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I declare under penalty of perjury that the forgoing response to the Defendants response to our complaint with injunction has been reviewed and I personally know or believe that all allegations are true and correct to the best of my knowledge. Executed this 30th day of April, 2023.

/s/ Lindsey Gremont  
307 Westhaven Drive  
West Lake Hills, TX 78746

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IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF TEXAS

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STRONGIN, ET AL.

v.

SCOTT, ET AL.

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Case No.

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**AFFIDAVIT**

**AFFIDAVIT OF TOMMIE J. DICKINSON**

Pursuant to 28 U.S.C. 1746, I, Tommie J. Dickinson, make the following declaration/affidavit:

1. During the course and leading up to the 2020 General Election, my 1st Amendment right to free speech was censored, suppressed, and restricted by on-line social media platforms. Below are but a few examples of my view points that are not allowed to enter into the public space on social media platforms. See attached examples.

- a. Core political view
- b. Economic views
- c. COVID-19 related
- d. Hunter Biden laptop

2. I am currently still banned from posting certain COVID-19 related articles that question vaccination methods on Facebook or Instagram due "flagging".

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3. Content creators that I follow were de-platformed, and de-monetized. I was restricted from viewing and sharing their content and contributing funds to support their efforts to create new content. (Example: Toresays, Gateway Pundit, Project Veritas are but a few)

4. One post that was censored and marked as "False Information" was regarding January 6th of 2020 by the Texas Attorney General Ken Paxton.

5. I personally have sourced, read, and can affirm that the Defendants of this case have colluded with the federal government to monitor, censor, and violate my First Amendment rights to freedom of speech by contracting with the Department of Homeland security through the Center for Internet Security. In turn this agency partnered up with other federal agencies (FBI, ODNI, DOJ, IA, CISA) and shared my personal identifiable information through the Texas voter rolls in violation of 52 U.S.C § 552a(b).

6. I have suffered government-induced on-line censorship barring me from free, fair and open political process of petitioning my government directly by the Defendants continued relationships with the federal government.

7. The Defendants have colluded with the federal government through these relationships via meetings with NGOs (Election Integrity Partners) that are the polar opposite of my political views and execute political viewpoint censorship.

8. The Defendants currently are members of organizations that meet with the above federal agencies and NGOs to plan, organize, coerce, and execute governmental restriction of my freedom of speech that

does not align with governmental or NGO viewpoint-based political norm.

9. These organizations that all Defendants are members of are the following:

- a. National Association of Secretaries of State (NASS)
  - i. Defendant Hughs – EIP formation 2020
  - ii. Defendant Scott – Continuation of EIP association 2021-2022
  - iii. Defendant Nelson – Admittance into EIP association 2023
- b. National Association of State Election Directors (NASED)
  - i. Defendant Ingram – EIP formation, Tabletop meetings with social media platforms, planning, organizing, coercion, and execution of censorship.
- c. EIS-GCC
  - i. Defendant Ingram – EIS-GCC ExComm Principal, President of NASED. Knowingly-Tabletop meetings with social media platforms, planning, organizing, coercion, and execution of censorship.
- d. EI-ISAC
  - i. All Defendants through the Center for Internet Security
    1. Access to EIP to report “ticketing” on restriction of free speech to social media platforms.

2. Access to CrowdTangle to report “ticketing” on restriction of free speech to social media platforms.
  3. Access to CISA general inbox and employee email addresses report “switchboarding” on restriction of free speech to social media platforms.
- ii. Defendants Ingram, Hughs, Scott, Nelson – EIP formation, Tabletop meetings with social media platforms, planning, organizing, coercion, and execution of censorship.
1. All of the above with limitless access.

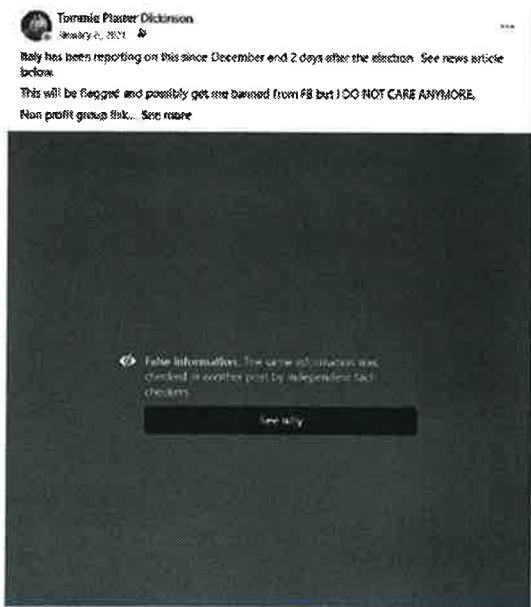
10. It is my belief through public sourcing of Defendants’ emails and calendar appointments that All Defendants have colluded with the federal government, privately-owned third-party companies, non-government organizations (NGO), and elections officials to suppress, coerce, organize with, and execute my First Amendment right to free speech.

I declare under penalty of perjury that the foregoing complaint with injunction has been reviewed and I personally know or believe that all allegations are true and correct to the best of my knowledge. Executed this 30th day of April, 2023.

Signature

/s/ Tommie J. Dickinson  
1231 W. Goodwin  
Pleasanton, TX 78064

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**Transcription**

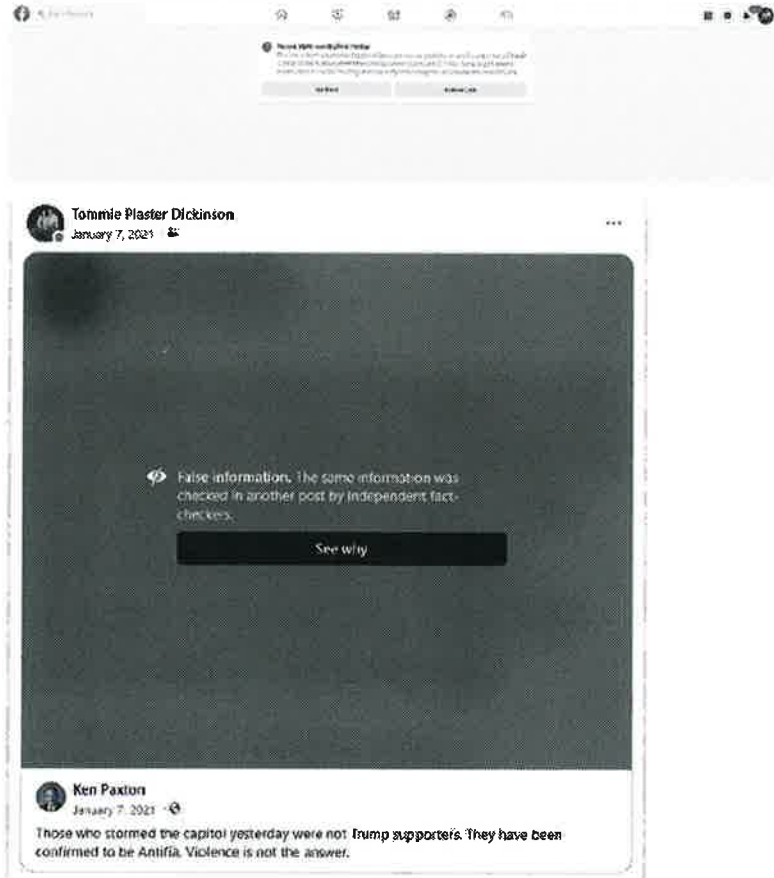
**Tommie Plaster Dickinson**  
**January 8, 2021**

Italy has been reporting on this since December and 2 days after the election. See news article below.

This will be flagged and possibly get me banned from FB but I DO NOT CARE ANYMORE.

Non profit group link... See more

[\* \* \*]



### Transcription

**Ken Paxton**  
January 7, 2021

Those who stormed the capitol yesterday were not Trump supporters. They have been confirmed to be Antifa. Violence is not the answer.

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Currently back up but we can all agree that this post was banned and label "false information" on October 14, 2020.



**MEMORANDUM OF LAW IN SUPPORT OF  
PLAINTIFFS' MOTION FOR A TEMPORARY  
RESTRAINING ORDER AND PRELIMINARY  
INJUNCTION WITH HEARING  
(APRIL 21, 2023)**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS

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STRONGIN ET AL.,

*Plaintiff(s),*

v.

SCOTT, ET AL.,

*Defendant(s).*

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No. 4:22-cv-00576-P

Before: Hon. Mark T. PITTMAN,  
Magistrate Judge Jeffrey CURETON.

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**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS'  
MOTION FOR A TEMPORARY RESTRAINING ORDER  
AND PRELIMINARY INJUNCTION WITH HEARING**

[TOC, TOA, Omitted]

Pursuant to Rule FRCP 65(a) and 65(a)(2) of the Federal Rules of Civil Procedure and to Rule 7.1 of the Rules of Practice and Procedure of the U.S. District Court for the Northern District of Texas, Plaintiffs hereby move the Court to enter a temporary

restraining order and preliminary injunction barring Defendants from using electronic voting systems (EVS) to administer the collection, storage, counting, and tabulation of any votes during elections to occur on May 6, 2023 upon hearing before this Court.

“The applicable Federal Rule does not make a hearing a prerequisite for ruling on a preliminary injunction.” *Bradley v. Pittsburgh Bd. of Educ.*, 910 F.2d 1172, 1175 (3d Cir. 1990) (citing Fed. R. Civ. P. 65(a)). “While an evidentiary hearing is not always required before resolving a preliminary injunction, . . . ‘where the motion turns on a disputed factual issue, an evidentiary hearing is ordinarily required.’” *Arrowpoint Capital Corp. v. Arrowpoint Asset Mgmt., LLC*, 793 F.3d 313, 324 (3d Cir. 2015) (quoting *Kos Pharms., Inc. v. Andrx Corp.*, 369 F.3d 700, 719 n.16 (3d Cir. 2004)). Circumstances where a hearing is not required include:

- [1] the movant is proceeding on a legal theory which cannot be sustained, because then there could be no showing of a likelihood of success on the merits . . .
- [2] the facts are undisputed and the relevant factual issues are resolved . . .
- [3] the movant has not presented a colorable factual basis to support the claim on the merits or the contention of irreparable harm. *Bradley*, 910 F.2d at 1175-76 (footnote omitted). See *Herley Indus. v. R Cubed Eng'g, LLC*, No. 5:20-cv-02888, at \*7 (E.D. Pa. Nov. 5, 2020).

The court has denied a previous preliminary injunction; however, new information is available showing that EVS certification still does not comply with state and federal laws putting voters personally identifiable information (PII) at risk.

Plaintiffs again request that the court bring transparency, fairness, honesty, and quality to elections and hold responsible those government officials who have been made aware of numerous issues relating to the certification and security of electronic voting systems (EVS) utilized in the state of Texas and Defendant counties and have still chosen to knowingly and willingly violate the equal protection and due process rights of Plaintiffs guaranteed by the United States Constitution. The fundamental right to vote is “the right of qualified voters within a state to cast their ballots and have them counted.” *United States v. Classic*, 313 U.S. 299, 315 (1941). It necessarily encompasses the right to have all votes counted accurately. “Every voter’s vote is entitled to be counted once. It must be correctly counted and reported.” *Gray v. Sanders*, 372 U.S. 368, 380 (1963). Further, as stated in Plaintiffs’ Supplemental Complaint. (ECF 196-2 pg. 4, 8, 10, 12, 13, 14, 16-19) “All Defendants have provided Center for Internet Security (CIS), Department of Homeland Security (DHS), federal and privately owned third-party partners/vendors access to computerized voter file fields, including full names of all registrants, addresses, dates of birth, voting history from at least 2017 onward, active/inactive status and whether a voter’s registration has been cancelled, voting record (absentee, provisional, early, in-person), the party primaries for state and federal elections that

the voter participated in, and the registration effective date.”

CIS’s announcement of service initiative of Malicious Domain Blocking and Reporting (MDBR) in September of 2020 with Akamai Technologies who is in a strategic partnership agreement with China Telecom Corporation Limited’s cloud division further demonstrates foreign interest in Texas’ election infrastructure. *Id.* pg. 14

New information has surfaced with Konnech via their software “PollChief”, utilized in the state of Texas, has been implicated in exposing election workers data to unverified privately-owned third-party vendors further injuring Plaintiffs. “During his employment, Plaintiff was told by his superiors to say outwardly to customers that poll worker data was not stored overseas, not available to foreign nationals, and that they had no idea why Defendant Yu was arrested. Defendant Yu told Plaintiff not to “worry about” the Chinese nationals working on Defendant Konnech’s software and coding and claimed companies like Microsoft and Apple had Chinese programmers working on their software behind the scenes.” *Bradley v. Konnech*, Michigan Circuit Court for the County of Ingham 22-000853-CZ (2022)<sup>1</sup> It has been further discovered that Konnech has more access than just poll worker data.

Defendants, knowing there are numerous issues with EVS(s) and devices, which do not adhere to legislatively prescribed standards, have chosen to continue the use of the same EVS without remedy to

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<sup>1</sup> See Appendix A pg. 2

the many violations outlined in previous filings (ECF 196), and thereby continue to inflict harm on Plaintiffs. The security concerns associated with EVS have allowed for the release of PII to unverified privately-owned third-party partners and vendors. Further, previous filings (ECF 192-2 pg. 16-20) have shown that Memorandums of Understanding (MOUs) exist between Defendant counties and the (DHS) causing elections in the state of Texas to be federalized.<sup>2</sup> *Id.* pg. 16-20 All Defendants have provided CIS, DHS, federal and privately-owned third-party partners and vendors access to computerized voter file fields, including full names of all registrants, addresses, dates of birth, voting history from at least 2017 onward, active/inactive status and whether a voter's registration has been cancelled, voting record (absentee, provisional, early, in-person), the party primaries for state and federal elections that the voter participated in, and the registration effective date. Under the common-law right of privacy, an individual has a right to be free from the publicizing of private affairs in which the public has no legitimate concern. *Industrial Found.*, 540 S.W.2d at 682; *see also Abbott v. Dallas Area Rapid Transit*, 410 S.W.3d 876, 880 (Tex. App.—Austin 2013, no pet.). Plaintiffs have an expectation of privacy when registering to vote.” *Id.* pg. 25-27. Election infrastructure requires a relationship to exist

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<sup>2</sup> See Appendix B See MOU Brazos, Denton, Dallas County (Without discovery; Plaintiffs are unable to obtain a copy of each county's memorandum of understanding between the county and the Center for Internet Security in partnership with the Department of Homeland Security. The lack of an initial scheduling FRCP 26 has unfairly hindered Plaintiffs' ability to amend complaint upon discovery of new documentation/ records.)

between local counties, election precincts, CIS, DHS, CISA, and privately-owned third-party vendors and data collectors such as Konnech, which has been utilized in Travis County. This relationship allows for not just poll worker data, but all voter data to be accessible to unidentified and unverified privately-owned third-party vendors.

Defendants have signed an oath of office swearing to “faithfully execute the duties of the office of \_\_\_\_ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God”. As stated in (ECF 252), it is well within the scope of the duties of the Defendants to guarantee free and fair elections in the state of Texas, guarantee that elections are conducted according to state laws, and protect the rights, including Constitutional rights, of their constituents. The privilege of free suffrage shall be protected by laws regulating elections and prohibiting under adequate penalties all undue influence in elections from power, bribery, tumult, or other improper practice (TEX. CONST. art. VI § 2(c), TEX. ELEC. CODE § 276.013).

Plaintiffs contend Defendants have willfully acted beyond the bounds of their lawful authority while Defendants are purporting to or pretending to act in the performance of his/her official duties. Plaintiffs contend a deprivation of rights protected by the Constitution and laws of the United States from Defendants acting under the color of law.<sup>3</sup>

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<sup>3</sup> 18 U.S.C. 242

Defendants currently have the knowledge of the wrongs conspired to be done and are about to be committed to Plaintiffs again. Defendants have the power to prevent or aid in preventing the wrongful act from being committed and have neglected or refused to act in accordance with Texas or U.S. statutes. Defendants are liable to Plaintiffs' injury for all damage caused by illegal and wrongful acts of deprivation of the right to vote and the compromise of Plaintiffs' PII.<sup>4</sup>

Plaintiffs base their standing on an issue of fundamental public importance: voting and the right to privacy. They allege that the uncertified EVS(s) and devices will undermine the upcoming election by allowing for the dilution of votes as votes cannot be verified as they are intended by each Plaintiff nor the Defendants and by the fact that the act of voting allows for the sharing of PII to be released to privately-owned third-party vendors without permission or knowledge of the Plaintiffs.

#### **MEMORANDUM OF POINTS AND AUTHORITIES**

Plaintiffs continue to argue that the actions of the Defendants have violated our 1st, 4th, 14th and 15th Amendment rights through the continued and ongoing use of uncertified EVS(s). New evidence shows that the Defendants have violated additional 4th Amendment rights and the Privacy Act of 1974 through the disclosure of Plaintiffs' PII to unverified and unapproved privately-owned third-party vendors via "PollChief". "No agency shall disclose any record which is contained in a system of records by any

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<sup>4</sup> 42 U.S.C. § 1986

means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains [subject to 12 exceptions].” 5 U.S.C. § 552a(b). A “disclosure” can be by any means of communication – written, oral, electronic, or mechanical. See OMB 1975 Guidelines, 40 Fed. Reg. at 28,953, *Bartel v. FAA*, 725 F.2d 1403, 1409 (D.C. Cir. 1984).*Id.* pg. 30-31 The continued and future use of uncertified EVS(s) and privately-owned third-party vendors and partners for conducting local, state, and federal elections in 2020, 2021, 2022, and 2023 allows for various outside organizations to access Plaintiffs’ voting data and PII.

Defendants cannot prove that Plaintiffs’ votes were not diluted or counted as intended nor can Defendants prove that Plaintiffs’ data is secure as the MOUs currently held by the counties allowing for the sharing of data with outside privately-owned vendors and federal government partner organizations that Plaintiffs have not approved. The very systems Defendants rely on have failed to meet the statutes passed and enacted by the Texas Legislature. The true results of elections that rely on uncertified EVS(s) cannot be known to Plaintiffs or Defendants. Furthermore, Plaintiffs’ constitutional rights to vote are being denied when EVS(s) are utilized.

Plaintiffs submit this memorandum of law, and documentary evidence supporting the request that this Court enter a temporary restraining order and preliminary injunction barring Defendants from using, administering (performing the election services), or contracting and executing a participation in the utilization of EVS(s) for joint and special elections to



administer the collection, storage, counting and tabulation of votes in any elections until such time that the propriety of a permanent injunction is determined.

## FACTS

### A. Upcoming Election of 2023

On May 6, 2023, Plaintiffs will again cast their votes in an election to determine local issues including regular elections for member of governing bodies for school districts, water districts, and municipal officials.<sup>5</sup>

Defendants' intend to utilize computerized EVS(s) for this election. These EVS(s) are not legally certified by the Secretary of State in accordance with TX Admin. Code § 81.61 (2019), "For any voting machine . . . to be certified for use in Texas elections, the system shall have been certified . . . by a Nationally Recognized Test Laboratory..". However, the EVS are open to manipulation and are not legally certified as reported by the Declarations of Terpsehore Maras and Election Assistance Commission (EAC) documentation. (ECF no. 196-1 pg. 13-31; 80-85)

- Defendants Hughs, Scott, Esparza and Ingram have approved and illegally certified, and the State and County Defendants intend to use through contract to municipalities, uncertified EVSs that were not tested by an accredited laboratory in accordance with

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<sup>5</sup> May 6, 2023 Election Law Calendar (texas.gov)

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HAVA 2002<sup>6</sup> or TX Admin. Code §§ 81.60, 81.61, Tex. Elec § 122.001 *Id.*

- County Defendants purchased, signed and intend to utilize uncertified electronic voting systems/machines that were not tested by an accredited laboratory in accordance with HAVA 2002<sup>7</sup> or TX Admin. Code §§ 81.60, 81.61, Tex. Elec § 122.001. *Id.*
- HAVA prohibits the EAC from voting and adopting final guidelines until it has given both the Board of Advisors and the Standards Board 90 days to review and hold a public notice with a comment process. Any modifications to the voting guidelines that does not follow HAVA statute for amending are not recognized as a legal certification. All EVS certifications are void and expired. (ECF 196-1 pg. 18)
- Defendants Hughs, Scott, and Ingram have approved the utilization of “Albert Sensors” via Memorandums of Understanding with CISA in conjunction with the Department of Homeland Security to monitor Texas Elections which has been shown to expose PII of individuals to DHS and federal partnered agencies. (ECF 196-2 pg. 20-23)
- County Defendants purchased, signed and intend to utilize “Albert Sensors” via Memo-

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<sup>6</sup> [https://www.eac.gov/sites/default/files/eac\\_assets/1/28/VSTLManual%207%208%2015%20FINAL.pdf](https://www.eac.gov/sites/default/files/eac_assets/1/28/VSTLManual%207%208%2015%20FINAL.pdf) See page 38, Sec. 3.6.1 and Sec. 3.6.1.3

<sup>7</sup> *Id.*

randums of Understanding with CIS in conjunction with the Department of Homeland Security to monitor County Elections which has been shown to expose PII of individuals to DHS and federal partnered agencies. *Id.* pg. 16-19

- County Defendants have used critical election infrastructure that is connected to Konnech Software and through CIS software via partnerships with companies that has been shown to expose PII of individuals on servers in China. *Id.* 13-16, ECF 196-1 pg. 63-70

## **B. Continued Accreditation Failures**

The Help America Vote Act of 2002 (HAVA) was passed by the United States Congress to address improvements to voting systems/procedure and voter access. HAVA creates mandatory minimum standards for states to follow for several areas of election administration. ECF 196-1 pg. 13, 14 HAVA established the Election Assistance Commission (EAC) to assist states in HAVA compliance. The EAC is also charged with regulating and creating Voting System Accreditation Program Manual<sup>8</sup> to provide accreditation to voting system test laboratories (VSTL) and operating/managing the first, federally run voting system certification program. The EAC issued modifications to the manual regarding “Expiration and Renewal of Accreditation” stating that “The EAC testing and certification program initially included expiration dates on certificates to VSTLs after onsite visits, but in July

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<sup>8</sup> <https://www.eac.gov/sites/default/files/eacassets/1/28/VSTLManual%207%208%2015%20FINAL.pdf>

2021, EAC issued a notice of clarification that the expiration date listed on the certificate relates to the EAC program requirement to reassess VSTLs periodically and will be tracked separately from the certificate.

The EAC no longer includes expiration dates on the Certificate of Accreditation and states, ‘Accreditation remains effective until revoked by a vote of the EAC.’ ”, on July 23, 2021<sup>9</sup> without proper action under 52 U.S.C. § 551 *et seq.*, HAVA, 52 U.S.C. § 20901 *et seq.*, and Federal Advisory Committee Act (FACA), 5 U.S.C. app. 2 § 1-15. Modifications shall be reviewed and commented on by the EAC Board of Advisors and the EAC Standards Board or the requirement by HAVA and the APA guidelines of any modifications shall be provided to the public for notice and comment prior to approval. 52 U.S.C. § 20962, APA 5 U.S.C. § 551 *et seq.* a. HAVA prohibits the EAC from voting to adopt final guidelines until it has given both the Board of Advisors and the Standards Board 90 days to review and comment on the proposed guidelines and has “tak[en] into consideration” their comment process and recommendations. *Id.* § 20962(d)(1)-(2). b. HAVA additionally requires a public notice and comment process that includes publication of the proposed guidelines in the Federal Register, opportunity for public comment on the proposed guidelines, and opportunity for a public hearing on the record. *Id.* § 20962(a)(1)-(3). *Id.* pg. 17-18

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<sup>9</sup> <https://www.oversight.gov/sites/default/files/oig-reports/EAC/P22HQ0018-23-05-EAC-Testing-and-Certification-Audit.pdf> (April 19, 2023)

On July 22, 2022, the EAC posted; Pro V&Vs and SLI Compliance's VSTL accreditation pages yet another excuse regarding the lack of proper and legal accreditations. *Id.* 21, 22

1 Pro V&V was accredited by the EAC on February 24, 2015, and SLI Compliance was accredited by the EAC on February 28, 2007. Federal law provides that EAC accreditation of a voting system test laboratory cannot be revoked unless the EAC Commissioners vote to revoke the accreditation: "The accreditation of a laboratory for purposes of this section may not be revoked unless the revocation is approved by a vote of the Commission." 50 U.S. Code § 20971(c)(2). The EAC has never voted to revoke the accreditation of Pro V&V. Pro V&V has undergone continuing accreditation assessments and had new accreditation certificate issued on February 1, 2021.

Statute 52 U.S. Code § 20971(c)(2) is not applicable to 3.6.1.3 and the effective date of the accreditation as the accreditation EXCEEDED the period of two (2) years. The statute does not refer to continued accreditation due to any failure of action by the private laboratories and/ or the EAC Program Director. This is erroneous reasoning at best and fraud at worst. Pro V&V and SLI Compliance were not accredited laboratories in accordance with HAVA of 2002 § 231(b). The EAC is not a legislative body and cannot create or establish law but must abide by HAVA of 2002. This is an overreach of power by disregarding the law set forth by HAVA of 2002 Section 231(b) and the federal legislative body. *Id.* pg. 26

Due to administrative error during 2017-2019, the EAC did not issue an updated certificate to Pro V&V

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causing confusion with some people concerning their good standing status. Even though the EAC failed to reissue the certificate, Pro V&V's audit was completed in 2018 and again in early 2021 as the scheduled audit of Pro V&V in 2020 was postponed due to COVID-19 travel restrictions. Despite the challenges outlined above, throughout this period, Pro V&V and SLI Compliance remained in good standing with the requirements of our program and retained their accreditation. In addition, the EAC has placed appropriate procedures and qualified staff to oversee this aspect of the program ensuring the continued quality monitoring of the Testing and Certification program in robust and in place.

Accordingly, the "Accardi" decision requires that even governmental officials must follow agency regulations and guidelines. By the EAC's own admission of "administrative error"; the foundation of the rule of law under the Accardi doctrine; the EAC did not observe their own rules and guidelines, therefore violating the laws set by HAVA, affording a domino effect of substantive restraints and violations of protected persons (class) from arbitrary or capricious treatment leading to the violation of Plaintiffs' voting rights. All Defendants are acutely aware of HAVA statute and EAC guidelines manuals in which they attend training and study manuals. *Id.* pg. 25, 27

**C. Continued Election Vulnerabilities**

Prior to the Midterm elections of 2022, the Texas Secretary of State's office issued the following letter to

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Harris County regarding corrective actions that were identified during an audit of 2020 election procedures.<sup>10</sup>

Re: Notice of Mobile Ballot Boxes from the 2020 General Election lacking proper chain-of-custody and request for corrective action.

Dear Mr. Tatum,

We are writing to inform you that our ongoing audit of Harris County has revealed serious breaches of proper elections record management in the handling of Mobile Ballot Boxes (MBBs) during the November 2020 General Election. The urgency of this letter is to ensure that none of these process issues occur in the upcoming November 2022 General Election.

Part of the focus of the audit was concerns with voting records as they relate to EVS.

From our discussions with the former Election Administrator, Isabel Longoria, and her deputy, Beth Stevens, it was our understanding that when Harris County upgraded their voting systems from the Hart InterCivic voting system that utilized eSlates as Direct Recording Electronic (DRE) devices after the 2020 General Election to the current Verity system, Harris County did not retain any equipment or computers that provide the relevant reports or, alternatively, can read MBBs from that election.

It is also our understanding that while the Hart voting system in use for the 2020 General Election is equipped with software that had the ability to generate multiple reports and audit logs, Harris County produced

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<sup>10</sup> Texas agencies' plan to monitor Harris County elections raises concerns among observers – Houston Public Media

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only a limited subset of these records. In response to our request for these documents in June 2022, Harris County stated they provided all reports they were able to produce. Given Harris County's failure to respond to our December 2021 request and the absence of a fulsome 2020 electronic record, FAD has endeavored to compile on its own the previously requested list of polling locations for which there was a discrepancy of 1% or more. We have compared daily summary-of-voter totals, daily count tapes from the JBCs and eSlates, the Tally audit log, and other records in an attempt to piece together location-specific data. We have also reviewed the Central Count Packets, Early Voting Reconciliation Envelopes, and Election Day Reconciliation Packets. As you are aware, Harris County maintains their paper elections record in its warehouse. These records comprise the papers for hundreds of polling locations in over 500 boxes and plastic tubs of election records and Harris County has been unable to provide any inventory of the records. Nevertheless, in the course of our review, we found multiple discrepancies that cannot be explained from the records that were made available to us.

Other concerns outlined in the audit conducted by the Secretary of State include:

- Chain-of-custody issues
- Pollbook and provisional voting data provided by Harris County do not match the number of cast vote records (CVRs).
- Systems do not appear to be maintained in a way to recover stored data.



- Harris County did not meet the minimum for records related to the November 2020 General Election.

Despite the audit conducted by the Secretary of State's office, multiple issues were observed during the November 2022 elections in Harris County including polling places opening late due to malfunctioning EVS, and limited amounts of ballot paper. Election Advisory No. 2022-04 (ECF 221-1) issued by the Texas Secretary of State in 2022 regarding "emergency ballots was widely ignored by Harris County as the polls were still short the required paper ballots for an emergency that the official Election Advisory required. Even with this advisory, arguably well known by Defendants as stated in their responses filed in this case; Harris County Defendants did not provide an adequate remedy to the Plaintiffs voting within Harris County during the November 2022 elections.<sup>11 12 13</sup>

#### **D. Release of Personally Identifiable Information**

The expectation of privacy held by Plaintiffs is that PII will provide Plaintiffs the right to vote within their local counties. Defendants have actively marketed

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<sup>11</sup> Harris County's 2022 Election Day issues should be investigated, Gov. Greg Abbott says – Houston Public Media-Apr. 16, 2023

<sup>12</sup> Harris County's review of voting problems on Election Day "inconclusive" | The Texas Tribune-Apr. 16, 2023

<sup>13</sup> Harris County elections administrator addresses 'mishaps' after several machines down, multiple issues reported at polling locations (click2houston.com)-Apr. 16, 2023

and promoted the federalization of Texas elections without the consent of legislators or Plaintiffs. Under *Heckler v. Chaney*, 470 U.S. 821, 833 n. 4 (1985), conscious action of executive policies to nullify statutes or to ignore statutory responsibilities are “reviewable” as if the policy had been written. Thus, the awareness of actions by State or County officials to nullify or ignore election statutes and constitutional rights violates the Election Clause and Right to Privacy. All Defendants have provided CIS, DHS with other federal agencies (FBI, FEMA, CISA, DOJ, ODNI,) and privately-owned third-party partners/vendors access to computerized voter file fields, including full names of all registrants, addresses, dates of birth, voting history from at least 2017 onward, active/inactive status and whether a voter’s registration has been cancelled, voting record (absentee, provisional, early, in-person), the party primaries for state and federal elections that the voter participated in, and the registration effective date. ECF 196-2 pg. 8,10-13

Recent whistleblower evidence filed by Grant Bradley, states that there are numerous security concerns regarding Konnech Software and the release of PII to individuals overseas *Bradley v. Konnech*, State of Michigan in the Circuit Court for the County of Ingham 22-000853-CZ (2022) Mr. Bradley’s affidavit states “In approximately September 2022, following accusations made by True the Vote, Plaintiff began investigating the extent of the information provided by Defendant Konnech to the programmers based out of Wuhan, China. Plaintiff confirmed that Defendants Yu and Konnech had been providing to these Chinese programmers private data of poll workers, to include social security numbers and other personal identifying

information”. “At one point, these Chinese nationals were direct employees of Defendant Konnech. But Defendant Konnech outwardly claimed to terminate the relationship with the Chinese nationals in response to public political pressure to sever ties with China. However, internally, Defendant Yu had no intention of severing the relationship with the Chinese nationals. He hired them back as independent contractors and assigned to them the exact same responsibilities they held as employees.”<sup>14</sup> Konnech currently has a contract with Travis County<sup>15</sup> and Plaintiff Gremont has received correspondence alerting her of the possible risk of release of her PII data.<sup>16</sup> Plaintiff Brooks has to this day has not been notified of the breach of his PII. If CIS’s via DHS sole job is to detect foreign interference and protect Plaintiffs-why and how was Konnech allowed or able to obtain, store, and transmit Plaintiffs’ PII in Travis County as well as the poll workers and voters in Los Angeles County?

The relationship with the Travis County Defendants and Konnech dates back to 2015.<sup>17</sup> In 2015, Defendants were aware that raw data of poll workers, voters, and building contacts were released to Konnech through their software applications. The data comprised of name, address (with maps), phone numbers, email addresses, driver’s license, SSN, political affiliation

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<sup>14</sup> See Appendix A pg. 2-4, 5-6

<sup>15</sup> See Appendix C See 2015 contract extended year after year till present \*\*\* NOTE: Konnech is a sole source provided with the proprietary rights to Konnech

<sup>16</sup> *Id.* pg. 40-43 See Email from Travis County to Plaintiff

<sup>17</sup> *Id.* See 2015 contract between Travis County and Konnech

based on prior voting data, voter registration status, financial information, age, ethnicity, and gender.<sup>18</sup> The system not only houses PII but also provides a full picture of the county's complete election cycle to include photos and layouts of the voting site buildings as well as a "set-up layout" of EVS(s) systems tracked by a predetermined barcode created within the system and attached by the county to each piece of equipment utilized in the county's election infrastructure.<sup>19</sup> All these applications are available through IOS on any device such as PC, smart phone or tablets.<sup>20</sup> The contract between Travis County and Konnech shows an expiration date of May 2023.<sup>21</sup> *Id.* pg. Plaintiffs contend that Travis County Defendants intend to utilize "PollChief" at the very least in the May 6, 2023. Defendants have not released any further information on the width and breath of the breach of PII.

Diagrams provided by records from the Los Angeles County Registrar-Records County Clerk show that Konnech, via PollChief, appears to integrate with voter records, including registration, election night reporting, address verification, amongst others putting all data collecting during elections at risk of exposure to unverified privately-owned third-party vendors.

{ Detailed diagram omitted }

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<sup>18</sup> *Id.* pg. 5-9, 27-32

<sup>19</sup> *Id.* pg. 28-31

<sup>20</sup> *Id.* pg. 27-28, 31

<sup>21</sup> *Id.* pg. 42-43 See Email Dillman to Hess and Clyde regarding expiration of 2023 contract with Konnech

Plaintiffs contend that exposure of PII is a known risk created through various means embedded in the election infrastructure that Defendants have acquired and utilized putting Plaintiffs at risk of more than just identity theft.

This is not a conspiracy, nor a coincidence of Chinese servers found in Texas' election infrastructure as Plaintiffs have been sounding the alarm to state, county, and local officials-particularly these Defendants and this Court. Defendants at this juncture of the case have not once argued in rebuttal of Plaintiffs' merits of foreign companies in the election infrastructure.

It is abundantly clear that DHS by and through CIS currently is housing Plaintiffs' PII. Plaintiffs did not nor do they consent for any federal agency to contain any records of Plaintiffs. Defendants permitted and granted access to Plaintiffs information in which all federal agencies' partnerships and sharing of Plaintiffs' information are in violation of 5 U.S.C. § 552a(b) in which "No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains".

Although the sole contract Plaintiffs were able to obtain is with Travis County Defendants; Plaintiffs believe that Konnech is connected to Bexar via FVAP.<sup>22</sup> However without discovery Plaintiffs are at a

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<sup>22</sup> See Appendix D Konnech and FVAP

disadvantage of obtaining discovery materials with the ability to amend upon said discovery until the Motion to Waive LR 16.1(f) has been granted.

Defendants are not asking Plaintiffs or this Court to have blind trust but to have blindfolded trust in proprietary rights to which Defendants have no access.

#### **E. Official Misconduct**

According to Black's Law Dictionary, the definition of "official misconduct" as outlined in Local Government Code Chapter 87 is, a term that is applied to the misbehavior and unlawful acts committed by a public official while performing his duties, Texas Code of Criminal Procedure Article I, 3.04, defines Official Misconduct as an offense that is an intentional or knowing violation of a law while acting in an official capacity as a public servant. Public Servants are defined by the Texas Penal Code Section 1.07, with additional clarification in 6.03 of the Penal Code, 28 (b). The Defendants were made aware of the Accreditation Failures of the EVS as stated in Section B above on multiple occasions and in multiple responses and motions before this Court. Plaintiffs have outlined the amenabilities of the EVS citing two incidents where executive branches of the government have noted security breaches within the EVS. (Governor Kemp and the federal government agencies – FBI and CISA). Multiple Senators inquired via letters<sup>23</sup> to the private equity firms that own the two EVS(s) utilized by County Defendants (Hart InterCivic, ES&S)

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<sup>23</sup> <https://www.warren.senate.gov/imo/media/doc/H.I.G.%20McCarthy,%20%20Staple%20Street%20letters.pdf>

expressing their concerns regarding the susceptibility of the EVS(s).

Tex. Bus. & Com. Code § 17.46 (a)(3) False, misleading, or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful and are subject to action by the consumer protection division under Sections 17.47, 17.58, 17.60, and 17.61 of this code further defined by (3) causing confusion or misunderstanding as to affiliation, connection, or association with or certification by, another;". After being made aware of the lack of legal certifications for the EVS(s) following the 2020 election and all subsequent elections, Defendants are still forcing Plaintiffs to either forgo our Constitutionally protected right to vote or vote on EVS(s) that are not legally certified. With the federalization of our elections by DHS and other federal agency partnerships and the growing amount of MOU's (Konnech) are part of the election infrastructure, looting our PII in total disregard of our Fourth Amendment rights by Plaintiffs' own government. The Defendants took an oath to uphold and defend our United States and Texas Constitutions and the laws of the same. Defendants continue to violate Plaintiffs' Constitutional rights alongside Texas and federal laws upon their continued ignorance of the violations of PII plundered by privately-owned third-party vendors causing irreparable harm to Plaintiffs.

#### **F. Paper Ballots and Hand Counting Is Secure**

America was founded on the principles of the consent of the governed by virtue of the ballot box. Until recently, American voters recorded their votes by hand, on paper which was then counted by hand in

accordance with US Const. Art. 6 Sec. 4. The method of voting by paper ballot and hand counting is a well established practice in Texas Elections.

It is only in the last 2-3 decades that the voting box has become electronic. More oversight is required to guard a backdoor that which only cyber security experts are able to detect. These measures intended to make the voting process easier and more accessible to voters actually create more issues than they resolve. Why utilize such a vulnerable and costly system? A tried and true manner for securing our votes is available: hand-counted, paper ballots. Plaintiffs relief is simple – accuracy over convenience.

### **PRELIMINARY RELIEF**

Plaintiffs challenge is a strong presumption of constitutionality, and to overcome that presumption, Plaintiffs have brought before the Court “clear evidence” of its incompatibility with our State’s and United States’ governing documents. The First, Fourth, Fourteenth and Fifteenth Amendments provide that there must be no infringement of free speech and equal protection under the law regardless of class. The United States Constitution Article 1 Section 4 provides that “each State by the Legislature thereof”<sup>24</sup> shall prescribe the manner of holding elections. ECF 196-2 pg. 23-25. By its own terms, it establishes a constitutional floor, not a ceiling.

The legal and constitutional concerns surrounding the use of EVS in the state of Texas have been made available to the Defendants beginning in late 2021.

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<sup>24</sup> US. Const. Art. 1 Sec. 4 Cl. 1



Numerous Plaintiffs attempted to have discussions with Defendants regarding the legal standards for certification of EVS and the risks that were associated when proper certification was not conducted. Two election cycles passed, November 2021 and May 2022, prior to the filing of this Motion. The Constitutional, legal, and security concerns continue to grow, and Defendants have yet to address any of the concerns outlined in any filing since July 2022.

To obtain Preliminary Injunctive relief, the moving party must show: (1) it has a substantial likelihood of success on the merits; (2) irreparable injury will be suffered unless the injunction issues; (3) the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) if issued, the injunction would not be averse to the public interest. *McDonald's Corp. v. Robertson*, 147 F.3d 1301, 1306 (11th Cir. 1998). In the eleventh Circuit, “[a] Preliminary Injunction is an extraordinary and drastic remedy not to be granted unless the movant clearly established the ‘burden of persuasion’ as to the four prerequisites.” *Id.* (internal citations omitted).

The Defendants enjoy broad legislative power curtailed only by the limits of the state and federal constitutions. If the Court were to adopt Defendants’ arguments on standing, it would endorse a scenario where the legislative enactment was meaningless and Defendants’ actions in violation of the United States Constitution have no recourse-no Texas voter can or could challenge because the harm of such violations would be “generalized” to all Texas voters.

“The balance of hardships and public interest favor injunctive relief. There is no hardship to Defendant, other than preventing him from engaging in unlaw-

ful activity. Therefore, the balance clearly weights in the Plaintiffs' favor." *Dish Network v. Bauder*, Case No: 6:14-cv-1443-Orl-31DAB, at \*15 (M.D. Fla. Mar. 12, 2015). "Defendants have not offered any persuasive reason as to why they should be allowed to continue misappropriating Plaintiffs' likenesses. Accordingly, the Court finds that the balance of equities and public interest also favor injunctive relief. The Court therefore GRANTS Plaintiffs' Motion for a Preliminary Injunction." *Youngevity Int'l, Corp. v. Smith*, 224 F.Supp.3d 1022, 1028 (S.D. Cal. 2016). The general public benefits from the remedy against constitutional infringements where any citizen can bring a case before the court as long as it impacts the public interest, and benefits the general public, not just the Plaintiff. *Assoc. Indus. of New York v. Ickes*, 134 F.2d 694, 704 (2d Cir. 1943). Similarly, "[w]hen a constitutional violation is likely . . . the public interest militates in favor of injunctive relief because it is always in the public interest to prevent violation of a party's constitutional rights." *Id.* (internal quotation marks omitted); see also *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir.2012) ("When constitutional rights are threatened or impaired, irreparable injury is presumed."); *Deja Vu of Nashville, Inc. v. Metro. Gov't of Nashville & Davidson Cnty.*, 274 F.3d 377, 400 (6th Cir.2001). *Am. Civil Liberties Union Fund of Mich. v. Livingston Cnty.*, 796 F.3d 636, 649 (6th Cir. 2015)

**A. Plaintiffs are Likely to Succeed on the Merits**

Plaintiffs' concerns arise from more than dilution. Plaintiffs have a right to participate in free and fair elections under which only legally made votes are counted and none of Plaintiffs' personal information associated with voting procedures is illegally available

to unapproved privately owned third party vendors.<sup>25</sup> Under Tex. Elec. Code § 81.60, 81.61, and 122.001 when violation allows for illegally made votes to be counted which Plaintiffs adequately allege illegally made votes have and will be counted. Accordingly, they have an injury in fact. Plaintiffs Affidavits (ECF no.14, 131).

The mere fact that an injury is felt by many does not make the injury abstract. *See Lynn*, 408 F. Supp. at 1332 (Even if “a benefit hardly can be quantified,” a “loss of it [still may] support a finding of standing.”); accord *Dover Hist. Soc’y*, 838 A.2d at 1112. Stated conceptually, an injury that is shared also may be particular and concrete. *See Massachusetts v. EPA*, 549 U.S. 497, 522 (2007) (“Where a harm is concrete, though widely shared, the Court has found ‘injury in fact.’”) (alteration and citation omitted). (“Thus the fact that a political forum may be more readily available where an injury is widely shared . . . does not, by itself, automatically disqualify an interest for Article III purposes. Such an interest, where sufficiently concrete, may count as an ‘injury in fact.’ This conclusion seems particularly obvious where (to use a hypothetical example) . . . large numbers of voters suffer interference with voting rights conferred by law.”). *Akins*, 524 U.S. at 24.

#### **B. Plaintiffs Face Irrevocable Harm**

To establish Article III standing, an injury must be “concrete, particularized, and actual or imminent; fairly traceable to the challenged action; and redressable by a favorable ruling.” *Clapper v. Amnesty Int’l USA*,

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<sup>25</sup> *See* Del. Const., art. I, § 3

568 U.S. 398, 409, 133 S.Ct. 1138, 185 L.Ed.2d 264 (2013) (quoting *Monsanto Co. v. Geertson Seed Farms*, 561 U.S. 139, 149, 130 S.Ct. 2743, 177 L.Ed.2d 461 (2010)). To be particularized, an injury “must affect the plaintiff in a personal and individual way.” *Spokeo, Inc. v. Robins*, \_\_\_ U.S. \_\_\_, 136 S.Ct. 1540, 1548, 194 L.Ed.2d 635 (2016) (quoting *Lujan*, 504 U.S. at 560 n.1, 112 S.Ct. 2130). “There must be some connection between the plaintiff and the defendant that ‘[d]ifferentiate[s]’ the plaintiff so that his injury is not ‘common to all members [359 F.Supp.3d 352] of the public.’” *Griffin v. Dep’t of Labor Fed. Credit Union*, 912 F.3d 649, 655 (4th Cir. 2019) (quoting *United States v. Richardson*, 418 U.S. 166, 177, 94 S.Ct. 2940, 41 L.Ed.2d 678 (1974)). “The fact that an injury may be suffered by a large number of people does not of itself make that injury a nonjusticiable generalized grievance,” if “each individual suffers a particularized harm.” *Spokeo, Inc.*, 136 S.Ct. at 1548 n.7. To qualify for injury in fact, the asserted harm must be “concrete and particularized and . . . actual or imminent, not conjectural or hypothetical.” *Morris v. Spectra Energy P’rs (DE) GP, LP*, 246 A.3d 121, 129 (Del. 2021) (internal quotation marks omitted); see *Dover Hist. Soc’y*, 838 A.2d at 1110 (“Standing is a threshold question that must be answered . . . affirmatively to ensure that the litigation . . . is a ‘case or controversy’ that is appropriate for the exercise of the court’s judicial powers.”); see also *Gerber v. EPE Hldgs., LLC*, 2013 WL 209658, at \*12 (Del. Ch. Jan. 18, 2013)

Plaintiffs Gremont and Brooks are both election workers in Travis County which has utilized Konnech as part of its critical election infrastructure. Each will

again have their PII exposed due to the vulnerabilities which exist in the current uncertified EVS, and the relationship Travis County has with Konnech Inc.<sup>26</sup> The United States Supreme Court, in its willingness to *recognize* standing in cases involving public issues that affect all citizens, it is reasonable to conclude public interest concerns are relevant factors in deciding whether an individual has established an injury in fact. [It is a] self-evident proposition that more than one party may have standing to challenge a particular action or inaction. Once it is determined that a particular plaintiff is harmed by the defendant, and that the harm will likely be redressed by a favorable decision, that plaintiff has standing — regardless of whether there are others who would also have standing to sue. *Goode v. City of Philadelphia*, 539 F.3d 311, 322 (3d Cir. 2008). *Clinton v. City of New York*, 524 U.S. 417, 118 S.Ct. 2091, 141 L.Ed.2d 393 (1998).

The Supreme Court has also recognized Article III standing in environmental litigation brought by concerned citizens who wish to fish, picnic, hike, or other leisure activities, but refrain because they possess the knowledge that pollutants have been dumped in a river — in violation of a statute. *See Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167 (2000). Similarly, the concerned Plaintiffs have knowledge that voting

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<sup>26</sup> Motion to Waiver LR 16.1(f) is before this Court in order for Plaintiffs to obtain discovery and access the width and length of the breach and release of Plaintiff Gremont and Brooks' PII. The legal injury cause by such a breach is immeasurable.

machines (EVS) are not certified by an accredited VSTL — in violation of statutes.

The injuries the Plaintiffs suffer are more serious and extensive than leisure activities. As candidates, election judges, or precinct chairs, Plaintiffs have moral decisions to make about serving or supporting candidates when the EVS(s) are in violation of election code. As Texans, Plaintiffs have lost jobs, family members, and longstanding relationships. The damaging effects of the substandard EVS(s) are clear when viewed through the lens of the economy, the border, and the pandemic with its associated responses. Plaintiffs continue to be impacted economically on a daily basis — and they know the injuries are a result of the substandard EVS(s) — which distinctly separates them from the general public, registered voters, and actual voters who do not know.

In comparing illegal EVS(s) to a polluted river, where the plaintiffs in *Friends* had standing to bring suit, even from the district court level, the polluted river is a walk in the park which impacted those plaintiffs' "recreational, aesthetic and economic interests". Nowhere is a serious life-sustaining injury mentioned, such as plaintiffs having to avoid drinking water from a polluted river with no other choice. In contrast, voting is a foundational activity to keep or restore our Republic — and is therefore life-sustaining. But Defendants currently offer Plaintiffs no other choice than to vote on substandard EVS, or to not vote at all.

The standing requirement has also been relaxed in First Amendment cases such that persons can facially attack statutes without a clear showing of injury. See *Broadrick v. Oklahoma*, 413 U.S. 601, 611-

12, 93 S.Ct. 2908, 37 L.Ed.2d 830 (1973). For example, a person can attack a permit scheme without first applying for and being denied a permit where the scheme “pose[s] a real and substantial threat of . . . censorship risks.” *City of Lakewood v. Plain Dealer Publishing Co.*, 486 U.S. 750, 755-60, 108 S.Ct. 2138, 100 L.Ed.2d 771 (1988). These facial challenges are permitted to protect against prior restraints on First Amendment speech. *See id.* at 757, 108 S.Ct. 2138; *Forsyth County v. Nationalist Movement*, 505 U.S. 123, 129, 112 S.Ct. 2395, 120 L.Ed.2d 101 (1992). *United States/Federal Communications Commission v. Waterbury Hispanic Communications, Inc.*, 109 F.Supp.2d 80, 82-83 (D. Conn. 1999) This is the wall Plaintiffs have found blocking the road to justice. Plaintiffs do have a legal injury in fact that is irreparable and a continued threatened imminent injury without this Court’s granting of injunctive relief.

All this is enough to establish standing, injury in fact and success on the merits. *Under Maine v. Thiboutot*, 448 U.S. 1, 4 (1980) the justices found that “§ 1983 remedy broadly encompasses violations of federal statutory as well as constitutional law. *Rosado v. Wyman*, 397 U.S. 397 (1970), for example, “held that suits in federal court under § 1983 are proper to secure compliance with the provisions of the Social Security Act on the part of participating States.” *Edelman v. Jordan*, 415 U.S. 651, 675 (1974). *Monell v. New York City Dept. of Social Services*, 436 U.S. 658, 700-701 (1978). “*Greenwood v. Peacock*, 384 U.S. 808, 829-830 (1966), observed that under § 1983 state “officers may be made to respond in damage not only for violations of rights conferred by federal equal

civil rights laws, but for violations of other federal constitutional and statutory rights as well.”

Prudential standing and the public interest, in many ways, are related. Here, they arguably go hand-in-hand.

The argument presented is enough to establish Article III standing.

**C. Granting Relief Will Have No Adverse to Public Interest**

Granting the Plaintiffs relief will have little to no undue adversity to Defendants as the TEX. CONST. art. VI § 4 and TEX. ELEC. CODE Ch. 65 and system currently used requires a paper ballot for each voter and hand counting is generally not a new concept. In the state of Texas, Defendants are prepared to carry out the relief Plaintiffs seek as election law provides for hand marked and hand counted paper ballots be on hand in case of a malfunction of electronic equipment and other system malfunctions.<sup>27</sup>

In contrast, failing to enter a temporary restraining order and preliminary injunction allowing for the use of EVS(s) and devices as intended by Defendants will cause immeasurable harm. Defendants have sworn an Oath of Office that requires them to follow both the law of the state of Texas and the Constitution. The right to vote is affirmed in the First Amendment and cannot be guaranteed when Defendants cannot prove Plaintiffs votes were counted as intended. This removes the will of the Plaintiffs’ to choose their government.

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<sup>27</sup> See Tex. Elec. Code § 125.006(2)(3)



The right to privacy is protected under the 14th Amendment and the Federal Trade Commission. When the election franchise is used to compromise Plaintiffs' PII, it becomes an accessory to a crime. Plaintiffs are forced to choose between protecting their PII or exercising their Constitutional Rights of self-governance. This violates every principle upon which this country was founded.

### **CONCLUSION**

Upon considering the totality of the evidence, the four factors that must guide the Court's determination have been met. For these reasons, Plaintiff(s) are entitled to a Preliminary Injunction prohibiting the use of electronic voting systems/ machines to cast and count the ballots or otherwise be used to administer future Texas elections.

Respectfully submitted this 21st day of April 2023.

[ \* \* \* ]

### **CERTIFICATE OF CONFERENCE**

On April 21, 2023, Pro Se Plaintiffs conferred with Defense Counsel on record, with regards to Pro Se Plaintiffs intent to file a Motion for Temporary Restraining Order and Preliminary Injunction.

All Defendants responded as opposed. Given the responses, Pro Se Plaintiffs will file the amendment as an opposed Motion.

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[Certificate of Service Omitted]

**2015 TRAVIS COUNTY CONTRACT  
WITH KONNECH**

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**Travis County Commissioners Court  
Agenda Request**

Meeting Date: June 2, 2015

Prepared By/Phone Number: Lori Clyde/44205

Elected/Appointed Official/Dept. Head: Cyd Grimes

Commissioners Court Sponsor: Judge Eckhardt

Agenda Language: Approve Contract and Order Exempting the Purchase of the PollChief® Election Management System License, Maintenance and Support from Konnech, Inc. from the Competitive Procurement Process Pursuant to Section 262.024 (a)(7)(A) of the County Purchasing Act.

- ▶ Purchasing Recommendation and Comments:  
Purchasing concurs with department and recommends approval of requested action. This procurement action meets the compliance requirements as outlined by the statutes.

The Travis County Clerk Elections Division is recommending the purchase of the Poll Chief Election Management System from Konnech, Inc. to organize the logistical management of elections into one comprehensive and cohesive system. They have researched other elections management software products; none of which offered all the system management modules in one platform that works together in tandem as a complete elections management system.



App.502a

Poll Chief offers a complete turn-key product whose modules operate from a central database to connect all operations of an elections office. This product, Poll Chief, is sole source and can only be purchased through Konnech, Inc.

The cost is \$80,000.00 and includes design, training, implementation, data conversion and hosting for 12 months. This Contract may be renewed for additional one-year terms. For the second through fifth years, the cost will be \$25,700 annually. This cost includes license and use fees, support, maintenance and hosting. Thereafter, Konnech has the option to increase the annual fee by not more than three percent (3%) of the prior year's annual fee or the rate of inflation as measured by the Consumer Price Index, whichever is greater. Historically the CPI has been less than 3%.

- ▶ Contract Expenditures: Within the last \_\_\_ months \$0.00 has been spent against this contract/requirement.
- ▶ Contract-Related Information:  
Award Amount: \$80,000.00  
Contract Type: Sole source  
Contract Period: June 2, 2015 - June 1, 2016
- ▶ Solicitation-Related Information:  
Solicitations Sent: NA Responses Received:  
HUB Information: % HUB Subcontractor:
- ▶ Special Contract Considerations:

[ . . . ]

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**AGENDA REQUEST DEADLINE:** All agenda requests and supporting materials must be submitted as a pdf to [agenda@co.travis.tx.us](mailto:agenda@co.travis.tx.us) by Tuesdays at 5:00 p.m. for the next week's meeting.

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Dana DeBeauvoir *Travis County Clerk*

PO Box 149325, Austin TX 78714-9325 | Phone: (512)  
854-9188 | Website: [www.traviscountyclerk.org](http://www.traviscountyclerk.org)

To: Cyd Grimes, Purchasing Agent

From: Dana DeBeauvoir, Travis County Clerk

February 26, 2015

The Travis County Clerk Elections Division is seeking to purchase the Poll Chief Election Management System from Konnech, Inc. to organize our logistical management of elections into one comprehensive and cohesive system. We have researched other elections management software products; none of which offered all the system management modules in one platform that works together in tandem as a complete elections management system.

While other vendors may have similar products/modules that perform independently; to our knowledge, no other system offers a complete and comprehensive management system.

Poll Chief offers a complete turn-key product whose modules operate from a central database to connect all operations of an elections office. This product, Poll Chief, is sole source and can only be purchased through Konnech, Inc.

Funds for this purchase are encumbered in shopping cart #1000088125.

Recording Elections, Computer Resources,  
Accounting, and Administration Divisions 5501  
Airport Boulevard, Austin, Texas 78751-1410

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**Misdemeanor Records, Civil/Probate/Commissioners  
Court Minutes, and Records Management Divisions  
1000 Guadalupe, Austin, Texas 78701-2328**

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Konnech Sole Source Justification Statement

This is a sole source justification statement for PollChief®, a registered, copyrighted election management system from Konnech to organize Travis County's election logistics. PollChief has the available options and is the only system that provides all the features County's need. Since Konnech, Inc. is the manufacturer and sole distributor of the system, Travis can't obtain it from any other source. These are the some of the specifications required for the software system. No other single program incorporates all these capabilities.

FEATURE	UNIQUE ASPECT
1. <u>Integrate election location, worker, asset, inventory, help desk, communications, online training, and election night reporting into a single data warehouse.</u>	No other program integrates all these different functions.
2. Offer eight levels of access— <u>Supervisor, Admin, Staff, Trouble-shooter/Expert, operator, view only, Department, Democrat Party Representative, and Republican Representative.</u> 3. Furthermore, change each member's access level within each differing discipline.	Other asset management programs have only two or three levels, and none have the specifically delineated accesses for a Democrat and Republican Representative.

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<p>4. Use previous elections as a template to create a new election to preclude the need to create an election again from scratch, <u>carrying forward precincts, locations, workers, and assignments</u></p>	<p>Other asset management systems do not create templates from previous elections carrying forward precincts, locations, workers, and assignments.</p>
<p>5. Build multiple elections simultaneously. Allow the administrators to toggle between the elections.</p>	<p>Other asset management programs don't shift by elections.</p>
<p>6. Set an election to default. This means that every page that shows the election name at the top of the page will display the data for the election that is set as default. This helps to keep focused on just one election at a time.</p>	<p>Other asset management programs don't include this feature because they don't sort by election.</p>
<p>7. Generate reports from previous elections or generate a new report from a previous election</p>	<p>Other asset management systems do not create election-specific reports.</p>
<p>8. <u>Send mass emails to large groups, small groups, or individuals incorporating a reply capability that builds in a spreadsheet in the system.</u></p>	<p>No other system includes a link for replying to mass emails, sorting the replies into spreadsheets.</p>

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<p>9. <u>Send mass phone calls to large groups, small groups, or individuals incorporating a reply capability that builds in a spreadsheet in the system.</u></p>	<p>Other systems do not do this. No other system sends mass phone calls. No other system allows phone call recipients to press a button on their keypad to reply, <u>sorting the results into spreadsheets.</u> The communications program is based on BestBrief©, copyrighted by Konnech, Inc., the maker of PolIChief®.</p>
<p>10. <u>Associate precinct assignments to locations, displaying the numbers of registered voters and percentage of turnout, broken down by political party, and/or display the number of ballots issued for early voting, absentee voting, spoiled, and provisional voting.</u></p>	<p>Other systems do not sort and display these data, neither numerically nor percentagewise.</p>
<p>11. Display the precinct outlines and building assignments on a map.</p>	<p>No other asset management system tracks precincts. No other asset management system</p>

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	maps the precincts and draws their outlines.
12. Display available <u>buildings in list form in addition to a profile of each location, a photo of each location, an attachment of the election day layout of each building, the map point, the communications log, and 40 items of information about each building. List the delivery constraints of each location and feed that information over into the dispatcher section. List the specific equipment and supply needs for each polling place and feed that information into the election day packing guide.</u>	No other single system includes all these capabilities. Specifically, <u>Photo Layout schematic</u> Delivery constraints fed to dispatcher Unique building supply needs fed to packer
13. List, profile, and report for precincts, polling places, training locations, and regional election centers.	Other asset management systems do not report by precincts, polling places, training locations, and regional election centers.



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<p>14. Distinguish four contact levels for each building, grouping the <u>contact levels for mass communications</u>, for example, <u>District Superintendents, District Property Managers, School Principals, and School Custodians</u>.</p>	<p>Other systems do not distinguish these levels of contacts for mass communications.</p>
<p>15. <u>Profiles each poll worker Name, DOB, SSN, Voter ID, home address, mailing address, status, home, mobile, and work phone numbers, primary email address, secondary email address, training history, election history, communication history, performance rating, payroll history, mechanized call authorization, and activity log.</u></p>	<p>No other program includes two email levels, mechanized call authorization, or activity log.</p>
<p>16. Lists all <u>poll workers</u>, displaying <u>name</u>, election <u>experience</u>, election training, home precinct, <u>political party</u>, previous assignment <u>job title</u>, previous <u>assignment location</u>, previous <u>rating</u>, requests to work an election, <u>complaint record</u>, availability, and termination.</p>	<p>No other program displays experience, rating, requests to work in an election, complaint record, and availability.</p>

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<p>17. Produces a <u>Poll Worker Overview Graph</u> to show in real-time the progress in hiring, training, and assigning election officers to the current election.</p>	<p>No other system produces a staffing overview graph.</p>
<p>18. <u>Tracks each election officer by social security number, and uses the SSN to preclude entering a worker twice.</u></p>	
<p>19. Filters workers by political party, work title, training class, performance rating, work place, foreign language capabilities, years worked, application source, preferred work location, <u>past assignments</u>, desire to work this election, <u>age</u>, and <u>gender</u>.</p>	<p>No other system filters by foreign language, application source, preferred work location, willingness to receive automated calls, and desire to work an election.</p>
<p>20. Assigns workers in a variety of ways:  a. Carry over from previous election assignment  b. Click drop-down menus in a worker's profile.  c. Click in a map in a worker's profile displaying the worker's home location and nearby election locations.  d. In an Assignments Stats map, click on a polling place to view the poll workers</p>	<p>No other program assigns from previous elections, worker profile map, or assignments stats map.</p>

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<p>living within a one-mile radius, color-coded by political party, then click on the worker and the vacant job title. e. Click in a Vacancy Report.</p>	
<p>21. One click creation of the payroll budget projection.</p>	<p>Other programs do not calculate the payroll budget projection.</p>
<p>22. One click <u>diversity report</u>, overall or by precinct, of assigned poll workers age, gender, ethnicity, party, and foreign language fluency.</p>	<p>Other programs to not create a diversity report.</p>
<p>23. Enables poll workers to go online to enroll and disenroll, volunteer to serve, change their own contact information, re-read all the communications that have been sent to them (or listen to the message if it was a phone call), change their response to a message, review their payroll history, watch videos, take online classes and quizzes at a secure website. Create both classroom and virtual online</p>	<p>No other program combines these capabilities. Specifically, Mark "interested" for a particular election Switch themselves to a different training class Review all previous communications Change their answer to a communication Review their payroll</p>

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<p>training classes for poll workers. View a map of their assigned class or workplace. View a photo of the correct building for their assigned class or workplace.</p>	<p>history Update their own contact information          Display a map to their assignment.          Display a photo of the correct building for training or work.</p>
<p>24. An asset management system tailored to the activities unique to elections management with online communication platform integrated.          These election specific asset management features are:          a. <u>Logic &amp; Accuracy Tests.</u>  <u>Generate a Logic &amp; Accuracy interactive checklist for each voting machine; interact with the list of existing memory devices to prevent assigning a device which is not on hand.</u> Create list of the <u>machines assigned to an election</u> that have not yet been tested, those whose</p>	<p>Other asset management programs don't include the specific election needs.          Specifically:          Interactive Logic and Accuracy Testing.          Logic &amp; Accuracy Test tracking.          Packing Guides for titles, precincts, and polling places.          Populate the name of the poll worker authorized to pick up the package.          Calculation of</p>

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<p>tests are partially completed, and those that have been completely tested. Generate reports of the inspections of all voting machines, including the <u>identity of the inspector, the serial number of the machine, the memory device applied, and the security seal applied.</u></p> <p>b. Packing Guide for Polling Places</p> <p>c. Packing Guide for Precincts</p> <p>d. Packing Guide for Poll Worker Titles</p> <p>e. Display the name of the worker authorized to pick up the title package.</p>	<p>supply shortages based on the planned amounts packed for titles, precincts, and places.</p> <p>Election Night critical item return alerts.</p> <p>Voting machine archive sorted into election history, repair history, and testing history.</p>
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<p>f. Election Night check-in lists</p> <p>g. Election Night critical item return alerts</p> <p>h. <u>Voting machine archive.</u> Archive must sort by</p> <p>i. Election history</p> <p>j. Repair history</p> <p>k. Testing history</p> <p>I. Generate reports of all malfunctions, repairs, software updates, and inspections of voting machines.</p> <p>m. Sensitive item service archive</p> <p>n. Lading monitor with color coded error alerts</p> <p>o. Value calculation of each truckload</p> <p>p. Packing lists for title packages and drivers</p> <p>q. Security seal and memory device attachment annotation</p> <p>r. Interactive notification of mis-assignment of machines to precincts and memory devices to machines. Preclude the chance of assigning one piece of equipment to two separate places.</p> <p>s. HAVA (Help America Vote Act) compliant</p>	<p>Lading monitor</p> <p>Alerts of mis-loaded items</p> <p>Calculation of truck cargo value</p> <p>Interactive notification of mis-assignment of machines to precincts and memory devices to machines.</p> <p>Ballot listing and controls</p> <p>Chain of custody emails</p> <p>No other election asset system uploads a document depository.</p>
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<p>property management records</p> <p>t. Ballot listing and control monitor</p> <ul style="list-style-type: none"><li>i. Ballot List</li><li>ii. Ballot Box List</li><li>iii. Pack Ballots</li><li>iv. Transfer Ballots</li><li>v. Ballot Container Name</li><li>vi. Ballot Purchase Order List</li><li>vii. Ballot Package Settings</li><li>viii. Ballot Test Decks</li></ul> <p>u. Automatic chain of custody emails. Generate an email to the voting system manager whenever a voting machine is marked as needing a repair or service of any kind.</p> <p>v. Create a chain-of-custody audit trail of movements, inspections, malfunctions, and repairs for each voting machine.</p> <p>w. Assign voting machines and other items to a polling place and a precinct</p> <p>x. Upload a document depository</p>	
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<p>25. Comply with HAVA (Help America Vote Act) property management rules, specifically:</p> <ul style="list-style-type: none"><li>a. Percentage paid by HAVA funds, state funds, and local funds</li><li>b. Source of the property</li><li>C. Acquisition date</li><li>d. Acquisition cost</li><li>e. Usage for activities other than elections</li><li>f. Equipment Disposition</li><li>g. Equipment Condition</li><li>h. Equipment Description</li><li>i. Serial Number or other identification</li><li>j. Equipment Location</li><li>k. Calendar to remind of biennial inventory inspection.</li></ul> <p>1. <u>Track voting equipment as set forth in the Federal Management Regulation (FMR).</u></p>	<p>No other system complies with all these specific HAVA requirements.</p> <p>Specifically HAVA funds Usage for activities other than elections Biennial inventory inspection calendar Voting equipment tracking as set forth in the FMR.</p>
<p>26. Provide a visual image of each asset.</p>	<p>No other election-specialized asset management systems have the visual image.</p>



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<p>27. Enable poll workers to go <u>online to enroll</u> and <u>dis-enroll</u>, <u>volunteer to serve</u>, <u>change their own contact information</u>, re-read all the communications that have been sent to them (or listen to the message if it was a phone call), <u>change their response to a message</u>, review their <u>payroll history</u>, watch videos, take <u>online classes and quizzes</u> at a secure website. Create both classroom and virtual online training classes for poll workers. View a map of their assigned class or workplace. View a <u>photo of the correct building for their assigned class or workplace</u>.</p>	<p>No other program combines these capabilities. Specifically, Mark “interested” for a particular election Switch themselves to a different training class Review all previous communications Change their answer to a communication Review their payroll history Update their own contact information Display a map to their assignment. Display a photo of the correct building for training or work.</p>
<p>28. Include a <u>help desk</u> that <u>pre-populates</u> the assigned <u>poll workers</u>, <u>polling places</u>, <u>mobile phone numbers</u>, <u>precincts</u>, and <u>voting machines</u>. Automatically call trouble shooters that are appropriate for particular types of trouble calls. Display previous calls</p>	<p>No other program does this.</p>

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<p>from a polling place to prevent dispatching a duplicate trouble shooter. Automatically telephone trouble shooters' mobile phones to follow up if a trouble call stays open more than 30 minutes.</p>	
<p>29. <u>Scheduled Call Tracking</u>-a color-coded, live screen tracking scheduled call-ins, such as "<u>Poll Opened</u>" or "<u>Voter Traffic</u>" report.</p>	<p>No program creates a table of the assigned call-ins.</p>
<p>30. Display a calling voter's <u>identification data, home address, home precinct, and polling place</u>. Display a <u>map displaying both the voter's home address and the voter's polling place, with driving directions</u>.</p>	<p>No other program displays a map with the route from the voter to the assigned polling place.</p>
<p>31. Generate reports of each problem called in from each polling location, precinct, or zone.</p>	<p>Other systems do not distinguish and track problems by polling places, precincts and zones.</p>
<p>32. <u>Smartphone Mobile Applications</u> for iOS and Android operating systems related to <u>Poll Inventory, Equipment Tracking, and Call Center applications</u>. Some feature is developed with Konnech's Patented</p>	<p>Patented technologies.</p>

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Technologies (U.S. Patent No. 8,949,745 )	
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**ORDER EXEMPTING PURCHASE OF POLLCHIEF®  
ELECTION MANAGEMENT SYSTEM LICENSE,  
MAINTENANCE AND SUPPORT FROM KONNECH, INC  
FROM REQUIREMENTS OF THE COUNTY  
PURCHASING ACT**

WHEREAS, the Commissioners Court of Travis County, Texas has received a Sole Source Justification from the Travis County Clerk and Affidavit of Single Source sworn and submitted by the Purchasing Agent in accordance with TEXAS LOCAL GOVERNMENT CODE, 262.024(a)(7)(A) and

WHEREAS, based on the evidence presented, the Commissioners Court of Travis County, Texas finds that there is only one source available for the purchase of the PollChief® Election Management System License, Maintenance and Support for Travis County

NOW, THEREFORE, the Commissioners Court of Travis County Texas hereby orders that the purchase of PollChief® Election Management System License, Maintenance and Support from Konnech, Inc is exempt from the requirements of the County Purchasing Act because it is a contract for the purchase of items that can be obtained from only one source

Signed and entered this 2 day of June, 2015

/s/ Sara Eckhardt  
County Judge  
Travis County, Texas

/s/ Ron Davis  
Commissioner, Precinct 1

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/s/ Brigid Shea  
Commissioner, Precinct 2

/s/ Gerald Daugherty  
Commissioner, Precinct 3

/s/ Margaret Gomez  
Commissioner, Precinct 4

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May 20, 2015

TO Commissioners Court  
Travis County, Texas

**SOLE SOURCE ACQUISITION FROM  
KONNECH, INC FOR POLLCHIEF®  
ELECTION MANAGEMENT SYSTEM LICENSE,  
MAINTENANCE AND SUPPORT**

I certify that the purchase of PollChief® Election Management System License Maintenance and Support for Travis County constitutes a sole source procurement, and is only available through Konnech, Inc I, therefore, find that this is a sole source purchase pursuant to V T C A Local Government Code 262.024 (a)(7)(A) and is exempt from competitive bidding

This statement is submitted pursuant to V T C A Local Government Code 262.024 and is to be entered into the Commissioners Court minutes

/s/ Cyd V Grimes  
Cyd V Grimes C P M  
Travis County Purchasing Agent

BY COMMISSIONERS COURT ON

/s/ Brigid Shea

/s/ Sara Eckhardt  
County Judge

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**Konnech PollChief®**  
**License, Maintenance and Support Agreement**  
**Between**  
**Travis County, Texas**  
**PO Box 1748**  
**Austin, Texas 78767**  
**Attn: Cyd V. Grimes**  
**Purchasing Agent**  
**and**  
**Konnech, Inc.**  
**4211 Okemos Rd., Ste. 3**  
**Okemos, Michigan 48864**

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**LICENSE, MAINTENANCE AND SUPPORT AGREEMENT**

THIS AGREEMENT is effective on the \_\_\_\_\_ day of \_\_\_\_\_ 2015 by and between the Travis County, Texas, hereinafter referred to as the "Client" or "County". and KONNECH INC. hereinafter referred to as "Konnech," Contractor." or "Vendor" (collectively, the 'parties')

**WITNESSETH**

In consideration of the mutual covenants set forth herein. the parties agree as follows

I System License Konnech hereby grants the Client and Client hereby accepts from Konnech. subject to all the terms, covenants, conditions, and limitations set forth in this

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“System License and Maintenance and Support Agreement “ its cover sheet and all Exhibits attached hereto (collectively the “Agreement”), a nonexclusive, nontransferable, indivisible, revocable-right and license (the “License”) to use the computer-based PollChief® Election Management software package developed and owned by Konnech including all releases, enhancements, customizations, and other changes thereto (the ‘System’). more fully described in “Exhibit A” attached hereto and the Documentation described in Paragraph 7 below This License is granted upon the condition that the Client use only the designated computer hardware and peripherals compatible with the System that are recommended by Konnech as described in “Exhibit B” attached hereto

2. Term of License This License shall be in effect throughout the Term of this Agreement (as defined in Paragraph 10 below), but only so long as (a) Client is not in breach of, or in default under, this Agreement, and (b) Client is covered under Konnech’s Maintenance and Support Program described in Paragraph 20 below

3. Exhibits Attached and made a part hereof for all purposes are the following Exhibits

Exhibit A Description of Modules

Exhibit B Recommended Hardware and Software

Exhibit C Hosting Service

Exhibit D Fee Schedule



Exhibit E Ethics Affidavit

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

4. Location of the System The System shall be used at the location indicated on the cover page of this Agreement The Client may use the System at other locations of the Client in addition to the location of the Office of Elections at no additional cost

5. Delivery and Installation of the System The System and all Documentation agreed to be furnished by Konnech shall be delivered to the Client and installed by Konnech Should Client hardware not be compatible for installation of and use with the System. Konnech shall not be obligated to install the System until the Client at the Client sole obligation and expense. purchases or otherwise acquires all hardware and non-Konnech software recommended by Konnech (see Exhibit B Recommended Hardware/ Software) Konnech's judgment about the compatibility of hardware and software is based on Konnech's knowledge of the design of the System and will be exercised in the Client's best interest in order to insure the effective performance of the System

6. Initial Term Fee; Annual Renewal Term Fee For the Initial Term (as defined in Paragraph 10. below), the Client agrees to pay Konnech the one-time charge shown in Exhibit D For each Renewal Term (as defined in Paragraph 10. below) the Client agrees to pay the Annual Renewal Term Fee shown in Exhibit D The Annual Renewal Term Fee does not include any costs for the Recommended Hardware/Software needed for the operation of the System

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7. Documentation and Software System software will be accessible to the Client through web or other appropriate medium Electronic Documentation consists of the System Administration Manuals which are provided to the Client electronically and which will be revised and updated as needed in order to assist the Client in the operation of the System, System Administration Manuals and Help Functions may be printed in hard copy by the Client Addenda and corrections will be supplied as the software develops

8. Customization In the event the Client requests consulting support or customization of the System. which consulting support or customizations are beyond the scope of Konnech's Software as a Service obligations under the initial system design or System Warranty (as described in Paragraph 11 below) or Konnech's Maintenance and Support provisions, including but not limited to those described in Exhibit A and Exhibit D attached hereto. the Client shall notify Konnech in writing of its needs for such consulting support or customization Should Konnech agree to perform such consulting support or customization all such work requested by the Client will be provided by Konnech at Konnech's then current rates for these services In addition. the Client shall reimburse Konnech for all reasonable and actual travel and living expenses incurred by consultants and employees of Konnech in implementing such services at the then current rates allowed Client employees traveling on Client business

9. Confidentiality All information regarding the Client's business operations business systems. and related confidential matters furnished or disclosed to Konnech in the course of the negotiation and implementation of this Agreement shall be held in confidence

by Konnech, unless such information (a) was previously known by Konnech free of any obligation to keep it confidential. (b) has been or is subsequently made public by the Client or a third party lawfully in possession of such information, or (c) is in the public domain Konnech agrees and understands that voter registration records are confidential and Konnech hereby agrees that these records will not be used for any other purpose than those specified in this Agreement and by the Client These records will not be copied nor will any person be allowed to extract any information from these records without the consent of the Client The Client agrees to similarly treat any information provided to it by Konnech 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 law shall prevail over the provisions of this Agreement

10. Term This Agreement will commence on the latter date shown on the execution page of this Agreement (the "Commencement Date"). and end twelve (12) months thereafter (the "Initial Term") This Agreement may be renewed by the Client for additional one-year terms (each a "Renewal Term") upon payment of the Renewal Term Fee shown in Exhibit D As used herein, the word "Term" refers to both the Initial Term and any Renewal Term(s)

11. Warranty During the Term of this Agreement, Konnech warrants that the System will perform in the manner described in the Documentation supplied by Konnech provided the Client has not made any

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changes to the System Konnech is entitled to written notice of any failure of the System and granted the exclusive right to undertake and complete changes, corrections or repairs necessary under the warranty promptly The Client shall use the testing facilities provided by the System to conduct trials, fully exercising all the essential functions of the System Such System testing shall be done sufficiently in advance of, and at least thirty (30) days before, each election cycle so as to allow time for the resolution of any defects of the System and a re-test to verify proper performance of the System Any defects discovered during System testing or during normal operation of the System shall be promptly communicated to Konnech by fax or email Whatever additional materials that Konnech shall request relating to the defects or problems (such as information described in Paragraph 20 below) shall be promptly provided by the Client on the appropriate medium Upon such notification Konnech will promptly rewrite, repair or replace, at its cost any part of the System which is not functioning according to this warranty, and will bear all labor, travel and lodging expenses for its personnel used in connection with warranty work If Konnech is unable to repair or replace the System, it will after the return of the System and Documentation intact and in proper condition refund to the Client the Annual Use/Maintenance/Support Fee on a pro-rata basis and this Agreement will automatically terminate without additional liability to the Client The pro-rata refund will be based on the number of months remaining in the then-current Renewal Term

12. Exclusion of All Other Warranties THE SOLE LIABILITY OF KONNECH TO THE CLIENT FOR THE

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PERFORMANCE OF THE SYSTEM IS LIMITED TO THE ABOVE WARRANTY OF REPAIR. REPLACEMENT. OR PRO-RATA REFUND THIS WARRANTY IS THE SOLE AND EXCLUSIVE REMEDY OF THE CLIENT AND IS IN SUBSTITUTION OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED, AND IS IN LIEU OF ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR ANY OTHER WRITTEN. ORAL OR IMPLIED WARRANTIES (EXCEPT AS TO TITLE) ARISING OUT OF ANY COURSE OF DEALING, CUSTOM. OR USAGE OF TRADE

13. Limitation of Actions and Liability THE LIABILITY OF KONNECH TO THE CLIENT FOR PERFORMANCE OF THE SYSTEM IS LIMITED TO THE ABOVE WARRANTY ON THE SOFTWARE SYSTEM

14. Title to the System/Protective Covenants The Client acknowledges that the System and Documentation (including changes enhancements. alterations. and additions provided under Maintenance and Support) are the sole and exclusive property of Konnech, that the System and Documentation and all parts and components thereof constitute valuable assets and trade secrets, and give proprietary rights to Konnech. that neither legal nor equitable title to the System or Documentation passes to the Client under the terms of this Agreement or under any other agreement or theory, and that any information with respect to the System and Documentation is strictly confidential and will be maintained in confidence by the Client in the same manner and subject to the same exceptions as Konnech is obligated to maintain the confidentiality of Client information per Paragraph 9 above. whether or not all or any portion of the System or Documentation has been copyrighted or patented No part or portion of the System or Documentation may be altered.

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modified or enhanced by the Client 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 the Client's most valuable and sensitive programs and data.

15. Copying the System or Documentation Except for ordinary and necessary backup or archival purposes, the Client shall not copy, duplicate, print, or reproduce the System or Documentation or any part or portion thereof. Moreover, the Client shall not, without the prior written consent of Konnech, permit either gratuitously or for consideration any review, use, examination, or inspection of the System, or any part thereof, or any Documentation provided in connection therewith, by any person or entity whomsoever for any purpose including training, other than the necessary employees of the Client for use by them in their regular services to the Client in operating the System. The Client further agrees not to disassemble, reverse compile, or reverse engineer the System or any part thereof. The Client shall not reveal to any person or entity and shall require its employees not to reveal to any person or entity any information with respect to the System and Documentation, and the Client shall take appropriate action to insure that these obligations will be and are fulfilled.

16. Use Restrictions The Client is restricted to using the System exclusively for the Client's own use. And Client may use the System to process the data of any other governmental entity for which Client provides election services.



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17. Assignment; Binding Effect Neither party hereto may assign its right or obligations under this Agreement without the prior written consent of the other party except that Konnech may assign this Agreement to any entity which acquires all or substantially all of its business by merger, sale of assets or otherwise upon notice to the Client Without the prior written approval of Konnech neither this Agreement nor the License herein granted may be sub-licensed, transferred given, assigned to, or leased or used by any third party, including but not limited to the Client's consultants or other counties or non-Client governmental entities Any such transfer is of special concern as it involves any present or potential competitor of Konnech or anyone who might develop systems similar to the System, or who might use Konnech's proprietary information in any manner whatsoever Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties" permitted assigns and successors

18. Installation Responsibility The Client shall be solely responsible for site preparation, including unpacking, uncrating and installing the hardware and making the hardware ready for operational use The installation of all necessary cable, power, utility, and network and communications connections and services shall be performed by the Client

19. Progress Report/Meetings Konnech and the Client shall conduct meetings to review progress on a regular basis, with the schedule to be jointly determined

20. Maintenance and Support

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- (a) Coverage During the Term of this Agreement. subject to renewal or termination as otherwise provided herein, Konnech agrees to

Provide year round support 24 hours a day. seven days a week for the resolution of emergency issues

Provide unlimited telephone support in the effective use of the System on weekdays during the hours of 8 00 A M to 5 00 P M (Eastern Standard Time)

Provide the Client with the latest and most up to date version of the System and Documentation. including any and all enhancements and improvements to them (but not including new products developed by Konnech for use in conjunction with the System and sold separately)

Correct or replace the System and/or provide services necessary to remedy any programming error that is both attributable to Konnech and that significantly affects the performance of the System Such correction. Replacement. or services will be promptly accomplished after the Client has identified and notified Konnech of any such error in writing via facsimile or email At its expense the Client agrees to provide Konnech with information including, but not limited to, sufficient access via Virtual Private Network (VPN) or modem to the Client's system. file



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dumps. screen dumps and error reports. as requested by Konnech. and with sufficient support and test time on the Client's computer system to duplicate the problem encountered in order to ascertain that the problem is with the System and to correct the problem. Corrections for difficulties or defects traceable to Client errors or unauthorized System changes. however, will be billed at Konnech's standard time and material rates

- (b) *Annual Renewal Term Fee* The Annual Renewal Term Fee for Use/Maintenance/Support/Hosting shall be due and payable prior to each forthcoming Renewal Term. Each such fee will be due upon receipt of invoice and must be paid in full within thirty (30) days of said receipt and in any event not later than forty-five (45) days prior to the start of the forthcoming Renewal Term. Konnech shall not increase the annual fees for the first three Renewal Terms. Thereafter, Konnech shall have the option to increase said fee by not more than three percent (3%) of the prior year's annual fee or the rate of inflation as measured by the Consumer Price Index whichever is greater. In order to give notice of the fee for budgeting purposes and also renew this Agreement annually, Konnech shall provide written notice to the Client not later than 90 days before the expiration of the annual contract of the amount

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of the annual Use/Maintenance/Support fee for the next Renewal Term

- (c) **Late Charges. Termination** The Client understands and agrees that each annual Use/Maintenance/Support fee is a fee for the right to continue to have a License to use the System and Documentation and receive the Maintenance and Support described above for an additional twelve (12) months. and payment therefore is due and payable upon receipt of Konnech's invoice as provided in Subparagraph 20(b) above Subject to the provisions of Paragraph 21 below, in the event the Client fails to timely pay any such annual fee or any other fees or charges provided for in this Agreement the CLIENT's License to use the System and Documentation shall terminate on the earlier of thirty (30) days' notice from Konnech. or as of the year-end of the then-current year's Maintenance and Support services for which payment is due
- (d) *Changes in Terms and Conditions* Konnech and the Client may, by mutual written agreement signed by authorized representatives of Konnech and the Client change the terms and conditions of this Agreement. and pricing may change from time to time for Konnech's services not covered by Maintenance and Support (e.g. onsite visits and the like)
- (e) *Enhancements and Corrections* Any enhancements. corrections. or alterations to or new versions of. the System or Documentation

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delivered to the Client by Konnech under this Agreement shall be limited to one (1) copy of such enhanced, corrected, altered, or new System or Documentation Program changes, including training in the use and implementation of such program changes, made in order to meet any new statutory requirements will be provided as per Subparagraph 20(a) above

- (f) *Travel Expenses* The Client shall reimburse Konnech for any reasonable and actual travel expenses incurred by Konnech at the then current rates allowed Client employees traveling on Client business Such expenses shall be pre-approved by the Client and may include travel to and from the Client '5 site, lodging, meals, telephone, shipping, and the like
- (g) *Hosting Arrangement* Client will be provided ninety (90) days' notice before Konnech may make changes to the hosting location, to the server or OS, or to the code base technology (e g porting to JAVA from Net)

21. Breach/Default Generally In the event the Client is in default in the payment of any Fee set forth above and that payment is not in dispute or fails to carry out any other requirement of this Agreement, Konnech shall notify the Client in writing by certified mail lithe Client fails to remedy the default or breach within thirty (30) days of receipt of such notification Konnech shall have the right, at its option to terminate this Agreement and take possession immediately of the System, the Documentation, and all accompanying materials and documents (excluding the Client's

hardware and equipment) In the event of such default or breach, the Client agrees to immediately cease use of the System remove the System from any medium onto which the Client has downloaded it and deliver to Konnech the System and all System backups Documentation, and other materials delivered by Konnech to the Client Konnech shall have no duty to perform under this Agreement in the event the Client defaults under or breaches this Agreement and fails to remedy such default or breach as provided herein The Client will pay any amounts not disputed but if a payment is in dispute, payment will be withheld pending verification of the amount claimed and the validity of the claim Payments in dispute will not be considered a default under this Agreement

22. Breach/Default as to Certain Use/Disclosure Restrictions; Attorney's Fees The Client agrees that for any breach of the restrictions upon the use, sale, transfer, or disclosure of the System as provided for in Paragraphs 9 14 15, 16 and 17 of this Agreement, monetary damage shall not be a sufficient remedy or protection for Konnech, and Konnech shall be entitled to seek injunctive or other equitable relief that it may deem proper or necessary in a court of competent jurisdiction in addition to being entitled to seek any other legal or equitable relief In any legal action which may arise from any breach or default relating to said Paragraphs (and only said Paragraphs) the prevailing party shall be entitled to recover all attorneys fees, which is defined to include all costs fees collection costs, and other expenses of said legal action if so ordered by a competent court of jurisdiction

23. Patent and Copyright Indemnification Konnech agrees to defend, indemnify and hold the

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Client harmless from any claim, suit, or action relating to a patent or copyright infringement arising out of the Client's use as directed of the software developed by Konnech or tools employed in the development of its software and shall pay all reasonable legal fees, costs, and expense of the Client incurred in the defense of any patent or copyright claim or suit provided that (a) the Client is not in default under any of the provisions of this Agreement, (b) the software against which the claim is made was manufactured, created and developed by Konnech and not third parties, (c) the Client notifies Konnech promptly in writing of any patent or copyright claim, and (d) Konnech has an opportunity to fully participate in the defense and/or agrees to a settlement of any such claim. If a patent or copyright claim is made or in Konnech's opinion is likely to be made, Konnech may, at its sole option, either replace or revise the System or Documentation so that the System or Documentation will be non-infringing on claimant, obtain a right to use the System from the claimant, or refund to the Client the License Fee paid hereunder.

Other Indemnification. Contractor will indemnify County, us officers, agents, and employees, from and against any and all third party claims, losses, damages, causes of action, suits, and liability of every kind whether meritorious or not and, including all expenses of litigation, court costs, and reasonable attorney's fees, arising in connection with the services provided by Contractor under this Contract. It is the expressed intention of the parties to this contract, both Contractor and County, that the indemnity provided for in this paragraph is indemnity by Contractor to indemnify

and protect County from the consequences of contractor's actions.

24. Taxes and Duties The Client 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 during the Term of this Agreement, the Client agrees that it and not Konnech will pay any such taxes or duties that may become due as a consequence of this Agreement.

25. Use of the Client's Name The Client agrees that Konnech may include the Client's name in any marketing materials listing Konnech customers, for Konnech's own marketing efforts subject to the Client's prior review and approval.

26. Notices Except to the extent otherwise specifically provided herein, any and all notices, designations, consents, offers, acceptances, or any other communications provided for herein shall be in writing and addressed to the parties at their respective addresses set forth in this Agreement and deposited with the United States Postal Service for delivery by certified or registered mail postage prepaid and return receipt requested. Any notice so sent shall be deemed to be both given and received three (3) business days after being so deposited. Either party may from time to time change the notice address set forth herein by delivering notice to the other party in accordance with this Paragraph, setting forth the new address and the date on which it will become effective.

27. Waiver or Modification No waiver or modification of this Agreement of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the party to be



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charged therewith Furthermore. no evidence of any waiver or modification shall be offered or received in evidence in any proceeding. arbitration or litigation between the parties arising out of or affecting this Agreement or the rights or obligations of any party hereunder. unless such waiver or modification is in writing and duly executed as aforesaid The provisions of this Paragraph may not be waived except as herein set forth *Contractor acknowledges that no officer, agent, employee or representative of Travis County has any authority to amend or alter the terms of this Agreement except pursuant to such express authority as may be granted by the Travis County Commissioners Court.*

28. Severability The provisions of this Agreement are severable, and in the event that any provision hereof is held by any court to be void. voidable or unenforceable such provision shall be deemed stricken from this Agreement All other terms and conditions shall remain in full force and effect, and the parties agree to remain bound by and perform in accordance with the terms hereof, as so amended

29. Contractual Disputes. The Contractor shall give written notice to the Client's Purchasing Agent of his/her intent to file a claim for money or other relief within ten (10) calendar days of the occurrence giving rise to the claim or at the beginning of the work upon which the claim is to be based. whichever is earlier The written claim shall be submitted to the Client's Purchasing Agent no later than sixty (60) days after final payment lithe claim is not disposed of by agreement, the Purchasing Agent shall reduce her decision to writing and mail or otherwise forward a copy thereof to the bidder within thirty (30) days of

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receipt of the claim The Contractor shall institute any legal action until all statutory requirements have been met Each party shall bear its own costs and expenses resulting from any litigation. including attorney's fees

29. Counterparts. This Agreement and any amendments or renewals hereto may be executed in a number of counterparts. and each counterpart signature, when taken with the other counterpart signatures is treated as if executed upon one original of this Agreement or any amendment or renewal A signature by any party to this Agreement provided by facsimile or electronic mail is binding upon that party as if it were the original

30. Entire Agreement This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes any and all previous written or oral agreements between the parties with respect to such subject matter of this Agreement All prior proposals, bids. negotiations. discussions, conversations representations and statements of every nature whatsoever are integrated and merged into this instrument. and only this Agreement shall have any force or effect hereafter The Client acknowledges that it has not been induced to enter into this Agreement by any representations or statements. oral or written, not expressly contained herein

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



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32. Section and Paragraph Headings Section and Paragraph headings used throughout this Agreement are for reference and convenience only and in no way define, limit, or describe the scope or intent of this Agreement or affect its provisions

33. Termination Due to Unavailability of Funds in Succeeding Fiscal Years. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, the contract shall be canceled and the contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services delivered under the Contract

34. Invoicing and Payment Despite anything to contrary in this Agreement, payments will be made by ACH/EFT or check upon satisfactory delivery and acceptance of items and Contractor s submission of a correct and complete invoice to the address below

Nicks Riley, CPA  
Travis County Auditor  
Emailed to AP@traviscountytexas.gov (preferred method) or Mailed to PO Box | 1748, Austin, Texas 78748

For assistance on setting up electronic payments (by ACH), which permits County to directly deposit payments into your account please contact the Travis County Auditor's Office, Disbursements Division at (512) 854-9125

In addition a copy of the invoice must be sent to

Denise Bell

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Travis County Clerk's Office  
Emailed to denise.bell@traviscountytexas.gov  
(preferred method). or  
Mailed to PO Box 149325 Austin, Texas 78714

To be considered correct and complete, invoices will include name, address, and telephone number of Contractor, which will match the W-9 Contractor submits to the Travis County Auditor's Office ("Auditor"), and name and address of where payment is to be sent if payment is to be by check. County Contract or Purchase Order number. identification of products or services as outlined in the Agreement. quantity or quantities. applicable unit prices total prices. and total amount, and any additional payment information called for by the Agreement County will not pay invoices that are in excess of the amount authorized by the Agreement

Payment will be deemed to have been made on the date of mailing of the check or warrant For purposes of payment discounts. time will begin upon satisfactory delivery of products and services or submission of acceptable invoice, whichever is last Partial payments will not be made unless specifically requested and approved by Client prior to Agreement award Accrual and payment of interest on overdue payments is governed by Texas Government Code Chapter 2251

35. Choice of Law and Venue. This Contract is governed by the laws of the United States of America and Texas and all obligations under this contract are performable in Travis County, Texas Venue for any dispute arising out of this Contract will lie in the appropriate court of Travis County, Texas

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36. Mediation When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation will remain confidential as described in Section 154.023 of the Texas Civil Practice and Remedies Code, unless both parties agree in writing to waive the confidentiality.

37. Taxes In the event any property taxes on any property owned by the Vendor located in Travis County, Texas are overdue and delinquent, then the overdue and delinquent amount will be withheld from any compensation due the Vendor and paid to the appropriate taxing jurisdiction. Vendor assigns any payments due under this Agreement to the Travis County Tax Assessor-Collector for the payment of the delinquent taxes.

38. W-9 Vendor will provide County with an Internal Revenue Form W-9 Request for Taxpayer Identification Number and Certification that is completed in compliance with the Internal Revenue Code its rules and regulations and a statement of entity status in a form satisfactory to the Auditor before any Agreement funds are payable.

39. Disputes and Appeals The Travis County Purchasing Agent acts as the County representative in issuing and administering this Agreement. Any document, notice, or correspondence not issued by or to

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the Purchasing Agent is null and void. unless otherwise stated in this Agreement If Vendor does not agree with any document notice or correspondence issued by the Purchasing Agent. or other authorized County person. the Vendor must submit a written notice to the Purchasing Agent within ten (10) calendar days after receipt of the document, notice or correspondence. outlining the exact point of disagreement in detail If the matter is not resolved to the Vendor's satisfaction. Vendor may submit a Notice of Appeal to the Commissioners Court, through the Purchasing Agent. if the Notice is submitted within ten (10) calendar days after receipt of the unsatisfactory reply Vendor then has the right to be heard by Commissioners Court

40. Covenant Against Contingent Fees Contractor warrants that no persons or selling agency has been retained to solicit this Agreement upon an understanding for a commission. percentage, brokerage or contingent fee. excepting bona fide employees or bona fide established commercial selling agencies maintained by Contractor to secure business For breach or violation of this warranty. County will have the right to terminate this contract without liability, or in its discretion to, as applicable, add to or deduct from the Agreement price for consideration, or otherwise recover the full amount of such commission, percentage. brokerage or contingent fee

41. Gratuities County may terminate this Agreement if it is found that gratuities of any kind including entertainment, or gifts were offered or given by Contractor or any agent or representative of Contractor to any County official or employee with a view toward securing favorable treatment with respect of this

Agreement If County terminates this Agreement under this provision. County will be entitled, in addition to any other rights and remedies, to recover from Contractor at least three times the cost incurred by Contractor in providing the gratuities

42. Certification of Eligibility Contractor certifies that at the time of submission of its offer, it was not on the Federal Government's list of suspended, ineligible, or debarred contractors and that it has not been placed on this list between the time that its offer was submitted and the time of execution of this Agreement If Contractor is placed on the list during the term of this Agreement. Contractor will notify the Travis County Purchasing Agent False certification or failure to notify may result in terminating this Agreement for default

43. Forfeiture of Contract This Agreement incorporates the Ethics Affidavit ("Exhibit E") If Contractor has done business with a Key Contracting Person listed in Attachment 1 to Exhibit E during the 365-day period immediately prior to the date of execution of this Agreement by Contractor or does business with any such Key Contracting Person at any time after the date of execution of this Agreement by Contractor and prior to full performance of this Agreement, Contractor will forfeit all benefits of this Agreement, and County will retain all benefits of and performance under this Agreement and recover all consideration, or the value of all consideration, paid to Contractor under this Agreement, provided, however that this section may be waived by the Travis County Commissioners Court pursuant to Section 3(g) of the Travis County Ethics Policy Contractor has submitted the names of any Key Contracting Persons with whom

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Contractor has done business during the 365-day period immediately preceding the execution of this Agreement for the Court's contemporaneous consideration with this Agreement "Has done business" and "does business mean

- i paying or receiving in any calendar year any money or valuable thing, which is worth more than \$250 in the aggregate in exchange for personal services or for the purchase of any property or property interest, either real or personal, either legal or equitable. or
- ii loaning or receiving a loan of money. or goods or otherwise creating or having in existence any legal obligation or debt with a value of more than \$250 in the aggregate in a calendar year  
but does not include
- iii any retail transaction for goods or services sold to a Key Contracting Person at a posted. published or marked price available to the public.
- iv any financial services product sold to a Key Contracting Person for personal family or household purposes in accordance with pricing guidelines applicable to similarly situated individuals with similar risks as determined by Contractor in the ordinary course of its business or
- v a transaction for a financial service or insurance coverage made on behalf of Contractor if Contractor is a national or multi-national corporation by an agent employee,

or other representative of Contractor who does not know and is not in a position that he or she should have known about this Agreement

44. Civil Rights/ADA Compliance Contractor will provide all services and activities required by this Agreement in a manner that would comply with the Civil Rights Act of 1964. as amended, the Rehabilitation Act of 1973. Public Law 93-1122. Section 504. and with the provisions of the Americans With Disabilities Act of 1990. Public Law 101-336 (S 933 | if Contractor were an entity bound to comply with these laws Contractor will not discriminate against any employee or applicant for employment based on race religion, color, sex national origin age or handicapped condition 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

KONNECH, INC., OKEMOS, MI

Eugene Yu

By Eugene Yu. President

Date 5-21-2015

TRAVIS COUNTY TEXAS

/s/ Sarah Eckhardt

By Sarah Eckhardt County Judge

Date 6/2/15

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney

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**AVAILABILITY OF FUNDS CONFIRMED:**

\_\_\_\_\_  
Nicki Riley, Travis County Auditor

Date \_\_\_\_\_

**APPROVED AS TO PURCHASING  
POLICIES AND PROCEDURES:**

/s/ Cyd V. Grimes

Cyd V. Grimes

Travis County C.P.M. CPPO

Travis County Purchasing Agent

Date 6/1/15



## **Exhibit A Description of Modules**

### **4.1 PollChief® Platform Management System (PPMS)**

PPMS is the scaffold of the system It sets elections. delimits access levels, authorizes administrative users, provides base information for all logistical poll management functions and organizes precinct and building information It maps. profiles, categorizes, and communicates polling place. precinct, and registered voter information, and informs all other modules

#### **4 1.1 Election Creation**

PPMS allows the administrator to set elections and early voting periods The precincts eligible to vote in the election are enabled The users toggle between the elections to make plans for multiple elections

#### **4 1.2 Roles and Permissions**

PPMS allows the Super Administrator to creates multiple roles with varying levels of access. and to name and assign members to use the system

#### **4 1.3 Location Information**

##### **Precinct Information**

##### **Precinct Profile**

PPMS profiles each precinct The profile includes the registered voter analysis. the precinct map the precinct's current assigned polling place, and the political districts it covers Precinct Map

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PPMS displays the locations and outlines of the precincts highlighting in a yellow balloon those which are not yet assigned to a currently active polling place

### **Precinct List**

PLMS lists all the precincts, displaying the assigned polling place, the number of registered voters, the breakdown by party, display absentee, active, and inactive voters and the turnout from the previous election, this assists in planning not only staffing levels, but also the number of paper ballots to order It also shows the administrators which precincts are not assigned to a current polling place If desired, the precinct list can display absentee active, and inactive voters

### **Street Index**

PLMS includes a street index matching addresses to precincts

### **Poll Building Information**

PLMS lists all possible sites with their identifying info, their owners (e.g. School Board) and the on and offsite contacts It creates a separate list of potential alternative buildings with site survey information such as ADA accessibility. signage parking. photo, map location, Election Day layout. rental agreements etc.

### **Building Profiles**

Each building has a large. detailed profile A photograph of the building. Its location on a map attachments of set-up layout, ADA Certificates. and rental agreements, room use. supply needs, restrictions. parking. lighting. internet access, modems, handicap

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accommodations. and most importantly, contact information, are detailed

### **Building Mobile Survey**

The locations can be surveyed with the PPMS smart phone app, which makes it easy take notes and to snap a photo of the worksite while the surveyor is right on the spot

### **Location Mapping**

PLMS maps the polling sites Potential sites as well as sites actually used in each election are presented

### **Polling Place Asset Planning**

This feature annotates item needs unique to specific buildings It also annotates delivery constraints

### **4 1.4 Location Communications**

PPMS sends mass letters. mass emails, and mass phone calls to each location. records their replies automatically, and builds spreadsheets of their responses

The replies are captured in the administrative section. neatly organized into spreadsheets by the system

### **4.2 Poll Worker Management System (PWMS)**

PWMS ensures that every poll worker gets recruited appointed to an appropriate job classification. trained, assigned to a convenient location, evaluated after Election Day. and paid promptly and accurately

#### **4 2.1 Worker Profile**

Each worker has an extensive personnel jacket

Listings of workers are sorted and filtered on demand by multiple factors for convenient selection. The lists are configured to display the fields the jurisdiction desires.

#### **4 2.2 Working Staffing**

The system uses your staffing formula to calculate the manpower needs for an election.

##### **Payroll Projection**

One click creates the payroll budget report.

##### **Diversity Report**

One click displays the sensitivity balance assigned to each precinct—party, ethnicity, gender, and age.

##### **Poll Worker Assignment**

The administrator has many options for assigning staff:

- a Workers can be assigned by carrying over from their previous assignments.
- b Or workers can be assigned by clicking from drop-down menus.
- c Or workers can be assigned from a map.
- d Or in the Assignment Stats map.

#### **4 2.3 Poll Worker Training**

PWMS identifies training needs, issues class invitations, takes attendance with barcodes and accumulates training hours throughout the worker's

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career Administrators set up training classes, online courses, quizzes, and training materials PollChief communicates class assignments to the workers, takes their attendance and calculates their training pay in the ultimate payroll

### **4 2.4 Attendance**

Attendance at classes and at work can be taken via multiple methods

- a Swipe the magnetic stripe of the worker's driver's license into a smart phone/tablet
- b Scan the barcode from the worker's invitation driver's license, or the roster
- c Click or tap the worker into the device (PC, smart phone or tablet)
- d Print out the s sign-in sheet (the system creates a sign-in sheet with names and barcodes)

### **4 2.5 Payroll Processing**

The system calculates each worker's pay amount PWMS edits poll workers' reimbursement information, and exports pay records Elections administrators check and edit poll workers' records before exporting to finance or cutting paychecks

### **4 2.6 Poll Worker Communications**

PWMS contacts all the poll workers by mass email mass telephony, and mass mail, records their replies, and builds statistics and spreadsheets of the communication results which are linked to each poll worker's record

### 4.3 Poll Recruiting and Training Link (PRTL)



The worker access portal trains online and enables poll workers to manage themselves. It eliminates hundreds of interruptions to deal with worker details and prevents a multitude of poll worker errors.

- a Submit their initial poll worker application online
- b Check mark to indicate availability to work in a particular election or check mark to indicate unavailability for that election
- c Enroll in a class, withdraw from a class, or switch themselves from one class to a different class that fits in their own schedules
- d Take online training, with documents, videos, links, slide shows, and quizzes. Successful completion sends an email notice to the training coordinator, populates in the worker's personnel file, and bestows a Certificate of Completion upon the worker.

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- e Amend contact information. review payments. retrieve forgotten passwords, change passwords. review all messages received from the election office. and even change their replies Their updates feed into then personnel files and are noted for the administrator with a symbol and are captured in their activity logs
- f The workers can re-watch training videos online—not only as part of online training. but also as an election eve refresher The workers assigned to open and close the polling places particularly appreciate this because it helps them to refresh their memories as to the exact procedures the evening before Election Day
- g Since the worker can view her own pay history she doesn't need to call inquire about her payroll status

### **4.4 Poll Asset Management System (PAMS)**

PAMS tracks the election assets and reduces inventory management time by two thirds

#### **ADVANTAGES OVER GENERIC PROGRAMS**

Web Based

Ballot Control

Chain of Custody

Election Packing— clerk precinct, building

Critical Item Return Alert

Email Alerts

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Interactive Testing— pre-and post-election logic and accuracy tests

Return Ratio Calculation

Trouble Tickets

White Board

Smart Phone Access

Input Options—Keyboard. Bar Code scanner, RFID, iPhone, Android, Import

Condition Classification for HAVA compliance

Financial Reporting for HAVA compliance

Storage Mapping for HAVA compliance

Office Use Versus Election Use for HAVA compliance

Disposal List for HAVA compliance

Return Unpacking

Voting Machine Archives

Drayage Wizard — cargo value loading guide

Polling Place Exceptions— delivery constraints and special equipment needs

Attachment Tracking – security seals, comm Packs. memory cards, etc

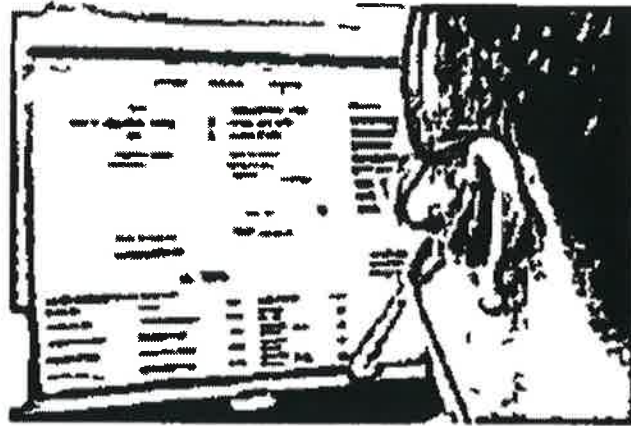
Lading Monitor – complete correct truck loading

Searchable Web Log

Delivery Route Map



#### 4.5 PollChief® Help Desk System (PHDS)



PHDS is a call center for voters and poll workers, unifying the Mobile Applications, telephones, and computers Initial operators resolve more than 70% of the phone calls without escalating to an expert, freeing up experienced election officials to deal with more significant matters

##### **Poll Worker Assistance**

It handles calls from poll workers The data warehouse populates the screen with that polling site's precincts, machines and poll workers The screen lists calls previously received from that site to eliminate double-booking of trouble calls

##### **Rover & Staff Assistance**

The system calls trouble-shooters to relay new trouble tickets, and also to follow up on unclosed tickets so supervisors don't have to chase down their rovers on the phone

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### **Voter Assistance**

PHDS handles calls from voters When a voter calls in, the call pops up with their registration status, polling place a route map. and Google directions

### **Scheduled Call Tracking**

PHDS charts the scheduled precinct phone calls. such as “6 00 AM polling place open”, “2 00 PM Voter Activity Report” and “8 00 PM polling place closed” The administrator uses this color-coded chart to follow up with those precinct captains who have not called in

### **Ticket Tracking**

PHDS sends equipment trouble tickets to the archives of the voting equipment after the ticket has been closed by election staff, vendor, or help desk operator

### **Detailed Reports**

The system captures each call with its characteristics, then sorts them into spreadsheets by time, location, operator team, troubleshooter, caller, precinct, problem type for the most extensive ‘lessons learned’ reports possible

### **Help Desk Mobile App**

### **Voter Directions**

If the voter doesn’t know how to find the correct precinct. tap on the map

### **On-the-Road Management**

Supervisors can manage trouble calls on the road as if sitting at their computer terminals

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### **Exhibit B Recommended Hardware and Software**

All personal computers with Internet access (Dell or comparable standard desktops and laptops)

Most current browsers which are compatible with the Microsoft .Net programming technologies (e.g. Internet Explorer)

Bar code scanners (Symbol Technology Models LS2208 and remote scanners connecting to Smart phone)

Plain paper printers for printing bar code labels (Desktops are HP Laser Jet Pro 400. others are RICOH models C2525, 4500, C811DN, C7501, etc)

### **Exhibit C: Hosting Service**

Konnech will host the production server in the Microsoft Azure Cloud

The back-up server and the testing server will be hosted in our leased server cabinet in the Lansing Metro Datacenter (1800 N Grand River Ave. Lansing, MI 48906). a telecommunications company with data and TI PRI service The Lansing Metro Datacenter offers us direct connection to multiple backbone connections ensuring our traffic reaches its destination quickly and efficiently

The datacenter is double hulled. essentially a building within a building complete with a redundant roof A highly secure and controlled environment featuring on site 24-hour. 365 days a year operations and resilient power systems backed by APC UPS's. generator. air conditioning and comprehensive physical security

**Exhibit D: Fee Schedule**

Initial Term Fee – Installation of Completed System including design, training, implementation, data conversion, and hosting. The Initial Term is one year (12 months) commencing on the date specified in Paragraph 10

\$80,000 one-time charge

Annual Renewal Term Fee – License & Use Fee Renewal, Support, Maintenance and hosting Payment of the First Annual Renewal Term Fee will be due upon expiration of the Initial Term Subsequent Renewal Fees will be paid annually thereafter

\$25,700 per year

The County recognizes that it is purchasing all necessary Recommended Hardware/Software directly from the manufacturer or its sales agents Konnech shall have no obligation to repair replace, maintain, modify, or otherwise perform any services to any hardware or other equipment on which the System is installed or used Any and all warranties, if any, on the Recommended Hardware/Software or hardware or software acquired independently by the County shall be provided solely by the manufacturer thereof Konnech makes no express or implied warranties whatsoever with respect to the Recommended Hardware/Software and shall have no liability or responsibility for the fitness, merchantability, performance, maintenance, or condition of same Konnech is not responsible for maintaining the County hardware,

maintenance and management of the network  
Microsoft Domain security. or data backup

**Exhibit E: Ethics Affidavit**

STATE OF TEXAS}  
COUNTY OF TRAVIS}

Date: 5-21-2015

Name of Affiant Eugene Yu

Title of Affiant President

Business Name of Offerer Konnech Inc

County of Offerer Ingham

Affiant on oath swears that the following statements are true

- 1 Affiant is authorized by Offerer to make this affidavit for Offerer
- 2 Affiant is fully aware of the facts stated in this affidavit
- 3 Affiant can read the English language
- 4 Offerer has received the list of key contracting persons associated with this solicitation which is attached to this affidavit as Exhibit "A"
- 5 Affiant has personally read Exhibit "A" to this Affidavit
- 6 Affiant has no knowledge of any key contracting person on Exhibit "A" with whom Offerer is doing business or has done business during the 365 day period immediately before the date of this affidavit whose name is not disclosed in the solicitation

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/s/ Eugene Yu  
Signature of Affiant  
4211 Okemos Road, Okemos, MI  
48864

SUBSCRIBED AND SWORN TO before me by  
Eugene Yu on 5-12-2015.



Notary Public State of MICH  
Carolyn M Kotesky  
Typed or printed name of notary  
My commission expires 1-17-21

Offerer acknowledges that Offerer is doing business or has done business during the 365 day period immediately prior to the date on which this RFO is due with the following key contracting persons and warrants that these are the only such key contracting persons

[ . . . ]

If no one is listed above, Offerer warrants that Offerer is not doing business and has not done business during the 365 day period immediately prior to the date on which this proposal is due with any' key contracting person

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**Exhibit A**  
**List of Contracting Persons**  
**April 13, 2015**

**CURRENT**

<b>Position Held</b>	<b>Name of Individual Holding Office/Position</b>	<b>Name of Business Individual is Associated</b>
County Judge	Sarah Eckhardt*	
County Judge (Spouse)	Kurt Sauer*	Kelly Hart LLP
Chief of Staff	Peter Einhorn*	
Executive Assistant	Loretta Farb*	
Executive Assistant	Joe Hon*	
Executive Assistant	Maya Reisman*	
Commissioner Precinct 1	Ron Davis	
Commissioner Precinct 1 (Spouse)	Annie Davis	Seton Hospital
Executive Assistant	Deone Wilhite	
Executive Assistant	Felicitas Chavez	
Executive Assistant	Sue Spears	

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Commissioner, Precinct 2	Brigid Shea*	
Commissioner, Precinct 2 (Spouse)	John Umphress*	Austin Energy
Executive Assistant	Barbara Rush*	
Executive Assistant	Kristian Caballero*	
Executive Assistant	Melissa Velasquez*	
Commissioner Precinct 3	Gerald Daugherty	
Commissioner Precinct 3 (Spouse)	Charyl Daugherty	Consultant
Executive Assistant	Bob Moore	
Executive Assistant	Martin Zamzow	
Executive Assistant	Madison A. Gessner	
Commissioner Precinct 4	Margaret Gomez	
Executive Assistant	Edith Moreida	
Executive Assistant	Norma Guerra	
County Treasurer	Dolores Ortega- Carter	
County Auditor	Nicki Riley	



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County Human Resources	Debbie Maynor	
County Executive Administrative	Vacant	
Interim County Executive Planning & Budget	Leroy Nellis*	
County Executive Emergency Services	Danny Hobby	
County Executive, Health/Human Services	Sherri E. Fleming	
County Executive TNR	Steven M. Manilla P E	
County Executive, Justice & Public Safety	Roger Jefferies	
Director Facilities Management	Roger El Khoury MS PE	
Chief Information Officer	Tanya Acevedo	
Director Records Mgment & Comm.	Steven Broberg	
Travis County Attorney	David Escamilla	

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First Assistant County Attorney	Steve Capelle	
Executive Assistant, County Attorney	James Collins	
Director, Land Use Division	Tom Nuckols	
Attorney Land Use Division	Julie Joe	
Attorney, Land Use Division	Christopher Gilmore	
Director, Transactions Division	John Hine	
Attorney, Transactions Division	Daniel Bradford	
Attorney, Transactions Division	Ann-Marie Sheely*	
Attorney, Transactions Division	Barbara Wilson	
Attorney, Transactions Division	Jennifer Kraber	
Attorney, Transactions Division	Tenley Aldredge	
Director, Health Services Division	Beth Devery	

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Attorney, Health Services Division	Elizabeth Winn*	
Attorney, Health Services Division	Prema Gregerson	
Purchasing Agent	Cyd Grimes C P M CPPO	
Assistant Purchasing Agent	Elaine Casas J D*	
Assistant Purchasing Agent	Marvin Brice, CPPB	
Assistant Purchasing Agent	Bonnie Floyd CPPO CPPB	
Purchasing Agent Assistant IV	CW Bruner, CTP CPPB	
Purchasing Agent Assistant IV	Lee Perry	
Purchasing Agent Assistant IV	Jason Walker	
Purchasing Agent Assistant IV	Richard Villareal	
Purchasing Agent Assistant IV	Patrick Strittmatter CPPB	

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Purchasing Agent Assistant IV	Lori Clyde. CPPO, CPPB, CTPE	
Purchasing Agent Assistant IV	Scott Wilson, CPPB	
Purchasing Agent Assistant IV	Jorge Talavera, CPPO CPPB	
Purchasing Agent Assistant IV	Loren Breland CPPB	
Purchasing Agent Assistant IV	John E Pena, CTPM CPPB	
Purchasing Agent Assistant IV	Angel Gomez	
Purchasing Agent Assistant IV	Jesse Herrera, CPPB CTPM CTCM CTP	
Purchasing Agent Assistant III	Ashley Waffer*	
Purchasing Agent Assistant III	David Walch	
Purchasing Agent Assistant III	Jean Liburd*	
Purchasing Agent Assistant III	Sydney Ceder	

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Purchasing Agent Assistant III	Ruena Victorino	
Purchasing Agent Assistant III	Rachel Fishback	
Purchasing Agent Assistant II	L Wade Laursen	
Purchasing Agent Assistant II	Sam Francis	
HUB Coordinator	Sylvia Lopez	
HUB Specialist	Betty Chapa	
HUB Specialist	Jerome Guerrero	
Purchasing Business Analyst	Scott Worthington	
Purchasing Business Analyst	Rosalinda Garcia	
County Clerk	Dana DeBeauvoir	
County Clerk's Office	Ronald Morgan	
County Clerk's Office	Michael Winn	
County Clerk's Office	Michelle Parker	
County Clerk's Office	Bob Trautman	

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**FORMER EMPLOYEES**

<b>Position Held</b>	<b>Name of Individual Holding Office/Position</b>	<b>Date of Expiration</b>
Purchasing Agent Assistant III	Shannon Pleasant	08/22/15
County Judge	Samuel T Biscoe	12/31/15
County Judge (Spouse)	Donalyn Thompson-Biscoe	12/31/15
Executive Assistant	Cheryl Brown	12/31/15
Executive Assistant	Josie Z. Zavala	12/31/15
Executive Assistant	David Salazar	12/31/15
Commissioner, Precinct 2	Bruce Todd	12/31/15
Commissioner, Precinct 2 (Spouse)	Elizabeth Christian	12/31/15
Executive Assistant	Sara Krause	12/31/15
Purchasing Agent Assistant III	Michael Long, CPPB	01/15/16

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Attorney, Transactions Division	Mary Etta Gerhardt	01/31/16
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\* - Identifies employees who have been in that position less than a year

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**EMAIL FROM TRAVIS COUNTY  
TO PLAINTIFF  
(OCTOBER 13, 2022)**

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Important Information from Travis County Elections  
1 message

NotifyElections <notifyelections@traviscountytexas.gov>  
Thu, Oct 13, 2022 at 5:24 PM  
To: NotifyElections <notifyelections@traviscountytexas.gov>

Dear Election Worker,

Travis County has learned about accusations against the CEO of Konnech Inc., the company that makes the software, PollChief Election Worker Management System. The accusations concern inappropriate handling of personal identifying information about Los Angeles County poll workers.

PollChief is software that manages and schedules poll workers. It is not used in the voting process or in the counting of votes and does not have access to the voting system. Although Travis County has used this personnel staffing software to manage its poll workers in the past, it will not be using the staffing software in the upcoming elections.

Travis County takes these accusations seriously and we are looking into the impact, if any, on data related to poll workers. At this point, the County has no reason to believe its poll worker data is involved. There is no evidence, allegation, or indication that Travis County poll worker information has been compromised.

As the County continues to examine the possibility of any inappropriate handling of data, the Travis



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County Clerk's Election Division remains focused on the upcoming general election on November 8. If more details are confirmed, we will promptly share information about the security of its poll worker data. However, the County Clerk's Office will not be commenting on this matter until we have additional information to share.

In the meantime, what can you do?

- Be aware.
- Pay attention to any changes in accounts or credit reporting.
- Notify Travis County if you notice any unexpected or unusual activity.
- Notify us at:  
[notifyelections@traviscountytexas.gov](mailto:notifyelections@traviscountytexas.gov)

Important to note: PollChief software is a system separate and apart from our pollbook, voter registration and tabulation systems, and there is no alleged conduct by Konnech that has any impact on the tabulation of votes in Travis County.

Thank you,

Rebecca Guerrero  
Travis County Clerk

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**EMAIL REGARDING EXPIRATION OF  
KONNECH 2023 CONTRACT  
(OCTOBER 11, 2022)**

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Loretta Farb

From: Angela Dillman  
Sent: Tuesday, October 11, 2022 2:43 PM  
To: Adana Hess; Lori Clyde  
Subject: Konnech (Pollchief)

Hello,

The contract valid date shows 5/31/23. It looks like we renewed in February of 2022.

**Display Purchasing Contract: 4400002518**

Close Release Audit Information Print Preview Export System Information Create Memory Snapshot

Number: 4400002518 Document Name: POLLCHIEF ELECTION MGMT SYSTEM Type: Purchasing Contract

Overview Header Items Notes and Attachments Conditions Authorization

**General Header Data**

Contract Number: 4400002518

\* Contract Subtype: C20 SERVICES - NON PROFESSIONAL

Contract Type: Purchasing Contract

\* Supplier: 1000021572 Konnech Inc.

\* Valid From / To: 06/02/2015 - 05/31/2023

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From: Adana Hess <Adana.Hess@traviscountytexas.gov>  
Sent: Tuesday, October 11, 2022 2:27 PM  
To: Angela Dillman  
<Angela.Dillman@traviscountytexas.gov>;  
Lori Clyde <Lori.Clyde@traviscountytexas.gov>  
Subject: FW:

Is the Konnech contract still intact? Per the attached, it runs out on June 22?

Dana Hess  
Chief Deputy  
Travis County Clerk's Office  
Office: 512-854-9587  
Cell: 737-231-3467

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From: Bridgette Escobedo  
<Bridgette.Escobedo@traviscountytexas.gov>  
Sent: Tuesday, October 11, 2022 2:24 PM  
To: Adana Hess <Adana.Hess@traviscountytexas.gov>  
Subject:

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SUPREME COURT  
PRESS