



County of San Diego

Department of Purchasing & Contracting
5560 Overland Ave, Ste 270
San Diego, CA 92123-1204
PH: (858) 505-6367 FAX: (858) 715-6452

PURCHASE ORDER

P.O. Number-Rev: **560978 - 1**
P.O.Type: **BLANKET**
Date: **11-SEP-19**
Effective Date: **11-SEP-19 - 30-JUN-20**
Not to Exceed: **\$278,000.00**

Authorized By: **HOLLY A LAM**
Phone No: **858-505-6613**

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SUPPLIER:

RUNBECK ELECTION SERVICES INC
2800 SOUTH 36TH ST
PHOENIX,AZ 85034

TERMS:

Payments: **NET 30 DAYS**
F.O.B. **DESTINATION**
Freight: **PREPAID**
Carrier: **BEST METHOD**

SEND ORIGINAL INVOICE TO:

REGISTRAR OF VOTERS
ATTN: ACCOUNTING & SUPPLIES
5600 OVERLAND AVE STE 100
SAN DIEGO,CA 92123

SHIP TO:

REGISTRAR OF VOTERS
5600 OVERLAND AVE. STE 100
SAN DIEGO,CA 92123

The P.O. Number must appear on all invoices and shipping documents. For out-of-State invoices, the county will pay California Use Tax directly to the State of CA per Permit no. SR FH 25-632384. Prior to first payment, new suppliers must submit a completed IRS Form W-9 and a FTB Form 590. Failure to submit a completed FTB Form 590 will result in back up withholding on all payments per CA Revenue and Taxation Code section 18662. Submit both forms to Auditor & Controller via fax at (858) 694-2060 and mail originals to: County of San Diego, 5530 Overland Ave, Ste 410, San Diego, CA 92123

REQUIRED DELIVERY DATE:

DELIVERY BY THE DATE SHOWN ON THE RELEASE ORDER
OR AS OTHERWISE SPECIFIED BY THE ORDERING
DEPARTMENT

NOTE TO THE SUPPLIER:

CONTRACT 560978 DERIVES FROM ASSIGNMENT OF 557298 FROM ESSVR TO RUNBECK. COUNTY OF SAN DIEGO CONTACT: liliana.lau@sdcounty.ca.gov, 858-505-7208 // SUPPLIER CONTACT: kweatherbee@runbeck.net, 402-935-6878

ORDER ITEMS:

Line: 1

Quantity:	UOM: DOLLAR	Unit Price: 1.00	Total Line Price: \$ N/A
UNSPSC: 811122.0000	Item #:	Taxable: CALL BUYER	(including Tax)

Description:

FY 19/20: PERIOD OF JULY 1, 2019 TO JUNE 30, 2020. NOT TO EXCEED AMOUNT = \$32,973.36 IS ADDED FOR MONTHLY SRS SYSTEM MAINTENANCE FEE OF \$2,747.78.

ADDITIONAL INFORMATION :

END OF ORDER

COUNTY OF SAN DIEGO
STANDARD TERMS AND CONDITIONS OF PURCHASE

1. Acceptance: By acceptance of this purchase order, Vendor agrees to be bound by, and to comply with, these terms and conditions, and all prior or contemporaneous agreements, understandings and representations, oral or written, are superseded. The terms of any proposal from Vendor referred to in this order are included and made a part of the order, but only to the extent of specifying the nature, price and delivery date of the goods and/or services ordered, and then only to the extent that such terms are consistent with the terms and conditions of this order. Any invoice, acknowledgement or other form used by Vendor shall not add to, amend, or modify these terms and conditions.
2. Affirmative Action. If applicable, Vendor shall comply with the Affirmative Action Program for Vendors as set forth in Article IIIk (Commencing at Section 84) of the San Diego County Administration Code which program is incorporated herein by reference. A copy of this affirmative action program will be furnished upon request.
3. Assignment. This order is assignable by County. Except as to any payment due hereunder, this order is not assignable by Vendor without written approval of County.
4. Audit Right. Pursuant to California Government Code Section 8546.7, the parties acknowledge that every contract involving the expenditure of public funds in excess of \$10,000 shall be subject to audit by the State Auditor.
5. Cash Discounts. In connection with any cash discount specified on this order, time will be computed from the later of the date of (i) complete delivery of the goods and/ or services as specified, or (ii) receipt of correct invoices. Payment is deemed to be made, for the purpose of earning the discount, on the date of mailing of the County warrant or check.
6. Changes. County shall recognize no change to this order by Vendor without written approval.
7. Compliance With Laws. Vendor shall comply with all laws, codes, regulations, rules and orders (collectively, "Regulations") applicable to the good and/or services to be provided hereunder. Vendor's failure to comply with any applicable Regulations shall constitute a material breach of this purchase order.
8. Governing Law. This contract shall be construed and interpreted according to the laws of the State of California.
9. Delivery. Unless otherwise specified in writing in this order, all shipments will be F.O.B. point of destination. Freight or handling charges are not billable unless referenced on this order. Transportation receipts, if allowed by order, must accompany invoice.
10. Food Products.
 - A. Package. Each package shall be identified with manufacturer's label, which shall conform to the requirements of the Fair Packaging and Labeling Act of the California Business and Professions Code Section 12601-12615.5.
 - B. Compliance. Vendor hereby guarantees that the product or products comprising each shipment made by Vendor to County, as of the date of delivery, is not adulterated or misbranded within the meaning of the U.S. Federal Food, Drug, and Cosmetic Act, as amended, or within the meaning of applicable U.S. State Laws or Municipal ordinances in which the definitions of adulteration and misbranding are substantially the same as those contained in the U.S. Act. Distressed food commodities that are reconditioned, relabeled and/or re-cased are not acceptable.
11. Force Majeure. Each party hereto shall be excused from performance hereunder resulting from delays caused by an act of God, war, civil disturbance, court order, governmental action, laws, orders, regulations, directions or requests, or as a result of events such as public enemies, fires, earthquakes, floods, strikes or other labor disturbances of the other party or any third party, or other cause beyond its reasonable control (financial inability excepted) and which it could not have prevented by reasonable precautions, and, such non-performance shall not be a default hereunder or a ground for termination hereof. In the event that Vendor is excused from performance under this paragraph, Vendor shall take all reasonable actions to resume or provide alternative performance of its obligations at no additional charge to County. If any such delay exceeds thirty (30) days, then County may terminate this order.
12. Formal Bids. In the event this purchase order results from a formal bid, terms and conditions of that bid are incorporated herein and form a part of this purchase order. In the event of any conflict or inconsistency between the terms of this purchase order and the terms of a formal bid, the terms of the formal bid shall control.
13. Hazardous Materials. If the product being supplied presents a physical or health hazard as defined in Title 8 of the California Code of Regulations, Section 5194, or if the product contains one or more of the substances listed on the "List of Hazardous Substances" prepared by the Director of the California Industrial Relations Department pursuant to Labor Code Section 6380, the Vendor shall forward a "Material Safety Data Sheet", pursuant to Cal/OSHA requirements, referencing this purchase order/sub order number with the product shipment.
14. Timeliness. Time is of the essence and this purchase order is subject to termination for failure to deliver on time.
15. Indemnity. County shall not be liable for, and Vendor shall defend and indemnify County and the employees and agents of County (collectively, "County Parties") against any and all claims, demands, liability, judgments, awards, fines, mechanic's liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorney's fees and court costs (hereinafter collectively referred to as "Claims"), related to or arising out of this purchase order, and arising either directly or indirectly from any act, error, omission or negligence of Vendor or its contractors, licensees, agents, servants or employees, including Claims caused by the concurrent negligent act, error or omission of County Parties. However, Vendor shall have no obligation to defend or indemnify County Parties against Claims (i) to the extent they arise from the active concurrent negligence of County Parties, or (ii) caused by the sole negligence or willful misconduct of County Parties.
16. Patent Indemnity. Vendor warrants and agrees that it shall defend, indemnify, and hold County harmless, at Vendor's expense, against any claim, suit, or proceeding brought against County insofar as it is based on a claim of infringement of any patent, copyright, trademark, or trade secret of a third party and will pay any costs or damages in connection therewith, including attorney's fees, arising out of this order.
17. Sales and Use Tax. On invoices, Vendor shall show any sales or use tax if applicable, as separate items, giving permit number authorizing collection of Use tax. Vendor shall deduct cash discount before computing Sales or Use Tax.
18. Termination For Cause - Cancellation. The County may, by written notice of default to the Vendor, terminate this order in whole or in part, should the Vendor fail to make satisfactory progress, fail to deliver within the time specified or fail to deliver in strict conformance to specifications or requirements set forth herein. In the event of such termination, the County reserves the right to purchase or obtain the supplies or services elsewhere and the defaulting Vendor shall be liable for the difference between the prices set forth in this order and the actual cost thereof to the County. In such case, the prevailing market price shall be considered to be the fair repurchase price. The rights and remedies of County provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this order.
 - 18.1 If, after notice of termination of this order under the provisions of this clause, it is determined for any reason that the Vendor was not in default under the provisions of this clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant Clause 19, Termination For Convenience.
19. Termination For Convenience. The County may, by written notice stating the extent and effective date, terminate this order for convenience in whole or in part, at any time. The County shall pay the Vendor, as full compensation for performance until such termination, the unit or pro-rata order price for any delivered and accepted portion of the order. In no event shall the County be liable for any loss of profits on the order or portion thereof so terminated.
20. Warranty. Vendor agrees that any goods and/or services furnished under this order shall be covered by the most favorable commercial warranties Vendor gives to any of its customers for the same or substantially similar goods and/or services. Any warranties so provided shall supplement, and shall not limit or reduce, any rights afforded to County by any other provision of this order or by any applicable Uniform Commercial Code warranties.
21. Disallowance. In the event the Contractor receives payment for services under this contract which is later disallowed by the County, the Contractor shall promptly refund the disallowed amount to the County on request, or at its option, the County may offset the amount disallowed from any payment due to the Contractor under any contract with the County.

**COUNTY OF SAN DIEGO
ASSIGNMENT OF CONTRACT NO. 557298
RIGHTS AND OBLIGATIONS**

This ASSIGNMENT is effective only on signature of the Director, Department of Purchasing and Contracting, by and among the County of San Diego, a political subdivision of the State of California, ("COUNTY"), *ESSVR, LLC*, ("ASSIGNOR"), and *Runbeck Election Services, Inc.* ("ASSIGNEE"). COUNTY, ASSIGNOR, and ASSIGNEE are hereinafter referred to collectively as the PARTIES.

WHEREAS, COUNTY and ASSIGNOR have entered into an agreement, County Contract No. 557298 effective December 11, 2017, for provision of data information management systems (DIMS) services and software maintenance renewal and election management, ("Contract"); and

WHEREAS, ASSIGNOR desires to assign all rights and obligations of the Contract to ASSIGNEE; and

WHEREAS, ASSIGNOR has established that ASSIGNEE possesses the experience, skills and resources necessary to perform the services specified in the Contract and that ASSIGNEE will perform the balance services specified in the Contract, beginning on June 24, 2019; and

WHEREAS, COUNTY is willing to permit ASSIGNEE to perform all future obligations under the Contract and ASSIGNEE agrees to accept the obligations specified in the Contract; and

WHEREAS, ASSIGNOR wishes to cease performing the services under the Contract and in consideration agrees to assign all rights of compensation with respect to the Contract to ASSIGNEE beginning on June 24, 2019; and

WHEREAS, ASSIGNEE is willing to assume the services specified in the Contract in consideration for the balance of the compensation due under the Contract beginning on June 24, 2019; and

NOW THEREFORE, in consideration of the mutual promises set forth herein, the mutual covenants and obligations set forth herein and other acknowledged consideration, the PARTIES hereto do mutually agree as follows:

1. ASSIGNOR hereby assigns all rights and obligations under the Contract to ASSIGNEE beginning on June 24, 2019.
2. ASSIGNEE hereby accepts all rights and obligations under the Contract beginning on June 24, 2019.
3. COUNTY hereby accepts assignment of rights and obligations of the Contract from ASSIGNOR to ASSIGNEE beginning on June 24, 2019.
4. In the event ASSIGNEE fails to perform the services as specified in the Contract, as such Contract may be amended in the future, County may require ASSIGNEE to resume the rights and obligations of the Contract on a date specified by COUNTY.

IN WITNESS THEREOF, the PARTIES have executed this AGREEMENT to be effective: Date of last Signature below.

ASSIGNOR
ESSVR, LLC:

BY: *Victor Williams* Date: 9-5-2019

NAME: Victor Williams

TITLE: Vice President & General Manager

ASSIGNEE
Runbeck Election Services, Inc.:

BY: *Jeff Ellington* Date: 9/6/19

NAME: Jeff Ellington

TITLE: President and COO

COUNTY

BY: *John M. Pellegrino* Date: 9/11/2019

NAME: JOHN M. PELLEGRINO

TITLE: Director, Department of Purchasing and Contracting

COUNTY OF SAN DIEGO – DEPARTMENT OF PURCHASING AND CONTRACTING
CONTRACT NO. 560978 UNILATERAL AMENDMENT NO. 1

Runbeck Election Services, Inc.: Pursuant to the contract changes clause, you are directed to make the changes described below herein to the Contract.

Title of Contract: Data information management systems (DIMS) services and software maintenance renewal and election management

Amendment Effective Date: Date of Department of Purchasing Contracting Signature Below



Description of Contract Change(s) to be done:

1. Change the Contract Number from 557298 to 560978; use this contract number on all future invoices.

All other terms and conditions of the Contract shall remain in effect.

IN WITNESS WHEREOF, County has executed this Amendment effective as of the date set forth above.

COUNTY APPROVED:

By  
JOHN M. PELLEGRINO, Director
Department of Purchasing and Contracting

Date: 9/11/2019