Board Agenda Item 47

DATE: January 29, 2019

TO: Board of Supervisors

SUBMITTED BY: Robert W. Bash, Director of Internal Services/Chief Information Officer

SUBJECT: Second Amendment to Agreement No. 14-055 with Oracle America, Inc.

RECOMMENDED ACTION(S):

1. **Make a finding that it is in the best interest of the County to waive the competitive bidding process consistent with Administrative Policy No. 34 for unusual or extraordinary circumstances in order to continue support of Oracle America Inc.'s PeopleSoft financial, human resource, and database products; and**

2. **Approve and authorize the Chairman to execute Amendment Two to Agreement No. 14-055 with Oracle America, Inc. extending the term by five years from February 6, 2019 to February 5, 2024 and increasing the total compensation amount by $7,500,000, to a total not to exceed amount of $16,000,000.**

Approval of the recommended actions will allow the County to continue its master agreement with Oracle America, Inc. (Oracle) for continuous maintenance and technical support for PeopleSoft's Financial Supply Chain Management (FSCM) module, Human Capital Management (HCM) module, and Budget and Planning System, as well as various Oracle databases. This item is countywide.

ALTERNATIVE ACTION(S):

Should your Board not approve the recommended actions, the County will not be able to continue using Oracle's PeopleSoft products to complete various financial and human resources related tasks that are essential to County operations.

SUSPENSION OF COMPETITION/SOLE SOURCE CONTRACT:

The Internal Services Department (ISD) is requesting the Board suspend the competitive bidding process consistent with Administrative Policy No. 34 under the "unusual or extraordinary circumstances" exception in order for Oracle to continue providing maintenance and support for the PeopleSoft products used by the County since 1994. Oracle software is proprietary; as a result, only Oracle can provide the required maintenance, licensing, and support for the County to continue use of PeopleSoft products. The ISD - Purchasing Division concurs with the Department's request to waive the competitive bidding process.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. Sufficient appropriations are included in the ISD - Information Technology Services FY 2018-19 Org 8905 Adopted Budget. Future costs associated with this agreement will be included in subsequent recommended budgets.

DISCUSSION:

The County entered into an agreement with PeopleSoft Corporation (PeopleSoft) on June 28, 1994 for license and support of a Human Resources Management System (HRMS) and entered into a master agreement with PeopleSoft Corporation on August 5, 1997 for license and support of a Financial Information System (FIS). Oracle purchased PeopleSoft in 2004. The County entered into a master agreement with Oracle on January 26, 2010 to purchase additional FIS License and Support pursuant to the terms of the original FIS agreement.

On February 4, 2014, the County entered into agreement No. 14-055 with Oracle that replaced and updated the original HRMS and FIS agreements. This master agreement governs the support renewal and any other support contracts the County executes with Oracle under this agreement. Oracle has required the use of Oracle's template contract format rather than the County's standard model contract template. This agreement is missing many of the County's model contract clauses including insurance, independent contractor, audits, and self-dealing transactions, and contains a non-standard hold harmless clause. Furthermore, the invoice payment terms are "net 30" instead of the County's standard 45 days.

During contract negotiations with Oracle for renewal of this master agreement, Oracle communicated that they would not be changing their terms and conditions, as the current agreement was less than ten years old. Instead, Oracle offered that an amendment could be completed to extend the total term. The recommended amendment to agreement No. 14-055 amends the term from three years with two one-year automatic renewals to a ten-year term, extending the agreement's end term date from February 5, 2019 to February 5, 2024. The termination clause allows for the County to terminate this agreement at any time without cause by giving Oracle 30 days prior written notice of such termination and paying all amounts unpaid for products ordered and/or service offerings received, plus taxes and expenses. The recommended amendment also amends the total compensation amount from $8,500,000 to $16,000,000 in order to account for the term extension. County Counsel has reviewed and approved the amendment as to legal form. As with past agreements with Oracle, Oracle requires that the County sign the recommended agreement prior to Oracle signing the agreement. Vendor support for these systems is critically important to the County, the Department believes that the benefits outweigh all potential risks and recommends approval of the agreement by your Board as a prudent business decision.

REFERENCE MATERIAL:

BAI #25, February 4, 2014
BAI #32, January 26, 2010
BAI #11a, August 5, 1997
BAI #42c, June 28, 1994

ATTACHMENTS INCLUDED AND/OR ON FILE:

Suspension of Competition
On file with Clerk - Second Amendment

CAO ANALYST:

Yussel Zalapa