



Board Agenda Item 7

DATE: December 3, 2024

TO: Board of Supervisors

SUBMITTED BY: James A. Kus, County Clerk/Registrar of Voters

SUBJECT: Agreement with Dominion Voting Systems, Inc.

RECOMMENDED ACTION(S):

- 1. Under Administrative Policy No. 34 for competitive bids or requests for proposals (AP 34), determine that an exception to the competitive bidding requirements under AP 34 is satisfied and a suspension of competition is warranted due to unusual or extraordinary circumstances, and that the best interests of the County would be served by entering into an Agreement with Dominion Voting Systems, Inc., for continued software licenses, maintenance, software and hardware warranties, and support of the County's existing voting system equipment, as the existing systems and equipment are proprietary and can only be supported by the vendor, and changing to a new system would be extremely costly and disruptive to departmental operations; and**
- 2. Approve and authorize the Chairman to execute a retroactive Agreement with Dominion Voting Systems, Inc., for the software licenses, maintenance, software and hardware warranties, and support of existing voting system equipment, effective May 14, 2024, not to exceed five consecutive years, which includes a three-year base contract and two optional one-year extensions, total not to exceed \$1,206,781.**

There is no additional Net County Cost associated with the recommend actions, which will allow the County Clerk-Elections Department (Department) to contract with Dominion Voting Systems, Inc., (Dominion) for the software licenses, maintenance, software and hardware warranties, and support of the County's existing voting system equipment. This item is countywide.

ALTERNATIVE ACTION(S):

Should your Board not approve the recommended action, the Department will not be able to use Dominion election software and procure maintenance and support services for critical election equipment. The Department will also be unable to meet the state regulations that require voting systems be under contract.

RETROACTIVE AGREEMENT:

The recommended Agreement is retroactive to May 14, 2024 due to extended negotiations to incorporate revised model contract language. Annual software licenses and warranties from the previous agreement remained in effect until October 31, 2024. Dominion has provided continuous support of the voting system in anticipation of the new recommended Agreement.

SUSPENSION OF COMPETITION/SOLE SOURCE CONTRACT:

It is requested that the County find under AP 34 that an exception to the competitive bidding requirement is

satisfied, and a suspension of competition is warranted due to unusual or extraordinary circumstances, as Dominion is the only vendor that can support their systems, which are proprietary. This system has been in place since 2019, and a change in systems would impose significant expense and disruption to the Department. The Internal Services Department - Purchasing Division concurs with the Department's assessment that this satisfies the exception to the competitive bidding process required by AP 34.

FISCAL IMPACT:

There is no increase in Net County cost associated with the recommended actions. The total cost of this recommended Agreement is \$1,206,781. Sufficient appropriations are included in the County Clerk-Elections Org 2850 FY 2024-25 Adopted Budget and will be included in future budget requests for the contract term.

DISCUSSION:

On May 14, 2019, following an RFP process, your Board unanimously approved Agreement No.19-227 with Dominion Voting Systems, Inc. for a five-year term (Original Agreement). On July 13, 2021, your Board approved an amendment to the Original Agreement to adjust equipment quantities and increase to the maximum compensation. On February 22, 2022, your Board approved a budget transfer enabling the Department to expand its stock of voting equipment to include training and contingency equipment as well as enhanced capacity for concurrent elections. The Original Agreement expired on May 13, 2024.

The Department anticipates that the previously purchased voting equipment has approximately five to seven years of remaining useful life. Licenses, maintenance, support, and warranties of this equipment is critical to continued successful administration of elections in Fresno County. Additionally, State regulations require that all voting systems utilized by California counties be under a service agreement.

Approval of the recommended actions will suspend the competitive bidding process consistent with AP 34 and approve the recommended Agreement for the software licenses, maintenance, software and hardware warranties, and support of the County's existing voting system equipment, for a potential five-year term, total not to exceed \$1,206,781.

REFERENCE MATERIAL:

BAI #27, February 22, 2022
BAI #25, July 13, 2021
BAI #5, May 14, 2019

ATTACHMENTS INCLUDED AND/OR ON FILE:

Suspension of Competition Acquisition Request
On file with Clerk - Agreement with Dominion

CAO ANALYST:

Ahla Yang