

Resolution # 26-1

WHEREAS, County policies and procedures require both the assigned oversight committee and the County Board to approve all requests to procure goods and/or services costing \$30,000 or more; and,

WHEREAS, the Department of Elections wishes to procure goods and/or services from Platinum Technology Resource, LLC for the purpose of obtaining for 2019 the Annual Voter Registration Software License (including Same Day Voter Registration Software) in the amount of approximately \$89,963; and

WHEREAS, the present contract for this software expired May 1, 2019 and the County Clerk has recommended to the Election Oversight Committee the three year renewal contract provided by Platinum Technology Resource, LLC for a cost of \$89,963 per year; and

WHEREAS, as documented by the approval of this resolution, Election Oversight Committee has approved the Election Department's request to renew the software maintenance contract and to procure the items specified and the committee recommends that the County Board approve the execution of the contract and procurement of the same, and;

NOW, THEREFORE, BE IT RESOLVED that the Sangamon County Board, in session this 14th day of May, 2019, approves the contract and procurement of the goods and/or services detailed above. The Elected Official/Department Head is authorized to sign required documents to execute the provision of this procurement.

Attachment: Purchase Order form

Approved by the Sangamon County Board

May 14, 2019

_____, Chairman

Andy Van Meter, Sangamon County Board Chairman

FILED

MAY 03 2019

Don J. Hays
Sangamon County Clerk

Approved and Submitted by the Election Oversight Committee

May 14, 2019

_____	, Chairman	_____	, Member
_____	, Member	_____	, Member
_____	, Member	_____	, Member
_____	, Member	_____	, Member
_____	, Member	_____	, Member

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Sangamon County Purchase Order FY2019

Purchase Orders are required for all Informal Quotes (>\$3,500) and Formal Solicitations (>\$30,000)

Department Information

PO Number: PO 2019-012 (Manually Assigned by Department)
Department: Elections Employee Contact: Stacey Kern
Department Head Signature: [Signature] Date: 5/3/19

Purchase Order Type (Regular, Exception or Emergency)

Type: Regular (3 Quotes or RFP Documentation Required)
Legal Review Date: 5/3/19 (>\$30,000 or Exception - see below)
Exception (Provide detailed explanation in Purchase Description/Narrative Section)
Reason: Joint Purchasing Contract Sole Source Professional Services
Not Suitable for Quotes/RFP Other

Emergency County Administrator Signature:
Will be reported at the next Oversight and/or County Board Meeting Date:
Provide detailed explanation in Purchase Description/Narrative Section

Purchase Request Information

Vendor: Platinum Technology Resource, LLC Quantity: 1 (Annual) Price Per Unit: \$89,963
Total Price: \$89,963 G/L: 001-014-551.000

Purchase Description/Narrative:

Election Office is requesting the purchase to renew our current Voter Registration Software License (for May 2019-May 2020) from our current Vendor, Platinum Technology Resource, LLC. This vendor has been used since March 2014 and as Sangamon was one of their first few customers, they have developed/updated their voter registration software since that time to meet our specific needs, including customizing reports and other features of their system. They also developed the Same Day Voter Registration Software specifically based on our needs and input. If we were to choose another vendor, there would be substantial data conversion time and expense, as well as expense for personnel training. The price of the software is the same as prior.

Auditor's Office (PO request documents need to be to the Auditor's Office 5 business days prior to the oversight committee meeting)

Date Received: 5/3/19 Date Review Completed: 5/3/19
Auditor's Office Signature: [Signature]

County Board Meeting Date Signature
Approved by Oversight Committee:
Approved by County Board (if applicable):

(County Board Resolution Required for All POs >\$30,000)

SOFTWARE LICENSE AGREEMENT

THIS SOFTWARE LICENSE AGREEMENT ("Agreement") is made this ____ day of May, 2019, by and between PLATINUM TECHNOLOGY RESOURCE, LLC, an Illinois limited liability company (hereinafter referred to as "**Platinum**") and Sangamon County Illinois (hereinafter referred to as the "**Customer**").

This agreement is a 3 year renewal of the Software License Agreement executed on March 25, 2014 for Platinum' EASZVR Software and the supplemental Software License Agreement executed on May 27, 2015 for Platinum Same Day VR software, polling place software.

RECITALS

- A. Platinum's **Platinum VR**, voter registration software, and **Platinum Same Day VR** software, (the said voter registration software and the said same day VR software are hereinafter referred to, collectively, as "**PlatinumVR**"), were designed and developed by Geneva Software, LLC, an Illinois limited liability company ("**Geneva Software**"); and
- B. **Platinum** is the exclusive distributor of "**PlatinumVR**" for **Geneva Software**, pursuant to the terms of a license granted by **Geneva Software** to Platinum; and
- C. **Customer** desires to purchase a nonexclusive sublicense, from **Platinum**, for **Customer's** use of **PlatinumVR** in managing voter registration in Sangamon County, Illinois (hereinafter referred to as the "**Purpose**"); and
- D. **Geneva Software**, as the developer of, and owner of all copyrights in, **PlatinumVR** has a protectable interest with respect to the sublicense granted by **Platinum** to **Customer** pursuant to this Agreement.

TERMS OF AGREEMENT

In consideration of the foregoing recitals and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

ARTICLE I - GENERAL TERMS

1.1 PURCHASE OF SUBLICENSE: **Customer** agrees to buy from **Platinum**, and **Platinum** agrees to sell to **Customer**, a license, on the terms set forth below, with respect to **PlatinumVR** (hereinafter referred to as the "**Software**").

ARTICLE II - SOFTWARE LICENSE

2.1 PROPERTY RIGHTS: The **Software**, and all physical components other than software, which are delivered to **Customer** by **Platinum**, including but not limited to, documentation, magnetic media, job aids, templates, and other similar devices (such physical components being hereinafter referred to as "**Software Products**") used in, for, or in connection with the **Software**, parts, subsystems, or derivatives thereof, in whatever form, including, without limitation, Source Code, Object Code, microcode and mask works, including any computer programs and any documentation relating to or describing such **Software** or **Software Products**, such as, but not limited to, logic manuals and flow charts provided by **Platinum**, including instructions for use of the **Software** or **Software Products** and formulation of theory upon which the **Software** or **Software Products** are based, are furnished to **Customer** only under the License (as defined in Section 2.3, below), which is nonexclusive, nontransferable, and non-assignable and is intended solely for the **Purpose**. All of the **Software** and all computer program specifications, documentation, procedure manuals, disks, and tapes utilized, processed, or developed by **Platinum** in connection with this Agreement or the services rendered to **Customer** hereunder shall be and remain the exclusive and confidential property of **Platinum** or third parties from whom **Platinum** has secured the right to use the same. The voter registration data input by or for **Customer** using the **Software**, and **Customer's** document images and signature, constitute the "**Customer Data**". **Customer** shall retain title to **Customer Data**, and **Platinum** shall release all **Customer Data** to **Customer** upon **Customer's** request.

Platinum acknowledges and agrees: (a) not to disclose any **Customer Data**, or any part thereof or any copies thereof, in any form, to any third party, except with the express, written consent of **Customer** or as required by law; (b) not to use, either directly, indirectly, or in concert with any other person, any **Customer Data** for any purpose other than the

Purpose (c) to use reasonable diligence, and in no event less than that degree of care that Platinum uses to prevent the unauthorized disclosure or reproduction of its own **Confidential Information**; and (d) to require each of its employees or agents to agree to be bound by the terms of this subparagraph of paragraph 2.1.

2.2 **HARDWARE**: In order to be able to use the Software for the Purpose, Customer shall purchase from Platinum the items, if any, listed on Schedule A, attached hereto, at the price and on the terms and conditions therein specified.

2.3 **LICENSE**: For the "Term" set forth in Schedule B attached hereto, unless earlier terminated as provided elsewhere in this Agreement, **Platinum** grants **Customer** a limited, nonexclusive, nontransferable, non-assignable license to use the "**Object Code**" of the **Software**, and to use the **Software and Software Products** solely for the **Purpose**, subject to the provisions of this Agreement (hereinafter referred to as the "**License**"). For purposes of this Agreement, the term "**Object Code**" shall mean the binary, machine-readable version of the **Software**. **Platinum** agrees to provide **Customer** with the **Software** identified on Schedule B, attached hereto and made a part hereof, such **Software Products** as **Platinum** determines are necessary and appropriate for **Customer** to use the **Software** for the **Purpose**, and such **Software** maintenance and support services as are described on Schedule B, attached hereto and made a part hereof.

- A. **Customer** agrees not to copy, duplicate or otherwise reproduce the **Software** or **Software Products** in any manner, except in normal backup procedures, without the prior, express, written consent of **Platinum**.
- B. **Platinum** agrees to mark all tangible **Software Products**, such as operation manuals and related materials, with the following: "The information contained herein includes trade secrets and is the proprietary property of PLATINUM TECHNOLOGY RESOURCE, LLC".
- C. The **Software** and **Software Products** shall be used for the **Purpose**, only, and shall remain subject to all terms and conditions of this Agreement. In the event

the **License** granted by this Agreement is terminated, **Customer** shall give **Platinum** such access to **Customer's** systems as may be reasonably required by **Platinum** to completely remove the **Software** from all of **Customer's** systems.

- D. 1. **Customer** is exclusively responsible for the supervision, management, and control of its use of the **Software** and **Software Products**. Except as provided otherwise in this Agreement, **Customer** agrees that the **Software** and **Software Products** are the "**Confidential Information**" of **Platinum**. **Customer** further agrees: (a) not to disclose any **Confidential Information**, or any part thereof or any copies or reproductions thereof, in any form, to any third party, except with the prior express, written consent of **Platinum** or as required by law; (b) not use, either directly, indirectly, or in concert with any other person, any **Confidential Information** for any purpose other than the **Purpose**; (c) to use reasonable diligence, and in no event less than that degree of care that **Customer** uses in respect to its own confidential information, to prevent the unauthorized disclosure or reproduction of **Confidential Information**; and (d) to require each of its employee or agents to agree to be bound by the terms of this paragraph 2.3.

2. **Customer** acknowledges and agrees that the **Software** and **Software Products** constitute "**Confidential Information**" without regard to whether they qualify, in whole or in part, as trade secrets under applicable state law or whether they are entitled to patent or copyright protection under applicable federal laws. **Confidential Information** shall, also, include, but not be limited to, formulas, techniques, processes, "know-how", methods, pricing techniques, pricing information, research and development, inventions, methods, prototypes, and computer software applications (including all updates and enhancements made thereto).

3. Notwithstanding anything to the contrary contained in this subparagraph D, **Confidential Information** shall not include information that: (a) is **Customer Data**; (b) is or becomes generally available to the public other than as a result of the disclosure by the **Customer** or any of its representatives (including its employees and agents); (c) is or becomes available to the **Customer** on a non-

confidential basis from a source (other than **Platinum** or its representatives) that is not prohibited from disclosing such information to the **Customer** by a legal, contractual, or fiduciary obligation to **Platinum** or **Geneva Software**; (d) at the time of disclosure was already known by the **Customer** or its representatives as evidenced by the written records of the **Customer**; or (e) was developed by the **Customer** without reference to the **Confidential Information**. The parties agree that neither this **Agreement** nor the amounts paid to **Platinum** pursuant to this **Agreement** are **Confidential Information**.

4. Any material required to be turned over pursuant to the Freedom of Information Act (5 ILCS 140/1 et seq.) shall not be considered a violation of this **Agreement**.

E. **Customer** shall have the right, at no additional charge, to reproduce, solely for the **Purpose**, all manuals and documentation, including user documentation and all training manuals, furnished by **Platinum** pursuant to this Agreement, regardless of whether such manuals or documentation are copyrighted or otherwise restricted as proprietary information. **Customer** shall cause all copies of manuals or documentation made by **Customer** to include a proprietary notice or stamp that states "The information herein includes trade secrets and is the proprietary property of PLATINUM TECHNOLOGY RESOURCE, LLC". **Platinum** shall furnish, for each **License** obtained by **Customer**, and at no additional charge to **Customer**, one (1) copy of the relevant **Software Products** and any succeeding changes thereto, as **Platinum** determines are necessary and appropriate to enable **Customer** to enable **Customer** to maintain and operate the **Software** for the **Purpose**.

Object Code software may be reproduced by **Customer**, at no additional charge, only for backup or archival purposes or as otherwise stipulated in this Agreement. **Platinum** agrees that **Customer** may also transfer the **Object Code** internally to another of **Customer's** computers, at no additional **License** fee, only for the purpose of testing and/or for training purposes. However, **Platinum** shall not be obligated to provide **Software** maintenance to **Customer** under this Agreement for **Software** transferred for testing and/or for training purposes.

F. LICENSE FEE: **Customer** shall pay **Platinum** the **License Fee** as and when set forth on Schedule B, attached hereto.

2.4 PROTECTION OF LICENSE: **Customer** and **Platinum** agree to assist one another in the protection of all of **Platinum's** rights and **Geneva Software's** rights in and to the **Software** and **Software Products**.

2.5 TRANSFER: **Customer** agrees that it will not sell, assign, give, encumber in any manner, or otherwise transfer to any other person or entity any of its rights or obligations under this Agreement, including any rights in or to the **Software** or **Software Products**, whether or not later modified or developed for **Customer** pursuant to this Agreement, without the prior express written consent of **Platinum**.

2.6 WARRANTY AS TO SOFTWARE PRODUCTS: **Platinum** hereby DISCLAIMS the IMPLIED WARRANTIES OF MERCHANTABILITY and FITNESS FOR A PARTICULAR PURPOSE.

The following warranties are provided by **Platinum** in lieu of any other warranties, whether express, implied, or statutory. There are no warranties that extend beyond those described below.

- A. **Platinum** warrants that it is the owner of, or otherwise has the right to license and distribute the **Software** and **Software Products** in accordance with this Agreement.
- B. **Platinum** warrants that the media in which the **Software** is delivered to **Customer** is undamaged and free from mechanical defects.
- C. **Platinum** warrants that the **Illinois State Board of Elections** has approved the use of the **Software**. **Platinum** will maintain the licensed software to be in compliance with applicable Federal and State voter registration laws and fully perform the "**Purpose**" previously identified herein.

Customer acknowledges and agrees that, except for the express warranties set

forth above, in this paragraph 2.6, **Platinum** makes no warranties either express or implied with respects to the Software, the Software Products, or the Hardware.

Customer acknowledges and agrees that, with respect to the Hardware, it is relying solely on such warranties as the manufacturer of the Hardware provides; that **Platinum** is not responsible for maintaining, repairing, or replacing any Hardware; and that **Customer's** sole remedy for any defect in any Hardware shall be against the manufacturer thereof.

2.7 SUPPORT AND CUSTOMER SERVICE: **Platinum** shall provide **Customer** with **Software** maintenance and support, and customer service, as described in Schedule C, attached hereto, provided that **Customer** is in material compliance with **Customer's** obligations under this **Agreement**.

2.8 TERM AND TERMINATION: **Platinum** may terminate the **Licenses** granted to **Customer** under this Agreement if **Customer** fails to perform any of its material obligations under this Agreement and such failure is not cured within fifteen days after **Platinum** has given written notice of such failure to **Customer**. Within thirty (30) days after **Platinum** has discontinued the use of the **Software**, or within ten (10) days after **Platinum** has terminated **Customer's** **Licenses**:

Customer may terminate the **Licenses** granted to **Customer** under this **Agreement** if **Platinum** fails to perform its material obligations under this **Agreement**, such failure is not cured within fifteen days after the **Customer** has given written notice of such failure to **Platinum**, and at the time of such notice **Customer** is not in breach of any of its material obligations under this **Agreement**.

- A. **Customer** shall immediately deliver, or cause to be delivered to **Platinum**, all of the **Confidential Information** in **Customer's** possession or control, including, without limitation, all originals, copies, and reproductions made of the **Software**, **Software Products**, and other documents reflecting any **Confidential Information**. An authorized representative of **Customer** shall certify, in writing, to **Platinum** that through its best efforts and to the best of its knowledge, all of

the above-described items have been returned to **Platinum**, except that, upon prior written authorization from **Platinum**, **Customer** may retain a copy for archive purpose only; and

ARTICLE III - REMEDIES

3.1 CUSTOMER'S EXCLUSIVE REMEDY: **Customer's** exclusive remedy against **Platinum** for any breach of warranty under this Agreement is limited to repair or replacement of the item in question, at **Platinum's** sole discretion. In no event will **Platinum** be liable for special, indirect, exemplary, incidental, consequential, third party, or punitive damages, including, without limitation, those based on breach of warranty, breach of contract, negligence, tort, or any other legal, equitable, or statutory claim, cause of action, or legal theory for breach of its obligations under this Agreement, regardless of the fault of **Platinum**, **Geneva Software**, or any third-party, even if **Platinum**, **Geneva Software**, or any third party had been advised of the likelihood of such damages. In any and all events, **Platinum's** liability shall be limited to actual damages to the extent directly and solely caused by **Platinum's** material breach. Except as otherwise prohibited by law, **Platinum's** maximum liability hereunder, regardless of legal theory, will not exceed the total amount paid by **Customer** under this Agreement. These limitations and exclusions regarding damages will apply even if any permitted remedy fails.

3.2 PLATINUM'S REMEDIES: In addition to **Platinum's** right to terminate the **Customer's** License, as set forth elsewhere in this Agreement, **Platinum** shall have the following remedies for any material breach of this Agreement by **Customer**:

- A. **Customer** hereby acknowledges and agrees that any material violation of the provisions of paragraph 2.3D or paragraph 2.8 will cause irreparable damage to **Platinum** and/or **Geneva Software**, that is not susceptible to measurement with any certainty. For that reason, the **Customer** hereby agrees and consents to **Platinum** and/or **Geneva Software** obtaining an injunction to prevent the occurrence or continuation of any material violation of paragraph 2.3D or paragraph 2.8. In addition, **Customer** hereby covenants and agrees that, if **Platinum** and/or **Geneva Software** attempts to obtain such an injunction, **Customer** shall not raise, as an objection or defense thereto, that **Platinum** and/or **Geneva Software** has not been irreparably harmed or that either has an adequate remedy at law. In the event **Platinum** and/or **Geneva Software** obtains an injunction against **Customer**, and such injunction is

subsequently dissolved, **Customer** hereby waives any rights **Customer** might have to recover from **Platinum** and/or **Geneva Software** any damages, including costs and attorney fees, suffered as a result of such injunction or in obtaining such dissolution.

- B. Except as provided in paragraph A, above, **Platinum** and **Geneva Software** shall each be entitled to recover from **Customer** all costs each incurs, including reasonable attorney fees, in enforcing its rights or

Customer's obligations under this Agreement. Any court of competent jurisdiction entering a final judgment or order in such an enforcement action shall include such costs and attorney fees as part of the final judgment or order entered.

Customer acknowledges and agrees that **Geneva Software** is a third-party beneficiary of this Agreement.

ARTICLE IV – MISCELLANEOUS

4.1 CAPTIONS AND HEADINGS: The captions and headings of the various paragraphs in this Agreement are for convenience only, and shall not be used to construe or interpret this Agreement.

4.2 SEVERABILITY: If any provision of this Agreement, or the application thereof to any party or circumstance, shall at any time or to any extent be unenforceable, then the remainder of this Agreement, or the application of such provision to parties or circumstances other than those as to which it is held unenforceable, shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law. If a court of competent jurisdiction determines that any provision of this Agreement is unenforceable for failure to conform to a constraint imposed by law, and such court determines that the provision could be modified to conform to such constraint without frustrating the intents and purposes of this Agreement, then the court shall modify the provision, but only to the extent it determines necessary to conform the provision to such constraint, and the provision, as so modified, shall be binding upon the parties hereto.

4.3 GOVERNING LAW: This Agreement shall be governed by, interpreted, and enforced in accordance with the laws of the State of Illinois, without regard to the conflicts of law provisions thereof.

4.4 CONSTRUCTION: Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

4.5 WAIVER: Any failure of any party hereto to comply with any of its obligations under this Agreement, or to fulfill conditions herein contained, may be waived only by a written waiver from the other party. Failure by either party to demand strict compliance with any of the provisions of this Agreement shall not operate as, nor be construed as, a waiver of the right to strictly enforce the provisions of this Agreement subsequently.

4.6 Carrying Out: The parties hereto covenant and agree that they and their legal representatives, successors, and permitted assigns will execute any and all instruments, releases, and assignments, and do all other things reasonably required of them, or necessary, to effectuate the intents and purposes of this Agreement.

4.7 ENTIRE AGREEMENT: This Agreement embodies the entire understanding of the parties hereto with respect to the subject matter hereof, and there are no other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof. This Agreement may be amended or modified only by an instrument signed by the parties hereto or their duly authorized agents.

4.8 BINDING EFFECT: This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

4.9 COUNTERPARTS: This Agreement may be executed simultaneously, in two or more counterparts, each of which shall be deemed an original, but all of which, taken together, shall

constitute one and the same agreement.

4.10 JURISDICTION: The parties hereto hereby acknowledge and agree that this Agreement is made and entered into, and will be substantially performed in, Sangamon County, Illinois. The parties hereto hereby further agree that the exclusive jurisdiction for resolution of any disputes arising out of, or with respect to, this Agreement shall be in a court in the Seventh Judicial Circuit, Sangamon County, Illinois, and each hereby submit itself to the jurisdiction of such court.

4.12 AUTHORITY: Platinum and Customer each hereby warrant and represent that the representative who has signed this Agreement on behalf of each of them, has been and is, on the date of this Agreement, duly authorized by all necessary and appropriate corporate and/or governmental action to execute this Agreement on its behalf.

This Agreement has been executed by the parties as of the date first above written.

CUSTOMER: SANGAMON COUNTY, IL

By: _____

PLATINUM TECHNOLOGY RESOURCE, LLC

By: _____

Duly Authorized Manager

SCHEDULE A

PlatinumVR Hardware

No hardware required.

Platinum Same Day VR

No hardware required.

SCHEDULE B

SOFTWARE LICENSE

PlatinumVR and Platinum Same Day VR

Term: Three (3) years, commencing on May ____, 2019

Annual License Fee and Customer Level #1, Election Season and Election Day Support (as outlined in Schedule C): \$89,963, payable as follows:

\$89,963 is payable upon execution of this contract.

Annual License Fees:

Payable: Annually, on May ____.

Year 2: \$89,963 **Year 3:** \$89,963

SCHEDULE C

CUSTOMER SUPPORT

Level #1 Support

Level #1 Support is two components:

- Break Fix of the Application
- System Monitoring and Service Level

1) Break Fix

Break Fix is defined as correcting the **Application**, not enhancing the **Application**.

Support Method(s):

- Support Initiation: platinumsupport@magenium.com
- Hour(s): 8:30am to 5pm CST, Monday through Friday

If enhancements are identified, **Platinum** and the **Customer** will define new features or enhancements that will be billed at negotiated rate except as provided for in Section 2.6 C.

2) System Monitoring and Service Level

System Monitoring and Service Level is defined as making PlatinunVR and Platinum Same Day VR available for **Customer** use. There are automated tools monitoring the performance, security, data backups and redundant systems.

Support Method(s):

- Support Initiation: platinumsupport@magenium.com
- Hour(s): 8:30am to 5pm CST, Monday through Friday

Election Season Support

Election Season Support is defined as Level #1 Support expanded to 60 days prior to any Election.

Support Method(s):

- Support Initiation: platinumsupport@magenium.com
- Hour(s): 8:00am to 7pm CST, Monday through Saturday
- Emergency Line: (312) 505-9480, available every day 6am to 10pm

Election Day Support

Election Day Support is defined as Level #1 Support with expanded hours and staffing.

Support Method(s):

- Support Initiation: platinumsupport@magenium.com
- Hour(s): 5:30am to 10pm CST, on Election Day
- Emergency Line: (312) 505-9480