



Board Agenda Item 17

DATE: December 6, 2016

TO: Board of Supervisors

SUBMITTED BY: Brandi L. Orth, County Clerk/Registrar of Voters

SUBJECT: Without Cause Partial Termination of Agreement No. 13-268 with OPEX Corporation

RECOMMENDED ACTIONS:

- 1. Consider and approve Without Cause Termination in part for remaining services to be provided by OPEX Corporation Agreement No. 13-268 for Mail Matrix Sorter maintenance and support.**
- 2. Approve and authorize the County Clerk/Registrar of Voters to give sixty (60) days prior written notice to OPEX Corporation terminating in part Agreement No. 13-268 pursuant to the Without Cause provision of the Agreement effective February 5, 2017.**

Approval of the first recommended action will allow partial termination of the OPEX Corporation Mail Matrix Sorter Agreement pursuant to the Without Cause Termination clause of the Agreement. The OPEX Mail Matrix Sorter was intended to sort ballots for elections, and is at the end of its life cycle. The Department no longer uses the OPEX Mail Matrix Sorter. The second recommended action will allow the County Clerk/Registrar of Voters to provide the vendor with sixty (60) days prior written notice that the Agreement will be terminated in part in accordance with the Without Cause Termination clause (Paragraph 3, Section C) of the Agreement effective February 5, 2017. The Department will continue to use part of the Agreement for maintenance and support for two OPEX Model 51 Mail Extractors. There is no increase in net County cost associated with the recommended action.

ALTERNATIVE ACTION(s):

Should your Board not approve the recommended action, the County Clerk will continue to pay for maintenance and support of the OPEX Mail Matrix Sorter, which will cost the Department \$10,744 for the period of February 6, 2017 through July 5, 2017. Maintenance is not required because the sorter is no longer used by the Department and has become obsolete. The Department currently uses Election Systems and Software (ES&S) signature capture and comparison equipment, which includes a sorter.

FISCAL IMPACT:

There is no increase in net County cost associated with the recommended actions. The initial cost of the Agreement is \$139,988 with invoices submitted and approved for payment of \$109,165 leaving an unpaid balance of \$30,823. The balance of appropriations for this project is included in the FY 2016-17 County Clerk - Elections Org 2850. The Agreement includes costs for the maintenance and support of two mail extractors and a sorter. The Department will incur a pro-rated charge for sorter maintenance and support through February 5, 2017 (\$15,041). Upon approval, the Department will not incur a charge of \$10,744 for the period of February 6, 2017 through July 5, 2017, as a result of the recommended action to cancel maintenance and support for the sorter. The Department will maintain maintenance and support services for the two OPEX Model 51 extractors through August 17, 2017 (\$5,038).

DISCUSSION:

On May 21, 2013, your Board approved a sole source Agreement with OPEX Corporation for equipment maintenance and support for Mail Matrix and Extractor equipment. The County Elections Department utilizes electronic equipment to expedite the process of sorting and extracting Vote-By-Mail ballots. The first Model 51 Mail Extractor was purchased in 2005 and a second unit was purchased in 2008 when the number of ballots cast by mail had increased. The Mail Matrix sorter was purchased in 2007 to comply with Elections Code Section 15360, which requires that ballots received by mail be sorted for purposes of isolating 1% of the ballots received chosen at random for a manual tally of the ballots each election.

Approval of the first recommended action will allow for termination of the OPEX Mail Sorter portion of the Agreement since the Department no longer uses the sorter. The Agreement has a Without Cause Termination clause, which allows either party to cancel the Agreement in part by providing a 60 day advance written notice. The Department recently purchased signature capture and comparison equipment from ES&S through a competitive bidding process, and the equipment includes a sorter. The ES&S sorter has all of the capabilities needed by the Department and replaces the OPEX mail sorter. The second recommended action will allow the County Clerk/Registrar of Voters to provide OPEX Corporation with sixty (60) days prior written notice that the Agreement will be terminated in part in accordance with the Without Cause (Paragraph 3, Section C) of the Agreement effective February 5, 2017. All terms and conditions of the Agreement for the maintenance and support of the two Model 51 Mail Extractors will remain the same.

REFERENCE MATERIAL:

BAI #20, May 21, 2013

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Contract Letter

CAO ANALYST:

Ronald Alexander