



**Candidate Financial Reporting Service, License, Maintenance
and Support Agreement**

Between

**VR Systems, Inc
3773 Commonwealth Blvd.
Tallahassee, FL 32303**

and

**Broward County Supervisor of Elections Office
on behalf of Broward County Cities
115 S. Andrews Ave, Room 102
Ft. Lauderdale, FL 33301**



System License. VR Systems, Inc. ("VRS") hereby grants to the Broward County Supervisor of Elections Office (the "Customer") , and Customer hereby accepts from VRS, subject to all the terms, covenants, conditions, and limitations set forth in this "System License and Maintenance and Support Agreement", its cover sheet, and all Exhibits attached hereto (collectively the "Agreement"), a non-exclusive, revocable right and license, (the "License") to use, access, and provide municipalities access to the VRS' online **Candidate Financial Reporting** developed and owned by VRS, including all releases, enhancements, customizations, and other changes thereto, (the "Service"). As part of the License, Customer will have the right to sublicense the Service only to the municipalities located within Broward County and Customer may charge each municipality a fee (to be retained by Customer) at rates agreed to by Customer and each municipality. Customer agrees that agreements with municipalities to access the Service will include a provision requiring the municipality to abide by the terms and conditions of this Agreement relating to accessing the Service.

1) Exhibits.

Attached and made a part hereof for all purposes are the following Exhibits:
 Exhibit A Fee Schedule
 Exhibit B: Project Management Plan
 In the event of a conflict between the provisions of this Agreement and the provisions of any Exhibit, the provisions of this Agreement shall control.

2) Service Outline. The Service serves HTML web pages that provide a way for candidates and political committees to create and submit financial reports by entering their expenditures and expenses online. These reports can then be printed out for delivery by the candidate or political committee to the Customer or reports can be submitted to the Customer electronically. Submitted reports accepted by the Customer can be released for viewing by clerk's staff for members of the public who visit the Customer's website. The public may access the reports via a link on Customer's web site using a standard web browser. The Service is hosted by VRS on a secure site. The software that enables the candidates to create their financial reports, the software that allows the city to administer the reports and the software that allows the public to view and search the reports is a software product that is proprietary to VRS. The CFR system also supports the optional inclusion of pdfs of prior financial reports submitted on paper, biographical data and a photo for each candidate/committee, which is displayed to the public along with online financial reports that have been filed with the Customer. VRS will keep the service compliant with Florida State statute and rule changes without additional charge to the Customer. Customer may sublicense the Service to those municipalities identified in Exhibit A such that those municipalities are subject to the same rights, duties, obligations, understandings and protections governing the Service as set forth in this Agreement.

Local municipal statutory requirements change from time to time and local municipal rule requirements may require custom-written software changes. Such changes will require mutual agreement of the parties on the scope of work to be performed and the applicable fees.



3) **Host Server.** The Candidate Financial Reporting Service is hosted on a high availability server owned and managed by VRS. The site is comprised of redundant servers and disk so that the loss of a single component of the web site should not affect availability. VRS' Web Site is physically located on a secure Web Hosting Center run by a major telecommunications company and is well protected behind highly secure firewall technology. To ensure the highest availability possible, uninterrupted power supply and redundant Internet connections are provided by the telecommunications company.

4) **Administration of Host Server system.** The Service includes VRS administration of the web site servers and network infrastructure. Server systems will be maintained up-to-date for security purposes. VRS may change the configuration of the web site servers and network infrastructure at its sole discretion. Administration will include close monitoring of the web site at peak periods to ensure critical services are maintained. During peak periods VRS will work directly with the customer to ensure the most critical information can be rapidly retrieved by the public.

5) **Disk Space.** Customer may use up to 20 GB (gigabytes) of disk space resources for the database on the Web Site hosted by VRS for Customer and each municipality identified in Exhibit A. If Customer uses over 20 GB per city, Customer will have 15 days to either find another provider or will have to pay supplemental fees for additional disk storage space. Customer will be notified by e-mail.

6) **Backup of the Host Web Site.** The host web site will be backed up regularly such that the site could be restored in the event of a catastrophic disk failure.

7) **Transition Services.** Unless explicitly provided for in this agreement, VRS does not provide migration of existing Candidate Financial Reports data to the VRS hosted Web Site.

8) **Documentation.** Documentation will be provided to Customer in electronic format.

9) **Training Services.** VRS will provide documentation and three (3) separate two (2) hour training sessions of up to 20 participants per session by phone to Customer's and municipalities' staff for setup. The three (3) training sessions must be completed within sixty (60) days of this Agreement signing, unless otherwise agreed upon in writing by the parties.

10) **Telephone Support.** VRS will provide telephone support to members of Customer's staff for the administration of the candidates' reports. No training or help will be provided to candidates. All inquiries and requests for support must come directly from members of the Customer's staff.

11) **No Warranty.** VRS represents, warrants, and agrees that the Service is free from currently-known viruses or malicious software and that VRS has and will continue, for the full term of this Agreement, to use commercially reasonable security measures to ensure the integrity of the Service from data leaks, hackers, denial of service attacks, and other unauthorized intrusions. Except for the warranty in the prior sentence, the Service is provided on an "as is available" basis. VRS gives no warranty, expressed or implied, for the Service, including without limitation, warranty of merchantability and warranty of fitness for a particular purpose. This 'no warranty' expressly includes any reimbursement for losses of income or damages due to disruption of Service by VRS or its providers beyond the fees paid by Customer to



VRS

for

services.

12) **Confidentiality.** All information regarding Customer's business operations, business systems, and related confidential matters furnished or disclosed to VRS in the course of the negotiation and implementation of this Agreement shall be held in confidence by VRS, unless such information was previously known by VRS free of any obligation to keep it confidential, or has been, or is subsequently, made public by Customer or a third party lawfully in possession of such information, or unless such information is in the public domain. VRS agrees and understands that candidates' financial data is confidential until submitted and VRS hereby agrees that these records will not be used for any other purpose than those specified in this Agreement and by the Customer. These records will not be copied nor will any person be allowed to extract any information from these records without the consent of the Customer. Customer agrees to similarly treat any information provided to it by VRS and to instruct its employees who will work with the System about the restrictive covenants and conditions of this Agreement and about the safeguarding, security, and copying requirements hereinafter discussed. Notwithstanding any portion of this Agreement to the contrary, the provisions of State law, constitutional or statutory, pertaining to public records and open government ("government in the sunshine"), and any cases construing such law, shall prevail over the provisions of this Agreement.

The parties believe that VRS is a private entity and not an agency, or acting as an agency, and its internal communications, documents, and information, as well as its proprietary information and trade secrets (collectively "proprietary information") are not public records. VRS represents that the Service contains proprietary products and trade secrets of VRS. Accordingly, to the full extent permissible under applicable law, Customer agrees to treat the Service as confidential in accordance with this article. Any other material submitted to Customer that VRS contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Florida Statutes Chapter 119) ("Trade Secret Materials") must be separately submitted and conspicuously labeled "EXEMPT FROM PUBLIC RECORD PRODUCTION – VR SYSTEMS CONFIDENTIAL/PROPRIETARY TRADE SECRET." In the event that a third party submits a request to Customer for records designated by VRS as Trade Secret Materials, Customer shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by VRS. VRS shall indemnify and defend Customer and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments, and liabilities of any kind, including attorneys' fees, litigation expenses, and court costs, relating to the non-disclosure of the Software or any Trade Secret Materials in response to a records request by a third party. VRS shall, with respect to any public records it maintains in connection with this Agreement, comply with the provisions of Fla. Stat. 119.0701. VRS shall notify Customer of any public records request it may receive and shall cooperate with Customer.

To the extent VRS is acting on behalf of CUSTOMER as stated in Section 119.0701, Florida Statutes, VRS shall:

- i. Keep and maintain public records required by CUSTOMER to perform the services under this Agreement;
- ii. Upon request from CUSTOMER, provide CUSTOMER with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that



- does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- iii. Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion or termination of this Agreement if the records are not transferred to CUSTOMER; and
 - iv. Upon completion or termination of this Agreement, transfer to CUSTOMER, at no cost, all public records in possession of VRS or keep and maintain public records required by CUSTOMER to perform the services. If VRS transfers the records to CUSTOMER, VRS shall destroy any duplicate public records that are exempt or confidential and exempt. If VRS keeps and maintains public records, VRS shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to CUSTOMER upon request in a format that is compatible with the information technology systems of VRS.

The failure of VRS to comply with the provisions of this section shall constitute a material breach of this Agreement entitling CUSTOMER to exercise any remedy provided in this Agreement or under applicable law.

Notwithstanding anything herein to the contrary, a request for public records regarding this Agreement must be made directly to CUSTOMER, who will be responsible for responding to any such public records requests. VRS will provide any requested records to CUSTOMER to enable CUSTOMER to respond to the public records request.

IF PROVIDER HAS QUESTIONS REGARDING THE APPLICATION OF FLORIDA STATUTES CHAPTER 119 TO PROVIDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (954) 712-1960, JWAY@BROWARDSOE.ORG, 115 S. ANDREWS AVE., SUITE 102, FORT LAUDERDALE, FLORIDA 33301.

13) **Title to System/Protective Covenants.** Customer acknowledges that the System and Documentation (including changes, enhancements, alterations, and additions provided under Maintenance and Support) are the sole and exclusive property of VRS and that neither legal nor equitable title to the System or Documentation passes to Customer or municipalities under the terms of this Agreement or under any other agreement or theory. No part or portion of the System or Documentation may be altered, modified or enhanced by Customer or municipalities, or its agents or employees. All programs, documentation, and



materials in machine-readable form supplied under the License shall be kept in a secure place, under access and use restrictions not less strict than those applied to Customer's most valuable and sensitive programs and data.

14) **Limitation of Actions and Liability.** THE LIABILITY OF VRS TO CUSTOMER FOR PERFORMANCE OF THE SYSTEM IS LIMITED TO THE ABOVE WARRANTY ON THE WEB HOSTING SERVICE AND WEB DESIGN PACKAGE PROVIDED BY VRS. Except as specifically set forth in this paragraph in no event shall VRS be liable for any damages or remedies that might otherwise arise out of this Agreement or the use of the System, including, but not limited to: (a) general, special, indirect, incidental, foreseeable, normal, or consequential damages; (b) lost profits, loss of savings, loss of data or information, business interruption, finance charges, increased costs of doing business, reliance on any promise or premise; and (c) damages arising under any warranty, negligence, or breach of contract claims of customer against VRS. In any event, VRS' liability for damages under any theory or form of action shall not exceed the total amount paid by Customer under this Agreement to VRS as itemized in "Exhibit A" (exclusive of out-of-pocket reimbursements and the Annual Renewal Fee). These limitations of liability shall not apply to any claim resulting from an actual or alleged infringement of any interest in the Service or other intellectual property.

15) **Term of Service.** The Term of the Web Hosting Service is one year from Commencement Date, but only so long as Customer is not in breach of, or in default under this Agreement and any renewals thereof. The Commencement Date is defined as the later date as between the date when the Customer is given access to Customer's initial VRS startup CFR web services for the municipalities identified in Appendix A and the date training services are delivered, as set forth in Section 9 above. Annual renewal of the Service is automatic unless a written notice of cancellation is given by either party at least 4 weeks in advance of a renewal date. Upon completion or cancellation of the agreement, VRS shall provide all municipality data residing in its possession to the applicable municipality in either hard copy or electronic readable format.

16) **Use Restrictions.** Customer and municipalities are restricted to using the CFR Service exclusively for candidate and Committee Financial Reporting in the Customer's own jurisdiction, inclusive of sublicensing to municipalities as set forth in Paragraph 1.

17) **Fee for Annual Renewal of Service.** The renewal date is the one year anniversary of the Commencement Date or the effective date of a subsequent renewal of the Service, whichever is later. Annual renewal fees shall be invoiced at least one month before the renewal date. Annual renewal fee must be paid by renewal date or the Service may be interrupted and possibly terminated. Fee for first renewal of the Service is shown in Exhibit B. The fee in subsequent years may change, up to a maximum of a 6% increase each year provided VRS provides written notice to Customer at least 4 weeks in advance of the intended renewal fee.

18) **Late Charges.** Interest on any overdue payments owed by Customer under this Paragraph, or under any other Paragraph of this Agreement, shall be charged and invoiced for as provided for in the Florida Prompt Payment Act, Sections 218.71-79, Florida Statutes, as amended.

19) **Progress Reports/Meetings.** VRS and Customer shall, within thirty (30) days of this Agreement signing, jointly develop a Project Management Plan, "Exhibit B", which shall be attached to this Agreement as "Exhibit B", detailing tasks to be



performed, responsibility for the accomplishment of each task, and a deadline for each task. Customer and VRS will conduct meetings to review progress on a regular basis, with the schedule to be jointly determined. The parties may agree in writing to extend the Project Management Plan deadline.

20) **Customization.** In the event Customer requests consulting support or customization of the System which support or modifications are beyond the scope of VRS' obligations under this Agreement Customer shall notify VRS in writing of its needs for such support or customization. Should VRS agree to perform such consulting, support or customization, all such work requested by Customer will be provided by VRS at VRS' then current rates for these services. In addition, to the extent approved in writing in advance by Customer, the Customer shall reimburse VRS for all reasonable travel and living expenses incurred by consultants and employees of VRS in implementing such services at rates statutorily allowed within Florida law for State employees.

21) **Data Protection.** Notwithstanding anything herein to the contrary, while VRS shall make every reasonable effort to protect data for Customer on a regular basis, VRS is not responsible for Customer's files residing on VRS' equipment. Customer is solely responsible for independent backup of data stored on VRS' server and network.

22) **No infringement.** Customer hereby agrees that any material submitted to Customer's web site and all domain names will not violate or infringe any copyright, trademark, patent, statutory, common law or proprietary rights of others, or contain anything libelous, harmful or unethical. Unethical materials and uses include, but are not limited to pornography, obscenity, nudity, violations of privacy, computer viruses, hacking, warez, MP3s and any harassing and harmful materials or uses. Any potentially illegal or unethical activity may be deactivated without warning by VRS. Customer hereby agrees to indemnify and hold harmless VRS for any claims, fines, penalties and damages resulting from the submission of illegal or unethical materials.

23) **No Liability for Privacy of Information.** Due to the public nature of the Internet, all information should be considered publicly accessible, and important or private information should be treated carefully by Customer. VRS is not liable for protection or privacy of information transferred through the Internet or any other network provider that customers may utilize.

24) **Changes in Terms and Conditions.** VRS may change the terms and conditions of this Agreement provided such changes only become binding upon the next annual Renewal Date. Customer will be notified in writing of the changes to the agreement 120 days before the applicable Renewal Date. Payment of the Renewal Fee will be construed as acceptance of the changes to the Agreement.

25) **Law, Jurisdiction, Venue, Waiver of Jury Trial.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, CONTRACTOR AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN**



NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.

26) **Taxes and Duties.** Customer is currently a tax-exempt entity and is not liable for any sales, service, use, excise, lease, or similar taxes. However, should this status change Customer agrees that it and not VRS will be liable for and promptly pay any such taxes or duties that may become due as a consequence of this Agreement.

27) **Use of Customer's Name.** Customer agrees that VRS may include Customer's name in any complete or partial listing of VRS Customers, for VRS' own marketing efforts, at VRS' sole discretion.

28) **Force Majeure.** Neither party shall be responsible to the other for nonperformance due to acts of God, fire, flood, hurricane, epidemic, acts of government, wars, riots, civil unrest, strikes, accidents in transportation, or other causes beyond the control of the parties.

29) **Section and Paragraph Heading.** Section and paragraph headings used throughout this Agreement are for reference and convenience and in no way define, limit, or describe the scope or intent of this Agreement or affect its provisions.

30) **Multiple Copies or Counterparts of Agreement.** The original and one or more copies of this Agreement may be executed by one or more of the parties hereto. In such event, all of such executed copies shall have the same force and effect as the executed original, and all of such counterparts, taken together, shall have the effect of a fully executed original.

31) **Non-appropriation of funds.** The continuation of this Agreement beyond the end of Customer's fiscal year (October 1 through September 30) is subject to both the appropriation and the availability of funds in accordance with Chapter 129, Florida Statutes. All funds for payment by Customer under this Agreement are subject to the availability of an annual appropriation for this purpose by Customer. In the event of non-appropriation of such funds to the Customer for the services provided under this Agreement, Customer shall terminate the Agreement, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this Agreement is spent, whichever event occurs first. If at any time funds are not appropriated and available for the continuance of this Agreement, Customer will make best efforts to provide notice of termination at least thirty (30) days prior to the termination date identified in the preceding sentence; notwithstanding the foregoing, Customer shall not be obligated under this Agreement beyond the date of termination.

32) **Intellectual Property Warranty.** VRS represents and warrants that at the time of entering into this Agreement, no claims have been asserted against VRS (whether or not any action or proceeding has been brought) that allege that any part of the Service infringes or misappropriates any patent, copyright, mask copyright, or any trade secret or other intellectual or proprietary right of a third party, and that VRS is unaware of any such potential claim. VRS also agrees, represents and warrants that the Service to be provided pursuant to this Agreement will not infringe or



misappropriate any patent, copyright, mask copyright, or any trade secret or other intellectual or proprietary right of a third party. If the Service or any portion of the Service is finally adjudged to infringe, or in VRS' opinion is likely to become the subject of an infringement or misappropriation claim, VRS shall, at Customer's option, either: (i) procure for Customer the right to continue using the Service; (ii) modify or replace the Service to make it not infringe; or (iii) refund to Customer all fees paid under this Agreement.



IN WITNESS WHEREOF, the parties hereto have executed this Agreement in manner and form sufficient to bind them as of the date signed by the last party to sign this Agreement as indicated below.

VR Systems, Inc.

By: Mindy J. Perkins Date: 8/16/19
Mindy J. Perkins, President & CEO

Broward County Supervisor of Elections Office

By: Peter Antonacci Date: _____
Peter Antonacci, Supervisor of Elections



**Broward County Supervisor of Elections Office
on behalf of Broward County Cities**

Exhibit A - Fee Schedule for Candidate Financial Reporting Service

<p>Candidate Financial Reporting Service initial fee and implementation for Broward County's 32 municipalities</p>	<p align="right">\$104,082</p>
<p>Training Includes (3) two hour training sessions of up to 20 participants</p>	<p align="right">\$750</p>
<p>First Annual Renewal of Service Fee</p>	<p align="right">\$69,149</p> <p><i>Annual Renewal of Service Fee is due on the one year anniversary of the Commencement Date or a subsequent renewal of the Service, whichever is later. (The Commencement Date is defined in Section 14 of the Agreement.)</i></p>
<p>Prices in effect until 9/30/2019</p>	

Payment Terms: VRS will invoice Customer for the CFR Service initial fee, implementation, and training upon the Commencement Date (as defined in Section 15). VRS will invoice Customer for the annual renewal of service fee as set forth in Section 17.

Exhibit A Accepted:

By: Mindy J. Perkins
Mindy J. Perkins
President & CEO, VR Systems, Inc.

Date: 9/11/19

By: Peter Antonacci
Peter Antonacci
Broward County Supervisor of Elections

Date: 9/16/19



Exhibit B

Project Management Plan Progress Reports/Meetings. VRS and Customer shall, within thirty (30) days of this Agreement signing, each appoint a project manager and jointly develop a Project Management Plan, "*Exhibit B*", which shall be attached to this Agreement as "*Exhibit B*", detailing tasks to be performed, responsibility for the accomplishment of each task, and a deadline for each task. Customer and VRS will conduct meetings to review progress on a regular basis, with the schedule to be jointly determined. The parties may extend the deadlines set forth in this Exhibit B upon written agreement.

Tasks to be performed by VRS or by both parties:

- 1.** Questionnaire delivered for Supervisor of Elections staff to itemize requirements
- 2.** Timeline of implementation to be agreed upon
- 3.** Date of training to be agreed upon
- 4.** Starter service available to Customer.