, unless the data is not substantially large upload and download times may be significant. ECHOMAIL will provide training to Volunteers on how to encode a Ballot Type template.

ECHOMAIL Processing – EchoMail will perform the following processing on each Paper Ballot Scan per ballot type:

1. Use the Ballot Type information provided by County to process a Race
2. Pre-process i.e. auto-align, size calibrate, etc. the Paper Ballot Scan
3. Identify choices for each of the Races
4. Identify the Ballot Image pair for a Paper Ballot Scan
5. Compare the results of the Ballot Image with the Paper Ballot Scan
6. Store results in relational database for reporting and analysis

ECHOMAIL Deliverables - EchoMail will deliver the following data:

1. Tabulated counts for Races for the Paper Ballot Scans
2. Comparison of EchoMail tabulated counts of Paper Ballot Scans with that reported in CVR for Races
3. Comparison of the Paper Ballot Scan Races tabulation with the Ballot Images tabulation.

Pricing Schedule



Part Number	Part Description
	Professional Services
EM-DW-IMG-SETUP	Setup of EchoMail Data Warehousing for Image Processing including receipt and uploading of all Paper Ballot Scans
EM-RPT-SRVICES	Preparation of Final Report for submission to Attorney General or Election Official.
EM-PS-PROJ-MGT	Project Management
	Licenses
EM-BI-10EPU-SVR	EchoMail Paper Ballot Scan Processing Server (up to 10 EPU ¹)
EM-BI-10EPU-SVR	EchoMail Comparison Processing of Paper Ballot Scan with Ballot Images (up to 10 EPU ¹)

¹ One (1) EPU equals for 10,000 Paper Ballot Scans



SCHEDULE D

Effective Term: January 1, 2022 – May 1, 2022

County: Otero County (“County”)

Election: 2020 General Election (“Election”)

Est. Number of Envelopes: 6,000

Title:Return Ballot Envelope Signature Presence Detection

Statement of Work

This project aims to perform an EchoMail® Pattern Recognition Classification to determin presence of Blanks, Scribbles, and Signature on Return Ballot Envelope Images.

County Responsibilities - County will:

- 1) Provide envelope images from the County for the Election
- 2) Ensure envelope images are delivered via postal mail on a hard drive or uploaded to a secure repository for ECHOMAIL to download

ECHOMAIL Processing – EchoMail will perform the following processing on each envelope image:

- 1) Pre-process i.e. auto-align, size calibrate, etc. the envelope image
- 2) Detect if a signature does not exist on an envelope
- 3) Tabulate the total number of envelopes with and without signatures

ECHOMAIL Deliverables - EchoMail will deliver the following:

- 1) Total number of envelopes with blank signatures (pixel density is 0% to 0.1%)
- 2) Total number of envelopes with potential scribbles (pixel density is 0.1% to 1%)
- 3) Total number of envelopes with potential signatures (pixel density is greater than 1%)
- 4) Images of Return Ballot Envelopes containing no signatures

NOTE: Deliverables are dependent on County providing data in a timely manner.

Pricing Schedule

Part Number	Part Description
	Professional Services
EM-BI-SETUP	Setup EchoMail Business Intelligence Server
EM-RPT-SERVICES	Data Reporting Services
EM-PS-PROJ-MGT	Project Management
	Licenses
EM-BI-10EPU-SVR	EchoMail Business Intelligence Server (up to 10 EPU ¹)

¹ One (1) EPU equals the processing of up to 10,000 images.



SCHEDULE E

Effective Term: January 1, 2022 – May 1, 2022

County: Otero County (“County”)

Election: 2020 General Election (“Election”)

Est. Number of Envelopes: 2,500

Title: Ballot Envelope Signature Verification Error Determination

Statement of Work:

This project aims to perform an independent calculation of the error rates of the County’s Signature Verification by employing EchoMail’s pattern recognition classification capabilities to determine how many of the signatures on unique EVB return envelopes would be classified as “Good Signatures” or “Bad Signatures” before any curing process is executed.

County Responsibilities – County shall provide the following to EchoMail:

- 1) Provide all EVB return envelope images in – full size – format for the County in the Election
- 2) Provide Voter Registration file containing for each voter, their name, voter-ID, address, etc. including the digital image of the voter’s signature or take direction from ECHOMAIL in acquiring the statistically significant number of signature images from other publicly available source.
- 3) The Standardized Operating Procedure (SOP) and/or the algorithms used by County for Signature Verification

ECHOMAIL Processing – EchoMail will perform the following processing:

- 1) If the algorithm used by County is provided, implement the algorithm into EchoMail’s system; and, if not, deploy EchoMail® Signature Matching Process;
- 2) For a particular voter-ID, pre-process i.e. auto-align, size calibrate, etc. the EVB return envelope image to extract the Signature Region and the signature of the voter in that Signature Region;
- 3) Execute feature extraction on signature extracted from Signature Region of EVB return envelope image to acquire the signature image alone;
- 4) For a particular voter-ID, pre-process i.e. auto-align, size calibrate, etc. each digital image of a signature from Voter Registration file or the public source to extract the signature alone;
- 5) Execute feature extraction on the signature from the Voter Registration file or public source to acquire the signature image alone;
- 6) Perform signature matching analysis either using the 27-point algorithm or EchoMail’s Signature Matching Process; and,
- 7) Categorise the signature matches as either “Good Signature” or “Bad Signature” based on specified thresholds.

ECHOMAIL Deliverables - EchoMail will deliver the following:

- 1) A report of signature matches across a statistically determined sample
- 2) Segmentation of the signatures categorized as “Bad Signatures”
- 3) An image library containing for each EVB return envelope image, its related image in the Voter Registration file or public source



Pricing Schedule

Part Number	Part Description
	Professional Services
EM-BI-SETUP	Setup EchoMail Business Intelligence Server
EM-RPT-SERVICES	Data Reporting Services
EM-PS-PROJ-MGT	Project Management
	Licenses
EM-BI-10EPU-SVR	EchoMail Business Intelligence Server (up to 10 EPU ¹)

¹ One (1) EPU equals the processing of up to 10,000 images.

Sylvia Tillbrook

From: cgriffin@co.otero.nm.us
Sent: Wednesday, February 2, 2022 2:30 PM
To: Sylvia C Tillbrook
Subject: FW: Next Meeting

From: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Sent: Tuesday, November 16, 2021 12:48 PM
To: 'Pamela Heltner' <pheltner@co.otero.nm.us>
Subject: Next Meeting

Pamela,

Hope all's going good. Can you please reach out to Rachel Black to have present during scheduled communications with James Wimberley and Eileen Acres as well as Robyn to be present with the presentation on Election Integrity with Erin Clements.

Thanks Pamela,
Coy

Sylvia Tillbrook

From: cgriffin@co.otero.nm.us
Sent: Wednesday, February 2, 2022 2:30 PM
To: Sylvia C Tillbrook
Subject: FW: Next Meeting

From: Pamela Heltner <pheltner@co.otero.nm.us>
Sent: Tuesday, November 16, 2021 1:09 PM
To: cgriffin@co.otero.nm.us
Subject: RE: Next Meeting

Of course I can. I'll call her right away.



Pamela Heltner, CPO, CPS
County Manager
1101 New York Ave. Room 106
Alamogordo, NM 88310
Tel: 575-437-7427
Fax: 575-443-2928
pheltner@co.otero.nm.us

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Thanks Pamela,
Coy

Sylvia Tillbrook

From: cgriffin@co.otero.nm.us
Sent: Wednesday, February 2, 2022 2:31 PM
To: Sylvia C Tillbrook
Subject: FW: Audit Proposal
Attachments: EchoMail-Master-Software-Services-Agreement-Otero-County-New-Mexico.pdf

From: erin hughes <erin_hughes@yahoo.com>
Sent: Wednesday, December 29, 2021 11:39 AM
To: stillbrook@co.otero.nm.us; Pamela Heltner <pheltner@co.otero.nm.us>
Cc: cgriffin@co.otero.nm.us; vmarquardt@co.otero.nm.us; 'gmatherly' <gmatherly@co.otero.nm.us>; rnichols@co.otero.nm.us
Subject: Re: Audit Proposal

That sounds great, Pamela.

I attached the Services Agreement the contractor would like to use if it's acceptable to the County.

Please let me know if you need anything else from me to get this ready for Monday.

Thank you,
Erin Clements
575.680.4004

On Wednesday, December 29, 2021, 12:33:57 PM CST, Pamela Heltner <pheltner@co.otero.nm.us> wrote:

Good morning Erin,

Thank you for the email. RB will need to reach out to the company and prepare a professional services agreement to add to the agenda for the Monday deadline.

Thank you.

Pamela



Pamela Heltner, CPO, CPS

County Manager

1101 New York Ave. Room 106

Alamogordo, NM 88310

Tel: 575-437-7427

Fax: 575-443-2928

pheltner@co.otero.nm.us

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From: erin hughes <erin_hughes@yahoo.com>
Sent: Wednesday, December 29, 2021 11:28 AM
To: pheltner@co.otero.nm.us; stillbrook@co.otero.nm.us
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Subject: Audit Proposal

Dear Pamela,

Please find attached the full proposal for the Otero County audit. The total comes to \$49,750. I realize that is over the \$30,000 estimate that we discussed in the November County Commission meeting. If the higher cost is going to be a problem - we have partners who are willing to help fundraise the difference.

Please let me know if you have any edits or questions you want to discuss.

Thank you,

Erin Clements

Report of



MASTER LICENSE AND SERVICES AGREEMENT

This Agreement is entered into as of December ____, 2021 (“the Effective Date”) between EchoMail, Inc., a Delaware Corporation, its subsidiaries, affiliates, authorized resellers/distributors, (“ECHOMAIL”) and Otero County Commission its subsidiaries and affiliates, (“CUSTOMER”).

In consideration of the mutual covenants contained herein, the parties hereto hereby agree as follows:

1.0 Definitions

As used herein, the following terms shall have the designated meanings:

- 1.1 “Licensed Software” shall mean the software designated on any Schedule as being licensed by ECHOMAIL to CUSTOMER under this Agreement.
- 1.2 “Schedule” shall mean any schedules or exhibits, including any Statements of Work included therein, executed by the parties and attached to the Agreement as of the date hereof and any Schedules or exhibits, including any Statement of Work included therein, subsequently executed by the parties and attached to this Agreement.
- 1.3 “Services” shall mean the services designated in any Schedule as being provided by ECHOMAIL to CUSTOMER under this Agreement.

2.0 License

- 2.1 If the agreed-upon offering from ECHOMAIL includes Licensed Software, ECHOMAIL will grant to CUSTOMER a non-perpetual, non-exclusive, non-transferable, non-sublicensable right and license to use the Licensed Software in object code form only to receive, process, analyze, transmit and respond to digital content i.e. messages, images, email, web pages, social media posts, etc. solely for its own business purposes subject to and in accordance with the provisions of this Agreement, the terms in Schedule, and the accompanying documentation.
- 2.2 If CUSTOMER requires access of Licensed Software by any consultants or third-party entities, then CUSTOMER agrees to ensure that such consultants or third-party entities execute a separate agreement with ECHOMAIL to ensure protection of ECHOMAIL’s Intellectual Property. CUSTOMER agrees that at no time will CUSTOMER allow any direct or indirect competitor of ECHOMAIL to access or to use the Licensed Software. CUSTOMER agrees to abide by ECHOMAIL’s reasonable definition of competitor, should there ever come a question as to if an entity is a competitor to ECHOMAIL or not.
- 2.3 The Licensed Software and documentation provided therewith are provided with RESTRICTED RIGHTS. Use, duplication or disclosure by the United States Government is subject to the restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software - Restricted Rights at 48 CFR 52.227-19, as applicable.

3.0 ECHOMAIL Responsibilities

- 3.1 ECHOMAIL shall be solely responsible for the proper installation of the Licensed Software in machine-readable, object code form.
- 3.2 ECHOMAIL will also provide to CUSTOMER services for implementation, training, customization, maintenance, hosting and other services related to Licensed Software as requested by CUSTOMER as outlined in the appropriate Schedule(s).
- 3.3 ECHOMAIL agrees to provide to CUSTOMER access codes for the use of the Licensed Software. On the date that CUSTOMER uses any of those access codes to use the Licensed Software in a production format, the formal delivery of the Licensed Software is complete (“Delivery Date”).
- 3.4 Following the Delivery Date, ECHOMAIL shall provide software support and maintenance services under this Agreement in accordance with the terms and conditions set forth in the appropriate Schedule. ECHOMAIL shall provide the software support services set forth in Schedule for only the then current release of the Licensed Software.

3.5 ECHOMAIL will provide timely new releases and updated documentation of the Licensed Software at no additional cost to CUSTOMER.

4.0 Services

4.1 All work shall be performed in a workmanlike and professional manner by ECHOMAIL having a level of skill in the area commensurate with the requirements of the scope of work to be performed.

5.0 Price

The prices for all ECHOMAIL Licensed Software, Services and related maintenance and support services shall be set forth in the applicable Schedule. If CUSTOMER desires to add additional software to the Licensed Software or buy additional units, CUSTOMER shall have the right to do so during the term hereof for the prices set forth in applicable signed Schedule(s).

6.0 Payment

6.1 CUSTOMER shall pay ECHOMAIL the fees for all Licensed Software and related maintenance and according to the Payment Schedule as outlined in signed applicable Schedule(s).

6.2 ECHOMAIL shall invoice CUSTOMER for all CUSTOMER pre-approved Out-of-Pocket Expenses and any other amounts due as set forth in signed applicable Schedule(s) on a monthly basis. Each invoice shall contain detailed entries of Software, Service and other items. CUSTOMER shall pay all as denoted in signed applicable Schedule(s).

6.3 If CUSTOMER does not pay for the Licensed Software within the time limits as agreed upon in signed applicable Schedule(s), ECHOMAIL will contact CUSTOMER to obtain payment and attempt to resolve any discrepancies. If after 30 days, the discrepancy cannot be solved, CUSTOMER agrees that ECHOMAIL has the right to terminate CUSTOMER'S further use of the Licensed Software until payment is received.

6.4 All payments not made within the time periods specified herein shall bear interest at the rate of one and one half percent (1.5%) per month or the maximum allowed by law, whichever is less, until paid in full.

6.5 In the event of termination, CUSTOMER is responsible for any and all amounts due to EchoMail per the terms of any signed Schedules or Statement of Work(s).

7.0 Schedules

The applicable Schedule sets forth the ECHOMAIL Licensed Software and/or Services to be obtained by CUSTOMER. The parties may execute additional Schedules and such additional Schedules will be bound by the terms of this Agreement.

8.0 Publicity

ECHOMAIL may use CUSTOMER'S name and identifying logo on ECHOMAIL'S customer list and web site.

9.0 Transmission Difficulties

CUSTOMER acknowledges that it shall be fully and solely responsible for assuring that data sent by CUSTOMER to ECHOMAIL reach ECHOMAIL in proper condition, and ECHOMAIL shall have no liability in connection therewith.

10.0 Intellectual Property Rights

ECHOMAIL possesses, and shall at all times continue to possess and own, the entire right, title and interest in and to the Licensed Software, the results or deliverables of any Services performed hereunder (which shall be deemed to be Licensed Software for purposes of this Agreement) and all intellectual property rights of any nature whatsoever with respect to the foregoing. All right, title and interest in and to any programs, systems, data and materials furnished to ECHOMAIL by CUSTOMER are and shall remain the property of CUSTOMER and will be returned to CUSTOMER at the earlier of termination of this Agreement or the completion of Services.

11.0 Confidential Information

- 11.1 During the term of this Agreement, each party shall disclose to the other party, both orally and in writing, certain information of the disclosing party which concerns the disclosing party's business plans, customers, technology or products which are or contain confidential, proprietary or trade secret information (collectively the "Information"), which is either marked in a manner to indicate that it is considered proprietary or confidential or otherwise subject to limited distribution as provided herein, or is disclosed in such a manner that a reasonable person would understand the confidential nature of the Information disclosed. In addition, future business plans, customer, customer lists and financial information, and confidential information of third parties to which a party has had access shall be deemed Information. A party receiving Information shall hold such Information in strict confidence and shall not disclose such Information to any person or entity other than to the employees, agents or consultants of such party having a need to know in order for such party to perform properly its obligations under this Agreement. Such party shall make no other use of any nature whatsoever of any such Information. The Licensed Software constitutes Information of ECHOMAIL.
- 11.2 All vendors, service providers, consultants and other third-party agents engaged by the CUSTOMER that are involved in the use of or interaction with ECHOMAIL shall sign EchoMail Mutual Non-disclosure Agreement.
- 11.3 This Agreement shall impose no obligation of confidentiality upon a recipient with respect to any portion of the Information received hereunder which is (a) now or hereafter, through no unauthorized act or failure to act on recipient's part, in the public domain; (b) known to the recipient without an obligation of confidentiality at the time recipient receives the same from the disclosing party, as evidenced by written records; (c) hereafter furnished to the recipient by a third party as a matter of right and without restriction on disclosure; (d) furnished to others by the disclosing party without restrictions on disclosure; (e) independently developed by the recipient without use of the disclosing party's Information; or (f) required to be disclosed pursuant to a requirement of a government agency or law, so long as the recipient provides prompt notice to the disclosing party of such requirement prior to any such disclosure and reasonably cooperates with the disclosing party if it elects to seek to limit or avoid such disclosure by any lawful means.
- 11.4 Each party acknowledges that in the event of any breach or threatened breach of this Section 11.0, the other party shall suffer irreparable harm and will not possess an adequate remedy at law. Accordingly, each party shall have the right to obtain injunctive relief to restrain such breach or threatened breach.
- 11.5 No right of ownership or title to any Information is transferred by either party to the other party under or pursuant to this Agreement.
- 11.6 CUSTOMER acknowledges that Licensed Software provided by ECHOMAIL is copyrighted by ECHOMAIL. The trademarks, trade names and logos under which ECHOMAIL markets the Licensed Software are the exclusive property of ECHOMAIL and this Agreement provides no rights thereto to CUSTOMER. Any copyright notice used by ECHOMAIL shall not be deemed to imply that any part of such item has been published or has been placed in the public domain.

12.0 Warranty

- 12.1 ECHOMAIL warrants for a period of sixty (60) days following the Delivery Date of the applicable Licensed Software to CUSTOMER that any Licensed Software provided by ECHOMAIL shall materially conform to ECHOMAIL'S then current documentation. In the event any Licensed Software does not so materially conform to then current documentation, ECHOMAIL shall undertake reasonable commercial efforts to correct such non-conformity. Such correction shall constitute CUSTOMER'S sole remedy and ECHOMAIL'S sole liability in the event of any breach of such warranty by ECHOMAIL.
- 12.2 EXCEPT AS OTHERWISE STATED IN THIS SECTION 12, ECHOMAIL MAKES NO WARRANTIES WITH RESPECT TO THE LICENSED SOFTWARE OR THE SERVICES PERFORMED UNDER THIS AGREEMENT AND DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, FREEDOM FROM BUGS, CORRECTNESS OR RELIABILITY, OR THAT THE LICENSED SOFTWARE'S USE WILL BE UNINTERRUPTED OR ERROR-FREE, AND ALL WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN THE TRADE.

13.0 Infringement

- 13.1 ECHOMAIL shall defend, indemnify and hold harmless CUSTOMER from all costs, expenses, damages, suits and other proceedings incurred by CUSTOMER, its officers, directors, employees or agents in connection with any claim that the Licensed Software infringes any patent, copyright, trade secret or other proprietary rights of any third party, provided that (a) CUSTOMER promptly informs ECHOMAIL of any such action, and (b) CUSTOMER furnishes to ECHOMAIL all information and assistance in connection therewith which may be reasonably requested by ECHOMAIL from time to time. ECHOMAIL shall have the sole right to settle, defend, or otherwise handle any such claim. In the event the use of any Licensed Software is enjoined, ECHOMAIL shall, at its option, either (a) procure for CUSTOMER the right to continue to use such Licensed Software, (b) replace or modify the same to make it non-infringing, or (c) terminate the license to such Licensed Software and provide a pro rata refund to CUSTOMER of all amounts paid by CUSTOMER for the allegedly infringing Licensed Software to ECHOMAIL hereunder, based upon a five (5) year life of such Licensed Software.
- 13.2 ECHOMAIL'S obligations under this Section 13.0 shall be only for the benefit of CUSTOMER. ECHOMAIL shall not be obligated to defend or to be liable under this Section 13.0 to the extent the infringement asserted arises out of (a) compliance with specification originating with CUSTOMER, (b) use or combination of Licensed Software with items not provided by ECHOMAIL to the extent such infringement would not have occurred but for such use or combination with such other items; (c) use of other than the latest unmodified version of Licensed Software if such infringement would have been avoided by the use of such later version; or (d) modification of Licensed Software other than by ECHOMAIL.
- 13.3 This Section 13.0 states the exclusive remedy of CUSTOMER and the entire liability of ECHOMAIL with respect to infringement of any patent, copyright, or other proprietary rights of third parties by items furnished by ECHOMAIL hereunder.

14.0 Indemnification

- 14.1 Each party shall indemnify and hold harmless the other party, its subsidiaries, their officers, directors, agents and employees from any claims for loss, cost, damage, expense or liability by reason of bodily injury (including death) or tangible property damage arising out of, as a result of, or in connection with, the indemnifying party's performance under this Agreement or the negligent actions or omissions or willful wrongdoing of the indemnifying party, provided that the indemnified party gives the indemnifying party prompt written notice of such claims and, full information, reasonable assistance and authority for the defense or settlement of such claims.

15.0 Limitation of Liability

EXCEPT AS EXPRESSLY PROVIDED HEREIN, ECHOMAIL'S LIABILITY UNDER THIS AGREEMENT, WHETHER FOR BREACH OF WARRANTY OR CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL IN NO EVENT EXCEED AMOUNT PAID BY CUSTOMER TO ECHOMAIL UNDER THIS AGREEMENT CONTRACT PRICE, AS SET FORTH IN SCHEDULE FOR LICENSED SOFTWARE AND/OR SERVICES, WHICH ALLEGEDLY DAMAGED CUSTOMER. THE CONTRACT PRICE, AS SET FORTH IN SCHEDULE A. IN NO EVENT SHALL ECHOMAIL HAVE ANY LIABILITY FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND, WHETHER UNDER THIS AGREEMENT OR OTHERWISE, EVEN IF ECHOMAIL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS.

16.0 Term

Unless earlier terminated in accordance with Section 17.0 hereof, the term of this Agreement shall commence as of the date hereof and shall continue in full force and effect for three (3) years thereafter. This Agreement shall automatically renew for successive one (1) year terms, thereafter, unless terminated by either party by written notice to the other at least thirty (30) days prior to the renewal date.

17.0 Termination

- 17.1 In the event of a breach of this Agreement by a party hereto (including without limitation use of the Licensed Software by CUSTOMER in excess of the use limitations specified in any applicable Schedule(s), the non-breaching party shall give notice of such default to the other party and, if the breach is not cured within sixty (60) calendar days of such notice, the non-breaching party shall be entitled to terminate this Agreement immediately upon notice to the other party.
- 17.2 In the event a party hereto files a voluntary petition for bankruptcy, has an involuntary petition for bankruptcy filed against it which remains undismissed for at least sixty (60) days, makes an assignment for the benefit of its creditors, or has a receiver appointed for all or a substantial portion of its property, the other party shall have the right to terminate this Agreement immediately upon notice.
- 17.3 The rights and obligations of the parties under Sections 2.3, 6.0, 8.0, 10.0, 11.0, 12.0, 13.0, 14.0, 15.0, 17.3 and 18.0 hereof shall survive any termination of this Agreement. Except for the foregoing, immediately upon the effective date of any termination, all rights and obligations of the parties under this Agreement shall cease and terminate. CUSTOMER shall, within ten (10) days after the effective date of any termination, promptly, first, deliver to ECHOMAIL all copies of any Licensed Software provided by ECHOMAIL and all ECHOMAIL'S Information then in CUSTOMER'S possession; second, destroy any copies of Licensed Software whatsoever in CUSTOMER'S possession; third, allow ECHOMAIL access to hardware systems that contained or contain Licensed Software to verify and ensure termination of use of Licensed Software.
- 17.4 In the event of early termination, CUSTOMER is obligated to pay to ECHOMAIL any and all amounts due for Services performed through the date of termination.
- 17.5 CUSTOMER may terminate this Agreement at any time on sixty (60) days prior written notice and CUSTOMER, in such event is obligated to pay to ECHOMAIL any and all amounts due per the terms of any Schedules agreed upon by both parties.

18.0 Miscellaneous

- 18.1 Each party irrevocably agrees that in any court proceedings initiated by CUSTOMER, the state and federal courts located in the State of Arizona shall have exclusive jurisdiction to settle any dispute, and for any court proceedings initiated by ECHOMAIL, the state and federal courts located in the Commonwealth of Massachusetts shall have exclusive jurisdiction to settle any dispute with respect to any matters relating to this Agreement.
- 18.2 The validity, construction and performance of this Agreement shall be governed by the laws of the Commonwealth of Massachusetts. The parties hereto submit to the non-exclusive jurisdiction of the state and federal courts located in the Commonwealth of Massachusetts with respect to any matters relating to this Agreement.
- 18.3 Neither party shall be in breach of this Agreement if there is any total or partial failure of performance by it of its duties and obligations under this Agreement occasioned by any act of God, fire, act of government or state, war, civil commotion, insurrection, embargo, prevention from or hindrance in obtaining any raw materials, energy or other supplies, labor disputes of whatever nature and any other reason beyond the reasonable control of either party.
- 18.4 In the event that any provision of this Agreement shall be held to be void or unenforceable by any court of competent jurisdiction, such determination shall not affect the remainder of this Agreement, which shall remain in full force and effect, and the void or unenforceable provision shall be enforced to the maximum extent legally permissible.
- 18.5 This Agreement shall not be transferable or assignable by CUSTOMER without the prior written consent of ECHOMAIL, such consent not to be unreasonably withheld. Notwithstanding the foregoing, upon notice to ECHOMAIL, CUSTOMER may assign this Agreement or any rights, duties or obligations hereunder to a corporation controlling, controlled by or under common control with CUSTOMER. Any assignment or transfer in violation of this provision shall be void and without effect.
- 18.6 This Agreement shall not be transferable or assignable by either party without the prior written consent of the other party. Any assignment or transfer in violation of this provision shall be void and without effect.
- 18.7 This Agreement embodies and sets forth the entire agreement and understanding of the parties and

Sylvia Tillbrook

From: cgriffin@co.otero.nm.us
Sent: Wednesday, February 2, 2022 2:31 PM
To: Sylvia C Tillbrook
Subject: FW: Audit Proposal

From: Pamela Heltner <pheltner@co.otero.nm.us>
Sent: Wednesday, December 29, 2021 11:35 AM
To: 'erin hughs' <erin_hughs@yahoo.com>; stillbrook@co.otero.nm.us
Cc: cgriffin@co.otero.nm.us; vmarquardt@co.otero.nm.us; 'gmatherly' <gmatherly@co.otero.nm.us>; rnichols@co.otero.nm.us
Subject: RE: Audit Proposal

Good morning Erin,

Thank you for the email. RB will need to reach out to the company and prepare a professional services agreement to add to the agenda for the Monday deadline.

Thank you.

Pamela



Pamela Heltner, CPO, CPS
County Manager
1101 New York Ave. Room 106
Alamogordo, NM 88310
Tel: 575-437-7427
Fax: 575-443-2928
pheltner@co.otero.nm.us

Confidentiality Notice: This e-mail, including all attachments is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited unless specifically provided under the New Mexico Inspection of Public Records Act. If you are not the intended recipient, please contact the sender and destroy all copies of this message.

From: erin hughs <erin_hughs@yahoo.com>
Sent: Wednesday, December 29, 2021 11:28 AM
To: pheltner@co.otero.nm.us; stillbrook@co.otero.nm.us
Cc: cgriffin@co.otero.nm.us
Subject: Audit Proposal

Dear Pamela,

Please find attached the full proposal for the Otero County audit. The total comes to \$49,750. I realize that is over the \$30,000 estimate that we discussed in the November County Commission meeting. If the higher cost is going to be a problem - we have partners who are willing to help fundraise the difference.

Please let me know if you have any edits or questions you want to discuss.

Thank you,
Erin Clements
575.680.4004

Sylvia Tillbrook

From: cgriffin@co.otero.nm.us
Sent: Wednesday, February 2, 2022 2:31 PM
To: Sylvia C Tillbrook
Subject: FW: Audit Proposal
Attachments: EchoMail-Otero-County-Election-Audit.pdf

From: erin hughes <erin_hughes@yahoo.com>
Sent: Wednesday, December 29, 2021 11:28 AM
To: pheltner@co.otero.nm.us; stillbrook@co.otero.nm.us
Cc: cgriffin@co.otero.nm.us
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Please let me know if you have any edits or questions you want to discuss.

Thank you,
Erin Clements
575.680.4004



December 29, 2021

V.A. Shiva Ayyadurai, PhD
EchoMail, Inc.
701 Concord Avenue
Cambridge, MA 02138
e: vashiva@vashiva.com
m: 1-617-631-6874

Gerald Matherly, Couy Griffin, and Vickie Marquardt
Commissioners for Otero County Commission
101 New York Avenue
Alamogordo, NM 88310

RE: Otero County Audit of 2020 Election

Dear Honorable Commissioners:

EchoMail, Inc. ("ECHOMAIL") is pleased to serve Otero County, ("CUSTOMER") in the auditing of the November 2020 General Election ("Election"). Per our understanding, ECHOMAIL will be serve as the prime contractor and be responsible for the deployment of the EchoMail® Election Systems Integrity™ (ESI) platform to perform the audit for the Election. Based on our review of the requirements, EchoMail will provide the following:

- (1) **Integrated Data Warehouse** - Creaton of an integrated data warehouse that will include such data as following: County's Voter Rolls, Participating Voter List, Cast Vote Records (CVRs), Images of the Return Ballot Envelopes, Ballot Images (from the Election Management System – EMS), Paper Ballot Scans, Door-to-Door Canvass data. Ref. Schedule A.
- (2) **Data Analytics** – Data analysis will include evaluation of registrations and votes cast at the precinct level and by vote type.
- (3) **Processing of Ballot Images** - Employ EchoMail to analyze approximately up to 25,000 Ballot Images. The Ballot Images are defined to be those images that are produced from the scanning of paper ballots by the County during the Election from their election management system ("EMS") . EchoMail will perform image analysis of the Ballot Images to calculate the vote counts for the Races. These vote counts will be compared with the Cast Vote Records ("CVR"). A formal report will be submitted of the findings. Ref. Schedule B.
- (4) **Paper Ballot Scan Comparison with Ballot Images** – Perform image analysis of the Paper Ballot Scans to calculate the vote counts for the Races (Paper Ballot Scans are the images generated by the scanning of the paper ballots). These vote counts will be compared with the Cast Vote Records ("CVR"). EchoMail will perform Image processing to determine the paired Paper Ballot Scan with its Ballot Image, and then evaluate if the vote counts across the pair are the same; and if not, will denote the discrepancies. A formal report will be submitted of the findings. Ref. Schedule C.
- (5) **Return Ballot Envelope Signature Presence Detection** - Perform EchoMail® Pattern Recognition Classification to determine presence of Blanks, Scribbles, and Signature on Return Ballot Envelope Images. A formal report will be submitted of the findings. Ref. Schedule D.



- (6) **Return Ballot Envelope Signature Verification Error Determination** - Perform an independent calculation of the error rates of the Count’s Signature Verification by employing EchoMail® Pattern Recognition Classification capabilities to determine how many of the signatures on unique EVB return envelopes would be classified as “Good Signatures” or “Bad Signatures” before any curing process is executed. Ref. Schedule E.
- (7) **Full Voter Registration Canvass** - Perform door-to-door canvass of Otero County voter registration database to determine accuracy of voter registration database. Canvass will be staffed by volunteers under the direction of New Mexico Audit Force (“Volunteers”) with guidance from EchoMail.

Total investment for this effort from Otero County will be \$49,750 as outlined in Schedule A. The Payment Schedule is as follows:

<u>Timing</u>		<u>Amount</u>
Upon execution of this letter and Master Agreement and Schedule A	-	\$24,875.00
February 1, 2022	-	\$24,875.00

Note: Schedules B through E will be funded by EchoMail's partners.

Sincerely,

Dr. Shiva Ayyadurai
 President/CEO
 EchoMail, Inc.

Encl: Master Agreement
 Schedules A-E



SCHEDULE A

Customer Name: Otero County Commission (“CUSTOMER”)
Customer Address: 101 New York Avenue, Alamogordo, NM 88310
Effective Term: January 1, 2022 – May 1, 2022
County: Otero County (“County”)
Election: 2020 General Election (“Election”)

Title: Integrated Data Warehouse and Analytics

Statement of Work

- (1) **Integrated Data Warehouse** - Creation of an integrated data warehouse that will include such data as following: County’s Voter Rolls, Participating Voter List, Cast Vote Records (CVRs), Images of the Return Ballot Envelopes, Ballot Images (from the Election Management System – EMS), Paper Ballot Scans, Door-to-Door Canvass data.
- (2) **Data Analytics** – Data analysis will include evaluation of registrations and votes cast at the precinct level and by vote type.

Pricing Schedule

Part Number	Part Description	Units	Unit Cost	One-Time	Recurring
	Professional Services				
EM-PS-PROJ-PLAN	Project Planning	1	\$ 3,000.00	\$ 3,000.00	\$ 0.00
EM-DW-100EPU - SETUP	Integrated EchoMail® DataWarehouse	1	\$ 12,500.00	\$ 12,500.00	\$ 0.00
EXT-FORENSICS	Hardware Forensics	1	\$ 14,500.00	\$ 14,500.00	\$ 0.00
EM-ANALYTICS	Data Analytics and Reporting	1	\$ 7,500.00	\$ 7,500.00	\$ 0.00
			Sub-Total	\$ 37,500.00	\$ 0.00
	Licenses				
EM-DW-LICENSE	EchoMail® DataWarehouse	1	\$ 12,250.00	\$ 12,250.00	\$ 0.00
			Sub-Total	\$ 12,250.00	\$ 0.00
			NET-Total	\$ 49,750.00	\$ 0.00

Other Terms:

Additional charges shall apply at the Unit Price set forth above in the event that quantity of use of the foregoing licensed Software and Services exceeds purchased amounts hereunder. Such additional charges shall be billed to the CUSTOMER on monthly basis. ECHOMAIL shall issue no credits to CUSTOMER for any licenses not used by CUSTOMER On the expiration date, and unused licenses may not be carried over into subsequent periods.

In the event CUSTOMER requests ECHOMAIL with prior written confirmation to ECHOMAIL to take specific actions, for example travel for onsite training or strategy meeting, shipping data on physical media such as tapes or disks etc., costs of shipping, telecommunications, mailing, traveling and out-of-pocket expenses incurred by EchoMail, Inc. in the performance of such actions are not included herein, and will be billed directly to CUSTOMER on a monthly basis.



This Schedule is governed by the EchoMail Software & Services Licensing Agreement. If there is any conflict between this Schedule and the EchoMail Software & Services Licensing Agreement, all terms of the EchoMail Software & Services Licensing Agreement shall control, except payment terms. Payment is due prior to start of work and use of Software and Services. Both parties agree to the foregoing as of this ___ day of _____ in the year of 2022, and to execute their performance obligations as set forth herein.

ECHOMAIL Authorized Representative

CUSTOMER Authorized Representative

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____



SCHEDULE B

Effective Term: January 1, 2022 – May 1, 2022

County: Otero County (“County”)

Election: 2020 General Election (“Election”)

Est. Number of Voters: 25,000 +/- 10%

Number of Races: All Races in Otero County (“Races”)

Number of Ballot Types: TBD (“Ballot Types”)

Title: Processing of Digital Ballot Images

Statement of Work

Employ EchoMail to analyze approximately up to 25,000 Ballot Images. The Ballot Images are defined to be those images that are produced from the scanning of paper ballots by the County during the Election from their election management system (“EMS”) . EchoMail will perform image analysis of the Ballot Images to calculate the vote counts for the Races. These vote counts will be compared with the Cast Vote Records (“CVR”). A formal report will be submitted of the findings.

County Provided Data - County will provide ECHOMAIL the following data:

1. Ballot images from EMS in a commonly used digital format e.g. TIFF;
2. CVR database;
3. Ballot Types templates, each pre-encoded by County for Races

County is expected to provide the above data to ECHOMAIL, ideally shipped on a hard drive. Other methods may be used; however, unless the data is not substantially large upload and download times may be significant. ECHOMAIL will provide training to Volunteers on how to encode a Ballot Type template.

ECHOMAIL Processing – EchoMail will perform the following processing on each ballot image per ballot type:

1. Use the Ballot Type information provided by County to process a Race
2. Pre-process i.e. auto-align, size calibrate, etc. the ballot image
3. Identify choices for each of the Races
4. Store results in relational database for reporting and analysis

ECHOMAIL Deliverables - EchoMail will deliver the following data:

1. Tabulated counts for Races
2. Comparison of EchoMail tabulated counts with that reported in CVR for Races

Pricing Schedule

Part Number	Part Description
	Professional Services
EM-DW-IMG-SETUP	Setup of EchoMail Data Warehousing for Image Processing including receipt and uploading of all Ballot Images
EM-RPT-Services	Preparation of Final Report for submission to Attorney General or Election Official.
EM-PS-PROJ-MGT	Project Management



	Licenses
EM-BI-10EPU-SVR	EchoMail Ballot Image Processing Server (up to 10 EPU ¹)

¹ One (1) EPU equals for 10,000 Ballot images.



SCHEDULE C

Effective Term: January 1, 2022 – May 1, 2022

County: Otero County (“County”)

Election: 2020 General Election (“Election”)

County: Otero County (“County”)

Est. Number of Voters: 25,000 +/- 10%

Number of Races: TBD (“Races”)

Number of Ballot Types: TBD (“Ballot Types”)

Title: Paper Ballot Scan Comparison with Ballot Images

Statement of Work

This Statement of Work assumes that Ballot Image processing has been completed through another Schedule. For this Statement of Work, ECHOMAIL will receive scanned versions of the Paper Ballots (“Paper Ballot Scans”) from County. EchoMail will perform image analysis of the Paper Ballot Scans to calculate the vote counts for the Races. These vote counts will be compared with the Cast Vote Records (“CVR”). ECHOMAIL will perform Image processing to determine the paired Paper Ballot Scan with its Ballot Image, and then evaluate if the vote counts across the pair are the same; and if not, will denote the discrepancies. A formal report will be submitted of the findings.

County Provided Data - County will provide ECHOMAIL the following data:

1. Paper Ballot Scans in a commonly used digital format e.g. TIFF;
2. CVR database (if not already provided from previous Schedule)
3. Ballot Types templates, each pre-encoded by County for Races (if not provided from previous Schedule)

County is expected to provide the above data to ECHOMAIL, ideally shipped on a hard drive. Other methods may be used; however, unless the data is not substantially large upload and download times may be significant. ECHOMAIL will provide training to Volunteers on how to encode a Ballot Type template.

ECHOMAIL Processing – EchoMail will perform the following processing on each Paper Ballot Scan per ballot type:

1. Use the Ballot Type information provided by County to process a Race
2. Pre-process i.e. auto-align, size calibrate, etc. the Paper Ballot Scan
3. Identify choices for each of the Races
4. Identify the Ballot Image pair for a Paper Ballot Scan
5. Compare the results of the Ballot Image with the Paper Ballot Scan
6. Store results in relational database for reporting and analysis

ECHOMAIL Deliverables - EchoMail will deliver the following data:

1. Tabulated counts for Races for the Paper Ballot Scans
2. Comparison of EchoMail tabulated counts of Paper Ballot Scans with that reported in CVR for Races
3. Comparison of the Paper Ballot Scan Races tabulation with the Ballot Images tabulation.

Pricing Schedule



Part Number	Part Description
	Professional Services
EM-DW-IMG-SETUP	Setup of EchoMail Data Warehousing for Image Processing including receipt and uploading of all Paper Ballot Scans
EM-RPT-SRVICES	Preparation of Final Report for submission to Attorney General or Election Official.
EM-PS-PROJ-MGT	Project Management
	Licenses
EM-BI-10EPU-SVR	EchoMail Paper Ballot Scan Processing Server (up to 10 EPU ¹)
EM-BI-10EPU-SVR	EchoMail Comparison Processing of Paper Ballot Scan with Ballot Images (up to 10 EPU ¹)

¹ One (1) EPU equals for 10,000 Paper Ballot Scans



SCHEDULE D

Effective Term: January 1, 2022 – May 1, 2022

County: Otero County (“County”)

Election: 2020 General Election (“Election”)

Est. Number of Envelopes: 6,000

Title:Return Ballot Envelope Signature Presence Detection

Statement of Work

This project aims to perform an EchoMail® Pattern Recognition Classification to determin presence of Blanks, Scribbles, and Signature on Return Ballot Envelope Images.

County Responsibilities - County will:

- 1) Provide envelope images from the County for the Election
- 2) Ensure envelope images are delivered via postal mail on a hard drive or uploaded to a secure repository for ECHOMAIL to download

ECHOMAIL Processing – EchoMail will perform the following processing on each envelope image:

- 1) Pre-process i.e. auto-align, size calibrate, etc. the envelope image
- 2) Detect if a signature does not exist on an envelope
- 3) Tabulate the total number of envelopes with and without signatures

ECHOMAIL Deliverables - EchoMail will deliver the following:

- 1) Total number of envelopes with blank signatures (pixel density is 0% to 0.1%)
- 2) Total number of envelopes with potential scribbles (pixel density is 0.1% to 1%)
- 3) Total number of envelopes with potential signatures (pixel density is greater than 1%)
- 4) Images of Return Ballot Envelopes containing no signatures

NOTE: Deliverables are dependent on County providing data in a timely manner.

Pricing Schedule

Part Number	Part Description
	Professional Services
EM-BI-SETUP	Setup EchoMail Business Intelligence Server
EM-RPT-SERVICES	Data Reporting Services
EM-PS-PROJ-MGT	Project Management
	Licenses
EM-BI-10EPU-SVR	EchoMail Business Intelligence Server (up to 10 EPU ¹)

¹ One (1) EPU equals the processing of up to 10,000 images.



SCHEDULE E

Effective Term: January 1, 2022 – May 1, 2022
County: Otero County (“County”)
Election: 2020 General Election (“Election”)

Est. Number of Envelopes: 2,500

Title: Ballot Envelope Signature Verification Error Determination

Statement of Work:

This project aims to perform an independent calculation of the error rates of the Count’s Signature Verification by employing EchoMail’s pattern recognition classification capabilities to determine how many of the signatures on unique EVB return envelopes would be classified as “Good Signatures” or “Bad Signatures” before any curing process is executed.

County Responsibilities – County shall provide the following to EchoMail:

- 1) Provide all EVB return envelope images in – full size – format for the County in the Election
- 2) Provide Voter Registration file containing for each voter, their name, voter-ID, address, etc. including the digital image of the voter’s signature or take direction from ECHOMAIL in acquiring the statistically significant number of signature images from other publicly available source.
- 3) The Standardized Operating Procedure (SOP) and/or the algorithms used by County for Signature Verification

ECHOMAIL Processing – EchoMail will perform the following processing:

- 1) If the algorithm used by County is provided, implement the algorithm into EchoMail’s system; and, if not, deploy EchoMail® Signature Matching Process;
- 2) For a particular voter-ID, pre-process i.e. auto-align, size calibrate, etc. the EVB return envelope image to extract the Signature Region and the signature of the voter in that Signature Region;
- 3) Execute feature extraction on signature extracted from Signature Region of EVB return envelope image to acquire the signature image alone;
- 4) For a particular voter-ID, pre-process i.e. auto-align, size calibrate, etc. each digital image of a signature from Voter Registration file or the public source to extract the signature alone;
- 5) Execute feature extraction on the signature from the Voter Registration file or public source to acquire the signature image alone;
- 6) Perform signature matching analysis either using the 27-point algorithm or EchoMail’s Signature Matching Process; and,
- 7) Categorise the signature matches as either “Good Signature” or “Bad Signature” based on specified thresholds.

ECHOMAIL Deliverables - EchoMail will deliver the following:

- 1) A report of signature matches across a statistically determined sample
- 2) Segmentation of the signatures categorized as “Bad Signatures”
- 3) An image library containing for each EVB return envelope image, its related image in the Voter Registration file or public source



Pricing Schedule

Part Number	Part Description
	Professional Services
EM-BI-SETUP	Setup EchoMail Business Intelligence Server
EM-RPT-SERVICES	Data Reporting Services
EM-PS-PROJ-MGT	Project Management
	Licenses
EM-BI-10EPU-SVR	EchoMail Business Intelligence Server (up to 10 EPU ¹)

¹ One (1) EPU equals the processing of up to 10,000 images.

Sylvia Tillbrook

From: smaes@co.otero.nm.us
Sent: Sunday, January 30, 2022 5:07 PM
To: erin_hughs@yahoo.com
Cc: 'Sylvia Tillbrook'; rholmes@co.otero.nm.us; Denise Guerra; rnichols@co.otero.nm.us
Subject: EchoMail IPRA Response
Attachments: EcoMail Response.pdf

Please see attached.

Selina Maes

Elections Coordinator

1104 N. White Sands Blvd. Ste C

Alamogordo, NM 88310

Phone -(575) 437-4942

Fax - (575)443-2922



COUNTY OF
OTERO
NEW MEXICO

Robyn M. Holmes
Otero County Clerk

Denise Y. Guerra
Chief Deputy Clerk



**State of New Mexico
County of Otero**

**Office of the
County Clerk**

1104 N. White Sands Blvd., Suite C
Alamogordo, NM 88310
Phone (575) 437-4942
Fax (575) 443-2922
rholmes@co.otero.nm.us

January 28, 2022

EchoMail
Attn: Erin Clements
701 Concord Ave.
Cambridge, MA 20138

Dear Ms. Clements,

In response to your IPRA request dated January 13, 2022, our response is as follows:

1. Full Otero County Voter Registration Roll with all available fields as they were as close as possible to the following dates:
 - a. January 1, 2020
 - b. June 1, 2020,
 - c. November 3, 2020
 - d. December 1, 2020
 - f. June 1, 2021
 - g. November 2, 2021
 - h. December 1, 2021

Response: No responsive records.

2. All Ballot images produced by the tabulators during the November 2020 Election in their original form.

Response: Ballot images are available on a USB in tiff form by precinct.

3. The Cast Vote Record Database (CVR) produced by the Dominion software in its original form.

Response: File is included on USB.

4. The ballot templets provided by Dominion.

Response: Templets are located on the USB.

5. Digital images of the voter's signatures if maintained by the county or the State for Signature verification.

Response: No responsive record.

6. The Standard Operating Procedure and/or algorithms used by the county for signature verification.

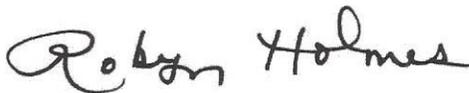
Response: No responsive record.

7. A list of all IP addresses which have accesses the county voter registration database and state voter registration database starting in January 2020 through December 2021.

Response: The list of IP addresses sought in the request does not exist, therefore we have no responsive records. The right to inspect applies to any nonexempt public record that exists at the time of the request. A state agency is not required to compile information from the public body's records or otherwise create a new public record in response to a request. See NMSA 1978, Section 14-2-8(B).

Please see attached invoice for the above request. Once payment is received, we will release records. Please make arrangements with Selina Maes for payment.

Best Regards,



Robyn Holmes
Otero County Clerk

RH/sm

OTERO COUNTY CLERK
 1104 N. WHITE SANDS BLVD. SUITE C
 ALAMOGORDO, NM 88310
 (575) 437-4942

Invoice No. 1

INVOICE

Customer

Name EchoMail
 Address 701 Concord Ave.
 City Cambridge State MA ZIP 20138
 Phone 575-680-4004

Misc

Date
 Order No.
 Rep
 FOB

Qty	Description	Unit Price	TOTAL
	The following are fees associated with the January 13, 2022 IPRA request.		
23261	Ballot images from the 2020 General Election	\$ 0.04	\$ 930.44
16	Cast Vote Records from the 2020 General Election	\$ 0.04	\$ 0.64
59	Sample Ballots from the 2020 General Election	\$ 0.04	\$ 2.36
1	Verbatim Pin Stripe 32 GB Flash Drive	\$ 5.99	\$ 5.99
1	Employee time to gather records 1 hr.	\$ 39.75	\$ 39.75
Make check payable to the Otero County Clerk's Office			

SubTotal	\$ 979.18
Shipping	
TOTAL	\$ 979.18

Payment

Comments
 Name
 CC #
 Expires

Tax Rate(s)

Wednesday, December 29, 2021

12:33 PM

RNICHOLS@CO.OTERO.NM.US

Just sent you an email. It will come from Erin_hughs@yahoo.com. Please let me know if you have any questions.

12:48 PM

1:04 PM

Got it. Thanks!

Just thinking about the caveat we discussed - maybe you'd want to word it to say the County won't be liable for specific line items in Schedule A (rather than the entire contract) that aren't able to be performed if access to certain items can't be obtained.

I think we have good justification to g

View all



1:26 PM

I agree. I don't know if the county exported the ballot



< Erin Clements

1:26 PM, Dec 29

Just thinking about the caveat we discussed - maybe you'd want to word it to say the County won't be liable for specific line items in Schedule A (rather than the entire contract) that aren't able to be performed if access to certain items can't be obtained.

I think we have good justification to get everything we're asking for according to the law, the evidence and the county's authority. But even if we're not successful in getting everything, there is still there is still a lot we could do with just the data we've obtained in several counties which shouldn't be a problem to get in Otero according to precedent already set by the SOS.



Erin Clements ▾



I agree. I don't know if the county exported the ballot images or not. Based on the emails some counties did and some didn't. I'm checking with our clerk.

1:30 PM

I hope she did. They are required to be maintained for 22 months following a federal election. They should be transferred from the tabulators to the Election Management System (EMS) when the files are loaded in for reporting to the SOS on election night.

1:34 PM

Is echomail willing to change the language of agreement to reflect basically what you stated above? If you prefer I can reach out to them directly.

3:49 PM

Yes - I'm sure they are. I will get in touch with them. It won't hold you up if it's not done until tomorrow, will it? They're on the east coast and it's already after hours there.

Yes - I'm sure they are. I will get in touch with them. It won't hold you up if it's not done until tomorrow, will it? They're on the east coast and it's already after hours there.

It seems like it would make the most sense to put that language in the cover letter. Is that ok with you?

3:51 PM

3:53 PM

Yes that works

Monday, January 3, 2022

Happy New Year, Mr. Nichols!
Just wanted to check in and make sure you have everything you need from us to move forward with the contract from Echomail? I emailed you their revised cover letter last week - I hope that came through alright.

11:31 AM



NM-OTERO-22-0140-A-000046



Erin Clements ▾



Happy New Year to you you!
Yes we are good now and
have it on the agenda. If
anything comes up i will let
you know.

11:33 AM

Perfect. Thank you so much.

11:41 AM

Friday, January 21, 2022

Hi Erin do you know of
Echomail performing audits
anywhere besides AZ.

2:28 PM

They assisted with the audit
in both Pima and Maricopa
Counties. And I believe
they have done work in
Massachusetts also.

3:12 PM

OK thanks!

3:56 PM



Erin Clements ✓



Monday, January 24, 2022

Erin can you have echomail sign a copy of the contract and cover letter and email it to me?

11:03 AM

I sure can.

11:05 AM

Thanks. Any progress with getting documents/materials from clerks office?

11:20 AM

Not yet. She sent an email saying she would need an extension past the three days allowed by IPRA. But she didn't specify how long.

11:22 AM

OK I'll follow up

11:32 AM

Thank you so much.

11:32 AM



Erin Clements



Tuesday, January 25, 2022

Hi Erin do you have some time today to help answer some questions from a concerned citizen wanting to know details about the audit?

7:40 AM

Yes - of course. What time is good for you?

7:41 AM

I'll forward them to you in about an hour when I get to the office. After you look at them my schedule is open to discuss.

7:43 AM

Sounds good.

7:43 AM

Email sent. Let me know when you have some time to discuss

9:31 AM

I've been typing up answers and am on the last one. I'll



Email sent. Let me know when you have some time to discuss

9:31 AM

I've been typing up answers and am on the last one. I'll send it back to you in a few minutes, then please call me anytime this morning to discuss.

9:32 AM

Sounds good.

9:32 AM

Thanks for the answers.

1:24 PM

Sure thing.

1:25 PM

I just forwarded the signed contract documents. Please let me know if they don't come through.

4:00 PM

Received Thanks

4:03 PM

From: erin hughes <erin_hughs@yahoo.com>
Sent: Wednesday, December 29, 2021 12:43 PM
To: RNICHOLS@CO.OTERO.NM.US
Subject: Fw: [External] Election Ballot Images

The email thread below is one set of correspondence with the SOS and a county clerk where the SOS clearly agrees ballot images are subject to IPRA. I have another letter we've obtained through IPRA as well if you'd like me to dig that up.

And here is the statute I mentioned that codifies all election records, including ballots and ballot images are subject to IPRA. It says they must be kept secret for 45 days, but implies they are public documents after that time has expired. We have obtained access to both by referencing this statute: NMAC 1-12-69:

G. Paper ballots marked by voters, their digitized equivalents and records related to voting are exempt from the Inspection of Public Records Act [Chapter 14, Article 2 NMSA 1978] until forty-five days following any recount, contest or other judicial inquiry or until forty-five days after adjournment of the state or county canvassing board, whichever is later. Any inspection of paper ballots marked by voters, their digitized equivalents or records related to voting shall be conducted in such a manner as to secure the secrecy of the ballot.

From: [Keith Manes](#)
Sent: Tuesday, November 23, 2021 11:33 AM
To: [Bonnie Brainerd](#)
Subject: FW: [External] Election Ballot Images

Bonnie, here is the emails with the SOS office regarding ballot images from Lea County. As you are aware Lea County submitted their ballot images to your group a couple of months ago.

Respectfully

Keith Manes

Lea County Clerk

P.O. Box 1507

Lovington, NM 88260



From: Fresquez, Kari, SOS <Kari.Fresquez@state.nm.us>
Sent: Thursday, February 18, 2021 9:37 AM
To: Keith Manes <kmanes@leacounty.net>
Subject: RE: [External] Election Ballot Images

Hi Keith,

After reviewing the images Carrie sent and visiting with Melissa, I think you are fine to provide the ballot images with one caveat. The county clerk is required to protect voter secrecy when providing election results. The NMAC rule 1.10.33 describes that vote totals in precincts with fewer than 5 voters by voting method shall be compiled as a total result and not broken out by voting method. Therefore, I would advise that you identify any precincts that may have had fewer than 5 voters and make sure you are not providing the ballot images such that the requestor can identify voting method.

After talking with Mandy and Melissa it sounds like not all of the counties exported the ballot images from the media cards after the election but since you have them you can provide them under these conditions which are sensitive to voter secrecy.

Let me know if you have any question.

Take care,

Kari

From: Keith Manes [<mailto:kmanes@leacounty.net>]
Sent: Wednesday, February 17, 2021 10:05 AM
To: Fresquez, Kari, SOS <Kari.Fresquez@state.nm.us>
Subject: [EXT] RE: [External] Election Ballot Images

Thanks, I think some counties are giving him a hard time, but my feeling is let them have everything we can so they can verify the machines counted properly and then leave us alone.

From: Fresquez, Kari, SOS <Kari.Fresquez@state.nm.us>
Sent: Wednesday, February 17, 2021 9:01 AM
To: Keith Manes <kmanes@leacounty.net>
Subject: FW: [External] Election Ballot Images

Good Morning Keith,

Melissa said she would call me today so I expect to have some more information regarding what data is captured on the ballot image so we can sort out the most efficient way for you to lawfully provide the requested information.

I'll be in touch.

Thanks,

Kari

From: Fresquez, Kari, SOS
Sent: Tuesday, February 16, 2021 3:15 PM
To: Keith Manes <kmanes@leacounty.net>
Subject: RE: [External] Election Ballot Images

Awww, thanks Keith! It is good to be back.

I think the best first step is to get familiar with what data is exactly on the ballot image. I don't have much of a concern with the ballot itself but if there is a machine mark or water mark placed on the image at the time that it is scanned into the machine that would reveal the voting machine name or voting method then you may need to do some redacting to protect voter secrecy. I will put a call into Melissa to get some details about the data on the images and be back in touch with you.

Also, the state records administrator mentioned in the election code is employed with the State Records Center & Archives Department. The current State Records Administrator is Dr. Rick Hendricks.

Unless you happen to have a ballot image handy, I will wait to hear back from Melissa and be in touch.

Thanks,

Kari

From: Keith Manes [<mailto:kmanes@leacounty.net>]
Sent: Tuesday, February 16, 2021 1:30 PM
To: Fresquez, Kari, SOS <Kari.Fresquez@state.nm.us>
Subject: [EXT] FW: [External] Election Ballot Images

Here is the request. As I said I want him to have everything we can legally give him so he can see the system really works. Let me know what you think. I am so glad your back.

From: Nick Maxwell <nickray07@gmail.com>
Sent: Sunday, February 14, 2021 11:29 AM
To: Keith Manes <kmanes@leacounty.net>
Cc: Scott, Larry <larry.scott@nmlegis.gov>
Subject: [External] Election Ballot Images

*****CAUTION:** This email originated from outside of Lea County. Do not click on links or open attachments unless you recognize the sender and know the content is safe.***

Looks like Lea County is going to be in for a snow day.

Keith,

I'd like to discuss IPRA requests for election information, specifically IPRA requests to inspect all ballot images of a particular election. Larry Scott, my representative who I get to vote for, would also gain helpful information if he is included in the discussion.

I have two main questions: 1) How much work is generated for a county clerk's office to meet the demand of this IPRA

request? And, 2) What happens with ballot images of federal elections after the passage of 45 days from adjournment of the state canvassing board but prior to 22 months from the date of the election? (Which is the time period when the ballot images become inspectable to the public)

On to the first question, it appears that all ballot images from a county election can fit on a single USB drive. The apparent issue at hand is that a county clerk must manually redact precinct-level information from each of the ballot images generated by the Dominion software prior to permitting an inspection to the public.

I have put forth identical inspection requests to two counties, and thus far, it is not a pleasant experience for either county. Dona Ana claims *"these ballot images contain protected information that must be redacted. The county clerk has a legal obligation to protect precinct-level data in order to ensure the secrecy of voter ballots (NMSA, §§ 1-12-70 and 1-12-69 G). As precinct level data is visible on ballot images, the precincts listed on these ballots would require redaction. With that being said, a staff member will need to go through every ballot to ensure the proper redactions are made. This is going to be a very big undertaking."*

The statutory reasoning here being that pursuant to §1-12-69(G), *"Any inspection of paper ballots marked by voters, their digitized equivalents or records related to voting shall be conducted in such a manner as to secure the secrecy of the ballot."*

Wouldn't it be easier if Dominion's software had a simplified way for the county clerk to export a specific election in an inspectable format, with precinct-level information already redacted, with the push of a few buttons? Like I mentioned, all the information fits on a \$20 data drive. Why should it take hundreds of hours of labor to perform a task that Dominion's software should be able to crank out by an authorized personnel in less than 5 minutes to a single USB drive?

Am I missing something here?

To the second question, Dona Ana County apparently interpreted §1-13-21(A) to grant them the authority to toss out ballot images of a federal election after the passage of forty-five days from adjournment of the state canvassing board. This statute reads *"The county clerk shall not clear the votes recorded on the removable storage media devices until at least forty-five days after adjournment of the county or state canvassing board, whichever is later."* But §1-12-69(A) mandates that all records related to voting in federal elections be retained and preserved for 22 months: *"Paper ballots marked by voters and ALL RECORDS RELATED TO VOTING (emphasis added) in any election in which a federal candidate appears on the ballot shall be retained and preserved for a period of twenty-two months from the date of the election."*

Furthermore, §1-13-21(E) indicates *"The state records administrator is authorized to receive for storage and destruction paper ballots marked by voters and records related to voting in any election in which a federal candidate appears on the ballot. At least three days prior to sending the ballots and records to the state records administrator, the county clerk shall notify the county chair of each political party that participated in the election. The chairs or their designees may inspect the boxes prior to their sealing for delivery."*

So what should happen with ballot images that must be preserved for 22 months when a county clerk clears out votes recorded on the removable storage media devices pursuant to §1-13-21? Are those ballot images first transferred to the state records administrator? Or just... **poof??** Who is the state records administrator - I'm assuming Maggie? The law doesn't seem to be clear as that statute had in the past referred to the state records center prior to legislative changes in 2015, and not a state records administrator which doesn't appear to be defined.

Thanks for considering,

Nick Maxwell

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

From: erin hughes <erin_hughs@yahoo.com>
Sent: Thursday, December 30, 2021 9:32 AM
To: rnichols@co.otero.nm.us
Subject: Edited Audit Proposal Cover Letter
Attachments: Cover-Letter-Otero-County Edited.pdf

Good morning Mr. Nichols,

I attached the edited cover letter with the caveat that the County won't be responsible for payment of line items if we are unable to get the data.

Please let me know if you need anything else to get this processed by Monday. If you don't mind, I'd like to see anything the SOS has sent the County in writing about their authority to do this audit. We have a lot of precedent to get almost everything we need through simple public documents requests. And access to the machines should be an obvious right for the Commissioners who have to certify elections that are performed on them.

Thank you,
Erin Clements



December 29, 2021

V.A. Shiva Ayyadurai, PhD
EchoMail, Inc.
701 Concord Avenue
Cambridge, MA 02138
e: yashiva@vashiva.com
m: 1-617-631-6874

Gerald Matherly, Couy Griffin, and Vickie Marquardt
Commissioners for Otero County Commission
101 New York Avenue
Alamogordo, NM 88310

RE: Otero County Audit of 2020 Election

Dear Honorable Commissioners:

EchoMail, Inc. (“ECHOMAIL”) is pleased to serve Otero County, (“CUSTOMER”) in the auditing of the November 2020 General Election (“Election”). Per our understanding, ECHOMAIL will be serve as the prime contractor and be responsible for the deployment of the EchoMail® Election Systems Integrity™ (ESI) platform to perform the audit for the Election. Based on our review of the requirements, EchoMail will provide the following:

- (1) **Integrated Data Warehouse** - Creaton of an integrated data warehouse that will include such data as following: County’s Voter Rolls, Participating Voter List, Cast Vote Records (CVRs), Images of the Return Ballot Envelopes, Ballot Images (from the Election Management System – EMS), Paper Ballot Scans, Door-to-Door Canvass data. Ref. Schedule A.
- (2) **Data Analytics** – Data analysis will include evaluation of registrations and votes cast at the precinct level and by vote type.
- (3) **Processing of Ballot Images** - Employ EchoMail to analyze approximately up to 25,000 Ballot Images. The Ballot Images are defined to be those images that are produced from the scanning of paper ballots by the County during the Election from their election management system (“EMS”) . EchoMaill will perform image analysis of the Ballot Images to calculate the vote counts for the Races. These vote counts will be compared with the Cast Vote Records (“CVR”). A formal report will be submitted of the findings. Ref. Schedule B.
- (4) **Paper Ballot Scan Comparison with Ballot Images** – Perform image analysis of the Paper Ballot Scans to calculate the vote counts for the Races (Paper Ballot Scans are the images generated by the scanning of the paper ballots). These vote counts will be compared with the Cast Vote Records (“CVR”). EchoMail will perform Image processing to determine the paired Paper Ballot Scan with its Ballot Image, and then evaluate if the vote counts across the pair are the same; and if not, will denote the discrepancies. A formal report will be submitted of the findings. Ref. Schedule C.
- (5) **Return Ballot Envelope Signature Presence Detection** - Perform EchoMail® Pattern Recognition Classification to determine presence of Blanks, Scribbles, and Signature on Return Ballot Envelope Images. A formal report will be submitted of the findings. Ref. Schedule D.



- (6) **Return Ballot Envelope Signature Verification Error Determination** - Perform an independent calculation of the error rates of the Count’s Signature Verification by employing EchoMail® Pattern Recognition Classification capabilities to determine how many of the signatures on unique EVB return envelopes would be classified as “Good Signatures” or “Bad Signatures” before any curing process is executed. Ref. Schedule E.
- (7) **Full Voter Registration Canvass** - Perform door-to-door canvass of Otero County voter registration database to determine accuracy of voter registration database. Canvass will be staffed by volunteers under the direction of New Mexico Audit Force (“Volunteers”) with guidance from EchoMail.

Total investment for this effort from Otero County will be \$49,750 as outlined in Schedule A. The County will not be liable for payment or portions of payments of line items in Schedule A in the event certain items cannot be obtained. The Payment Schedule is as follows:

<u>Timing</u>	<u>Amount</u>
Upon execution of this letter and Master Agreement and Schedule A	-
February 1, 2022	\$24,875.00
	-
	\$24,875.00

Note: Schedules B through E will be funded by EchoMail's partners.

Sincerely,

Dr. Shiva Ayyadurai
 President/CEO
 EchoMail, Inc.

Encl: Master Agreement
 Schedules A-E

From: rnichols@co.otero.nm.us
Sent: Thursday, December 30, 2021 12:58 PM
To: 'erin hughs'
Subject: RE: Edited Audit Proposal Cover Letter
Attachments: SoS Elections Letter.pdf

Erin,

Thanks. I think we are good for getting this on the agenda on Monday. Attached is the letter from the SoS concerning election audits. Based on what I'm seeing in the services agreement it does not appear EchoMail needs access to the voting machines. I believe everything EchoMail is requesting, can be acquired, as you stated, through public records.

Have a great weekend and a Happy New Year,
RB

From: erin hughs <erin_hughs@yahoo.com>
Sent: Thursday, December 30, 2021 9:32 AM
To: rnichols@co.otero.nm.us
Subject: Edited Audit Proposal Cover Letter

Good morning Mr. Nichols,

I attached the edited cover letter with the caveat that the County won't be responsible for payment of line items if we are unable to get the data.

Please let me know if you need anything else to get this processed by Monday. If you don't mind, I'd like to see anything the SOS has sent the County in writing about their authority to do this audit. We have a lot of precedent to get almost everything we need through simple public documents requests. And access to the machines should be an obvious right for the Commissioners who have to certify elections that are performed on them.

Thank you,
Erin Clements



STATE OF NEW MEXICO

MAGGIE TOULOUSE OLIVER

SECRETARY OF STATE

December 9, 2021

SENT VIA ELECTRONIC MAIL ONLY

Robyn Holmes
Otero County Clerk
1104 N White Sands Blvd
Alamogordo, NM 88310
rholmes@co.otero.nm.us

RE: Election Code Audit Requirements

Dear County Clerk Holmes:

New Mexico has a rigorous election audit system in place. The Legislature has required certain audits to take place before and after general elections. These processes are contained in Article 13 and 14 of the Election Code. To sum this process up, following a statewide election, the results are canvassed or audited so that accuracy is ensured. Canvassing first happens at the county level utilizing a trained group of election officials lead by the county clerk and a bi-partisan county canvassing board. Then an additional state level audit is completed by the Bureau of Elections Division of the New Mexico Secretary of State's Office. Any discrepancies between the results are thoroughly investigated. Once the canvass process is completed by trained election administrators, an independent audit is completed, and the election results forwarded to the New Mexico State Canvassing Board to be made official. If a candidate contest ends within a certain margin of victory, then automatic recounts are ordered by the State Canvassing Board to further ensure the election results are proper.

Finally, New Mexico conducts a risk-limiting audit following every general election. This process involves randomly selecting races and precincts throughout the state and hand counting the results in these precincts. The hand counted results are then compared to the normal machine counted results. In addition to the canvassing of the election results statute requires that an auditor test that our tabulators accurately count actual paper ballots with a known outcome. Furthermore, we confirm that they properly handle over-vote and under-vote conditions. The voting machine system check is conducted on the accuracy of precinct electronic vote tabulators, alternate voting location electronic vote tabulators and absent voter precinct electronic vote tabulators. The voting system check is conducted for all federal offices, for governor and for the statewide elective office, other offices. The auditor then reports the results of the voting system check to the secretary of state and release the results to the public.

325 DON GASPAR, SUITE 300 | SANTA FE, NEW MEXICO 87501
PHONE: (505) 827-3600 or (800) 477-3632 | FAX: (505) 827-8081
WWW.SOS.STATE.NM.US

These extensive election audit provisions are required to be conducted by our election administrators and any other methods of auditing the election results are not provided for in law.

Respectfully,



Mandy Vigil
State Election Director

325 DON GASPAR, SUITE 300 | SANTA FE, NEW MEXICO 87501
PHONE: (505) 827-3600 or (800) 477-3632 | FAX: (505) 827-8081
WWW.SOS.STATE.NM.US

From: erin hughes <erin_hughes@yahoo.com>
Sent: Tuesday, January 25, 2022 9:57 AM
To: rnichols@co.otero.nm.us
Subject: Re: Audit Questions

Thank you, RB. Please find our answers below:

1. What is/are the reason(s) for requesting this audit?

An extensive investigation into NM elections was conducted by volunteer experts and ordinary citizens and published here: https://dow9ovycsk6w7.cloudfront.net/media_items/68749-NM_Voter_Fraud_Report_with_Appendices.pdf?1633970140 The investigation showed significant manipulation is occurring in the voter registration rolls in every county in NM. We also discovered that the NM Secretary of State has granted backdoor access to the voter registration database to a far-left leaning organization, which in turn shares that access with over 1,000 other organizations. The final vote totals in all NM counties appear to be controlled by age, with multiple NM counties actually registering and casting more votes than even live in the counties for certain age groups. The president of Dominion committed perjury to the Michigan legislature when he said the Dominion voting system cannot be connected to the internet. Dominion's own user's manuals contradict this statement as well as an investigation in a county which revealed that Dominion machines have cellular modems installed in them without the knowledge of state or county officials. All of these issues and many others are the reasoning behind requesting this audit.

2. Are there credible allegations of voter fraud in Otero County? If so, who or what agency is investigating those allegations?

The suspicion of voter fraud in Otero County stems from the presence of state-wide manipulation uncovered in the report. The audit is indented to uncover the source of the manipulation seen in the registration database and vote totals. It is not believed that Otero County election staff are knowingly participating in what would be criminal acts if proved to be true. Local county law enforcement will have the choice to investigate and prosecute any wrongdoing uncovered by the audit.

3. How will you ensure that voters' personal information will be protected?

The Secretary of State's office and state statutes agree that the production of the paper ballots and ballot images for inspection does not violate voter privacy as there is no possible way to tie the paper ballot to the voter who cast it. The audit will include a full canvass of the voter rolls, which is very similar to canvassing done regularly by candidates and political parties. Except, instead of trying to persuade people to vote for a particular candidate, we will simply be verifying the information on the voter registration rolls - which is an official, public database.

4. Who will be conducting the audit in Otero County, what other audits have they conducted, and what are their credentials?

The prime contractor who will be leading the audit is EchoMail. EchoMail is owned and operated by Dr. V.A. Shiva Ayyadurai. He is the inventor of email and polymath, holds four degrees from MIT, is a world-renowned systems scientist, inventor and entrepreneur. He is a Fullbright Scholar, Lemelson-MIT Awards Finalist, India's First Outstanding Scientist and Technologist of Indian Origin, Westinghouse Science Talen Honors Award recipient, and a nominee for the U.S. National Medal of Technology and Innovation. There is no more qualified expert in the country when it comes to election audits than Dr. Ayyadurai. More information can be found here: echomail.com

The type of audit we are performing in Otero County is a fairly new concept, yet Dr. Ayyadurai has already been involved in audits in Pima County, Arizona, Maricopa County, Arizona, and extensive election analysis work in Massachusetts.

5. What methods will be used to conduct the audit? Will the auditors have access to voting machines and/or original ballots cast in Otero County?

The audit will seek to verify the integrity of the election from the paper election records, to the digital election records, to the machines used to perform the election. The paper and digital records are clearly defined in NM state statutes as being public documents open for inspection.

6. Since Otero Commissioners are requesting the audit, how do each and every member of the county commission propose to ensure this audit is conducted in a legal and ethical manner and ensure our election process is not degraded, impaired, or tainted by this audit?

The Commission has hired trained professionals who understand the state statutes regarding elections and will properly handle the data received. Significant precedent already exists for obtaining the types of documents and records requested in several other counties in NM. The equipment will be handled by trained professionals who guarantee that no equipment will be harmed or altered as a result of the audit inspection. The equipment inspection that will take place is not out of the ordinary for the professionals who will be inspecting the machines.

7. How do each and every county commissioner intend to protect our ballots and voting machines and ensure that taxpayer dollars are not misused?

See answer to question 6. Also, well over half of the US public (including both Republicans and Democrats) do not believe the November 2020 election was conducted fairly ([Most GOP Voters Still Don't Think Biden Was Elected Fairly - Rasmussen Reports®](#)). The Commissioners all expressed their desire to know the truth about what happened in Otero County in November 2020 and to affirm or dispel the significant, and growing mistrust from the public. They believe the integrity of the vote and voter confidence that their votes are counted correctly justifies what is a modest expenditure compared to the cost of using the Dominion election system. The Commission meeting where the expenditure was approved was very well attended and "standing room only." All members of the public who spoke were in support of the audit and the expenditure required.

Please call me to discuss further, if needed!

Thank you,
Erin Clements

On Tuesday, January 25, 2022, 09:50:15 AM CST, rnichols@co.otero.nm.us <rnichols@co.otero.nm.us> wrote:

Erin,

Pasted below are the questions we received from a concerned citizen. I appreciate any input NM Audit Force has in response.

1. What is/are the reason(s) for requesting this audit?
2. Are there credible allegations of voter fraud in Otero County? If so, who or what agency is investigating those allegations?
3. How will you ensure that voters' personal information will be protected?
4. Who will be conducting the audit in Otero County, what other audits have they conducted, and what are their credentials?
5. What methods will be used to conduct the audit? Will the auditors have access to voting machines and/or original ballots cast in Otero County?
6. Since Otero Commissioners are requesting the audit, how do each and every member of the county commission propose to ensure this audit is conducted in a legal and ethical manner and ensure our election process is not degraded, impaired, or tainted by this audit?
7. How do each and every county commissioner intend to protect our ballots and voting machines and ensure that taxpayer dollars are not misused?

V/R,

RB

R. B. Nichols

Otero County Attorney

Otero County Administration Building

1101 New York Avenue

Alamogordo, New Mexico 88310

575-437-7427 (telephone)

866-986-8376 (toll-free)

575-443-2928 (facsimile)

rnichols@co.otero.nm.us



From: erin hughes <erin_hughes@yahoo.com>
Sent: Tuesday, January 25, 2022 4:01 PM
To: rnichols@co.otero.nm.us
Subject: Fw: Executed documents for Otero
Attachments: Schedule-A-Otero-County-Jan-25-2022.pdf; EchoMail-Master-Software-Services-Agreement-Otero-County-Jan-25-2022.pdf; Cover-Letter-Otero-County-Jan-25-2022.pdf

RB,

Please find attached the contract documents signed by EchoMail. Please let me know if you need anything else to get it processed.

Sincerely,
Erin Clements



MASTER LICENSE AND SERVICES AGREEMENT

This Agreement is entered into as of January 25, 2022 (“the Effective Date”) between EchoMail, Inc., a Delaware Corporation, its subsidiaries, affiliates, authorized resellers/distributors, (“ECHOMAIL”) and Otero County Commission its subsidiaries and affiliates, (“CUSTOMER”).

In consideration of the mutual covenants contained herein, the parties hereto hereby agree as follows:

1.0 Definitions

As used herein, the following terms shall have the designated meanings:

- 1.1 “Licensed Software” shall mean the software designated on any Schedule as being licensed by ECHOMAIL to CUSTOMER under this Agreement.
- 1.2 “Schedule” shall mean any schedules or exhibits, including any Statements of Work included therein, executed by the parties and attached to the Agreement as of the date hereof and any Schedules or exhibits, including any Statement of Work included therein, subsequently executed by the parties and attached to this Agreement.
- 1.3 “Services” shall mean the services designated in any Schedule as being provided by ECHOMAIL to CUSTOMER under this Agreement.

2.0 License

- 2.1 If the agreed-upon offering from ECHOMAIL includes Licensed Software, ECHOMAIL will grant to CUSTOMER a non-perpetual, non-exclusive, non-transferable, non-sublicensable right and license to use the Licensed Software in object code form only to receive, process, analyze, transmit and respond to digital content i.e. messages, images, email, web pages, social media posts, etc. solely for its own business purposes subject to and in accordance with the provisions of this Agreement, the terms in Schedule, and the accompanying documentation.
- 2.2 If CUSTOMER requires access of Licensed Software by any consultants or third-party entities, then CUSTOMER agrees to ensure that such consultants or third-party entities execute a separate agreement with ECHOMAIL to ensure protection of ECHOMAIL’s Intellectual Property. CUSTOMER agrees that at no time will CUSTOMER allow any direct or indirect competitor of ECHOMAIL to access or to use the Licensed Software. CUSTOMER agrees to abide by ECHOMAIL’s reasonable definition of competitor, should there ever come a question as to if an entity is a competitor to ECHOMAIL or not.
- 2.3 The Licensed Software and documentation provided therewith are provided with RESTRICTED RIGHTS. Use, duplication or disclosure by the United States Government is subject to the restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software - Restricted Rights at 48 CFR 52.227-19, as applicable.

3.0 ECHOMAIL Responsibilities

- 3.1 ECHOMAIL shall be solely responsible for the proper installation of the Licensed Software in machine-readable, object code form.
- 3.2 ECHOMAIL will also provide to CUSTOMER services for implementation, training, customization, maintenance, hosting and other services related to Licensed Software as requested by CUSTOMER as outlined in the appropriate Schedule(s).
- 3.3 ECHOMAIL agrees to provide to CUSTOMER access codes for the use of the Licensed Software. On the date that CUSTOMER uses any of those access codes to use the Licensed Software in a production format, the formal delivery of the Licensed Software is complete (“Delivery Date”).
- 3.4 Following the Delivery Date, ECHOMAIL shall provide software support and maintenance services under this Agreement in accordance with the terms and conditions set forth in the appropriate Schedule. ECHOMAIL shall provide the software support services set forth in Schedule for only the then current release of the Licensed Software.

3.5 ECHOMAIL will provide timely new releases and updated documentation of the Licensed Software at no additional cost to CUSTOMER.

4.0 Services

4.1 All work shall be performed in a workmanlike and professional manner by ECHOMAIL having a level of skill in the area commensurate with the requirements of the scope of work to be performed.

5.0 Price

The prices for all ECHOMAIL Licensed Software, Services and related maintenance and support services shall be set forth in the applicable Schedule. If CUSTOMER desires to add additional software to the Licensed Software or buy additional units, CUSTOMER shall have the right to do so during the term hereof for the prices set forth in applicable signed Schedule(s).

6.0 Payment

6.1 CUSTOMER shall pay ECHOMAIL the fees for all Licensed Software and related maintenance and according to the Payment Schedule as outlined in signed applicable Schedule(s).

6.2 ECHOMAIL shall invoice CUSTOMER for all CUSTOMER pre-approved Out-of-Pocket Expenses and any other amounts due as set forth in signed applicable Schedule(s) on a monthly basis. Each invoice shall contain detailed entries of Software, Service and other items. CUSTOMER shall pay all as denoted in signed applicable Schedule(s).

6.3 If CUSTOMER does not pay for the Licensed Software within the time limits as agreed upon in signed applicable Schedule(s), ECHOMAIL will contact CUSTOMER to obtain payment and attempt to resolve any discrepancies. If after 30 days, the discrepancy cannot be solved, CUSTOMER agrees that ECHOMAIL has the right to terminate CUSTOMER'S further use of the Licensed Software until payment is received.

6.4 All payments not made within the time periods specified herein shall bear interest at the rate of one and one half percent (1.5%) per month or the maximum allowed by law, whichever is less, until paid in full.

6.5 In the event of termination, CUSTOMER is responsible for any and all amounts due to EchoMail per the terms of any signed Schedules or Statement of Work(s).

7.0 Schedules

The applicable Schedule sets forth the ECHOMAIL Licensed Software and/or Services to be obtained by CUSTOMER. The parties may execute additional Schedules and such additional Schedules will be bound by the terms of this Agreement.

8.0 Publicity

ECHOMAIL may use CUSTOMER'S name and identifying logo on ECHOMAIL'S customer list and web site.

9.0 Transmission Difficulties

CUSTOMER acknowledges that it shall be fully and solely responsible for assuring that data sent by CUSTOMER to ECHOMAIL reach ECHOMAIL in proper condition, and ECHOMAIL shall have no liability in connection therewith.

10.0 Intellectual Property Rights

ECHOMAIL possesses, and shall at all times continue to possess and own, the entire right, title and interest in and to the Licensed Software, the results or deliverables of any Services performed hereunder (which shall be deemed to be Licensed Software for purposes of this Agreement) and all intellectual property rights of any nature whatsoever with respect to the foregoing. All right, title and interest in and to any programs, systems, data and materials furnished to ECHOMAIL by CUSTOMER are and shall remain the property of CUSTOMER and will be returned to CUSTOMER at the earlier of termination of this Agreement or the completion of Services.

11.0 Confidential Information

- 11.1 During the term of this Agreement, each party shall disclose to the other party, both orally and in writing, certain information of the disclosing party which concerns the disclosing party's business plans, customers, technology or products which are or contain confidential, proprietary or trade secret information (collectively the "Information"), which is either marked in a manner to indicate that it is considered proprietary or confidential or otherwise subject to limited distribution as provided herein, or is disclosed in such a manner that a reasonable person would understand the confidential nature of the Information disclosed. In addition, future business plans, customer, customer lists and financial information, and confidential information of third parties to which a party has had access shall be deemed Information. A party receiving Information shall hold such Information in strict confidence and shall not disclose such Information to any person or entity other than to the employees, agents or consultants of such party having a need to know in order for such party to perform properly its obligations under this Agreement. Such party shall make no other use of any nature whatsoever of any such Information. The Licensed Software constitutes Information of ECHOMAIL.
- 11.2 All vendors, service providers, consultants and other third-party agents engaged by the CUSTOMER that are involved in the use of or interaction with ECHOMAIL shall sign EchoMail Mutual Non-disclosure Agreement.
- 11.3 This Agreement shall impose no obligation of confidentiality upon a recipient with respect to any portion of the Information received hereunder which is (a) now or hereafter, through no unauthorized act or failure to act on recipient's part, in the public domain; (b) known to the recipient without an obligation of confidentiality at the time recipient receives the same from the disclosing party, as evidenced by written records; (c) hereafter furnished to the recipient by a third party as a matter of right and without restriction on disclosure; (d) furnished to others by the disclosing party without restrictions on disclosure; (e) independently developed by the recipient without use of the disclosing party's Information; or (f) required to be disclosed pursuant to a requirement of a government agency or law, so long as the recipient provides prompt notice to the disclosing party of such requirement prior to any such disclosure and reasonably cooperates with the disclosing party if it elects to seek to limit or avoid such disclosure by any lawful means.
- 11.4 Each party acknowledges that in the event of any breach or threatened breach of this Section 11.0, the other party shall suffer irreparable harm and will not possess an adequate remedy at law. Accordingly, each party shall have the right to obtain injunctive relief to restrain such breach or threatened breach.
- 11.5 No right of ownership or title to any Information is transferred by either party to the other party under or pursuant to this Agreement.
- 11.6 CUSTOMER acknowledges that Licensed Software provided by ECHOMAIL is copyrighted by ECHOMAIL. The trademarks, trade names and logos under which ECHOMAIL markets the Licensed Software are the exclusive property of ECHOMAIL and this Agreement provides no rights thereto to CUSTOMER. Any copyright notice used by ECHOMAIL shall not be deemed to imply that any part of such item has been published or has been placed in the public domain.

12.0 Warranty

- 12.1 ECHOMAIL warrants for a period of sixty (60) days following the Delivery Date of the applicable Licensed Software to CUSTOMER that any Licensed Software provided by ECHOMAIL shall materially conform to ECHOMAIL'S then current documentation. In the event any Licensed Software does not so materially conform to then current documentation, ECHOMAIL shall undertake reasonable commercial efforts to correct such non-conformity. Such correction shall constitute CUSTOMER'S sole remedy and ECHOMAIL'S sole liability in the event of any breach of such warranty by ECHOMAIL.
- 12.2 EXCEPT AS OTHERWISE STATED IN THIS SECTION 12, ECHOMAIL MAKES NO WARRANTIES WITH RESPECT TO THE LICENSED SOFTWARE OR THE SERVICES PERFORMED UNDER THIS AGREEMENT AND DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, FREEDOM FROM BUGS, CORRECTNESS OR RELIABILITY, OR THAT THE LICENSED SOFTWARE'S USE WILL BE UNINTERRUPTED OR ERROR-FREE, AND ALL WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN THE TRADE.

13.0 Infringement

- 13.1 ECHOMAIL shall defend, indemnify and hold harmless CUSTOMER from all costs, expenses, damages, suits and other proceedings incurred by CUSTOMER, its officers, directors, employees or agents in connection with any claim that the Licensed Software infringes any patent, copyright, trade secret or other proprietary rights of any third party, provided that (a) CUSTOMER promptly informs ECHOMAIL of any such action, and (b) CUSTOMER furnishes to ECHOMAIL all information and assistance in connection therewith which may be reasonably requested by ECHOMAIL from time to time. ECHOMAIL shall have the sole right to settle, defend, or otherwise handle any such claim. In the event the use of any Licensed Software is enjoined, ECHOMAIL shall, at its option, either (a) procure for CUSTOMER the right to continue to use such Licensed Software, (b) replace or modify the same to make it non-infringing, or (c) terminate the license to such Licensed Software and provide a pro rata refund to CUSTOMER of all amounts paid by CUSTOMER for the allegedly infringing Licensed Software to ECHOMAIL hereunder, based upon a five (5) year life of such Licensed Software.
- 13.2 ECHOMAIL'S obligations under this Section 13.0 shall be only for the benefit of CUSTOMER. ECHOMAIL shall not be obligated to defend or to be liable under this Section 13.0 to the extent the infringement asserted arises out of (a) compliance with specification originating with CUSTOMER, (b) use or combination of Licensed Software with items not provided by ECHOMAIL to the extent such infringement would not have occurred but for such use or combination with such other items; (c) use of other than the latest unmodified version of Licensed Software if such infringement would have been avoided by the use of such later version; or (d) modification of Licensed Software other than by ECHOMAIL.
- 13.3 This Section 13.0 states the exclusive remedy of CUSTOMER and the entire liability of ECHOMAIL with respect to infringement of any patent, copyright, or other proprietary rights of third parties by items furnished by ECHOMAIL hereunder.

14.0 Indemnification

- 14.1 Each party shall indemnify and hold harmless the other party, its subsidiaries, their officers, directors, agents and employees from any claims for loss, cost, damage, expense or liability by reason of bodily injury (including death) or tangible property damage arising out of, as a result of, or in connection with, the indemnifying party's performance under this Agreement or the negligent actions or omissions or willful wrongdoing of the indemnifying party, provided that the indemnified party gives the indemnifying party prompt written notice of such claims and, full information, reasonable assistance and authority for the defense or settlement of such claims.

15.0 Limitation of Liability

EXCEPT AS EXPRESSLY PROVIDED HEREIN, ECHOMAIL'S LIABILITY UNDER THIS AGREEMENT, WHETHER FOR BREACH OF WARRANTY OR CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL IN NO EVENT EXCEED AMOUNT PAID BY CUSTOMER TO ECHOMAIL UNDER THIS AGREEMENT CONTRACT PRICE, AS SET FORTH IN SCHEDULE FOR LICENSED SOFTWARE AND/OR SERVICES, WHICH ALLEGEDLY DAMAGED CUSTOMER. THE CONTRACT PRICE, AS SET FORTH IN SCHEDULE A. IN NO EVENT SHALL ECHOMAIL HAVE ANY LIABILITY FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND, WHETHER UNDER THIS AGREEMENT OR OTHERWISE, EVEN IF ECHOMAIL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS.

16.0 Term

Unless earlier terminated in accordance with Section 17.0 hereof, the term of this Agreement shall commence as of the date hereof and shall continue in full force and effect for three (3) years thereafter. This Agreement shall automatically renew for successive one (1) year terms, thereafter, unless terminated by either party by written notice to the other at least thirty (30) days prior to the renewal date.

17.0 Termination

- 17.1 In the event of a breach of this Agreement by a party hereto (including without limitation use of the Licensed Software by CUSTOMER in excess of the use limitations specified in any applicable Schedule(s), the non-breaching party shall give notice of such default to the other party and, if the breach is not cured within sixty (60) calendar days of such notice, the non-breaching party shall be entitled to terminate this Agreement immediately upon notice to the other party.
- 17.2 In the event a party hereto files a voluntary petition for bankruptcy, has an involuntary petition for bankruptcy filed against it which remains undismissed for at least sixty (60) days, makes an assignment for the benefit of its creditors, or has a receiver appointed for all or a substantial portion of its property, the other party shall have the right to terminate this Agreement immediately upon notice.
- 17.3 The rights and obligations of the parties under Sections 2.3, 6.0, 8.0, 10.0, 11.0, 12.0, 13.0, 14.0, 15.0, 17.3 and 18.0 hereof shall survive any termination of this Agreement. Except for the foregoing, immediately upon the effective date of any termination, all rights and obligations of the parties under this Agreement shall cease and terminate. CUSTOMER shall, within ten (10) days after the effective date of any termination, promptly, first, deliver to ECHOMAIL all copies of any Licensed Software provided by ECHOMAIL and all ECHOMAIL'S Information then in CUSTOMER'S possession; second, destroy any copies of Licensed Software whatsoever in CUSTOMER'S possession; third, allow ECHOMAIL access to hardware systems that contained or contain Licensed Software to verify and ensure termination of use of Licensed Software.
- 17.4 In the event of early termination, CUSTOMER is obligated to pay to ECHOMAIL any and all amounts due for Services performed through the date of termination.
- 17.5 CUSTOMER may terminate this Agreement at any time on sixty (60) days prior written notice and CUSTOMER, in such event is obligated to pay to ECHOMAIL any and all amounts due per the terms of any Schedules agreed upon by both parties.

18.0 Miscellaneous

- 18.1 Each party irrevocably agrees that in any court proceedings initiated by CUSTOMER, the state and federal courts located in the State of Arizona shall have exclusive jurisdiction to settle any dispute, and for any court proceedings initiated by ECHOMAIL, the state and federal courts located in the Commonwealth of Massachusetts shall have exclusive jurisdiction to settle any dispute with respect to any matters relating to this Agreement.
- 18.2 The validity, construction and performance of this Agreement shall be governed by the laws of the Commonwealth of Massachusetts. The parties hereto submit to the non-exclusive jurisdiction of the state and federal courts located in the Commonwealth of Massachusetts with respect to any matters relating to this Agreement.
- 18.3 Neither party shall be in breach of this Agreement if there is any total or partial failure of performance by it of its duties and obligations under this Agreement occasioned by any act of God, fire, act of government or state, war, civil commotion, insurrection, embargo, prevention from or hindrance in obtaining any raw materials, energy or other supplies, labor disputes of whatever nature and any other reason beyond the reasonable control of either party.
- 18.4 In the event that any provision of this Agreement shall be held to be void or unenforceable by any court of competent jurisdiction, such determination shall not affect the remainder of this Agreement, which shall remain in full force and effect, and the void or unenforceable provision shall be enforced to the maximum extent legally permissible.
- 18.5 This Agreement shall not be transferable or assignable by CUSTOMER without the prior written consent of ECHOMAIL, such consent not to be unreasonably withheld. Notwithstanding the foregoing, upon notice to ECHOMAIL, CUSTOMER may assign this Agreement or any rights, duties or obligations hereunder to a corporation controlling, controlled by or under common control with CUSTOMER. Any assignment or transfer in violation of this provision shall be void and without effect.
- 18.6 This Agreement shall not be transferable or assignable by either party without the prior written consent of the other party. Any assignment or transfer in violation of this provision shall be void and without effect.
- 18.7 This Agreement embodies and sets forth the entire agreement and understanding of the parties and



SCHEDULE A

Customer Name: Otero County Commission ("CUSTOMER")
Customer Address: 101 New York Avenue, Alamogordo, NM 88310
Effective Term: January 25, 2022 – May 30, 2022
County: Otero County ("County")
Election: 2020 General Election ("Election")
Title: Integrated Data Warehouse and Analytics

Statement of Work

- (1) Integrated Data Warehouse - Creation of an integrated data warehouse that will include such data as following: County's Voter Rolls, Participating Voter List, Cast Vote Records (CVRs), Images of the Return Ballot Envelopes, Ballot Images (from the Election Management System – EMS), Paper Ballot Scans, Door-to-Door Canvass data.
(2) Data Analytics – Data analysis will include evaluation of registrations and votes cast at the precinct level and by vote type.

Pricing Schedule

Table with 6 columns: Part Number, Part Description, Units, Unit Cost, One-Time, Recurring. Rows include Professional Services (Project Planning, Data Warehouse, Hardware Forensics, Data Analytics and Reporting) and Licenses (EchoMail® Data Warehouse) with sub-totals and a final NET-Total of \$49,750.00.

Other Terms:

Additional charges shall apply at the Unit Price set forth above in the event that quantity of use of the foregoing licensed Software and Services exceeds purchased amounts hereunder. Such additional charges shall be billed to the CUSTOMER on monthly basis. ECHOMAIL shall issue no credits to CUSTOMER for any licenses not used by CUSTOMER On the expiration date, and unused licenses may not be carried over into subsequent periods.

In the event CUSTOMER requests ECHOMAIL with prior written confirmation to ECHOMAIL to take specific actions, for example travel for onsite training or strategy meeting, shipping data on physical media such as tapes or disks etc., costs of shipping, telecommunications, mailing, traveling and out-of-pocket expenses incurred by EchoMail, Inc. in the performance of such actions are not included herein, and will be billed directly to CUSTOMER on a monthly basis.



This Schedule is governed by the EchoMail Software & Services Licensing Agreement. If there is any conflict between this Schedule and the EchoMail Software & Services Licensing Agreement, all terms of the EchoMail Software & Services Licensing Agreement shall control, except payment terms. Payment is due prior to start of work and use of Software and Services. Both parties agree to the foregoing as of this 25th day of January in the year of 2022, and to execute their performance obligations as set forth herein.

ECHOMAIL Authorized Representative

CUSTOMER Authorized Representative

Signature: *Shiva Ayyadurai*

Signature: _____

Name: Shiva Ayyadurai

Name: _____

Title: President/CEO

Title: _____

rnichols@co.otero.nm.us

From: rnichols@co.otero.nm.us
Sent: Friday, January 28, 2022 2:46 PM
To: 'erin hughs'
Subject: Signed Echomail Contract
Attachments: Scan1986.pdf

Erin,

Attached please find the completed contract with EchoMail.

V/r,
RB



January 25, 2022

V.A. Shiva Ayyadurai, PhD
EchoMail, Inc.
701 Concord Avenue
Cambridge, MA 02138
e: vashiva@vashiva.com
m: 1-617-631-6874

Gerald Matherly, Couy Griffin, and Vickie Marquardt
Commissioners for Otero County Commission
101 New York Avenue
Alamogordo, NM 88310

RE: Otero County Audit of 2020 Election

Dear Honorable Commissioners:

EchoMail, Inc. (“ECHOMAIL”) is pleased to serve Otero County, (“CUSTOMER”) in the auditing of the November 2020 General Election (“Election”). Per our understanding, ECHOMAIL will be serve as the prime contractor and be responsible for the deployment of the EchoMail® Election Systems Integrity™ (ESI) platform to perform the audit for the Election. Based on our review of the requirements, EchoMail will provide the following:

- (1) **Integrated Data Warehouse** - Creation of an integrated data warehouse that will include such data as following: County’s Voter Rolls, Participating Voter List, Cast Vote Records (CVRs), Images of the Return Ballot Envelopes, Ballot Images (from the Election Management System – EMS), Paper Ballot Scans, Door-to-Door Canvass data. Ref. Schedule A.
- (2) **Data Analytics** – Data analysis will include evaluation of registrations and votes cast at the precinct level and by vote type.
- (3) **Processing of Ballot Images** - Employ EchoMail to analyze approximately up to 25,000 Ballot Images. The Ballot Images are defined to be those images that are produced from the scanning of paper ballots by the County during the Election from their election management system (“EMS”) . EchoMail will perform image analysis of the Ballot Images to calculate the vote counts for the Races. These vote counts will be compared with the Cast Vote Records (“CVR”). A formal report will be submitted of the findings. Ref. Schedule B.
- (4) **Paper Ballot Scan Comparison with Ballot Images** – Perform image analysis of the Paper Ballot Scans to calculate the vote counts for the Races (Paper Ballot Scans are the images generated by the scanning of the paper ballots). These vote counts will be compared with the Cast Vote Records (“CVR”). EchoMail will perform Image processing to determine the paired Paper Ballot Scan with its Ballot Image, and then evaluate if the vote counts across the pair are the same; and if not, will denote the discrepancies. A formal report will be submitted of the findings. Ref. Schedule C.
- (5) **Return Ballot Envelope Signature Presence Detection** - Perform EchoMail® Pattern Recognition Classification to determine presence of Blanks, Scribbles, and Signature on Return Ballot Envelope Images. A formal report will be submitted of the findings. Ref. Schedule D.

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701 Concord Avenue Cambridge, MA 02138 tel.: 617-354-8585



- (6) **Return Ballot Envelope Signature Verification Error Determination** - Perform an independent calculation of the error rates of the Count's Signature Verification by employing EchoMail® Pattern Recognition Classification capabilities to determine how many of the signatures on unique EVB return envelopes would be classified as "Good Signatures" or "Bad Signatures" before any curing process is executed. Ref. Schedule E.
- (7) **Full Voter Registration Canvass** - Perform door-to-door canvass of Otero County voter registration database to determine accuracy of voter registration database. Canvass will be staffed by volunteers under the direction of New Mexico Audit Force ("Volunteers") with guidance from EchoMail.

Total investment for this effort from Otero County will be \$49,750 as outlined in Schedule A. The County will not be liable for payment or portions of payments of line items in Schedule A in the event certain items cannot be obtained. The Payment Schedule is as follows:

<u>Timing</u>		<u>Amount</u>
Upon execution of this letter and Master Agreement and Schedule A	-	\$24,875.00
March 1, 2022	-	\$24,875.00

Note: Schedules B through E will be funded by EchoMail's partners.

Sincerely,


 Dr. Shiva Ayyadurai
 President/CEO
 EchoMail, Inc.

Encl: Master Agreement
 Schedules A



MASTER LICENSE AND SERVICES AGREEMENT

This Agreement is entered into as of January 25, 2022 (“the Effective Date”) between EchoMail, Inc., a Delaware Corporation, its subsidiaries, affiliates, authorized resellers/distributors, (“ECHOMAIL”) and Otero County Commission its subsidiaries and affiliates, (“CUSTOMER”).

In consideration of the mutual covenants contained herein, the parties hereto hereby agree as follows:

1.0 Definitions

As used herein, the following terms shall have the designated meanings:

- 1.1 “Licensed Software” shall mean the software designated on any Schedule as being licensed by ECHOMAIL to CUSTOMER under this Agreement.
- 1.2 “Schedule” shall mean any schedules or exhibits, including any Statements of Work included therein, executed by the parties and attached to the Agreement as of the date hereof and any Schedules or exhibits, including any Statement of Work included therein, subsequently executed by the parties and attached to this Agreement.
- 1.3 “Services” shall mean the services designated in any Schedule as being provided by ECHOMAIL to CUSTOMER under this Agreement.

2.0 License

- 2.1 If the agreed-upon offering from ECHOMAIL includes Licensed Software, ECHOMAIL will grant to CUSTOMER a non-perpetual, non-exclusive, non-transferable, non-sublicensable right and license to use the Licensed Software in object code form only to receive, process, analyze, transmit and respond to digital content i.e. messages, images, email, web pages, social media posts, etc. solely for its own business purposes subject to and in accordance with the provisions of this Agreement, the terms in Schedule, and the accompanying documentation.
- 2.2 If CUSTOMER requires access of Licensed Software by any consultants or third-party entities, then CUSTOMER agrees to ensure that such consultants or third-party entities execute a separate agreement with ECHOMAIL to ensure protection of ECHOMAIL’s Intellectual Property. CUSTOMER agrees that at no time will CUSTOMER allow any direct or indirect competitor of ECHOMAIL to access or to use the Licensed Software. CUSTOMER agrees to abide by ECHOMAIL’s reasonable definition of competitor, should there ever come a question as to if an entity is a competitor to ECHOMAIL or not.
- 2.3 The Licensed Software and documentation provided therewith are provided with RESTRICTED RIGHTS. Use, duplication or disclosure by the United States Government is subject to the restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software - Restricted Rights at 48 CFR 52.227-19, as applicable.

3.0 ECHOMAIL Responsibilities

- 3.1 ECHOMAIL shall be solely responsible for the proper installation of the Licensed Software in machine-readable, object code form.
- 3.2 ECHOMAIL will also provide to CUSTOMER services for implementation, training, customization, maintenance, hosting and other services related to Licensed Software as requested by CUSTOMER as outlined in the appropriate Schedule(s).
- 3.3 ECHOMAIL agrees to provide to CUSTOMER access codes for the use of the Licensed Software. On the date that CUSTOMER uses any of those access codes to use the Licensed Software in a production format, the formal delivery of the Licensed Software is complete (“Delivery Date”).
- 3.4 Following the Delivery Date, ECHOMAIL shall provide software support and maintenance services under this Agreement in accordance with the terms and conditions set forth in the appropriate Schedule. ECHOMAIL shall provide the software support services set forth in Schedule for only the then current release of the Licensed Software.

3.5 ECHOMAIL will provide timely new releases and updated documentation of the Licensed Software at no additional cost to CUSTOMER.

4.0 Services

4.1 All work shall be performed in a workmanlike and professional manner by ECHOMAIL having a level of skill in the area commensurate with the requirements of the scope of work to be performed.

5.0 Price

The prices for all ECHOMAIL Licensed Software, Services and related maintenance and support services shall be set forth in the applicable Schedule. If CUSTOMER desires to add additional software to the Licensed Software or buy additional units, CUSTOMER shall have the right to do so during the term hereof for the prices set forth in applicable signed Schedule(s).

6.0 Payment

6.1 CUSTOMER shall pay ECHOMAIL the fees for all Licensed Software and related maintenance and according to the Payment Schedule as outlined in signed applicable Schedule(s).

6.2 ECHOMAIL shall invoice CUSTOMER for all CUSTOMER pre-approved Out-of-Pocket Expenses and any other amounts due as set forth in signed applicable Schedule(s) on a monthly basis. Each invoice shall contain detailed entries of Software, Service and other items. CUSTOMER shall pay all as denoted in signed applicable Schedule(s).

6.3 If CUSTOMER does not pay for the Licensed Software within the time limits as agreed upon in signed applicable Schedule(s), ECHOMAIL will contact CUSTOMER to obtain payment and attempt to resolve any discrepancies. If after 30 days, the discrepancy cannot be solved, CUSTOMER agrees that ECHOMAIL has the right to terminate CUSTOMER'S further use of the Licensed Software until payment is received.

6.4 All payments not made within the time periods specified herein shall bear interest at the rate of one and one half percent (1.5%) per month or the maximum allowed by law, whichever is less, until paid in full.

6.5 In the event of termination, CUSTOMER is responsible for any and all amounts due to EchoMail per the terms of any signed Schedules or Statement of Work(s).

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The applicable Schedule sets forth the ECHOMAIL Licensed Software and/or Services to be obtained by CUSTOMER. The parties may execute additional Schedules and such additional Schedules will be bound by the terms of this Agreement.

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ECHOMAIL may use CUSTOMER'S name and identifying logo on ECHOMAIL'S customer list and web site.

9.0 Transmission Difficulties

CUSTOMER acknowledges that it shall be fully and solely responsible for assuring that data sent by CUSTOMER to ECHOMAIL reach ECHOMAIL in proper condition, and ECHOMAIL shall have no liability in connection therewith.

10.0 Intellectual Property Rights

ECHOMAIL possesses, and shall at all times continue to possess and own, the entire right, title and interest in and to the Licensed Software, the results or deliverables of any Services performed hereunder (which shall be deemed to be Licensed Software for purposes of this Agreement) and all intellectual property rights of any nature whatsoever with respect to the foregoing. All right, title and interest in and to any programs, systems, data and materials furnished to ECHOMAIL by CUSTOMER are and shall remain the property of CUSTOMER and will be returned to CUSTOMER at the earlier of termination of this Agreement or the completion of Services.

11.0 Confidential Information

- 11.1 During the term of this Agreement, each party shall disclose to the other party, both orally and in writing, certain information of the disclosing party which concerns the disclosing party's business plans, customers, technology or products which are or contain confidential, proprietary or trade secret information (collectively the "Information"), which is either marked in a manner to indicate that it is considered proprietary or confidential or otherwise subject to limited distribution as provided herein, or is disclosed in such a manner that a reasonable person would understand the confidential nature of the Information disclosed. In addition, future business plans, customer, customer lists and financial information, and confidential information of third parties to which a party has had access shall be deemed Information. A party receiving Information shall hold such Information in strict confidence and shall not disclose such Information to any person or entity other than to the employees, agents or consultants of such party having a need to know in order for such party to perform properly its obligations under this Agreement. Such party shall make no other use of any nature whatsoever of any such Information. The Licensed Software constitutes Information of ECHOMAIL.
- 11.2 All vendors, service providers, consultants and other third-party agents engaged by the CUSTOMER that are involved in the use of or interaction with ECHOMAIL shall sign EchoMail Mutual Non-disclosure Agreement.
- 11.3 This Agreement shall impose no obligation of confidentiality upon a recipient with respect to any portion of the Information received hereunder which is (a) now or hereafter, through no unauthorized act or failure to act on recipient's part, in the public domain; (b) known to the recipient without an obligation of confidentiality at the time recipient receives the same from the disclosing party, as evidenced by written records; (c) hereafter furnished to the recipient by a third party as a matter of right and without restriction on disclosure; (d) furnished to others by the disclosing party without restrictions on disclosure; (e) independently developed by the recipient without use of the disclosing party's Information; or (f) required to be disclosed pursuant to a requirement of a government agency or law, so long as the recipient provides prompt notice to the disclosing party of such requirement prior to any such disclosure and reasonably cooperates with the disclosing party if it elects to seek to limit or avoid such disclosure by any lawful means.
- 11.4 Each party acknowledges that in the event of any breach or threatened breach of this Section 11.0, the other party shall suffer irreparable harm and will not possess an adequate remedy at law. Accordingly, each party shall have the right to obtain injunctive relief to restrain such breach or threatened breach.
- 11.5 No right of ownership or title to any Information is transferred by either party to the other party under or pursuant to this Agreement.
- 11.6 CUSTOMER acknowledges that Licensed Software provided by ECHOMAIL is copyrighted by ECHOMAIL. The trademarks, trade names and logos under which ECHOMAIL markets the Licensed Software are the exclusive property of ECHOMAIL and this Agreement provides no rights thereto to CUSTOMER. Any copyright notice used by ECHOMAIL shall not be deemed to imply that any part of such item has been published or has been placed in the public domain.

12.0 Warranty

- 12.1 ECHOMAIL warrants for a period of sixty (60) days following the Delivery Date of the applicable Licensed Software to CUSTOMER that any Licensed Software provided by ECHOMAIL shall materially conform to ECHOMAIL'S then current documentation. In the event any Licensed Software does not so materially conform to then current documentation, ECHOMAIL shall undertake reasonable commercial efforts to correct such non-conformity. Such correction shall constitute CUSTOMER'S sole remedy and ECHOMAIL'S sole liability in the event of any breach of such warranty by ECHOMAIL.
- 12.2 EXCEPT AS OTHERWISE STATED IN THIS SECTION 12, ECHOMAIL MAKES NO WARRANTIES WITH RESPECT TO THE LICENSED SOFTWARE OR THE SERVICES PERFORMED UNDER THIS AGREEMENT AND DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, FREEDOM FROM BUGS, CORRECTNESS OR RELIABILITY, OR THAT THE LICENSED SOFTWARE'S USE WILL BE UNINTERRUPTED OR ERROR-FREE, AND ALL WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN THE TRADE.

13.0 Infringement

- 13.1 ECHOMAIL shall defend, indemnify and hold harmless CUSTOMER from all costs, expenses, damages, suits and other proceedings incurred by CUSTOMER, its officers, directors, employees or agents in connection with any claim that the Licensed Software infringes any patent, copyright, trade secret or other proprietary rights of any third party, provided that (a) CUSTOMER promptly informs ECHOMAIL of any such action, and (b) CUSTOMER furnishes to ECHOMAIL all information and assistance in connection therewith which may be reasonably requested by ECHOMAIL from time to time. ECHOMAIL shall have the sole right to settle, defend, or otherwise handle any such claim. In the event the use of any Licensed Software is enjoined, ECHOMAIL shall, at its option, either (a) procure for CUSTOMER the right to continue to use such Licensed Software, (b) replace or modify the same to make it non-infringing, or (c) terminate the license to such Licensed Software and provide a pro rata refund to CUSTOMER of all amounts paid by CUSTOMER for the allegedly infringing Licensed Software to ECHOMAIL hereunder, based upon a five (5) year life of such Licensed Software.
- 13.2 ECHOMAIL'S obligations under this Section 13.0 shall be only for the benefit of CUSTOMER. ECHOMAIL shall not be obligated to defend or to be liable under this Section 13.0 to the extent the infringement asserted arises out of (a) compliance with specification originating with CUSTOMER, (b) use or combination of Licensed Software with items not provided by ECHOMAIL to the extent such infringement would not have occurred but for such use or combination with such other items; (c) use of other than the latest unmodified version of Licensed Software if such infringement would have been avoided by the use of such later version; or (d) modification of Licensed Software other than by ECHOMAIL.
- 13.3 This Section 13.0 states the exclusive remedy of CUSTOMER and the entire liability of ECHOMAIL with respect to infringement of any patent, copyright, or other proprietary rights of third parties by items furnished by ECHOMAIL hereunder.

14.0 Indemnification

- 14.1 Each party shall indemnify and hold harmless the other party, its subsidiaries, their officers, directors, agents and employees from any claims for loss, cost, damage, expense or liability by reason of bodily injury (including death) or tangible property damage arising out of, as a result of, or in connection with, the indemnifying party's performance under this Agreement or the negligent actions or omissions or willful wrongdoing of the indemnifying party, provided that the indemnified party gives the indemnifying party prompt written notice of such claims and, full information, reasonable assistance and authority for the defense or settlement of such claims.

15.0 Limitation of Liability

EXCEPT AS EXPRESSLY PROVIDED HEREIN, ECHOMAIL'S LIABILITY UNDER THIS AGREEMENT, WHETHER FOR BREACH OF WARRANTY OR CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL IN NO EVENT EXCEED AMOUNT PAID BY CUSTOMER TO ECHOMAIL UNDER THIS AGREEMENT CONTRACT PRICE, AS SET FORTH IN SCHEDULE FOR LICENSED SOFTWARE AND/OR SERVICES, WHICH ALLEGEDLY DAMAGED CUSTOMER. THE CONTRACT PRICE, AS SET FORTH IN SCHEDULE A. IN NO EVENT SHALL ECHOMAIL HAVE ANY LIABILITY FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND, WHETHER UNDER THIS AGREEMENT OR OTHERWISE, EVEN IF ECHOMAIL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS.

16.0 Term

Unless earlier terminated in accordance with Section 17.0 hereof, the term of this Agreement shall commence as of the date hereof and shall continue in full force and effect for three (3) years thereafter. This Agreement shall automatically renew for successive one (1) year terms, thereafter, unless terminated by either party by written notice to the other at least thirty (30) days prior to the renewal date.

17.0 Termination

- 17.1 In the event of a breach of this Agreement by a party hereto (including without limitation use of the Licensed Software by CUSTOMER in excess of the use limitations specified in any applicable Schedule(s), the non-breaching party shall give notice of such default to the other party and, if the breach is not cured within sixty (60) calendar days of such notice, the non-breaching party shall be entitled to terminate this Agreement immediately upon notice to the other party.
- 17.2 In the event a party hereto files a voluntary petition for bankruptcy, has an involuntary petition for bankruptcy filed against it which remains undismissed for at least sixty (60) days, makes an assignment for the benefit of its creditors, or has a receiver appointed for all or a substantial portion of its property, the other party shall have the right to terminate this Agreement immediately upon notice.
- 17.3 The rights and obligations of the parties under Sections 2.3, 6.0, 8.0, 10.0, 11.0, 12.0, 13.0, 14.0, 15.0, 17.3 and 18.0 hereof shall survive any termination of this Agreement. Except for the foregoing, immediately upon the effective date of any termination, all rights and obligations of the parties under this Agreement shall cease and terminate. CUSTOMER shall, within ten (10) days after the effective date of any termination, promptly, first, deliver to ECHOMAIL all copies of any Licensed Software provided by ECHOMAIL and all ECHOMAIL'S Information then in CUSTOMER'S possession; second, destroy any copies of Licensed Software whatsoever in CUSTOMER'S possession; third, allow ECHOMAIL access to hardware systems that contained or contain Licensed Software to verify and ensure termination of use of Licensed Software.
- 17.4 In the event of early termination, CUSTOMER is obligated to pay to ECHOMAIL any and all amounts due for Services performed through the date of termination.
- 17.5 CUSTOMER may terminate this Agreement at any time on sixty (60) days prior written notice and CUSTOMER, in such event is obligated to pay to ECHOMAIL any and all amounts due per the terms of any Schedules agreed upon by both parties.

18.0 Miscellaneous

- 18.1 Each party irrevocably agrees that in any court proceedings initiated by CUSTOMER, the state and federal courts located in the State of Arizona shall have exclusive jurisdiction to settle any dispute, and for any court proceedings initiated by ECHOMAIL, the state and federal courts located in the Commonwealth of Massachusetts shall have exclusive jurisdiction to settle any dispute with respect to any matters relating to this Agreement.
- 18.2 The validity, construction and performance of this Agreement shall be governed by the laws of the Commonwealth of Massachusetts. The parties hereto submit to the non-exclusive jurisdiction of the state and federal courts located in the Commonwealth of Massachusetts with respect to any matters relating to this Agreement.
- 18.3 Neither party shall be in breach of this Agreement if there is any total or partial failure of performance by it of its duties and obligations under this Agreement occasioned by any act of God, fire, act of government or state, war, civil commotion, insurrection, embargo, prevention from or hindrance in obtaining any raw materials, energy or other supplies, labor disputes of whatever nature and any other reason beyond the reasonable control of either party.
- 18.4 In the event that any provision of this Agreement shall be held to be void or unenforceable by any court of competent jurisdiction, such determination shall not affect the remainder of this Agreement, which shall remain in full force and effect, and the void or unenforceable provision shall be enforced to the maximum extent legally permissible.
- 18.5 This Agreement shall not be transferable or assignable by CUSTOMER without the prior written consent of ECHOMAIL, such consent not to be unreasonably withheld. Notwithstanding the foregoing, upon notice to ECHOMAIL, CUSTOMER may assign this Agreement or any rights, duties or obligations hereunder to a corporation controlling, controlled by or under common control with CUSTOMER. Any assignment or transfer in violation of this provision shall be void and without effect.
- 18.6 This Agreement shall not be transferable or assignable by either party without the prior written consent of the other party. Any assignment or transfer in violation of this provision shall be void and without effect.
- 18.7 This Agreement embodies and sets forth the entire agreement and understanding of the parties and



SCHEDULE A

Customer Name: Otero County Commission ("CUSTOMER")
Customer Address: 101 New York Avenue, Alamogordo, NM 88310
Effective Term: January 25, 2022 – May 30, 2022
County: Otero County ("County")
Election: 2020 General Election ("Election")

Title: Integrated Data Warehouse and Analytics

Statement of Work

- (1) Integrated Data Warehouse - Creation of an integrated data warehouse that will include such data as following: County's Voter Rolls, Participating Voter List, Cast Vote Records (CVRs), Images of the Return Ballot Envelopes, Ballot Images (from the Election Management System – EMS), Paper Ballot Scans, Door-to-Door Canvass data.
(2) Data Analytics - Data analysis will include evaluation of registrations and votes cast at the precinct level and by vote type.

Pricing Schedule

Table with 6 columns: Part Number, Part Description, Units, Unit Cost, One-Time, Recurring. Rows include Professional Services (Project Planning, Data Warehouse, Hardware Forensics, Data Analytics and Reporting) and Licenses (EchoMail@ DataWarehouse) with sub-totals and a final NET-Total of \$49,750.00.

Other Terms:

Additional charges shall apply at the Unit Price set forth above in the event that quantity of use of the foregoing licensed Software and Services exceeds purchased amounts hereunder. Such additional charges shall be billed to the CUSTOMER on monthly basis. ECHOMAIL shall issue no credits to CUSTOMER for any licenses not used by CUSTOMER On the expiration date, and unused licenses may not be carried over into subsequent periods.

In the event CUSTOMER requests ECHOMAIL with prior written confirmation to ECHOMAIL to take specific actions, for example travel for onsite training or strategy meeting, shipping data on physical media such as tapes or disks etc., costs of shipping, telecommunications, mailing, traveling and out-of-pocket expenses incurred by EchoMail, Inc. in the performance of such actions are not included herein, and will be billed directly to CUSTOMER on a monthly basis.



This Schedule is governed by the EchoMail Software & Services Licensing Agreement. If there is any conflict between this Schedule and the EchoMail Software & Services Licensing Agreement, all terms of the EchoMail Software & Services Licensing Agreement shall control, except payment terms. Payment is due prior to start of work and use of Software and Services. Both parties agree to the foregoing as of this 25th day of January in the year of 2022, and to execute their performance obligations as set forth herein.

ECHOMAIL Authorized Representative

Signature: *Shiva Ayyadurai*

Name: Shiva Ayyadurai

Title: President/CEO

CUSTOMER Authorized Representative

Signature: *Gerald Motherly*

Name: Gerald Motherly

Title: Chairman

rnichols@co.otero.nm.us

From: erin hughes <erin_hughes@yahoo.com>
Sent: Friday, January 28, 2022 3:55 PM
To: rnichols@co.otero.nm.us
Subject: Re: Signed Echomail Contract

Thank you, RB!

I'll forward it to EchoMail.

Is there any word on the data production from the IPRA request to the clerk?

Thank you,
Erin Clements

On Friday, January 28, 2022, 03:44:56 PM CST, <rnichols@co.otero.nm.us> wrote:

Erin,

Attached please find the completed contract with EchoMail.

V/r,

RB

Sylvia Tillbrook

From: cgriffin@co.otero.nm.us
Sent: Wednesday, February 2, 2022 2:29 PM
To: Sylvia C Tillbrook
Subject: FW: Audit Proposal
Attachments: EchoMail-Master-Software-Services-Agreement-Otero-County-New-Mexico.pdf

From: erin hughes <erin_hughes@yahoo.com>
Sent: Wednesday, December 29, 2021 11:39 AM
To: stillbrook@co.otero.nm.us; Pamela Heltner <pheltner@co.otero.nm.us>
Cc: cgriffin@co.otero.nm.us; vmarquardt@co.otero.nm.us; 'gmatherly' <gmatherly@co.otero.nm.us>; rnichols@co.otero.nm.us
Subject: Re: Audit Proposal

That sounds great, Pamela.

I attached the Services Agreement the contractor would like to use if it's acceptable to the County.

Please let me know if you need anything else from me to get this ready for Monday.

Thank you,
Erin Clements
575.680.4004

On Wednesday, December 29, 2021, 12:33:57 PM CST, Pamela Heltner <pheltner@co.otero.nm.us> wrote:

Good morning Erin,

Thank you for the email. RB will need to reach out to the company and prepare a professional services agreement to add to the agenda for the Monday deadline.

Thank you.

Pamela



Pamela Heltner, CPO, CPS

County Manager

1101 New York Ave. Room 106

Alamogordo, NM 88310

Tel: 575-437-7427

Fax: 575-443-2928

pheltner@co.otero.nm.us

Confidentiality Notice: This e-mail, including all attachments is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited unless specifically provided under the New Mexico Inspection of Public Records Act. If you are not the intended recipient, please contact the sender and destroy all copies of this message.

From: erin hughes <erin_hughes@yahoo.com>
Sent: Wednesday, December 29, 2021 11:28 AM
To: pheltner@co.otero.nm.us; stillbrook@co.otero.nm.us
Cc: cgriffin@co.otero.nm.us
Subject: Audit Proposal

Dear Pamela,

Please find attached the full proposal for the Otero County audit. The total comes to \$49,750. I realize that is over the \$30,000 estimate that we discussed in the November County Commission meeting. If the higher cost is going to be a problem - we have partners who are willing to help fundraise the difference.

Please let me know if you have any edits or questions you want to discuss.

Thank you,

Erin Clements



MASTER LICENSE AND SERVICES AGREEMENT

This Agreement is entered into as of December ____, 2021 (“the Effective Date”) between EchoMail, Inc., a Delaware Corporation, its subsidiaries, affiliates, authorized resellers/distributors, (“ECHOMAIL”) and Otero County Commission its subsidiaries and affiliates, (“CUSTOMER”).

In consideration of the mutual covenants contained herein, the parties hereto hereby agree as follows:

1.0 Definitions

As used herein, the following terms shall have the designated meanings:

- 1.1 “Licensed Software” shall mean the software designated on any Schedule as being licensed by ECHOMAIL to CUSTOMER under this Agreement.
- 1.2 “Schedule” shall mean any schedules or exhibits, including any Statements of Work included therein, executed by the parties and attached to the Agreement as of the date hereof and any Schedules or exhibits, including any Statement of Work included therein, subsequently executed by the parties and attached to this Agreement.
- 1.3 “Services” shall mean the services designated in any Schedule as being provided by ECHOMAIL to CUSTOMER under this Agreement.

2.0 License

- 2.1 If the agreed-upon offering from ECHOMAIL includes Licensed Software, ECHOMAIL will grant to CUSTOMER a non-perpetual, non-exclusive, non-transferable, non-sublicensable right and license to use the Licensed Software in object code form only to receive, process, analyze, transmit and respond to digital content i.e. messages, images, email, web pages, social media posts, etc. solely for its own business purposes subject to and in accordance with the provisions of this Agreement, the terms in Schedule, and the accompanying documentation.
- 2.2 If CUSTOMER requires access of Licensed Software by any consultants or third-party entities, then CUSTOMER agrees to ensure that such consultants or third-party entities execute a separate agreement with ECHOMAIL to ensure protection of ECHOMAIL’s Intellectual Property. CUSTOMER agrees that at no time will CUSTOMER allow any direct or indirect competitor of ECHOMAIL to access or to use the Licensed Software. CUSTOMER agrees to abide by ECHOMAIL’s reasonable definition of competitor, should there ever come a question as to if an entity is a competitor to ECHOMAIL or not.
- 2.3 The Licensed Software and documentation provided therewith are provided with RESTRICTED RIGHTS. Use, duplication or disclosure by the United States Government is subject to the restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software - Restricted Rights at 48 CFR 52.227-19, as applicable.

3.0 ECHOMAIL Responsibilities

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- 11.1 During the term of this Agreement, each party shall disclose to the other party, both orally and in writing, certain information of the disclosing party which concerns the disclosing party's business plans, customers, technology or products which are or contain confidential, proprietary or trade secret information (collectively the "Information"), which is either marked in a manner to indicate that it is considered proprietary or confidential or otherwise subject to limited distribution as provided herein, or is disclosed in such a manner that a reasonable person would understand the confidential nature of the Information disclosed. In addition, future business plans, customer, customer lists and financial information, and confidential information of third parties to which a party has had access shall be deemed Information. A party receiving Information shall hold such Information in strict confidence and shall not disclose such Information to any person or entity other than to the employees, agents or consultants of such party having a need to know in order for such party to perform properly its obligations under this Agreement. Such party shall make no other use of any nature whatsoever of any such Information. The Licensed Software constitutes Information of ECHOMAIL.
- 11.2 All vendors, service providers, consultants and other third-party agents engaged by the CUSTOMER that are involved in the use of or interaction with ECHOMAIL shall sign EchoMail Mutual Non-disclosure Agreement.
- 11.3 This Agreement shall impose no obligation of confidentiality upon a recipient with respect to any portion of the Information received hereunder which is (a) now or hereafter, through no unauthorized act or failure to act on recipient's part, in the public domain; (b) known to the recipient without an obligation of confidentiality at the time recipient receives the same from the disclosing party, as evidenced by written records; (c) hereafter furnished to the recipient by a third party as a matter of right and without restriction on disclosure; (d) furnished to others by the disclosing party without restrictions on disclosure; (e) independently developed by the recipient without use of the disclosing party's Information; or (f) required to be disclosed pursuant to a requirement of a government agency or law, so long as the recipient provides prompt notice to the disclosing party of such requirement prior to any such disclosure and reasonably cooperates with the disclosing party if it elects to seek to limit or avoid such disclosure by any lawful means.
- 11.4 Each party acknowledges that in the event of any breach or threatened breach of this Section 11.0, the other party shall suffer irreparable harm and will not possess an adequate remedy at law. Accordingly, each party shall have the right to obtain injunctive relief to restrain such breach or threatened breach.
- 11.5 No right of ownership or title to any Information is transferred by either party to the other party under or pursuant to this Agreement.
- 11.6 CUSTOMER acknowledges that Licensed Software provided by ECHOMAIL is copyrighted by ECHOMAIL. The trademarks, trade names and logos under which ECHOMAIL markets the Licensed Software are the exclusive property of ECHOMAIL and this Agreement provides no rights thereto to CUSTOMER. Any copyright notice used by ECHOMAIL shall not be deemed to imply that any part of such item has been published or has been placed in the public domain.

12.0 Warranty

- 12.1 ECHOMAIL warrants for a period of sixty (60) days following the Delivery Date of the applicable Licensed Software to CUSTOMER that any Licensed Software provided by ECHOMAIL shall materially conform to ECHOMAIL'S then current documentation. In the event any Licensed Software does not so materially conform to then current documentation, ECHOMAIL shall undertake reasonable commercial efforts to correct such non-conformity. Such correction shall constitute CUSTOMER'S sole remedy and ECHOMAIL'S sole liability in the event of any breach of such warranty by ECHOMAIL.
- 12.2 EXCEPT AS OTHERWISE STATED IN THIS SECTION 12, ECHOMAIL MAKES NO WARRANTIES WITH RESPECT TO THE LICENSED SOFTWARE OR THE SERVICES PERFORMED UNDER THIS AGREEMENT AND DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, FREEDOM FROM BUGS, CORRECTNESS OR RELIABILITY, OR THAT THE LICENSED SOFTWARE'S USE WILL BE UNINTERRUPTED OR ERROR-FREE, AND ALL WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN THE TRADE.

13.0 Infringement

- 13.1 ECHOMAIL shall defend, indemnify and hold harmless CUSTOMER from all costs, expenses, damages, suits and other proceedings incurred by CUSTOMER, its officers, directors, employees or agents in connection with any claim that the Licensed Software infringes any patent, copyright, trade secret or other proprietary rights of any third party, provided that (a) CUSTOMER promptly informs ECHOMAIL of any such action, and (b) CUSTOMER furnishes to ECHOMAIL all information and assistance in connection therewith which may be reasonably requested by ECHOMAIL from time to time. ECHOMAIL shall have the sole right to settle, defend, or otherwise handle any such claim. In the event the use of any Licensed Software is enjoined, ECHOMAIL shall, at its option, either (a) procure for CUSTOMER the right to continue to use such Licensed Software, (b) replace or modify the same to make it non-infringing, or (c) terminate the license to such Licensed Software and provide a pro rata refund to CUSTOMER of all amounts paid by CUSTOMER for the allegedly infringing Licensed Software to ECHOMAIL hereunder, based upon a five (5) year life of such Licensed Software.
- 13.2 ECHOMAIL'S obligations under this Section 13.0 shall be only for the benefit of CUSTOMER. ECHOMAIL shall not be obligated to defend or to be liable under this Section 13.0 to the extent the infringement asserted arises out of (a) compliance with specification originating with CUSTOMER, (b) use or combination of Licensed Software with items not provided by ECHOMAIL to the extent such infringement would not have occurred but for such use or combination with such other items; (c) use of other than the latest unmodified version of Licensed Software if such infringement would have been avoided by the use of such later version; or (d) modification of Licensed Software other than by ECHOMAIL.
- 13.3 This Section 13.0 states the exclusive remedy of CUSTOMER and the entire liability of ECHOMAIL with respect to infringement of any patent, copyright, or other proprietary rights of third parties by items furnished by ECHOMAIL hereunder.

14.0 Indemnification

- 14.1 Each party shall indemnify and hold harmless the other party, its subsidiaries, their officers, directors, agents and employees from any claims for loss, cost, damage, expense or liability by reason of bodily injury (including death) or tangible property damage arising out of, as a result of, or in connection with, the indemnifying party's performance under this Agreement or the negligent actions or omissions or willful wrongdoing of the indemnifying party, provided that the indemnified party gives the indemnifying party prompt written notice of such claims and, full information, reasonable assistance and authority for the defense or settlement of such claims.

15.0 Limitation of Liability

EXCEPT AS EXPRESSLY PROVIDED HEREIN, ECHOMAIL'S LIABILITY UNDER THIS AGREEMENT, WHETHER FOR BREACH OF WARRANTY OR CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL IN NO EVENT EXCEED AMOUNT PAID BY CUSTOMER TO ECHOMAIL UNDER THIS AGREEMENT CONTRACT PRICE, AS SET FORTH IN SCHEDULE FOR LICENSED SOFTWARE AND/OR SERVICES, WHICH ALLEGEDLY DAMAGED CUSTOMER. THE CONTRACT PRICE, AS SET FORTH IN SCHEDULE A. IN NO EVENT SHALL ECHOMAIL HAVE ANY LIABILITY FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND, WHETHER UNDER THIS AGREEMENT OR OTHERWISE, EVEN IF ECHOMAIL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS.

16.0 Term

Unless earlier terminated in accordance with Section 17.0 hereof, the term of this Agreement shall commence as of the date hereof and shall continue in full force and effect for three (3) years thereafter. This Agreement shall automatically renew for successive one (1) year terms, thereafter, unless terminated by either party by written notice to the other at least thirty (30) days prior to the renewal date.

17.0 Termination

- 17.1 In the event of a breach of this Agreement by a party hereto (including without limitation use of the Licensed Software by CUSTOMER in excess of the use limitations specified in any applicable Schedule(s), the non-breaching party shall give notice of such default to the other party and, if the breach is not cured within sixty (60) calendar days of such notice, the non-breaching party shall be entitled to terminate this Agreement immediately upon notice to the other party.
- 17.2 In the event a party hereto files a voluntary petition for bankruptcy, has an involuntary petition for bankruptcy filed against it which remains undismissed for at least sixty (60) days, makes an assignment for the benefit of its creditors, or has a receiver appointed for all or a substantial portion of its property, the other party shall have the right to terminate this Agreement immediately upon notice.
- 17.3 The rights and obligations of the parties under Sections 2.3, 6.0, 8.0, 10.0, 11.0, 12.0, 13.0, 14.0, 15.0, 17.3 and 18.0 hereof shall survive any termination of this Agreement. Except for the foregoing, immediately upon the effective date of any termination, all rights and obligations of the parties under this Agreement shall cease and terminate. CUSTOMER shall, within ten (10) days after the effective date of any termination, promptly, first, deliver to ECHOMAIL all copies of any Licensed Software provided by ECHOMAIL and all ECHOMAIL'S Information then in CUSTOMER'S possession; second, destroy any copies of Licensed Software whatsoever in CUSTOMER'S possession; third, allow ECHOMAIL access to hardware systems that contained or contain Licensed Software to verify and ensure termination of use of Licensed Software.
- 17.4 In the event of early termination, CUSTOMER is obligated to pay to ECHOMAIL any and all amounts due for Services performed through the date of termination.
- 17.5 CUSTOMER may terminate this Agreement at any time on sixty (60) days prior written notice and CUSTOMER, in such event is obligated to pay to ECHOMAIL any and all amounts due per the terms of any Schedules agreed upon by both parties.

18.0 Miscellaneous

- 18.1 Each party irrevocably agrees that in any court proceedings initiated by CUSTOMER, the state and federal courts located in the State of Arizona shall have exclusive jurisdiction to settle any dispute, and for any court proceedings initiated by ECHOMAIL, the state and federal courts located in the Commonwealth of Massachusetts shall have exclusive jurisdiction to settle any dispute with respect to any matters relating to this Agreement.
- 18.2 The validity, construction and performance of this Agreement shall be governed by the laws of the Commonwealth of Massachusetts. The parties hereto submit to the non-exclusive jurisdiction of the state and federal courts located in the Commonwealth of Massachusetts with respect to any matters relating to this Agreement.
- 18.3 Neither party shall be in breach of this Agreement if there is any total or partial failure of performance by it of its duties and obligations under this Agreement occasioned by any act of God, fire, act of government or state, war, civil commotion, insurrection, embargo, prevention from or hindrance in obtaining any raw materials, energy or other supplies, labor disputes of whatever nature and any other reason beyond the reasonable control of either party.
- 18.4 In the event that any provision of this Agreement shall be held to be void or unenforceable by any court of competent jurisdiction, such determination shall not affect the remainder of this Agreement, which shall remain in full force and effect, and the void or unenforceable provision shall be enforced to the maximum extent legally permissible.
- 18.5 This Agreement shall not be transferable or assignable by CUSTOMER without the prior written consent of ECHOMAIL, such consent not to be unreasonably withheld. Notwithstanding the foregoing, upon notice to ECHOMAIL, CUSTOMER may assign this Agreement or any rights, duties or obligations hereunder to a corporation controlling, controlled by or under common control with CUSTOMER. Any assignment or transfer in violation of this provision shall be void and without effect.
- 18.6 This Agreement shall not be transferable or assignable by either party without the prior written consent of the other party. Any assignment or transfer in violation of this provision shall be void and without effect.
- 18.7 This Agreement embodies and sets forth the entire agreement and understanding of the parties and

rnichols@co.otero.nm.us

From: erin hughes <erin_hughes@yahoo.com>
Sent: Wednesday, February 2, 2022 6:15 PM
To: rnichols@co.otero.nm.us
Subject: Re: Vendor form and W-9

Thank you, RB.

I forwarded them your message and they will send you their invoice.

Thanks,
Erin

----- Forwarded Message -----

From: rnichols@co.otero.nm.us <rnichols@co.otero.nm.us>
To: 'erin hughes' <erin_hughes@yahoo.com>
Sent: Wednesday, February 2, 2022, 02:46:00 PM CST
Subject: FW: Vendor form and W-9

Hi Erin,

We're working on getting Echomail paid. To do so, I need the two attached documents filled out and returned. We also need an invoice from Echomail. Let me know if you

have any questions or concerns.

V/r,

RB

From: jhall@co.otero.nm.us <jhall@co.otero.nm.us>
Sent: Wednesday, February 2, 2022 1:44 PM
To: rnichols@co.otero.nm.us
Subject: Vendor form and W-9

RB,

Here is the vendor master form and the W-9. Please forward to the vendor for the election audit. As soon as we have received them back we can get them in the system and setup a PO to pay them.

Thank you,

Julianne

Julianne M. Hall, MBA

Finance Director

Otero County

1101 New York Avenue, Room 210

Alamogordo, NM 88310

(575) 439-2704 phone

(575) 439-2705 fax

jhall@co.otero.nm.us