

ROUTING FORM – RQN #:	N/A	Date: 11/20/2019
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☒ **AGREEMENT**
☐ **AMENDMENT**
☐ **BOARD REPORT FOR PRE-APPROVAL**

Vendor Name: K&H Printers-Lithographers, Inc.

Vendor Code:

Title/Brief Description of Document: Agreement #1 for Ballot and Voter Guide Printing and Mailing

Originating Dept: Elections 1410

Dept Contact WITH Phone #: Bella x1491

This Agreement or Amendment requires Board Approval: Yes ☐ No ☐

AGREEMENT TYPE

☐ RQNSA – Standard Agreement	☐ RQNNS – Non-Standard Agreement
☐ RQNPB – Pre-Board Standard Agreement	☐ RQNB – Non-Standard Board Agreement
☐ RQNIT – IDT Standard Agreement	☐ RQNIN – IDT Non-Standard Agreement
☐ Insurance & Endorsement Attached	☐ VDR & Non-Resident State Forms Verified

ROUTING AND APPROVALS*				
<i>Each Approving Authority is requested to forward the Service Contract to the next Approving Authority in the order listed herein. Thank you.</i>				
	Approving Authority:	Approval Initials	Comments:	Date Reviewed
1st	ITD (for all ITD related contracts)		N/A	
2nd	County Counsel (required)	CB		11-21-19
3rd	Risk Management (non-standard insurance and/or indemnity provisions)		N/A	
4th	Auditor-Controller (required)	BM	Board indicates start date 11/5/19, but agreement indicates 10/1/19.	11/26/19
5th	Contracts/Purchasing (required)	llw		12/5/19
	Return to Originating Department Instructions		Please interoffice to Bella Lesik	

* If one of the approving authorities has an issue with the document and will not sign, the document shall be returned immediately to the originating department's key contact person identified herein along with a brief written explanation regarding the issue. Once that issue is corrected, the originating department shall restart the routing process again from the beginning by resubmitting the document through the approval process. The original Routing Form should be included for reference.



Monterey County Board of Supervisors

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Order

A motion was made by Supervisor Mary L. Adams, seconded by Supervisor Jane Parker to:

Agreement No.: A-14550

- a. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute an Agreement with K&H Printers-Lithographers, Inc., for ballot and voter information guide printing and mailing services per Request for Proposal (RFP) #10702. The initial term will begin November 5, 2019 and end September 30, 2023, in the amount not to exceed \$1,500,000 per election and \$6,000,000 in aggregate, with an option to extend the Agreement for four (4) additional one (1) year periods, in accordance with the terms and conditions of the Agreement.
- b. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute no more than four amendments, on behalf of the Registrar of Voters, which do not significantly impact the scope of work and do not exceed an increase of 10% of the original amount.

PASSED AND ADOPTED on this 5th day of November 2019, by the following vote, to wit:

AYES: Supervisors Alejo, Lopez, Phillips, Parker and Adams

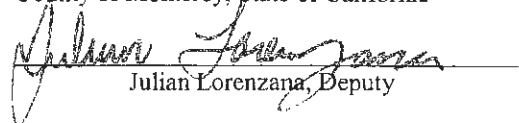
NOES: None

ABSENT: None

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting November 5, 2019.

Dated: November 5, 2019
File ID.: A 19-382
Agenda Item No.: 58

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California


Julian Lorenzana, Deputy



Monterey County

Board of Supervisors
Chambers
166 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

Legistar File Number: A 19-382

November 05, 2019

Introduced: 10/17/2019

Current Status: General Government -
Consent

Version: 1

Matter Type: BoS Agreement

a. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute an Agreement with K&H Printers-Lithographers, Inc., for ballot and voter information guide printing and mailing services per Request for Proposal (RFP) #10702. The initial term will begin November 5, 2019 and end September 30, 2023, in the amount not to exceed \$1,500,000 per election and \$6,000,000 in aggregate, with an option to extend the Agreement for four (4) additional one (1) year periods, in accordance with the terms and conditions of the Agreement.

b. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute no more than four amendments, on behalf of the Registrar of Voters, which do not significantly impact the scope of work and do not exceed an increase of 10% of the original amount.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

a. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute an Agreement with K&H Printers-Lithographers, Inc., for ballot and voter information guide printing and mailing services per Request for Proposal (RFP) #10702. The initial term will begin November 5, 2019 and end September 30, 2023, in the amount not to exceed \$1,500,000 per election and \$6,000,000 in aggregate, with an option to extend the Agreement for four (4) additional one (1) year periods, in accordance with the terms and conditions of the Agreement.

b. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute no more than four amendments, on behalf of the Registrar of Voters, which do not significantly impact the scope of work and do not exceed an increase of 10% of the original amount.

SUMMARY/DISCUSSION:

On June 4, 2019 the Contracts/Purchasing office legally noticed RFP #10702, to award K&H Printers-Lithographers, Inc. (K&H) as the successful bidder for ballot and voter information guide printing and mailing services for the Elections Department. The amount per election is not to exceed \$1,500,000 for a total amount of \$6,000,000 for the initial Agreement term ending September 30, 2023.

Approval of the recommended actions will enable the Elections Department to print and mail ballot and voter information guides to over 191,000 Monterey County voters to conduct elections that meet State and federal election laws.

As part of the election process, the Elections Department will closely monitor that the services provided meet County requirements outlined in the scope of work of RFP #10702 which includes: ballot and voter information guide proofs, design layouts, assembly of vote by mail and voter information guide packets, timely delivery dates and contingencies outlined within the Agreement. A copy of the proposed Agreement is attached hereto and on file with the Clerk to the Board.

OTHER AGENCY INVOLVEMENT:

The Agreement has been reviewed by the Auditor-Controller regarding fiscal provisions and by County Counsel as to form. Contracts and Purchasing conducted the RFP process which resulted in a successful proposal by the chosen vendor.

FINANCING:

Funding for this agreement is available in Elections FY 2019-20 Budget in the amount of \$1,010,583. The agreement amount per election is \$1,500,000, especially in future fiscal years and larger elections such as the Presidential. There is no reason to anticipate additional cost to the County General Fund with this recommendation for this fiscal year. Should this estimate change, Elections will attempt to identify savings. Future budgets will include funding for this agreement.

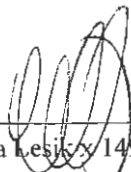
BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Approximately 191,000 Monterey County voters receive ballot and voter information guides for each Countywide election.

☒ Administration:

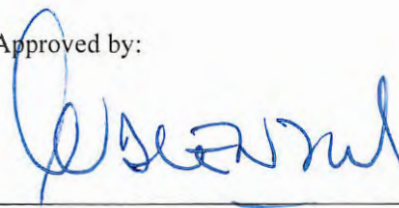
Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

Prepared by:



Izabela Lesik x 1491
Management Analyst

Approved by:



Claudio Valenzuela x 1499
Registrar of Voters

Attachments:

Board Report

RFP 10702 Proposed K&H Agreement 2019

COUNTY OF MONTEREY STANDARD AGREEMENT

This **Agreement** is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:
K&H PRINTERS-LITHOGRAPHERS, INC.
(hereinafter "CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1.0 GENERAL DESCRIPTION:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The goods and/or services are generally described as follows:

Provide:

Official election printing and mailing services per proposal in response to RFP 10702 for Secretary of State certified bilingual ballot printing

2.0 PAYMENT PROVISIONS:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of: \$ 6,000,000.00

3.0 TERM OF AGREEMENT:

3.01 The term of this Agreement is from November 5, 2019 to September 30, 2023, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and **CONTRACTOR may not commence work before County signs this Agreement.**

3.02 The County reserves the right to cancel this Agreement, or any extension of this Agreement, without cause, with a thirty day (30) written notice, or with cause immediately.

4.0 SCOPE OF SERVICES AND ADDITIONAL PROVISIONS:

The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Exhibit A Scope of Services/Payment Provisions

Exhibit B Other: Pricing Schedule

Exhibit C Invoice Categories

5.0 PERFORMANCE STANDARDS:

- 5.01 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.
- 5.02 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 5.03 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

6.0 PAYMENT CONDITIONS:

- 6.01 Prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provided in this paragraph. The County does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.
- 6.02 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by the County and the CONTRACTOR.
- 6.03 Invoice amounts shall be billed directly to the ordering department.
- 6.04 CONTRACTOR shall submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. The County shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this Agreement and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

7.0 TERMINATION:

- 7.01 During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

- 7.02 The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.
- 7.03 The County's payments to CONTRACTOR under this Agreement are funded by local, state and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for the County's purchase of the indicated quantity of services, then the County may give written notice of this fact to CONTRACTOR, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as the County may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.

8.0 INDEMNIFICATION:

CONTRACTOR shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.

9.0 INSURANCE REQUIREMENTS:

- 9.01 **Evidence of Coverage:** Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

- 9.02 **Qualifying Insurers:** All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to

the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

- 9.03 **Insurance Coverage Requirements:** Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial General Liability Insurance: including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Requestor must check the appropriate Automobile Insurance Threshold:

Requestor must check the appropriate box.

☐ **Agreement Under \$100,000 Business Automobile Liability Insurance:** covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

☒ **Agreement Over \$100,000 Business Automobile Liability Insurance:** covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these auto insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Workers' Compensation Insurance: if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

(Note: any proposed modifications to these workers' compensation insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Professional Liability Insurance: if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or

errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

(Note: any proposed modifications to these insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

9.04 **Other Requirements:**

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

CONTRACTOR shall always during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

10.0 **RECORDS AND CONFIDENTIALITY:**

- 10.1 **Confidentiality:** CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.
- 10.2 **County Records:** When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.
- 10.3 **Maintenance of Records:** CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three-year period, then CONTRACTOR shall retain said records until such action is resolved.
- 10.4 **Access to and Audit of Records:** The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.
- 10.5 **Royalties and Inventions:** County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.

11.0 NON-DISCRIMINATION:

11.01 During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

12.0 COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANTS:

If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

13.0 INDEPENDENT CONTRACTOR:

In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is always acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

14.0 NOTICES:

Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR'S contract administrators at the addresses listed below:

FOR COUNTY:	FOR CONTRACTOR:
CLAUDIO VALENZUELA REGISTRAR OF VOTERS	DAVE HAINES SENIOR VP
Name and Title	Name and Title
1441 SCHILLING PL - NORTH BLDG SALINAS, CA 93901	7720 HARDESON RD #A EVERETT, WA 98203
Address	Address
(831) 796-1499	(425) 446-3318
Phone:	Phone:

15.0 MISCELLANEOUS PROVISIONS.

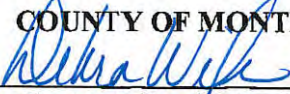
- 15.01 **Conflict of Interest:** CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the services required to be rendered under this Agreement.
- 15.02 **Amendment:** This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 **Waiver:** Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 15.04 **Contractor:** The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.
- 15.05 **Disputes:** CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 15.06 **Assignment and Subcontracting:** The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.

- 15.07 **Successors and Assigns:** This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 15.08 **Compliance with Applicable Law:** The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 **Headings:** The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 **Time is of the Essence:** Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 **Governing Law:** This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 15.12 **Non-exclusive Agreement:** This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 15.13 **Construction of Agreement:** The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 15.14 **Counterparts:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 15.15 **Authority:** Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 15.16 **Integration:** This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 15.17 **Interpretation of Conflicting Provisions:** In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

16.0 SIGNATURE PAGE.

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

COUNTY OF MONTEREY

By: 
Contracts/Purchasing Officer

Date: 12/5/19

By: _____
Department Head (if applicable)

Date: _____

By: _____
Board of Supervisors (if applicable)

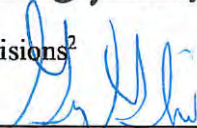
Date: _____

Approved as to Form¹

By: 
County Counsel

Date: Oct. 8, 2019

Approved as to Fiscal Provisions²

By: 
Auditor/Controller

Date: 10-9-19

Approved as to Liability Provisions³

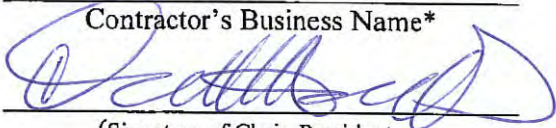
By: _____
Risk Management

Date: _____

CONTRACTOR

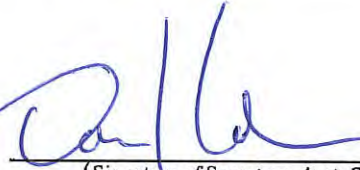
K&H PRINTERS-LITHOGRAPHERS, INC.

Contractor's Business Name*

By: 
(Signature of Chair, President, or Vice-President) *

Dave Haines SVP
Name and Title

Date: 9/23/19

By: 
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer) *

DARREN LOKEN PRESIDENT
Name and Title

Date: 9/24/19

County Board of Supervisors' Agreement Number: A-19-382, approved on (date): 11/5/2019

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

¹Approval by County Counsel is required

²Approval by Auditor-Controller is required

³Approval by Risk Management is necessary only if changes are made in paragraphs 8 or 9

EXHIBIT-A

**To Agreement by and between
Monterey County Elections, hereinafter referred to as "County"
AND
K&H Printers-Lithographers, Inc, hereinafter referred to as "CONTRACTOR"**

Recitals

- A. WHEREAS, County has invited proposals through the Request for Proposals (RFP #10702) for official election printing and mailing services, in accordance with the specifications set forth in this Exhibit; and
- B. WHEREAS, CONTRACTOR has submitted a responsive and responsible proposal to perform such services; and
- C. WHEREAS, CONTRACTOR has the expertise and capabilities necessary to provide the services request.
- D. NOW THEREFORE, County engages CONTRACTOR to provide services on the terms and conditions set forth in RFP #10702 and this Exhibit as follows:

1. Contract

- 1.1 This Exhibit is intended to be complementary to all component parts of the Agreement. Services required by one of the below referenced contract documents and not by others shall be rendered as if required by all.
- 1.2 The component parts of the Agreement include the following:
 - Agreement
 - Exhibit A-C
 - CONTRACTOR'S Proposal dated April 5, 2019
 - RFP #10702
 - Addenda #1 and #2
- 1.3 In the event of a conflict between or among the component parts of the Agreement, the contract documents shall be construed in the order listed above.
- 1.4 In the event of early termination or cancellation, CONTRACTOR shall make all reasonable efforts to ensure a smooth transition and minimize interruption of services and adverse impacts to County voters.

2. Contractor Requirements

- 2.1 CONTRACTOR shall maintain an official ballot printer certification from the California Secretary of State (SOS) during the entire term of the Agreement and shall provide a stock of approved ballot paper with the

legally required watermarks and markings to be used with County ballot marking devices.

- 2.2 CONTRACTOR shall provide bilingual voter information guide, vote by mail and ballot printing and mailing services compatible with the County's voting systems and in compliance with all laws and regulations.
- 2.3 CONTRACTOR shall perform a minimum of 90% of the original total contract price with his own organization. CONTRACTOR shall not enter into any subcontracting agreements without obtaining prior written approval from County.
- 2.4 County may terminate Agreement if CONTRACTOR fails to maintain certification or obtain recertification or is unable to accommodate technical ballot requirements for any SOS approved voting system the County adopts.
- 2.5 CONTRACTOR shall have quality control measures, such as inspections, audits, tracking and reporting, to ensure 100% accuracy of all design, printing, assembly and mailing processes. In the event of a quality control failure, CONTRACTOR must have a response plan.
- 2.6 CONTRACTOR shall have access control and security measures in place and make its facility available to County staff for inspection of processes.
- 2.7 CONTRACTOR shall designate a project manager to be the single point of contact for the designated County employee(s).

3. Scope of Services

- 3.1 All proofs and deliverables are subject to final inspection and authorization by the County Registrar of Voters or his designee. CONTRACTOR shall not print items prior to written approval or order. County shall not be responsible for cost of any deliverables that are not authorized.
- 3.2 County shall provide files, which may include electronic proofs and voter information, required to print and mail voter guides and ballots. CONTRACTOR shall provide a safe and secure medium for the transfer and storage of confidential data.
- 3.3 CONTRACTOR shall have the capabilities to create a layout, perform prepress work and proofing of the voter information guide as instructed by County, including a detailed production document with the content of each page to validate.

- 3.3.1 The detailed production document shall include the amount of each type of voter guide printed and mailed and jurisdiction and content for each page of content.
 - 3.3.2 CONTRACTOR shall provide County a sample of the final product.
 - 3.3.3 Project management and quality control measures shall ensure 100% accurate assembly and that one correct voter information guide is issued per registered voter, grouped together correctly by category and mailing status.
- 3.4 CONTRACTOR shall sort voter addresses (military, overseas, out-of-state), create, assemble and prepare envelopes, voter guides and ballots for USPS mailing using materials acquired by CONTRACTOR that meet all legal requirements.
- 3.5 Envelopes and voter guides shall contain all required information including voter's name and address, voter ID barcode, Intelligent Mail Barcode (IMB), election, precinct and polling place information, and other special markings and ADA features as determined by County.
 - 3.5.1 Assembly of vote by mail ballot packet consists of inserting the voter specific return envelope, one correct ballot type matched to voter's printed precinct information, and any additional inserts including a voter information guide as requested by County.
 - 3.5.2 Project management and quality control measures shall ensure 100% accuracy of each ballot packet, including that each packet contains exactly one correct ballot and all specific inserts, and categories of packets are grouped together correctly by category and mailing status.
- 3.6 CONTRACTOR shall mail all official election materials at the appropriate qualifying rates that are most advantageous to County and include all legally required indicia.
- 3.7 CONTRACTOR shall produce, group, and package voter guides and precinct and counter ballots as instructed by County, to include a receipt in the package and label on the package with the election name and date, precinct number, ballot type, party information for primaries, polling location, quantity and serial numbers.
 - 3.7.1 County instructions may include, but are not limited to, printing ballots with one or two stubs, folding and banding counter ballots, stitching precinct ballots in pads of 25 or other quantity, shrink wrapping each ballot type separately including by political party, and/or boxing each precinct and ballot type separately in serial number order with the applicable official ballot receipt for each precinct noting the ballot type, political party and total quantity.

3.8 CONTRACTOR shall place packages in double wall boxes, seal with security tape and palletize in ballot type order, with labels facing outward. Shipments of the same ballot type shall be delivered together, not split.

- 3.8.1 CONTRACTOR shall provide written evidence of quality and security of ballots and integrity of the chain of custody during the production and transportation of voter guides and ballots.
- 3.8.2 Each delivery shall include an order inventory. All items are subject to final County acceptance against shipping quantities of pallets, cartons and ballot type.
- 3.8.3 Each shipment of voter guides shall include a quality assurance slip.
- 3.8.4 Ground transportation shall be considered the normal method of delivery. In the event of an emergency supplemental order, or County delay, the County may authorize use of air transportation by phone and confirmed in writing within twenty-four (24) hours.

3.9 CONTRACTOR shall ensure emergency supplemental orders and re-mailings due to error or change are expedited per mutual arrangement, ideally to be mailed within twenty-four (24) hours for ballots and seventy-two (72) hours for voter information guides.

3.10 If any part of a shipment is rejected, CONTRACTOR shall ensure replacement within twenty-four (24) to forty-eight (48) hours.

4. Term of Agreement

4.1 The initial term of the Agreement will be for a period of four (4) years, with the option to extend for four (4) additional one (1) year periods.

- 4.1.1 County is not required to state a reason if it elects not to renew.
- 4.1.2 If County exercises option to extend, both parties shall agree upon the extension and any changes in writing.

5. Payment Provisions

5.1 Compensation/Payment

- 5.1.1 County shall pay an amount not to exceed \$1,500,000 per election for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Services.
- 5.1.2 CONTRACTOR's compensation for services rendered under this Agreement shall be in accordance with the rates in Exhibit B – PRICING SCHEDULE attached hereto, which shall remain firm for the initial term of the Agreement.

- 5.1.3 CONTRACTOR must commence negotiations for any desired rate changes a minimum of ninety (90) days prior to the expiration of the Agreement or subsequent extension.
- 5.1.4 If a CONTRACTOR error occurs during production, addressing or mailing, COUNTY may reject a shipment and ask for replacement, readdressing or re-mailing of affected quantities at no cost.
- 5.1.5 County shall have the option to reduce total charges for the impacted portion of the material by 0.5% for any item delivered late through no fault of the County.

5.2 Invoices/Purchase Orders

- 5.2.1 Invoices for all services rendered per this Agreement shall reference the election date and be billed directly to Monterey County Elections A/P at PO BOX 4400, Salinas CA 93912.
- 5.2.2 CONTRACTOR invoicing shall itemize provided services and details as determined by County for the purpose of billing and district reimbursement.
- 5.2.3 Pricing shall be on a unit cost basis and FOB destination, with project management and translation itemized separately.
 - 5.2.3.1 Any duplicate production or mailing completed due to County error will be itemized separately
- 5.2.4 CONTRACTOR shall submit invoices no later than thirty (30) days after completion of services.
- 5.2.5 Invoices that are incorrect or do not adhere to the requested level of detail shall not be paid until revised by CONTRACTOR to meet County specifications.
- 5.2.6 County shall promptly certify and approve submitted invoices and forward to the Auditor-Controller for payment. Auditor-Controller shall pay the certified, approved amount 30 days after it is forwarded.
- 5.2.7 County shall issue a new purchase order valid only during that fiscal year, July 1 through June 30.

5.3 CONTRACTOR'S Billing Procedures

- 5.3.1 County may, at its sole discretion, terminate the contract or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.
- 5.3.2 If CONTRACTOR chooses to ship via air transportation absent County's written request, either due to CONTRACTOR preference or to meet delivery deadlines, it shall be at no additional cost to the County. With County authorization, air transportation shall be invoiced separately.
- 5.3.3 Under no circumstances shall the County be responsible for the cost of materials that are incorrect due to CONTRACTOR error.

5.3.4 Disallowed Costs

- 5.3.4.1 No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.
- 5.3.4.2 County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.
- 5.3.4.3 There shall be no expense or travel reimbursement allowed during this Agreement.
- 5.3.4.4 CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

6. **Production Schedule**

- 6.1 County shall determine the timelines, milestones and delivery dates at least eighty (80) days prior to an election.
- 6.2 County shall provide final ballot faces and a detailed order no later than two weeks prior to scheduled mailing of vote by mail ballots.
- 6.3 E dates are calendar days preceding or following Election Day and are subject to change. For example, E-85 might indicate 85 calendar days before a scheduled November general election. A tentative sample schedule follows:

E-85 County notifies CONTRACTOR of upcoming election with a description of ballots and voter information guides (VIG) required and the approximate quantities to be printed

E-85 CONTRACTOR's Technical Representative available for consultation until E+30

E-81 County begins providing VIG content

E-60 to 45 Between these dates County sends ballot faces to CONTRACTOR

E-57 CONTRACTOR sends ballot faces proofs to County

E-55 County sends ballot faces final approval to CONTRACTOR

E-54 CONTRACTOR delivers VIG proofs to County

E-53 County provides a detailed ballot and VIG order to CONTRACTOR

E-50 County approves or disapproves VIG pamphlet proofs

E-50 County provides military and overseas and VIG mailing data to CONTRACTOR

E-60 to 45 Between these dates the CONTRACTOR must mail the ballots to the military and overseas voters. This mailing may contain the VIG.

E-43 County provides vote by mail (VBM) data to CONTRACTOR

E-39 Counter ballots and VIG delivered to County

E-32 Last day for Contractor to deliver VIGs to the post office

E-25 Poll ballots and VIG delivered to County

E-29 CONTRACTOR must deliver all VBM ballots from the first extract to the post office

E-29 to E-7 Between these dates, CONTRACTOR will mail any subsequent VBM ballots from additional extracts within 24 hours of receipt of extract and no later than any deadline stipulated by law

E+10 Final date for CONTRACTOR to submit invoices

E+30 CONTRACTOR'S Technical Representative released from consultation requirements

EXHIBIT B – PRICING SCHEDULE

All Pricing FOB Destination

BALLOT PRINTING, PROCESSING, ASSEMBLY & MAILING (Per 1,000 ballots):

Type of Charge	Cost
Printing	\$280
Processing, Assembly, Mailing	\$260
Multi-card surcharge	\$100
Subsequent extract surcharge	\$100

*Prices include administration, set up charges and plates

*Prices are per 1,000 ballots, single or double sided, regardless of number of columns on page

*Prices are fixed regardless of size of election and total final quantity printed

COLOR ENVELOPE SET UP (Per version):

Type of Service	Cost
Pre-press	\$150
Process files/plates	\$200

COLOR ENVELOPE PRINTING & PROCESSING COSTS (Per 1,000 envelopes):

Q	1 to 10,000	10,001 to 50,000	50,001 to 100,000	Over 100,000
Return	\$297.43	\$142.61	\$84.21	\$71.89
Outer	\$170.21	\$105.24	\$85.62	\$74.86

*Special items: MILOS booklets are \$978.10 and "I Voted by Mail" sticker inserts are \$32.05 per 1,000

*Letter size inserts are \$50 and ledger size inserts are \$110 per 1,000

VOTER GUIDE SET UP & PROCESSING (Each):

Type of Charge	Cost
Set up inside page	\$80
Set up color cover	\$100
Set up VIG type	\$150
Candidate statement (English)	\$130
Candidate statement (Spanish)	\$220
Line change request	\$25
New page request	\$50

*Price for inside page includes facsimile sample ballot, measures, arguments and filler pages

*Price for candidate statement composition is up to 400 words

VOTER GUIDE PRINTING, BINDING, ASSEMBLY & MAILING COSTS:

Number of inside pages per booklet	<10	12-16	18-24	26-36	38-50	52-68	70-90
Per 1,000 booklets	\$350	\$490	\$690	\$990	\$1300	\$1800	\$2300

*Prices include processing, sorting, labeling, packaging and delivering to post office

OTHER COSTS ASSOCIATED WITH VOTER INFORMATION GUIDES:

Type of Charge	Unit	Cost
Software Support	per hour	\$200
Translation	per word	\$0.18

EXHIBIT C – INVOICE CATEGORIES

All invoices shall include an invoice number, election date, and separate subtotals for each applicable category in bold below, as well as subtotal lines for any postage, taxes and freight. County reserves the right to modify or to add new invoice categories and requirements to meet election billing needs.

RELATED TO BALLOT COSTS –

Election Ballot Specifications: Number of cards per ballot, number of unique ballot faces, number of ballot styles, total ballots printed, total cards printed.

Account Management: Administration fees, envelope prepress, number of unique ballot setups, project management fees.

Mail Ballot Printing: Quantity of ballots, cards and envelopes separately listed each for VBMP ballots, VBMO ballots, MP ballots, and MILOS ballots, as well as Outer and Return envelope types.

Non-Mail Ballot Printing: Quantity of ballots and cards separately listed each for counter ballots, poll ballots, marked and unmarked test ballots.

Assembly and Mailing Services: Number of unique ballot setups, total ballot packets assembled, any surcharge fees and number of packets assembled, subsequent extract surcharge fees and number of ballot cards printed and packets assembled.

Miscellaneous: Any charges not covered by the categories above such as miscellaneous envelope charges, alterations, inserts and mailers, and software support.

RELATED TO VOTER GUIDE COSTS –

Election VIG Specifications: Number of VIG types, number of pages for each unique VIG type, number printed of each type, specify whether booklet or insert.

Account Management: Administration fees, prepress, VIG setups, project management fees.

VIG Printing: Quantity and cost separately listed each for office VIGs as well as VBMP ballots, MP ballots and MILOS ballots that were included with VIGs.

Assembly and Mailing Services: Any surcharge fees and number of packets assembled, subsequent extract surcharge fees and number of VIGs printed and packets assembled.

Translation: Provide word count and cost breakdown separately for each measure with all arguments, each candidate statement by contest, and common translation costs for ballot and headings.