



Los Angeles County Registrar-Recorder/County Clerk

DEAN C. LOGAN
Registrar-Recorder/County Clerk

July 18, 2017

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

REQUEST APPROVAL TO EXTEND TERM OF CONTRACT 7100601 WITH ELECTION SYSTEMS AND SOFTWARE THROUGH IMPLEMENTATION OF THE VOTING SYSTEMS ASSESSMENT PROJECT (ALL SUPERVISORIAL DISTRICTS) (3 VOTES)

**CIO RECOMMENDATION: APPROVE (X) APPROVE WITH MODIFICATION ()
DISAPPROVE ()**

SUBJECT

This Board Letter seeks approval of an amendment to extend term of agreement with Election Systems and Software, LLC (ESS) to continue providing maintenance services on 5,650 Inkavote Plus Voting Systems until the implementation of the Department's Voting Systems Assessment Project (VSAP), which aims to replace the aging voting system with a voter-centered system design.

IT IS RECOMMENDED THAT THE BOARD:

1. Delegate authority to the Department Head, or designee, to execute Amendment Number Eight (Attached) to Agreement Number 7100601 with ESS for a three-year contract extension effective December 17, 2018 to December 31, 2021. The cost for the extension is \$2,117,557 per each of the following extension years: FY 18-19; FY 19-20; and FY 20-21;
2. Delegate authority to the Department Head, or designee, to negotiate and execute amendments and/or terminate the agreement, in whole or in part, as deemed in the best interest for the County provided that County Counsel approval is obtained (a) prior to initiating any such action and (b) of the amendment or termination.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Voting Systems Assessment Project (VSAP)

VSAP was launched by the Los Angeles County RR/CC in 2009 to address aging voting systems

ADOPTED

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LORI GLASGOW
EXECUTIVE OFFICER

and an increasingly large and complex electorate. VSAP is a five-phase plan aimed to modernize the County's voting systems and voting experience through a human-centered approach that is publicly owned and operated. The recent completion of the Phase 3 engagement with global design and innovation firm IDEO resulted in engineering specifications for a new voting experience consisting of a new Ballot Marking Device (BMD), an improved Vote by Mail (VBM) ballot, an innovative Interactive Sample Ballot (ISB), and a Tally System based on modern, scalable technologies.

In October 2016, RR/CC engaged with Gartner Inc., an information technology advisory firm to develop a sourcing strategy and provide guidance on implementation strategies through July 31, 2017. On November 22, 2016, a Board Motion authorized a new agreement with IDEO, in a design stewardship capacity, to provide advice through the new voting system's manufacturing and implementation, in order to ensure the integrity of the system design.

On April 24, 2017 the RR/CC released a Request for Information (RFI) to research the vendor landscape to better understand the current products and services available in the marketplace and seek input from vendors to help inform the County's upcoming solicitation activity for manufacturing and certification of new voting equipment and services. The new voting experience will include new ballot marking devices and associated ballot to be used at Vote Centers, the use of ePollbooks supporting a ballot activation mechanism, the new Tally System, new Vote By Mail ballots (and associated changes to the Election Contest and Ballot Management System (ECBMS)), and expanded early voting locations.

Although the RR/CC is diligently moving forward with the development and implementation of the VSAP system it is not available now. Therefore, the RR/CC requires the continuation of the current voting systems, discussed below, until the complete transition to the new voting system.

Current Voting System- InkaVote Plus Voting System

The RR/CC utilizes 5,650 Inkavote Plus ballot readers and audio ballot booths (ABB) at more than 5,200 polling places across the County on Election Day. ESS is the manufacturer of the Inkavote Plus ballot readers and ABBs. The InkaVote Plus is an enhancement to the InkaVote paper ballot voting system used to comply with Help America Vote Act (HAVA) and has been used in Los Angeles County elections since November 2003. The Inkavote Plus includes the precinct ballot reader (PBR) and ABB. The PBR sits on top of the ballot box, checks marked ballots for overvotes (more selections than a contest allows), for completely blank ballots, and notifies the voter of these errors. This provides the voter an opportunity to correct errors. The ABB is available to assist voters who are disabled, including those who are blind or visually impaired, so they may vote privately and independently using an audio headset and a simple keypad. Also, voters whose main language is not English, may choose to vote using the ABB in Chinese (Mandarin or Cantonese), Japanese, Korean, Spanish, Tagalog/Filipino or Vietnamese. Approval of the recommended three year contract extension allows ESS to continue providing the hardware, software maintenance, and support on the 5,650 Inkavote Plus Voting Systems used at Los Angeles County's polling locations by more than 5.2 million registered voters. Maintenance. Specifically, ESS provides the necessary support required to ensure all Inkavote Plus Voting Systems are fully functioning on Election Day and to avoid any service interruption. Due to the proprietary nature of both the Inkavote Plus Voting Systems and the maintenance hardware and software systems, the sole source amendment is required.

Implementation of Strategic Plan Goals

The recommended actions support the County's Strategic Plan Goal III, Realize Tomorrow's Government Today. Our increasingly dynamic, and complex environment, challenges our collective

abilities to respond to public needs and expectations. We want to be an innovative, flexible, effective, and transparent partner focused on advancing the common good.

FISCAL IMPACT/FINANCING

ESS has agreed not to increase prices in exchange for the extension. The total cost for the three-year extension is \$6,352,671 which will be included in future budget requests and funded by HAVA 301 (federal) funds. The cost breakdown is \$2,118,557 for FY 18-19, \$2,118,557 for FY 19-20, and \$2,118,557 for FY 20-21.

Historically, the maintenance costs increase every year. In exchange for an extension, ESS will keep the same year maintenance pricing as the last option year for the entire extension. The estimated cost savings is more than \$445,000.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Your Board is authorized to approve Amendment Eight pursuant to Government Code Section 31000. The RR/CC's mission provides election services in a fair, accessible and transparent manner and is responsible for registering voters, maintaining voter files, administering federal, state, local and special elections and verifying initiatives, referenda and recall petitions. Los Angeles County, with more than 500 political districts and 5.2 million registered voters, is the largest and most complex county election jurisdiction in the country. Your Board adopted the original Contract 7100601 with ESS on April 18, 2006 as a result of a Request for Proposals solicitation. The final renewal option term expires on December 16, 2018.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of the recommended action will ensure that all 5,650 Inkavote Plus Voting Systems are in good repair and are ready to be used during the multiple elections at more than 5,200 polling places in Los Angeles County. The Inkavote Plus system is required for the following known elections until phases 4 and 5 of VSAP are completed, which marks implementation of new voting systems:

- o October 23, 2017 Local and Municipal Consolidated Elections
- o June 5, 2018 Gubernatorial Primary Election
- o November 6, 2018 Gubernatorial General Election
- o November 5, 2019 Local and Municipal Consolidated Elections
- o June 2, 2020 Presidential Primary Election
- o November 3, 2020 Presidential General Election
- o November 2, 2021 Local and Municipal Consolidated Elections

Without the maintenance, the department risks broken equipment and an inadequate supply of Inkavote Plus Voting Machines throughout the County on Election Day. ESS, the company that provides maintenance and support services, is the same company that manufactured the machines.

CONCLUSION

The Chief Executive Office Budget Analyst has reviewed and approved this Board letter. County Counsel has reviewed and approved this Board letter and attached Amendments. The Chief Information Office (CIO) has reviewed and approved this Board letter. The CIO determined this

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recommended action contains no new Information Technology (IT) matters since it is an extension of the current agreement. Therefore, no formal CIO Analysis is required.

Respectfully submitted,



DEAN C. LOGAN

Registrar-Recorder/County Clerk

Reviewed by:



PETER LOO

Acting Chief Information Officer

DCL:RF:APL:

FPVW:ca

Enclosures

c: Chief Executive Officer
County Counsel
Chief Information Officer

**AMENDMENT NUMBER EIGHT
TO AGREEMENT NUMBER 7100601
BY AND BETWEEN
COUNTY OF LOS ANGELES AND
ELECTION SYSTEMS & SOFTWARE, LLC**

This Amendment Number Eight (“Amendment Number Eight”) to Agreement Number 7100601 dated April 25, 2006 (the “Agreement”) by and between the County of Los Angeles (“County”) and Election Systems and Software, LLC. (“Contractor”) is made and entered into this _____ day of _____ 2017. County and Contractor are sometimes hereinafter referred to collectively as the “Parties” and each individually as a “Party.”

WHEREAS, the Agreement was originally approved by the County's Board of Supervisors on April 18, 2006 and executed by the Registrar-Recorder/County Clerk on April 25, 2006. Pursuant to the Agreement, the Term of the Agreement was to expire upon the third anniversary of the PBR Acceptance Date. The PBR Acceptance Date was December 17, 2009;

WHEREAS, under that certain Change Notice Number One to the Agreement dated June 2, 2006, the Agreement was amended to revise County's Project Manager;

WHEREAS, under that certain Change Notice Number Two to the Agreement dated September 15, 2006, the Agreement was further amended to, among other things: (i) revise Contractor's Project Manager; and (ii) replace Paragraph 21 (Notices) with a new Paragraph 21 (Notices);

WHEREAS, under that certain Change Notice Number Three to the Agreement dated May 16, 2008, the Agreement was further amended to purchase fifty (50) replacement lids for the Precinct Ballot Readers (PBR);

WHEREAS, under that certain Change Notice Number Four to the Agreement dated December 3, 2008, the Agreement was further amended to, among other things: (i) revise Contractor's Project Director; and (ii) revise Contractor's Project Manager;

WHEREAS, under that certain Amendment Number One to the Agreement dated December 15, 2009, the Agreement was further amended to, among other things; (i) delete all tasks and deliverables in reference to Phase II of the Statement of Work; (ii) re-allocate funds for Other Professional Services; (iii) replace Exhibit B (Price Schedule) with a new Exhibit B (Price and Schedule of Payments) (Revised September 1, 2009) to reflect the changes in the Statement of Work;

WHEREAS, under that certain Amendment Number Two to the Agreement dated December 20, 2011, the Agreement was further amended to, among other things, (i) change Election System & Software, Inc., wherever it appears in the Agreement or any attachment or any exhibit to Election System & Software, LLC; (ii) delete and replace Paragraph 6 (Change Orders and Amendments) Paragraph 6.1.5 to the Agreement; (iii)

add Paragraph 60 (Warranty of Compliance with the County's Property Tax Reduction Program) of Exhibit A (Additional Terms and Conditions) to the Agreement; (iv) add Paragraph 61 (Termination for Breach of Warranty to Maintain Compliance with County's Defaulted Property Tax Reduction Program) of Exhibit A (Additional Terms and Conditions) to the Agreement; and (v) add Exhibit Q (Certificate of Compliance with the County's Defaulted Property Tax Reduction Program) to the Agreement;

WHEREAS, under that certain Amendment Number Three to the Agreement dated December 14, 2012, the Agreement was further amended to, among other things, (i) delete and replace Paragraph 7 (Term) with a new Paragraph 7 (Term) to add the start and end date of the initial term and the PBR Acceptance Date of December 17, 2009; (ii) exercise County's option to extend the term of this Agreement for the first additional one year Option Term, effective December 17, 2012 through December 16, 2013; (iii) delete and replace Exhibit B (Price and Schedule of Payments) (Revised September 1, 2009) with a new Exhibit B (Price and Schedule of Payments) (Dated December 1, 2012) to reflect a reduction in the Maximum Contract Sum; and (iv) elect to continue Maintenance & Support Services for the PBR System Software, the PBR System Hardware, and the PBR System in its entirety for one additional year effective December 17, 2012 through December 16, 2013;

WHEREAS, under that certain Amendment Number Four to the Agreement dated December 4, 2013, the Agreement was further amended to, among other things, (i) extend the term of this Agreement for a one-year period and; (ii) elect to continue Maintenance & Support Services for the PBR System Software, the PBR System Hardware, and the PBR System in its entirety for one additional year effective December 17, 2013 through December 16, 2014;

WHEREAS, under that certain Amendment Number Five to the Agreement dated November 26, 2014 the Agreement was further amended to, among other things, (i) extend the term of this Agreement for a one-year period and; (ii) elect to continue Maintenance & Support Services for the PBR System Software, the PBR System Hardware, and the PBR System in its entirety for one additional year effective December 17, 2014 through December 16, 2015;

WHEREAS, under that certain Amendment Number Six to the Agreement dated December 14, 2015 the Agreement was further amended to, among other things, (i) extend the term of this Agreement for a one-year period and; (ii) elect to continue Maintenance & Support Services for the PBR System Software, the PBR System Hardware, and the PBR System in its entirety for one additional year effective December 17, 2015 through December 16, 2016;

WHEREAS, under that certain Amendment Number Seven to the Agreement dated December 17, 2016 the Agreement was further amended to, among other things, (i) extend the term of this Agreement for a one-year period and; (ii) elect to continue Maintenance & Support Services for the PBR System Software, the PBR System Hardware, and the PBR System in its entirety for one additional year effective December 17, 2016 through December 16, 2017;

WHEREAS, this Amendment Number Eight is made pursuant to Paragraph 6 (Change Orders and Amendments) of the Agreement.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Agreement, as previously amended, is hereby further amended as follows:

1. Pursuant to Paragraph 6 (Change Orders and Amendments) of the Agreement, the Parties hereby agree to extend the term of the Agreement effective December 17, 2018 through December 31, 2021.

2. The County hereby elects to continue Maintenance and Support Services in accordance to Paragraph 13 (Maintenance & Support Services; Pool Dollars Work) for the PBR System Software, the PBR System Hardware, and the PBR System for a maximum yearly cost of \$2,045,362.75 (\$170,447 per month) for all work and services tendered pursuant to the entire Agreement as follows:
 - 12/17/18-12/16/19 \$2,045,362.75 (maximum total annual cost)
 - 12/17/19-12/16/20 \$2,045,362.75 (maximum total annual cost)
 - 12/17/20-12/31/21 \$2,045,362.75 (maximum total annual cost)

Except as otherwise provided under this Amendment Number Eight, the Agreement, as previously amended, including all preambles and recitals set forth herein and therein, shall remain unchanged and in full force and effect.

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**AMENDMENT NUMBER EIGHT
TO AGREEMENT NUMBER 7100601
BY AND BETWEEN
COUNTY OF LOS ANGELES AND
ELECTION SYSTEMS & SOFTWARE, LLC**

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Amendment Number Eight to be subscribed on its behalf by the Registrar-Recorder/County Clerk or his/her designee and the Contractor has subscribed the same through its duly authorized officer as of the day, month and year first above written. The person signing on behalf of Contractor warrant under penalty of perjury that he or she is authorized to bind the Contractor.

COUNTY OF LOS ANGELES

ELECTION SYSTEMS & SOFTWARE, LLC

DEAN C. LOGAN
Registrar-Recorder/County Clerk

By _____
Authorized Signature

Print Name

Title

Tax I.D.

APPROVED AS TO FORM:
MARY C. WICKHAM
County Counsel

By _____
NICOLE DAVIS TINKHAM
Senior Deputy County Counsel