

**Contract # MA-031-24011045**  
**between**  
**County of Orange (Registrar of Voters)**  
**and**  
**OPEX Corporation**  
**for**  
**Mail Extractor Maintenance Services**

This Contract MA-031-24011045 (hereinafter referred to as “Contract”) is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California (hereinafter referred to as “County”), and OPEX Corporation with a place of business at 305 Commerce Drive, Moorestown, NJ 08057 (hereinafter referred to as “Contractor”), with County and Contractor sometimes referred to as “Party” or collectively as “Parties”.

**ATTACHMENTS**

This Contract is comprised of this document, which contains the Contract’s terms and conditions, and the following Attachments, which are attached hereto and incorporated by reference into this Contract:

Attachment A – Scope of Work  
Attachment B – Compensation/Payment

**RECITALS**

**WHEREAS**, on June 25, 2019, County and Contractor entered into Contract MA-031-19011245 for the purchase and maintenance of five (5) Mail Extractors, effective through and including June 24, 2024; and

**WHEREAS**, in November 2019, County purchased three (3) additional Mail Extractors through PO-031-20010709; and

**WHEREAS**, in April 2023, County purchased eight (8) additional Mail Extractors through PO-031-23011101; and

**WHEREAS**, Contract MA-031-19011245 is expiring and County would like to continue receiving maintenance of the Mail Extractors; and

**WHEREAS**, the Parties are entering into this Contract for Mail Extractor Maintenance Services under a firm fixed fee for maintenance of the previously purchased Mail Extractors; and

**WHEREAS**, Contractor agrees to provide Mail Extractor Maintenance Services to County as further set forth in Scope of Work, attached hereto as Attachment A; and

**WHEREAS**, County agrees to pay Contractor based on the fees as set forth in Compensation/Payment, attached hereto as Attachment B; and

**WHEREAS**, the County Board of Supervisors has authorized the Purchasing Agent or designee to enter into a Contract for Mail Extractor Maintenance Services with Contractor; and

NOW, THEREFORE, the Parties mutually agree as follows:

### DEFINITIONS

1. **Definition, Acronyms, and Abbreviations:** Unless otherwise specified, the following capitalized terms shall be given the meanings below:
  - a. **Equipment** – Equipment means the sixteen (16) OPEX Model 72 Mail Extractor units as described in Attachment A and Attachment B of this Contract and shall also be referenced as “Model 72 Mail Extractor(s).” These Model 72 Mail Extractors were those purchased under Contract MA-031-19011245, PO-031-20010709 and PO-031-23011101.
  - b. **Services** – Services means the work to be performed by Contractor under this Contract as set forth in Attachment A.

### ARTICLES

#### General Terms and Conditions:

- A. **Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for adjudication to another county.
- B. **Entire Contract:** This Contract contains the entire Contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County’s Purchasing Agent or designee.
- C. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.
- D. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax. Out-of-state Contractors shall indicate California Board of Equalization permit number and sales permit number on invoices, if California sales tax is added and collectable. If no permit numbers are shown, sales tax will be deducted from payment. The Auditor-Controller will then pay use tax directly to the State of California in lieu of payment of sales tax to the Contractor.
- E. **Delivery:** Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to

the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments nor deprive it of the right to return goods already accepted at Contractor's expense. Over shipments and under shipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by County.

- F. **Acceptance/Payment:** Unless otherwise agreed to in writing by County, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made annually in advance.
- G. **Warranty:** Contractor expressly warrants that the goods covered by this Contract shall 1) be free of liens or encumbrances, and 2) conform to the descriptions contained in this Contract. THE FOREGOING EXPRESS WARRANTY IS IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE AND THERE ARE NO WARRANTIES WHICH ARE NOT CONTAINED IN THIS CONTRACT. Acceptance of this order shall constitute an agreement upon Contractor's part to indemnify, defend and hold County and County Indemnitees, as more fully described in paragraph "Z," harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies are identified in Section Z below.
- H. **Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any materials (e.g., software, documentation, specifications) or any part thereof, as modified through services provided hereunder will not infringe upon or misappropriate any United States, Canadian, or European patent, copyright, trademark, trade secret, or any other proprietary right, of any third party. Contractor agrees that it shall defend and hold County and County Indemnitees harmless from any and all such costs and damages awarded, provided that Contractor is given prompt written notice of such claim and is given information, reasonable assistance, and to defend or settle the infringement claim. In the defense or settlement of a claim pursuant to paragraph H, Contractor shall: (i) obtain for County the right to continue using the Goods to the full extent contemplated by this Contract; (ii) replace or modify the Goods so that it becomes non-infringing while performing in a substantially similar manner to the original system and meeting the requirements of this Contract; or (iii) if remedies (i) and (ii) are not reasonably available, then Contractor shall grant County a depreciated refund pro-rata based upon a seventy-two (72) month life, measured from the original installation date of the Goods. County then shall have the option of immediately terminating the Contract, or applicable portions thereof, without penalty. Contractor shall not have any liability if the alleged infringement is based upon the use or sale of the Goods in combination with other products or devices not furnished or approved by Contractor.

CONTRACTOR DISCLAIMS ALL OTHER LIABILITY FOR PATENT, COPYRIGHT OR TRADEMARK INFRINGEMENT, INCLUDING ANY INCIDENTAL OR

CONSEQUENTIAL DAMAGES, AND THE RIGHTS STATED HEREIN ARE THE COUNTY'S SOLE AND EXCLUSIVE REMEDY.

- I. **Assignment:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned by Contractor without the express written consent of County. Any attempt by Contractor to assign the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.
- J. **Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to penalties pursuant to Section 1741 of the California Labor Code.
- K. **Termination:** In addition to any other remedies or rights it may have by law, with respect to the Services that will be provided by Contractor pursuant to Attachment A to this Contract, the County has the right to terminate this Contract after forty-five (45) calendar days' written notice without cause. Cause shall be defined as any material breach of contract, any misrepresentation or fraud on the part of the Contractor and shall be terminated in accordance with the terms set forth under paragraph 5 below. Exercise by County of its right to terminate the Contract shall relieve County of all further obligation. With respect to Services as described under Section III in Attachment A, if this Contract is terminated in whole for cause or without cause, then Contractor will refund to the County the prorated portion of the Services based payment that Contractor received from the County, to be calculated from the effective termination date through the then current prepaid annual billing cycle.
- L. **Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
- M. **Independent Contractor:** Contractor shall be considered an independent contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through County.
- N. **Performance Warranty:** During the applicable annual term of this Contract, Contractor shall warrant all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction in accordance with the requirements contained within Attachment A titled "Scope of Work" of this Contract. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other Services furnished by Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all necessary labor, supervision, machinery, equipment, materials, and supplies; and shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County

required in its governmental capacity, in connection with performance of the work. If permitted to subcontract, Contractor shall be fully responsible for all work performed by subcontractors. THE FOREGOING EXPRESS WARRANTIES ARE IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE AND THERE ARE NO WARRANTIES WHICH ARE NOT CONTAINED IN THIS CONTRACT.

- O. **Insurance Provisions:** Prior to the provision of services under this Contract, the Contractor agrees to carry all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with. Contractor agrees to keep such insurance coverage current, provide Certificates of Insurance, and endorsements to the County during the entire term of this Contract.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this Contract shall be covered under Contractor's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from Contractor under this Contract. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this Contract for inspection by County representative(s) at any reasonable time.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any SIR in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County's Risk Manager, or designee. The County reserves the right to require current audited financial reports from Contractor. If Contractor is self-insured, Contractor will indemnify the County for any and all claims resulting or arising from Contractor's services in accordance with the indemnity provision stated in this contract.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

### **Qualified Insurer**

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, CEO/ Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

<b><u>Coverage</u></b>	<b><u>Minimum Limits</u></b>
------------------------	------------------------------

Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned or scheduled, non-owned, and hired vehicles	\$1,000,000 combined single limit each accident
Workers Compensation	Statutory
Employers Liability Insurance	\$1,000,000 per accident or disease

Increased insurance limits may be satisfied with Excess/Umbrella policies. Excess/Umbrella policies when required must provide Follow Form coverage.

### **Required Coverage Forms**

The Commercial General Liability coverage shall be written on occurrence basis utilizing Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

### **Required Endorsements**

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13, or a form at least as broad naming the County of Orange its elected and appointed officials, officers, employees, and agents as Additional Insureds, or provide blanket coverage, which will state *As Required by Written Contract*.
- 2) A primary non-contributory endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the Contractor's insurance is primary, and any insurance or self-insurance maintained by the County shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the ***County of Orange, its elected and appointed officials, officers, employees, and agents*** or provide blanket coverage, which will state *As Required by Written Contract*.

All insurance policies required by this Contract shall waive all rights of subrogation against the ***County of Orange, its elected and appointed officials, officers, employees, and agents*** when acting within the scope of their appointment or employment.

Contractor shall provide thirty (30) days prior written notice to the County of any policy cancellation or non-renewal and ten (10) days prior written notice where cancellation is due to non-payment of premium and provide a copy of the cancellation notice to County. Failure to

provide written notice of cancellation may constitute a material breach of the Contract, upon which the County may suspend or terminate this Contract.

The Commercial General Liability policy shall contain a severability of interests clause also known as a “separation of insureds” clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to:

County of Orange  
c/o: Registrar of Voters  
Attn: Procurement  
1300 S. Grand Ave. Bldg. C  
Santa Ana, CA 92705

If the Contractor fails to provide the insurance certificates and endorsements within thirty (30) days of notification by County, County may terminate this Contract for cause.

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not provide acceptable Certificates of Insurance and endorsements to County incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

- P. **Changes:** Contractor shall make no changes in the work or perform any additional work without the County's specific written approval.
- Q. **Change of Ownership/Name, Litigation Status, Conflicts With County Interests:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of the County.

County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Contract.

In addition, Contractor has the duty to notify the County in writing of any change in the Contractor's status with respect to name changes that do not require an assignment of the Contract. The Contractor is also obligated to notify the County in writing if the Contractor becomes a party to any litigation against the County, or a party to litigation that may reasonably affect the Contractor's performance under the Contract, as well as any potential conflicts of

interest between Contractor and County that may arise prior to or during the period of Contract performance. While Contractor will be required to provide this information without prompting from the County any time there is a change in Contractor's name, conflict of interest or litigation status, Contractor must also provide an update to the County of its status in these areas whenever requested by the County.

The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with County interests. In addition to the Contractor, this obligation shall apply to the Contractor's employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. The Contractor's efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties.

- R. **Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within 36 hours of the start of the delay and Contractor avails himself of any available remedies.
- S. **Confidentiality:** Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.
- T. **Compliance with Laws:** Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph "Z" below, Contractor agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.
- U. **Freight:** Prior to the County's express acceptance of delivery of products, Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
- V. **Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- W. **Attorney Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, each party shall bear their own attorney's fees, costs and expenses.



- X. **Interpretation:** This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each party had been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to effect the purpose of the parties and this Contract.
- Y. **Employee Eligibility Verification:** The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.
- Z. **Indemnification:** Contractor agrees to indemnify, defend with counsel approved in writing by County which shall not be unreasonably withheld or delayed, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the Services, Goods or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment. In no event shall either party be liable to the other or to any third party, whether in an action in negligence, contract or tort or based on a warranty or otherwise, for loss of profits, revenue, or loss or inaccuracy of data, or any indirect, incidental, punitive, special or consequential damages incurred by the other party or any third party, even if the party has been advised of the possibility of such damages. Further, except to the extent that liability arises from: (i) instances of gross negligence or willful misconduct which shall have unlimited direct damages; (ii) breach of confidentiality obligations which shall have unlimited direct damages; (iii) instances of personal injury to or the death of persons or damage to tangible property resulting from, or connected with, the performance of the Contract and to the extent caused by the negligence, or omission to act (and in which event Contractor shall be responsible for such indemnity claim under this subpart (iii) in an amount not to exceed One Million Five Hundred Thousand and 00/100 US Dollars (USD \$1,500,000.00)); or (iv) breach of Patent/Copyright Materials/Proprietary Infringement obligations in Paragraph H, Contractor's liability for all other direct damages during the term Contractor is performing Services for the County, whether in an action in negligence, warranty, or tort, shall not exceed

Eighty Thousand and 00/100 US Dollars (USD \$80,000.00). THE FOREGOING PROVISION SETS FORTH THE ENTIRE LIABILITY, AND OBLIGATION OF CONTRACTOR AND THE SOLE AND EXCLUSIVE RIGHTS AND REMEDIES OF THE COUNTY WITH RESPECT TO ANY CLAIMS UNDER THIS CONTRACT. Notwithstanding the foregoing, such indemnification and hold harmless obligations shall not apply to the extent such damages arise from the willful misconduct acts and/or negligent acts of the County Indemnitees. The limits on the Contractor's indemnification obligations set forth in this Paragraph Z shall not operate to limit the amount, nature or scope of insurance coverage that Contractor is required to obtain under Paragraph O or the County's level of coverage as an Additional Insured.

- AA. **Audits/Inspections:** Contractor agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection of at least forty-five (45) calendar days advance written notice.

The County reserves the right to audit and verify the Contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to the County to audit records and interview staff of any subcontractor related to performance of this Contract.

Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this Contract shall be forwarded to the County's project manager.

- BB. **Contingency of Funds:** Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.
- CC. **Expenditure Limit:** The Contractor shall notify the County of Orange assigned Deputy Purchasing Agent in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The County will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless a change order to cover those costs has been issued.

**Additional Terms and Conditions:**

1. **Scope of Contract:** This Contract specifies the contractual terms and conditions by which the County will procure Mail Extractor Maintenance Services from Contractor as further detailed in the Scope of Work, identified and incorporated herein by this reference as “Attachment A”.
2. **Term of Contract:** This term of this Contract shall commence on June 25, 2024 and shall be effective through and including June 24, 2029, unless otherwise terminated by the County. The fees for Services for each of the five (5) year periods are listed under paragraph 2 of Attachment B. This Contract may not be renewed.
3. **Adjustments – Scope of Work:** No adjustments made to the Scope of Work will be authorized without the prior written approval of the County assigned Deputy Purchasing Agent.
4. **Americans with Disabilities Act:** Section 504 of the Rehabilitation Act of 1973, as amended; Title VI and VII of the Civil Rights Act of 1964, as amended; Americans with Disabilities Act, 42 USC 12101; California Code of Regulations, Title 2, Title 22: California Government Code, Sections 11135, et seq; and other federal and state laws and executive orders prohibit discrimination. All programs, activities, employment opportunities, and services must be made available to all persons, including persons with disabilities.
5. **Breach of Contract:** The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event, the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract, the County shall implement the following procedures prior to terminating this Contract for cause:
  - 1) Terminate the Contract, pursuant to Paragraph K herein; and
  - 2) Afford the Contractor written notice of the breach and fourteen (14) calendar days within which to cure the breach prior to terminating the Contract; and
  - 3) Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.
6. **Civil Rights:** Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable state and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.
7. **Conditions Affecting Work:** The Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to the County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.

8. **Conflict of Interest – County Personnel:** The County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The Contractor shall not, during the period of this Contract, employ any County employee for any purpose.
9. **Contractor’s Project Manager and Key Personnel:** Contractor shall appoint a Project Manager which consists of Contractor’s Account Executive and Regional Service Manager to direct the Contractor’s efforts in fulfilling Contractor’s obligations under this Contract.

The Contractor’s project manager and key personnel shall be assigned to this project for the duration of this Contract and shall diligently pursue all work and services to meet the project time lines. Key personnel are those individuals who report directly to the Contractor's project manager.

10. **Data – Title To:** All materials, documents, data or information obtained from the County data files or any County medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Contract.

**11. Disputes – Contract:**

- A) The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor’s Project Manager and the County’s Project Manager, such matter shall be brought to the attention of the County Deputy Purchasing Agent by way of the following process:

1. The Contractor shall submit to the agency/department assigned Deputy Purchasing Agent a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to, or involving this Contract, unless the County, on its own initiative, has already rendered such a final decision.
2. The Contractor’s written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which the Contractor believes the County is liable.

- B) Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. The Contractor’s failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County Deputy Purchasing Agent or his designee. If the County does not render a decision within 90 days after receipt of the Contractor’s demand, it shall be deemed a final decision adverse to the Contractor’s contentions. Nothing in this section shall be construed as affecting the County’s right to terminate the Contract for cause or for convenience as stated in Paragraph K herein.

12. **Drug-Free Workplace:** The Contractor hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The Contractor will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a)(1).
2. Establish a drug-free awareness program as required by Government Code Section 8355(a)(2) to inform employees about all of the following:
  - a. The dangers of drug abuse in the workplace;
  - b. The organization's policy of maintaining a drug-free workplace;
  - c. Any available counseling, rehabilitation and employee assistance programs; and
  - d. Penalties that may be imposed upon employees for drug abuse violations.
3. Provide as required by Government Code Section 8355(a)(3) that every employee who works under this Contract:
  - a. Will receive a copy of the company's drug-free policy statement; and
  - b. Will agree to abide by the terms of the company's statement as a condition of employment under this Contract.

Failure to comply with these requirements may result in suspension of payments under the Contract or termination of the Contract or both, and the Contractor may be ineligible for award of any future County contracts if the County determines that any of the following has occurred:

- 1) The Contractor has made false certification, or
- 2) The Contractor violates the certification by failing to carry out the requirements as noted above.

13. **Emergency/Declared Disaster Requirements:** In the event of an emergency or if Orange County is declared a disaster area by the County, state or federal government, this Contract may be subjected to unusual usage. The Contractor shall service the County during such an emergency or declared disaster under the same terms and conditions that apply during non-emergency/disaster conditions. The pricing quoted by the Contractor shall apply to serving the County's needs regardless of the circumstances. If the Contractor is unable to supply the goods/services under the terms of the Contract, then the Contractor shall provide proof of such disruption and a copy of the invoice for the goods/services from the Contractor's supplier(s). Additional profit margin as a result of supplying goods/services during an emergency or a declared disaster shall not be permitted. In the event of an emergency or declared disaster, emergency purchase order numbers will be assigned. All applicable invoices from the Contractor shall show both the emergency purchase order number and the Contract number.

14. **Equal Employment Opportunity:** The Contractor shall comply with U.S. Executive Order 11246 entitled, "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable state of California regulations as may now exist or be amended in the future. The Contractor shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

Regarding handicapped persons, the Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.

Regarding Americans with disabilities, Contractor agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.

15. **Errors and Omissions:** All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as project manager and key personnel attached hereto, prior to submission to the County. Contractor agrees that County review is discretionary and Contractor shall not assume that the County will discover errors and/or omissions. If the County discovers any errors or omissions prior to approving Contractor's reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should the County or others discover errors or omissions in the reports, files or other written documents submitted by the Contractor after County approval thereof, County approval of Contractor's reports, files or documents shall not be used as a defense by Contractor in any action between the County and Contractor, and the reports, files or documents will be returned to Contractor for correction.
16. **Gratuities:** The Contractor warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the County with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the County shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the County in procuring on the open market any goods or services which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the County provided in the clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.
17. **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.

18. **News/Information Release:** The Contractor agrees that it will not issue any news releases in connection with either the award of this Contract or any subsequent amendment of or effort under this Contract without first obtaining review and written approval of said news releases from the County through the County's Project Manager.
19. **Nondiscrimination – Statement of Compliance:** [Reserved].
20. **Notices:** Any and all notices, requests, demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing with a copy provided to the assigned Deputy Purchasing Agent (DPA), except through the course of the parties' project managers' routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (4) calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

Contractor: OPEX Corporation  
Attn: Legal Department  
305 Commerce Drive  
Moorestown, NJ 08057

County Project Manager: Registrar of Voters  
1300 S. Grand Ave. Bldg. C  
Santa Ana, CA 92705  
Attn: Justin Berardino  
Email: [Justin.Berardino@ocvote.gov](mailto:Justin.Berardino@ocvote.gov)  
Phone No.: 714-567-5103

County DPA: Registrar of Voters  
PO Box 11298  
Santa Ana, CA 92711  
Attn: Christina Morales  
Email: [Christina.Morales@ocvote.gov](mailto:Christina.Morales@ocvote.gov)  
Phone No.: 714-567-5169

21. **Ownership of Documents:** The County has permanent ownership of all directly connected and derivative materials produced under this Contract by the Contractor. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become and remain the sole property of the County and may be used by the County as it may require without additional cost to the County. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by the Contractor without the express written consent of the County.
22. **Precedence:** The Contract documents consist of this Contract and its attachments. In the event of a conflict between or among the Contract documents, the order of precedence shall be the

provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, and then the attachments.

23. **Project Manager, County:** The County shall appoint a project manager to act as liaison between the County and the Contractor during the term of this Contract. The County's project manager shall coordinate the activities of the County staff assigned to work with the Contractor.

The County's project manager shall have the right to require the removal and replacement of the Contractor's project manager and key personnel. The County's project manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within fourteen (14) calendar days after written notice from the County's project manager. The County shall provide Contractor a reasonable period of time of at least twenty (20) business days to find a permanent replacement. During the interim period, Contractor shall continue to provide Services under this Contract by temporarily assigning other personnel of Contractor to perform the Services until a permanent replacement is assigned to the County.

24. **Publication:** No copies of sketches, schedules, written documents, computer based data, photographs, maps, or graphs, including graphic at work, resulting from performance or prepared in connection with this Contract, are to be released by Contractor and/or anyone acting under the supervision of Contractor to any person, a partnership, company, corporation, or agency, without prior written approval by the County, except as necessary for the performance of the services of this Contract. All press releases, including graphic display information to be published in newspapers, magazines, etc. are to be administered only by the County unless otherwise agreed to by both Parties.

25. **Reports/Meetings:** The Contractor shall develop reports and any other relevant documents necessary to complete the Services and requirements as set forth in this contract. The County's project manager and the Contractor's project manager will meet on reasonable notice to discuss the Contractor's performance and progress under this Contract. If requested, the Contractor's project manager and other project personnel shall attend all meetings. The Contractor shall provide such information that is requested by the County for the purpose of monitoring progress under this Contract.

26. **Subcontracting:** No performance of this Contract or any portion thereof may be subcontracted by Contractor without County's express written approval. Any attempt by Contractor to subcontract any performance of this Contract without County's express written approval shall be invalid and shall constitute a breach of this Contract. In the event that County provides express written approval for Contractor to subcontract, this Contract shall prevail and the terms of the subcontract shall incorporate by reference and not conflict with the terms of this Contract. County shall look to Contractor for performance and not deal directly with any subcontractor. All matters related to this Contract shall be handled by Contractor with County; County will have no direct contact with the subcontractor in matters related to the performance of this Contract. All work must meet the approval of the County of Orange. Further, Contractor avers that it will not enter into any arrangement with any third party which might abridge any rights of County under this Contract.

27. **Usage:** No guarantee is given by the County to the Contractor regarding usage of this Contract. Usage figures, if provided, are approximations. The Contractor agrees to supply services and/or commodities requested, as needed by the County of Orange, at rates/prices listed in the Contract, regardless of quantity requested.



28. **Waivers – Contract:** The failure of the County in any one or more instances to insist upon strict performance of any of the terms of this Contract or to exercise any option contained herein shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or option on any future occasion.
29. **Promotional/Advertisement:** County owns all rights to the name, trademarks, logos and symbols of County. The use and/or reproduction of County’s name, trademark, logo and/or symbol for any purpose, including commercial advertisement, promotional purposes, announcements, displays or press releases, without County’s express prior written consent is expressly prohibited. No use or reproduction may state or imply that County endorses Contractor’s products or services.
30. **California Public Records Act:** Contractor and County agree and acknowledge that all information and documents related to the award and performance of this Contract are subject to disclosure pursuant to the California Public Records Act, California Government Code Section 7920 et seq.
31. **Equipment – Maintenance:** If the Contractor is unable to perform maintenance for the Equipment as set in Attachment A or the County desires to perform its own maintenance on Equipment purchased via MA-031-19011245, PO-031-20010709, and PO-031-23011101, then, upon written notice by the County, the Contractor will provide, at Contractor’s then current terms, rates and fees, adequate and reasonable assistance, including relevant documentation, to allow the County to maintain the Equipment based on the Contractor’s methodology. The Contractor agrees that the County may reproduce such documentation for its own use in maintaining the Equipment.

The County agrees to include the Contractor’s copyright notice on any such documentation reproduced, in accordance with copyright instruction to be provided by the Contractor.

**SIGNATURE PAGE FOLLOWS**

SIGNATURE PAGE

The Parties hereto have executed this Contract on the dates shown opposite their respective signatures below.

CONTRACTOR: OPEX CORPORATION

James M. Liebler	V.P. - Corporate & Legal Affairs
_____ Print Name	_____ Title
<i>James M. Liebler</i>	04/22/2024
_____ Signature	_____ Date
John Sims	Chief Financial Officer
_____ Print Name	_____ Title
<i>JS</i>	April 26, 2024
_____ Signature	_____ Date

\* If the contracting party is a corporation, signatures of two specific corporate officers are required as further set forth.

The first corporate officer signature must be one of the following: 1) the Chairman of the Board; 2) the President; 3) any Vice President.

The second corporate officer signature must be one of the following: 1) Secretary; 2) Assistant Secretary; 3) Chief Financial Officer; 4) Assistant Treasurer.

The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above-described provision. In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

COUNTY OF ORANGE, a political subdivision of the State of California

_____ Print Name	_____ Title
_____ Signature	_____ Date

APPROVED AS TO FORM

County Counsel

Brittany McLean	Deputy County Counsel
_____ Print Name	_____ Title
<i>Brittany McLean</i>	4/29/2024
_____ Signature	_____ Date

**ATTACHMENT A**  
**Scope of Work**

**Overview:** This Contract is for Contractor's maintenance of County's sixteen (16) OPEX Model 72 Rapid Extraction Desks (RED) mail extractors.

**I. Scope of Services**

- A. Contractor shall provide on-call maintenance Services which includes parts, labor, service time, travel, on-site support, subject to County's payment of fees as identified in Table A of paragraph 2 under Attachment B titled "Compensation/Payment" to this Contract, pursuant to the terms set forth under Section III below of this Attachment A.

**II. Training**

- A. Refresher training classes shall be available to County upon request at no additional cost to County and shall be scheduled on a date and time that is agreeable for both Parties.

**III. Services: Support & Maintenance**

Contractor shall have the ability to provide on-site support and maintenance at the Registrar of Voters location in accordance with the terms under this Attachment A – Scope of Work.

- A. Contractor shall provide the Services at the County's equipment site:

County of Orange  
Registrar of Voters – Warehouse  
1300 S. Grand Ave., Bldg. C  
Santa Ana, CA 92705

- B. Services: Support and Maintenance:

1. Standard On-Call Maintenance Services (hereinafter referred to as "On-Call Maintenance Services") program includes all labor and replacement parts (excluding consumable items, i.e., ink/toner, paper) necessitated by normal wear and tear from normal use of the Equipment and necessary to maintain the Equipment in good operating condition. On-Call Maintenance Services shall be provided Monday through Friday, 7:00AM - 3:00PM (PT), excluding Contractor's holidays listed below. The on-call maintenance shall consist of Preventive Maintenance Calls and Demand Calls, as detailed below and are to be performed at County's equipment site.

Contractor shall exert all commercially reasonable efforts to respond to the service call directly at County's equipment site within four (4) hours from the time Contractor receives the service call request, during the contracted hours of on-call coverage.

The on-call maintenance program is divided into two (2) parts: Preventive Maintenance Calls and Demand Calls, as detailed below and are to be performed at the County's equipment site.

Preventive Maintenance Calls: Contractor shall provide regular schedule of preventative maintenance (PM) calls for the Model 72 on an annual basis. Each Model

72 shall receive twelve (12) PM calls per year to be performed at a time mutually agreeable to both the County and Contractor. Upon completion of a preventive maintenance call and/or demand call, Contractor shall furnish a summary of the Maintenance Service provided to County.

Demand Calls: The County will also have unlimited demand calls during the contracted service coverage period. When County calls for a demand call, Contractor's service technician will exert all reasonable efforts to arrive at County's equipment site within four (4) hours for the Model 72 Mail Extractors, from the inception of the call, during Contractor's on-call coverage hours of coverage.

Parts: Only new standard parts or parts of equal quality shall be used in providing Maintenance Service.

Field Service Report: Upon completion of the Preventive Maintenance and/or Demand Call(s), Contractor shall furnish a Field Service Report to County, which contains the following information: (1) date and time of arrival; (2) specific identification of the Equipment serviced; (3) time of Maintenance Service; (4) description of the malfunction (if any); and (5) list of parts replaced. Only new standard parts or parts of equal quality shall be used in providing Maintenance Service.

Response Time: To request for service, County shall call the following services line provided: 1-800-673-9288. Upon receipt of the service request, Contractor will exert all reasonable efforts to arrive at the equipment site within four (4) hours from the time the call is placed, during the contracted hours of standard on-call coverage.

6th & 7th Day Coverage: Shall be defined as weekend (Saturday and Sunday) availability coverage and is subject to additional costs as provided in Attachment B. The County shall provide at least sixty (60) calendar day advance written notice to Contractor, subject to Contractor personnel availability. The weekend availability coverage must mirror the standard weekday hours of coverage for On-Call Maintenance Services.

Contractor's Holidays:

New Year's Day	Good Friday	July 4 <sup>th</sup> - Independence Day
Labor Day	Memorial Day	Christmas Eve
Thanksgiving	Friday after Thanksgiving	Christmas Day

2. Dark Site Services Plan: shall only be available to maintain the Equipment ready for commercial operation, but County does not in fact use the Equipment for commercial operation, which includes without limitation, live operation, production, and testing ("Dark Site Services"). Contractor shall provide the following as part of Dark Site Services:

- Keep all Equipment in good operating condition, and ready for County use.

- Perform all standard Contractor preventive maintenance service. Such testing to be performed at a time mutually agreeable to both the County and Contractor each month.
  - Exercise each unit of the Model 72 Mail Extractors once each Preventive Maintenance (“PM”) period. Each unit of the Model 72 Mail Extractors shall be run one (1) hour per month in the form of PM testing to be performed by both Contractor’s technician and County.
  - All Deliverables covered under a Dark Site Services plan or a standard On-Call Maintenance Services plan and located at a County location must be maintained on the same maintenance service schedule (i.e. during the same coverage hours). All Dark Site Services shall be provided to the County during the hours of 7 AM – 3 PM, site local time, Monday through Friday, excluding Contractor holidays (“Service Hours”).
  - All parts are covered under the Dark Site Services plan.
  - Any amount of usage during a given month will constitute one (1) full month’s usage, whether it is 1 day or 30 days. Usage will be determined upon a standard calendar basis and the costs as listed in Attachment B, attached herein.
  - Necessary spare parts shall be kept on site or in close proximity to the site. In the instances where a necessary spare part is required that is not stocked by Contractor at or near the site, it is shipped overnight via United Parcel Service or via another expeditious means at no additional cost to the County. In some instances, if a part is critical to the County’s operation, it can be shipped on the next available flight from Philadelphia International Airport.
  - Engineering changes shall only be provided free of charge if such changes are necessary to continue having the Equipment perform in accordance with its Published Specifications and safety related. Any engineering changes that provide either an upgrade or an enhancement to either the equipment hardware or software will have to be purchased by County and installed by Contractor at Contractor’s then prevailing rates for the particular engineering change and Contractor’s labor costs for installation.
3. At least thirty (30) calendar days prior to the commencement of each annual period, County shall notify Contractor, in writing, which of the two (2) months the Equipment shall receive On-Call Maintenance Services and which of the ten (10) months the Equipment shall receive Dark Site Services in accordance with the fees listed under Table A of paragraph 2 in Attachment B titled “Compensation/Payment” of this Contract.
  4. Maintenance services provided after 3:00 PM PT on weekdays (Monday through Friday, excluding Contractor holidays), shall require Additional Shift Coverage or Peak Shift at the additional rates as set forth in Attachment B. **Additional Shift:** Shall be defined as a weekday shift to be longer than standard single shift of on-call coverage and the standard weekday single shift of on-call coverage, which consists of providing

Services during the hours of 7 AM to 3 PM (PT), Monday through Friday, excluding Contractor holidays. Additional shifts can only be purchased in increments of four (4) consecutive hours. **Peak Shift:** Shall be defined as additional extended coverage (longer than standard coverage) beyond the standard single shift of on-call coverage for a short fixed period of time (one (1) month, three (3) weeks, one (1) week, etc.).

Additional Shift Coverage and Additional Peak Coverage on weekdays (excluding Contractor holidays) shall require a written sixty (60) calendar day advance notice, subject to Contractor's personnel availability.

C. Additional Services Information:

1. **Diagnostics Software:** In providing Maintenance Services, Contractor utilizes certain software diagnostics ("Diagnostics"). Contractor holds intellectual property rights in the Diagnostics, and the Diagnostics are for Contractor's exclusive use. Except with the express written consent of Contractor, County shall not use, copy, remove, or alter the Diagnostics. It is understood and agreed by County that upon termination of this Contract, Contractor shall either: (i) Return the Diagnostics to Contractor at Contractor's expense; or (ii) Purchase, according to Contractor's then current rates, a non-exclusive, non-transferable and personal limited license to use the Diagnostics.
2. **Routine Cleaning:** The day-to-day routine cleaning and minor adjustments on the Model 72 Mail Extractors shall be performed by County, as described in both Contractor's equipment operating manuals and other supplementary material ("Published Specifications"). Contractor will notify County in writing if County fails to perform routine cleaning on the Model 72 Mail Extractors.
3. **Maintenance Service Limitations:** Notwithstanding anything herein to the contrary, Contractor shall have no obligation hereunder to provide Maintenance Services to any units of the Model 72 Mail Extractors which has deteriorated to such an extent that it cannot, in the reasonable discretion of Contractor, be maintained and needs to be replaced. Contractor shall provide written notice of any such deterioration. Contractor's obligations to provide Maintenance Services shall also terminate if County:
  - fails to provide Contractor with sufficient access to the Equipment, subject to County's reasonable site policies and procedures;
  - negligently stores, handles, operates or alters any of the Equipment, or uses the Equipment for purposes other than those set forth in the Published Specifications;
  - continues to fail to provide routine cleaning prescribed in the Published Specifications after being provided notice by Contractor;
  - fails to continually provide a suitable environment with all facilities and power as prescribed in the Published Specifications;

- uses or operates any of the Equipment beyond its intended design parameters or operates the Equipment with envelopes or enclosures other than those specified in the Published Specifications;
- damages any of the Equipment through its use in conjunction with machinery or software not covered by this Contract;
- performs work, or allows a third party to work, on the Equipment which is not authorized by Contractor;
- alters or modifies in any way, the safety mechanisms, without the written consent of Contractor;
- County's relocating Equipment to a site other than that defined in this Contract; provided, however, that should County and Contractor agree to continue Maintenance Services on the Equipment moved to another site, County's Equipment shall be subject to inspection by Contractor, at Contractor's published rates and terms then in effect for such service, prior to Contractor resuming Maintenance Services on County's Equipment.

**ATTACHMENT B**  
**Compensation/Payment**

**1. Compensation**

This is a fixed fee Contract between the County and Contractor for Mail Extractor Maintenance Services as per the specifications in Attachment A, Scope of Work, in the **amount not to exceed \$239,240.00** for the term of the Contract.

The Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder.

The Contractor shall only be compensated as set forth herein for work performed in accordance with the Scope of Work. The County shall have no obligation to pay any sum in excess of the fixed rates specified herein unless authorized by amendment in accordance with paragraphs C and P of the County's General Terms and Conditions.

**2. Fees and Charges:** County will pay the following fees in accordance with the provisions of this Contract. Payment shall be as follows:

<b>Table A – Annual Maintenance Mixed Coverage:</b> - Standard Single Shift of On-Call Maintenance Services Coverage, Monday-Friday, 7:00AM - 3:00PM PT, four (4) hour response time. All fees listed below are pre-tax. Please see Table A (1) below for the mixed coverage cost breakdown, per year.				
<b>Item No.</b>	<b>Description</b>	<b>UOM</b>	<b>QTY</b>	<b>Extended Annual Price</b>
001	Total Annual Mixed Coverage Service Cost for (16) Model 72 Units – Year One 6/25/24 – 6/24/25	Annual	1	\$20,000.00
002	Total Annual Mixed Coverage Service Cost for (16) Model 72 Units – Year Two 6/25/25 – 6/24/26	Annual	1	\$21,040.00
003	Total Annual Mixed Coverage Service Cost for (16) Model 72 Units – Year Three 6/25/26 – 6/24/27	Annual	1	\$22,528.00
004	Total Annual Mixed Coverage Service Cost for (16) Model 72 Units – Year Four 6/25/27 – 6/24/28	Annual	1	\$24,352.00
005	Total Annual Mixed Coverage Service Cost for (16) Model 72 Units – Year Five 6/25/28 – 6/24/29	Annual	1	\$26,320.00
<b>Grand Total</b>				<b>\$114,240.00</b>

**Any Additional Services per Table A (1), Table A (2), and Table B cumulatively shall not exceed \$25,000 per year.**



**Table A (1): Annual Mixed Maintenance Coverage Cost Break Down (Corresponds to Table A Above).** Single Shift of On-Call Coverage, Monday-Friday, 7:00AM - 3:00PM PT. All fees listed below are pre-tax.

Description	UOM	QTY	Year One Unit Price	Year Two Unit Price	Year Three Unit Price	Year Four Unit Price	Year Five Unit Price
Standard On-Call Maintenance for (2) Months	Per Unit	1	\$455.00	\$480.00	\$514.00	\$556.00	\$601.00
Dark Site Services for (10) Months	Per Unit	1	\$795.00	\$835.00	\$894.00	\$966.00	\$1,044.00
Total Annual Mixed Coverage Service Cost Per Unit	Per Unit	1	\$1,250.00	\$1,315.00	\$1,408.00	\$1,522.00	\$1,645.00

The County shall inform Contractor, in writing, which two (2) months of each annual period(s) all sixteen (16) Model 72 units shall receive On-Call Maintenance Service and which ten (10) months of each annual period all sixteen (16) Model 72 units shall receive Dark Site Services and such written notice shall be submitted to Contractor no later than thirty (30) calendar days prior to the commencement of each of the five (5) annual periods. All sixteen (16) Model 72 units shall receive the same type of Maintenance Services during the aforementioned months for each annual period.

**Table A (2) – Additional Costs Associated With Dark Site Services, Pre-Tax:** During the period of time the sixteen (16) 72 units are covered under Dark Site Services, in the event the County operates the Model 72 under Section III(B)(2) of Attachment A titled “Scope of Work” of this Contract, then the below monthly costs will be due. Any amount of usage on any of the sixteen (16) Model 72 units will constitute one (1) full month’s usage, whether it is one day or 30 days. The costs listed under Table A (2) are in addition to the Dark Site Services costs listed under Table A above.

Item No.	Description	UOM	Unit Price, Per 72 Model Unit
001	Usage of Model 72 Under Dark Site Services – Per Model 72 Unit, Per Month (6/25/24 – 6/24/25)	Per Month	\$80.00
002	Usage of Model 72 Under Dark Site Services – Per Model 72 Unit, Per Month (6/25/25 – 6/24/26)	Per Month	\$85.00
003	Usage of Model 72 Under Dark Site Services – Per Model 72 Unit, Per Month (6/25/26 – 6/24/27)	Per Month	\$91.00
004	Usage of Model 72 Under Dark Site Services – Per Model 72 Unit, Per Month (6/25/27 – 6/24/28)	Per Month	\$99.00
005	Usage of Model 72 Under Dark Site Services – Per Model 72 Unit, Per Month (6/25/28 – 6/24/29)	Per Month	\$107.00

**Table B - Additional Optional Coverage:** The County reserves the right to apply additional costs as needed. Any additional costs shall be invoked at the County's discretion only. The costs under Table B are optional in addition to the costs listed under Table A above and commentary relating to the below items are provided after the below pricing chart located at the end of this Table B. All costs listed below are pre-tax.

Item No.	Description	UOM	Year One Unit Price	Year Two Unit Price	Year Three Unit Price	Year Four Unit Price	Year Five Unit Price
001	Weekday Additional Half Shift Extension (Additional 4 Consecutive Hours Only) – Per Single Unit	Annual	\$1,365.00	\$1,435.00	\$1,540.00	\$1,665.00	\$1,800.00
002	Weekday Additional Full Shift Extension (Additional 8 Consecutive Hours Only) – Per Single Unit	Annual	\$2,730.00	\$2,870.00	\$3,075.00	\$3,325.00	\$3,595.00
003	Additional Peak Weekday On-Call Coverage – Hourly Rate (In addition to Item No. 007 and 008)	Per Hour	\$213.00	\$225.00	\$245.00	\$265.00	\$290.00
004	6 <sup>th</sup> & 7 <sup>th</sup> (Saturday and Sunday) Day Hourly Rate (In addition to Item No. 005 or 006; and Item No. 008)	Per Hour	\$213.00	\$225.00	\$245.00	\$265.00	\$290.00
005	6 <sup>th</sup> Day (Saturday or Sunday) Availability Fee Coverage Only – (In addition to Item No. 004)	Annual Flat Fee	\$3,540.00	\$3,720.00	\$3,985.00	\$4,305.00	\$4,650.00
006	6 <sup>th</sup> (Saturday) and 7 <sup>th</sup> Day (Sunday) Availability Fee Coverage – (In addition to Item No. 004)	Annual Flat Fee	\$5,320.00	\$5,590.00	\$5,985.00	\$6,465.00	\$6,985.00
007	Weekday On-Call Peak Daily Availability Fee	Per Day	\$78.00	\$85.00	\$95.00	\$105.00	\$115.00
008	Mileage Rate	Per Mile	\$0.42	\$0.44	\$0.47	\$0.51	\$0.55
009	Weekend/Holiday On Call (In addition to Item No. 004 and Item. No 008)	Per Shift	\$430.00	\$455.00	\$490.00	\$530.00	\$575.00

**Clarifications For Item No. 001 Through 009 Under Table B (Year 1 Through 5):**

**Line Item No. 001** – The annual additional half shift extension fee consisting of four (4) consecutive hours is only for the provision of On-Call Maintenance Services during Monday through Friday, excluding Contractor holidays and is based on the prepayment annually in advance payment option. As an example, the additional half shift would be from 3 PM to 7 PM, site local time, Monday-Friday, excluding Contractor holidays. Additionally, County must purchase the additional half shift extension for all Model 72 Mail Extractor units that are installed at County's site. County must provide at least sixty (60) calendar day advance written notice to Contractor, subject to Contractor personnel availability. The fee under Item No. 001 is in addition to standard single shift of On-Call Maintenance Services costs, to be provided during the hours of 7 AM – 3 PM, site local time, Monday through Friday, excluding Contractor holidays, as listed under Table A above.

**Line Item No. 002** – The annual additional full shift fee consisting of eight (8) consecutive hours is only for the provision of On-Call Maintenance Services during Monday through Friday, excluding Contractor holidays and is based on the prepayment annually in advance payment option. As an example, the additional full shift would be from 3 PM to 11 PM, site local time, Monday-Friday, excluding Contractor holidays. County must provide at least sixty (60) calendar day advance written notice to Contractor, subject to Contractor personnel availability. The fee under Item No. 002 is in addition to the standard single shift of On-Call Maintenance Services costs, to be provided during the hours of 7 AM – 3 PM, site local time, Monday through Friday, excluding Contractor holidays, as listed under Table A above.

**Line Item No. 003** – The per hour rate is in addition to the costs under 007 and 008. Contractor charges an hourly rate plus mileage, portal to portal in addition to the availability fee, with a two (2) hour minimum charge, per call. Please refer to Line Item No. 007 and 008 for additional information.

**Line Item No. 004** – The per hour rate are in addition to the costs under 005, 006 and 008. Contractor charges an hourly rate plus mileage, portal to portal in addition to the availability fee, with a two (2) hour minimum charge, per call. Please refer to Line Item No. 005, 006, and 008 for additional information.

**Line Item No. 005** – County must purchase Line Item 005 to initiate this type of annual availability coverage (Saturday or Sunday). County must provide at least sixty (60) calendar day advance written notice to Contractor, subject to Contractor personnel availability. The rate set forth in Line Item 005 is based on the prepayment annually in advance payment option. In addition to the annual availability fee as identified under Line Item 005, all service calls placed by County are billable on an hourly basis plus mileage, portal to portal, as identified under Line Item 004 and Line Item 008, with a two (2) hour minimum charge per call.

**Line Item No. 006** – County must purchase Line Item 006 to initiate this type of annual availability coverage (for both Saturday and Sunday). The rate set forth in Line Item 006 is based on the prepayment annually in advance payment option. County must provide at least sixty (60) calendar

day advance written notice to Contractor, subject to Contractor personnel availability. In addition to the annual availability fee as identified under Line Item 006, all service calls placed by County are billable on an hourly basis plus mileage, portal to portal, as identified under Line Item 004 and Line Item 008, with a two (2) hour minimum charge per call.

**Line Item No. 007** – The weekday On-Call Peak Availability Fee, per day, can be purchased for a limited period of time (i.e., 1 day, 5 consecutive days, 2 weeks, 1 month, etc.) and can only be purchased for the On-Call Peak coverage period during Monday through Friday, excluding Contractor holidays. County must provide at least sixty (60) calendar days advance written notice to Contractor and such notice must include the specific fixed timeframes for weekday On-Call Peak coverage period and the fixed number of days County would like to purchase On-Call Peak coverage period, subject to Contractor personnel availability. If County places a service call during the approved weekday On-Call Peak coverage period and Contractor dispatches a service technician to County’s equipment site, then County will be charge an additional fee(s) as identified under both Line Item 003 and 008, per service call and each service call shall incur a minimum of two billable hours. The fee under Item No. 007 is in addition to the standard single shift of On-Call Maintenance Services costs, to be provided during the hours of 7 AM – 3 PM, site local time, Monday through Friday, excluding Contractor holidays are listed under Table A above.

**Line Item No. 008** – In addition to the availability fee and the hourly rate (see Line Item No. 003, 004, 005, 006, and 007), Contractor charges mileage, portal to portal, and each service call shall be billed with a two (2) hour minimum charge per call.

**Line Item No. 009** – The per shift Weekend/Holiday On Call rate is a per shift cost to cover a single shift (7AM-3PM) and can be purchased for a limited period of time (i.e., 1 weekend day, 2 full weekends, all weekends in a month, etc.) with advance written request from County. Weekend/Holiday on call coverage is subject to Contractor availability. If County places a service call during the approved weekend/holiday on call coverage period and Contractor dispatches a service technician to County’s equipment site, then County will be charged an additional fee(s) as identified under both Line Item No. 004 and 008, per service call and each service call shall incur a minimum of two billable hours and mileage, portal to portal. The fee under Item No. 009 is in addition to the standard single shift of On-Call Maintenance Service costs, to be provided during the hours of 7AM – 3PM, site local time, Monday through Friday, excluding Contractor holidays as listed under Table A of this Contract. Should County require weekend/holiday on call coverage beyond the single shift of coverage (7AM-3PM) pricing is subject to increase.

#### **Additional Pricing Notes**

- Dark Site maintenance pricing is calculated by taking 35% of standard on call maintenance contract hardware prices, with no charge for software licensing.

- 3. Price Increases/Decreases:** With respect to the purchase of Services, no price increases will be permitted during the first annual period (Year 1) of the Contract. No retroactive price adjustments will be considered. All price decreases will automatically be extended to the County. The net dollar amount of profit will remain firm during the period of the Contract. Adjustments increasing the Contractor’s profit will not be allowed. Contractor has provided prices for Services for year 2

through year 5 listed under Table A, Table A (2) and Table B of Section 2 to this Attachment B of this Contract. In the event Contractor's rates for Services are less than the prices listed under Table A, Table A (2) and Table B of Section 2 to this Attachment B for year 2 through year 5, County shall then be charged for the purchase of the Services based on Contractor's then current published annual rates. Upon conclusion of year 5, the purchase of Services shall be based on Contractor's then current published rates.

4. **Firm Discount and Pricing Structure:** Contractor guarantees that prices quoted are equal to or less than prices quoted to any other local, State, or Federal government entity for purchase of like Equipment and/or Services in like quantities. Contractor agrees that no price increases shall be passed along to the County during the term of this Contract not otherwise specified and provided for within this Contract, subject to the terms set forth under Section 3 above.
5. **Contractor's Expense:** Contractor will be responsible for all costs related to photo copying, telephone communications and fax communications while on County sites during the performance of work and services under this Contract.
6. **Payment Terms:** For the purchase of Additional Optional Coverage under Table B of Section 2 to this Attachment B (Item No. 003, 004, 007, 008, and 009), invoices are to be submitted in arrears to the user agency/department to the ship-to address, unless otherwise directed in this Contract. Only invoices for On-Call Maintenance Services and/or Dark Site Services under Table A of Section 2 to this Attachment B and Additional Optional Coverage under Table B (Item No. 001, 002, 005, and 006) shall be submitted annually in advance. Vendor shall reference Contract number on invoice. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange and verified and approved by the agency/department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

Billing shall cover Services not previously invoiced. Applicable taxes shall be charged on the applicable invoice(s). If County terminates the Services of this Contract in part, then Contractor shall reimburse in the form of a prorated credit to County for any monies prepaid to Contractor for Services not provided, to be calculated based on the effective date of termination through the end of the then current prepaid annual billing period. If County terminates the Services of this Contract in whole, then Contractor shall reimburse in the form of a prorated refund to the County of Orange for any monies prepaid to the Contractor for services not provided, to be calculated based on the effective date of termination through the end of the then current prepaid annual billing period.

Payments made by County shall not preclude the right of County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the Services.

7. **Taxpayer ID Number:** Contractor shall include its taxpayer ID number on all invoices submitted to the County for payment to ensure compliance with IRS requirements and to expedite payment processing.

**8. Invoicing Instructions:** Contractor will provide an invoice on Contractor's letterhead for goods services rendered. Each invoice will have a number and will include the following information:

1. Contractor's name and address
2. Contractor's remittance address, if different from 1 above
3. Name of County Agency/Department
4. County Contract Number (MA)
5. Date of Invoice
6. Product/Service Description, Quantity, and Prices
7. Sales tax, if applicable
8. Contractor's Federal Tax ID number
9. Total

Invoice(s) are to be sent to:

County of Orange  
Registrar of Voters  
Attn: Accounts Payable  
PO Box 11298  
Santa Ana, CA 92711