



Contract Number

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SAP Number

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## Registrar of Voters

<b>Department Contract Representative</b>	Stephenie Shea
<b>Telephone Number</b>	909-387-2100

<b>Contractor</b>	OPEX Corporation
<b>Contractor Representative</b>	Winnie W. Chow
<b>Telephone Number</b>	856-727-1100, x2202
<b>Contract Term</b>	July 9, 2024 through July 8, 2029
<b>Original Contract Amount</b>	\$251,000
<b>Amendment Amount</b>	
<b>Total Contract Amount</b>	\$251,000
<b>Cost Center</b>	6800001000
<b>Grant Number (if applicable)</b>	

**IT IS HEREBY AGREED AS FOLLOWS:**

**WHEREAS**, San Bernardino County (County) desires to designate a contractor of choice to provide the hardware and maintenance and support for Mail Ballot Extracting Machines; and

**WHEREAS**, the County conducted a competitive process to find OPEX Corporation (Contractor) to provide these services, and

**WHEREAS**, the County finds Contractor qualified to provide the hardware and maintenance and support for Mail Ballot Extracting Machines; and

**WHEREAS**, the County desires that such services be provided by Contractor and Contractor agrees to perform these services as set forth below;

**NOW, THEREFORE**, the County and Contractor mutually agree to the following terms and conditions:

**A. DEFINITIONS**

**A.1.** Acceptance: Any variations thereof, means the successful completion by the County of the acceptance testing performed on each component of Contractor’s Hardware and Software, as

defined below, after delivery in accordance with testing criteria developed and agreed to by the parties.

- A.2. Board: The San Bernardino County Board of Supervisors.
- A.3. Contract: The Contract between the County and the Contractor resulting from the award issued pursuant to the Request for Proposal (RFP).
- A.4. Contractor: OPEX Corporation.
- A.5. Election: A single election event administered by the County including any absentee and early voting activity associated with the election event. Election shall not mean any follow-on events occurring after the initial election event, including without limitations, run-offs or recall replacements elections. Any follow-on event shall be considered an Election in and of itself.
- A.6. Hardware: Includes the hardware identified on Attachment A, which is hereby incorporated by this reference into this Contract.
- A.7. Project: means the initial implementation of the Mail Ballot Extracting Machines, including delivering, installing, testing, and accepting of the Hardware and Software, as well as the Contractor provided training on how to use the hardware and election support.
- A.8. Request for Proposal (RFP): The request for an offer from Proposers interested in providing the identified services sought to be procured by the County. The RFP specifies the evaluation factors to be used and contains or incorporates by reference contractual terms and conditions applicable to the procurement.
- A.9. Subcontractor: An individual, company, firm, corporation, partnership or other organization, not in the employment of or owned by Contractor who is performing Services on behalf of Contractor under the Contract or under a separate contract with or on behalf of Contractor.

**B. CONTRACTOR RESPONSIBILITIES**

- B.1 Assign an OPEX project manager (“OPEX Project Manager”) to oversee the general operations of the Project. The OPEX Project Manager will be the primary contact for all Project needs. The OPEX Project Manager will be responsible for the Project, including all deliverables and Services, such as resource planning and coordination, product delivery, training, issue resolution and administrative matters such as invoices and payments.
- B.2 Provide training for the equipment and assist in the Acceptance testing process.
- B.3 Provide invoices to the County pursuant to the price schedule in Attachment A, which is hereby incorporated into this contract, and the payment terms described in Section F herein.
- B.4 Provide Hardware described in as described in Attachment A.
- B.3 Provide Maintenance Services pursuant to terms in Attachment B, which is hereby incorporated into this Contract and pursuant to the price schedule in Attachment A.
- B.4 Contractor shall deliver and install the Hardware to the location specified by the County.

**C. GENERAL CONTRACT REQUIREMENTS**

**C.1 Recitals**

The recitals set forth above are true and correct and incorporated herein by this reference.

**C.2 Contract Amendments**

Contractor agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of Contractor and County.

**C.3 Contract Assignability**

Without the prior written consent of the County, the Contract is not assignable by Contractor either in whole or in part.

**C.4 Contract Exclusivity**

This is not an exclusive Contract. The County reserves the right to enter into a contract with other contractors for the same or similar services. The County does not guarantee or represent that the Contractor will be permitted to perform any minimum amount of work, or receive compensation other than on a per order basis, under the terms of this Contract.

**C.5 Attorney's Fees and Costs**

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney's fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney's fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

**C.6 Background Checks for Contractor Personnel**

Contractor shall ensure that its personnel (a) are authorized to work in the jurisdiction in which they are assigned to perform Services; (b) do not use legal or illegal substances in any manner which will impact their ability to provide Services to the County; and (c) are not otherwise disqualified from performing the Services under applicable law. If requested by the County and not in violation of applicable law, Contractor shall conduct a background check, at Contractor's sole expense, on all its personnel providing services. If requested by the County, Contractor shall provide the results of the background check of each individual that assumes the role of Contractor's service technician to verify that the individual meets Contractor's standards for employment. Such background check shall be in the form of Contractor performing a criminal record search that will include, to the maximum extent permitted by law, a federal, state and county check for felony convictions for the last seven (7) years in all locations where the individual has resided for the last seven (7) years. Contractor personnel who do not meet the County's hiring criteria as provided in the preceding sentence, in County's sole discretion, shall not be assigned to work on County property or Services, and County shall have the right, at its sole option, to refuse access to any Contract personnel to any County facility.

**C.7 Change of Address**

Contractor shall notify the County in writing, of any change in mailing address within ten (10) business days of the change.

**C.8 Choice of Law**

This Contract shall be governed by and construed according to the laws of the State of California.

**C. 9 Compliance with County Policy**

In performing the Services and while at any County facilities, Contractor personnel (including subcontractors) shall (a) conduct themselves in a businesslike manner; (b) comply with the policies, procedures, and rules of the County regarding health and safety, and personal, professional and ethical conduct; (c) comply with the finance, accounting, banking, Internet, security, and/or other applicable standards, policies, practices, processes, procedures, and controls of the County; and (d) abide by all laws applicable to the County facilities and the provision of the Services, and all amendments and modifications to each of the documents listed in subsections (b), (c), and (d) (collectively, "County Policies"). County Policies, and additions or modifications thereto, may be communicated orally or in writing to Contractor or Contractor personnel or may be made available to Contractor or Contractor personnel by conspicuous

posting at a County facility, electronic posting, or other means generally used by County to disseminate such information to its employees or contractors. Contractor shall be responsible for the promulgation and distribution of County Policies to Contractor personnel to the extent necessary and appropriate.

County shall have the right to require Contractor's employees, agents, representatives and subcontractors to exhibit identification credentials issued by County in order to exercise any right of access under this Contract.

**C.10 Confidentiality**

Contractor shall protect from unauthorized use or disclosure the names and other identifying information concerning persons receiving Services pursuant to this Contract, except for statistical information not identifying any participant. Contractor shall not use or disclose any identifying information for any purpose other than carrying out the Contractor's obligations under this Contract, except as may otherwise be required by law. This provision will remain in force even after the termination of the Contract.

**C.11 Primary Point of Contact**

Contractor will designate an individual to serve as the primary point of contact for the Contract. Contractor or designee must respond to County inquiries within two (2) business days. Contractor shall not change the primary contact without written acknowledgement to the County. Contractor will also designate a back-up point of contact in the event the primary contact is not available.

**C.12 County Representative**

The *Registrar of Voters* of his/her designee shall represent the County in all matters pertaining to the services to be rendered under this Contract, including termination and assignment of this Contract, and shall be the final authority in all matters pertaining to the Services/Scope of Work by Contractor. If this contract was initially approved by the San Bernardino County Board of Supervisors, then the Board of Supervisors must approve all amendments to this Contract.

**C.13 Damage to County Property**

Contractor shall repair, or cause to be repaired, at its own cost, all damage to County vehicles, facilities, buildings or grounds caused by the willful or negligent acts of Contractor or employees or agents of the Contractor. Such repairs shall be made as soon as commercially reasonable after Contractor becomes aware of such damage, but in no event later than thirty (30) days after Contractor becomes aware of such damage.

If the Contractor fails to make timely repairs, the County may make any necessary repairs. For such repairs, the Contractor, shall repay all costs incurred by the County, by cash payment upon demand or County may deduct such costs from any amounts due to the Contractor from the County, as determined at County's sole discretion.

**C. 14 Debarment and Suspension**

Contractor certifies that neither it nor its principals or subcontractors is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. (See the following United States General Services Administration's System for Award Management website <https://www.sam.gov>). Contractor further certifies that if it or any of its subcontractors are business entities that must be registered with the California Secretary of State, they are registered and in good standing with the Secretary of State.

**C.15 Drug and Alcohol Free Workplace**

In recognition of individual rights to work in a safe, healthful and productive workplace, as a material condition of this Contract, the Contractor agrees that the Contractor and the Contractor's employees, while performing service for the County, on County property, or while using County

equipment:

- C.15.1** Shall not be in any way impaired because of being under the influence of alcohol or an illegal or controlled substance.
- C.15.2** Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal or controlled substance.
- C.15.3** Shall not sell, offer, or provide alcohol or an illegal or controlled substance to another person, except where Contractor or Contractor's employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

The Contractor shall inform all employees that are performing service for the County on County property, or using County equipment, of the County's objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the County.

The County may terminate for default or breach of this Contract and any other Contract the Contractor has with the County, if the Contractor or Contractor's employees are determined by the County not to be in compliance with above.

**C.16 Duration of Terms**

This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Contract.

**C.17 Employment Discrimination**

During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

**C.18 Environmental Requirements**

In accordance with County Policy 11-08, the County prefers to acquire and use products with higher levels of post-consumer recycled content. Environmentally preferable goods and materials must perform satisfactorily and be available at a reasonable price. The County requires Contractor to use recycled paper for any printed or photocopied material created as a result of this Contract. Contractor is also required to use both sides of paper sheets for reports submitted to the County whenever practicable.

To assist the county in meeting the reporting requirements of the California Integrated Waste Management Act of 1989 (AB 939), Contractor must be able to annually report the County's environmentally preferable purchases. Contractor must also be able to report on environmentally preferable goods and materials used in the provision of their service to the County, utilizing a County approved form.

**C.19 Improper Influence**

Contractor shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables him/her to influence any award of the Contract or any competing

offer, shall have any direct or indirect financial interest resulting from the award of the Contract or shall have any relationship to the Contractor or officer or employee of the Contractor.

**C.20 Improper Consideration**

Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this Contract.

The County, by written notice, may immediately terminate this Contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded.

Contractor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. The report shall be made to the supervisor or manager charged with supervision of the employee or the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

**C.21 Informal Dispute Resolution**

In the event the County determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Contract or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

**C.22 Legality and Severability**

The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

**C.23 Licenses, Permits and/or Certifications**

Contractor shall ensure that it has all necessary licenses, permits and/or certifications required by the laws of Federal, State, County, and municipal laws, ordinances, rules and regulations. The Contractor shall maintain these licenses, permits and/or certifications in effect for the duration of this Contract. Contractor will notify County immediately of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain a required license, permit and/or certification may result in immediate termination of this Contract.

**C.24 Material Misstatement/Misrepresentation**

If during the course of the administration of this Contract, the County determines that Contractor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this Contract may be immediately terminated. If this Contract is terminated according to this provision, the County is entitled to pursue any available legal remedies.

**C.25 Mutual Covenants**

The parties to this Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

**C.26 Nondisclosure**

Contractor shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information that is either: (1) provided by the County to Contractor or an agent of Contractor or otherwise made available to Contractor or Contractor's agent in connection with this Contract; or, (2) acquired, obtained, or learned by Contractor or an agent of Contractor in the performance of this Contract. For purposes of this provision, confidential information means any data, files, software, information or materials in oral, electronic, tangible or intangible form and however stored, compiled or memorialize and includes, but is not limited to, technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data.

**C.27 Notice of Delays**

Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this contract, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

**C.28 Ownership of Documents**

All documents, data, products, graphics, computer programs and reports prepared by Contractor pursuant to the Contract shall be considered property of the County upon payment for services (and product, if applicable). All such items shall be delivered to County at the completion of work under the Contract. Unless otherwise directed by County, Contractor may retain copies of such items.

Contractor holds intellectual property rights in the products being offered, which includes the product's computer operating system, software components and mechanical components (collectively "Technology"). No licenses, either express or implied, under any patents are granted by OPEX to County hereunder, except as expressly stated herein. County agrees that it shall not copy, remove, use (except for operation of the products in accordance with the published specifications), or disclose Technology to any third party.

**C.29 Participation Clause**

The County desires that Municipalities, School Districts, and other Tax Districts within the San Bernardino County requiring the same services provided herein may at their option and through the County Purchasing agent, avail themselves of this Contract. Upon notice, in writing, the Contractor agrees to the extension of the terms of a resultant contract with such governmental bodies as though they have been expressly identified in this bid, with the provisions that:

**C.29.1** Such governmental body does not have and will not have in force any other contract for like purchases.

**C.29.2** Such governmental body does not have under consideration for award any other bids or quotations for like purchases.

Such governmental body shall make purchases directly through and to the Contractor. The County will not be liable for any such purchase made between the Contractor and another governmental body who avails themselves of this contract.

**C.30 Air, Water Pollution Control, Safety and Health**

Contractor shall comply with all air pollution control, water pollution, safety and health ordinances and statutes, which apply to the work performed pursuant to this Contract.

**C.31 Records**

Contractor shall maintain all records and books pertaining to the delivery of Services under this Contract and demonstrate accountability for Contract performance. All records shall be complete

and current and comply with all Contract requirements. Failure to maintain acceptable records shall be considered grounds for withholding of payments for invoices submitted and/or termination of Contract.

All records relating to the Contractor's personnel, Contractors, Subcontractors, Service/Scope of Work and expenses pertaining to this Contract shall be kept in accounting format reasonable for the Contractor's business operations and industry. Records should include primary source documents. Fiscal records shall be kept in accordance with Contractor's standard account practices and processes and must account for all funds, tangible assets, revenue and expenditures. Subject to the preceding sentence, fiscal records must comply with the appropriate Office of Management and Budget (OMB) Circulars which state the administrative requirements, cost principles and other standards for accountancy.

All records pertaining to Services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by County representatives for a period of three years after final payment under the Agreement or until all pending County, State and Federal audits are completed, whichever is later.

**C.32 Relationship of the Parties**

Nothing contained in this Contract shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

**C.33 Release of Information**

No news releases, advertisements, public announcements or photographs arising out of the Contract or Contractor's relationship with County may be made or used without prior written approval of the County.

**C.34 Representation of the County**

In the performance of this Contract, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the San Bernardino County.

**C.35 Strict Performance**

Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Contract thereafter.

**C.36 Subcontracting**

Contractor agrees not to enter into any subcontracting Contracts for work contemplated under the Contract without first obtaining written approval from the County. Any subcontractor shall be subject to the same terms and conditions as Contractor. Contractor shall be fully responsible for the performance and payments of any subcontractor's contract.

Contractor shall obtain County's written consent, which County may withhold in its sole discretion, before entering into Contracts with or otherwise engaging any subcontractors who may supply any part of the Services to County. At County's request, Contractor shall provide information regarding the subcontractor's qualifications and a listing of a subcontractor's key personnel including, if requested by the County, resumes of proposed subcontractor personnel. Contractor shall remain directly responsible to County for its subcontractors and shall indemnify County for the actions or omissions of its subcontractors under the terms and conditions specified in Paragraph B of this Section X. All approved subcontractors shall be subject to the provision of this contract applicable to Contractor Personnel, including removal pursuant to subsection C.6.



For any subcontractor, Contractor shall:

- 36.1** Be responsible for subcontractor compliance with the Contract and the subcontract terms and conditions; and
- 36.2** Ensure that the subcontractor follows County's reporting formats and procedures as specified by County.
- 36.3** Include in the subcontractor's subcontract substantially similar terms as are provided in Sections B. Contractor Responsibilities and C. General Contract Requirements.

Upon expiration or termination of this Contract for any reason, County will have the right to enter into direct Contracts with any of the Subcontractors. Contractor agrees that its arrangements with Subcontractors will not prohibit or restrict such Subcontractors from entering into direct Contracts with County.

### **C. 37 Subpoena**

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Goods or Services provided under this Contract is served upon Contractor or County, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and County further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom the legal process is directed, except as otherwise provided herein in connection with defense obligations by Contractor for County.

### **C.38 Termination for Convenience**

The County reserves the right to terminate the Contract, for its convenience, with or without cause, with a thirty (30) day written notice of termination. Such termination may include all or part of the services described herein. Upon such termination, payment will be made to the Contractor for services rendered and expenses reasonably incurred prior to the effective date of termination. Upon receipt of termination notice Contractor shall promptly discontinue services unless the notice directs otherwise. Contractor shall deliver promptly to County and transfer title (if necessary) all completed work, and work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

### **C.39 Time of the Essence**

Time is of the essence in performance of this Contract and of each of its provisions.

### **C.40 Venue**

The parties acknowledge and agree that this Contract was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action or claim brought by any party to this Contract will be the Superior Court of California, San Bernardino County, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County, San Bernardino District.

### **C.41 Conflict of Interest**

Contractor shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the County. Contractor shall make a reasonable effort to prevent employees, Contractor, or members of governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as those with whom they have family business, or other ties. Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and state law. In the event the County determines a conflict

of interest situation exists, any increase in costs, associated with the conflict of interest situation, may be disallowed by the County and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Contractor's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

**C.42 Former County Administrative Officials**

Contractor agrees to provide, or has already provided, information on former San Bernardino County administrative officials (as defined below) who are employed by or represent Contractor. The information provided includes a list of former County administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Contractor. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Executive Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

**C.43 Disclosure of Criminal and Civil Procedures**

The County reserves the right to request the information described herein from the Contractor. Failure to provide the information may result in a termination of the Contract. The County also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. The Contractor also may be requested to provide information to clarify initial responses. Negative information discovered may result in Contract termination.

Contractor is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the Contractor will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, the Contractor is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, the Contractor will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

For purposes of this provision "key employees" includes any individuals providing direct service to the County. "Key employees" do not include clerical personnel providing service at the firm's offices or locations.

**C.44 Reserved**

**C.45 Artwork, Proofs and Negatives**

All artwork, proofs, and/or negatives in either print or digital format for anything produced under the terms of this Contract are the property of the County. These items must be returned to the County within ten (10) days, upon written notification to the Contractor. In the event of a failure

to return the documents, the County is entitled to pursue any available legal remedies. In addition, the Contractor will be barred from all future solicitations, for a period of at least six (6) months.

**C.46 Reserved**

**C.47 Reserved**

**C.48 Reserved**

**C. 49 Reserved**

**C.50 Campaign Contribution Disclosure (SB 1439)**

Contractor has disclosed to the County using Attachment C - Campaign Contribution Disclosure Senate Bill 1439, whether it has made any campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, Auditor-Controller/Treasurer/Tax Collector and the District Attorney] within the earlier of: (1) the date of the submission of Contractor's proposal to the County, or (2) 12 months before the date this Contract was approved by the Board of Supervisors. Contractor acknowledges that under Government Code section 84308, Contractor is prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer for 12 months after the County's consideration of the Contract.

In the event of a proposed amendment to this Contract, the Contractor will provide the County a written statement disclosing any campaign contribution(s) of more than \$250 to any member of the Board of Supervisors or other County elected officer within the preceding 12 months of the date of the proposed amendment.

Campaign contributions include those made by any agent/person/entity on behalf of the Contractor or by a parent, subsidiary or otherwise related business entity of Contractor.

**C.51 Reserved**

**D. TERM OF CONTRACT**

This Contract is effective as of July 9, 2024 and expires July 8, 2029 but may be terminated earlier in accordance with provisions of this Contract.

**E. COUNTY RESPONSIBILITIES**

**E.1** Assign a County project manager ("County Project Manager"), who shall be responsible for review, analysis and acceptance of the System and the coordination of County personnel, equipment, vehicles and facilities. The County Project Manager shall be empowered to make decisions on behalf of the County with respect to the work being performed under this Contract.

**E.2** County shall provide reasonable access and entry into all County property required by the Contractor to perform the Services described in this Contract. All such access and entry shall be provided at County's expense.

**F. MUTUAL RESPONSIBILITIES**

**F.1** Deliverables/Implementation Timelines (Project Plan) – within seven (7) calendar days of execution of the Contract, the parties will meet to complete a detailed Project Plan that will establish specific dates to carry out Contractor's Responsibilities as set forth in Section B., above. The deliverables/implementation may be modified by either party upon mutual agreement and the requesting party must notify the other party in writing within two (2) business days. The County's Representative, the Registrar of Voters, is authorized to agree to the Project Plan and modifications thereto.

## **G. FISCAL PROVISIONS**

- G.1** The maximum amount of payment under this Contract shall not exceed \$251,000 and shall be subject to availability of other funds to the County. The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor's services and expenses incurred in the performance hereof, including travel and per diem.
- G.2** Contractor shall provide County itemized invoices, and in a format acceptable to the County for Services performed under this agreement. The County shall make payment to Contractor within forty-five (45) working days after receipt of invoice or the resolution of any billing dispute.
- G.3** Contractor shall accept all payments from County via electronic funds transfer (EFT) directly deposited into the Contractor's designated checking or other bank account. Contractor shall promptly comply with directions and accurately complete forms provided by County required to process EFT payments.
- G.4** County is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on Contractor or on any taxes levied on employee wages. The County shall only pay for any State or local sales or use taxes on the services rendered or equipment and/or parts supplied to the County pursuant to the Contract.
- G.5** Costs for services under the terms of this Contract shall be incurred during the contract period except as approved by County. Contractor shall not use current year funds to pay prior or future year obligations.
- G.6** Funds made available under this Contract shall not supplant any federal, state or any governmental funds intended for services of the same nature as this Contract. Contractor shall not claim reimbursement or payment from County for, or apply sums received from County with respect to that portion of its obligations that have been paid by another source of revenue. Contractor agrees that it will not use funds received pursuant to this Contract, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of the County.
- G.7** Contractor shall adhere to the County's Travel Management Policy (8-02 and 08-02SP1) when travel is pursuant to this Contract and for which reimbursement is sought from the County. In addition, Contractor is encouraged to utilize local transportation services, including but not limited to, the Ontario International Airport.

## **H. INDEMNIFICATION AND INSURANCE REQUIREMENTS**

### **H.1 Indemnification**

Contractor agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers (Indemnitees) from any and all claims, actions, losses, damages and/or liability arising out of this Contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. Subject to the terms and conditions set forth herein, the Contractor indemnification obligation applies to the County's "active" as well as "passive" negligence but does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

The listed warranty terms as provided Section L below provides the County's sole and exclusive remedies regarding Contractor's breach of warranty obligations.

### **H.2 Additional Insured**

All policies, except for Worker's Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010 and CG2037, 07/04 versions.

**H.3 Waiver of Subrogation Rights**

The Contractor shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Contractor and Contractor's employees or agents from waiving the right of subrogation prior to a loss or claim. The Contractor hereby waives all rights of subrogation against the County.

**H.4 Policies Primary and Non-Contributory**

All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

**H.5 Severability of Interests**

The Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Contractor and the County or between the County and any other insured or additional insured under the policy.

**H.6 Proof of Coverage**

The Contractor shall furnish Certificates of Insurance to the County Department administering the Contract evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this contract, the Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

**H.7 Acceptability of Insurance Carrier**

Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".

**H.8 Deductibles and Self-Insured Retention**

Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

**H.9 Failure to Procure Coverage**

In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by the Contractor or County payments to the Contractor will be reduced to pay for County purchased insurance.

**H.10 Insurance Review**

Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any

insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this contract. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

- H.11** The Contractor agrees to provide insurance set forth in accordance with the requirements herein. If the Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so.

Without in anyway affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

- H.11.1** Workers' Compensation/Employer's Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of the Contractor and all risks to such persons under this contract.

If Contractor has no employees, it may certify or warrant to the County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Director of Risk Management.

With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

- H.11.2** Commercial/General Liability Insurance – The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- a. Premises operations and mobile equipment.
- b. Products and completed operations.
- c. Broad form property damage (including completed operations).
- d. Explosion, collapse and underground hazards.
- e. Personal injury.
- f. Contractual liability.
- g. \$2,000,000 general aggregate limit.

**H.11.3** Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the Contractor is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

**H.11.4** Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

**H.11.5** Professional Liability – Professional Liability Insurance with limits of not less than one million (\$1,000,000) per claim and two million (\$2,000,000) aggregate limits

**or**

Errors and Omissions Liability Insurance – Errors and Omissions Liability Insurance with limits of not less than one million (\$1,000,000) and two million (\$2,000,000) aggregate limits

**or**

Directors and Officers Insurance coverage with limits of not less than one million (\$1,000,000) shall be required for Contracts with charter labor committees or other not-for-profit organizations advising or acting on behalf of the County.

If insurance coverage is provided on a “claims made” policy, the “retroactive date” shall be shown and must be before the date of the state of the contract work. The claims made insurance shall be maintained or “tail” coverage provided for a minimum of five (5) years after contract completion.

**H.11.6** **Reserved**

**H.11.7** **Reserved**

## **I. RIGHT TO MONITOR AND AUDIT**

**I.1** The County, State and Federal governments shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have the absolute right to monitor the performance of Contractor in the delivery of Services provided under this Contract and shall exert all commercially reasonable efforts to notify Contractor in writing as soon as practicable (e.g., seven calendar days after County receives such request from the State and/or Federal governments of any formal request by the applicable governmental agency to examine records pertaining to Contractor in connection with the performance of the Services under this Agreement. The County and Contractor shall pay for their own costs of the audit. Contractor shall give full cooperation, in any auditing or monitoring conducted. Contractor shall cooperate with the County in the implementation, monitoring and evaluation of this Contract and comply with any

and all reporting requirements established by the County. Contractor shall repay to County within thirty (30) days of receipt of audit findings any reimbursements made by County to Contractor that are determined by subsequent audit to be unallowable pursuant to the terms of this Contract or by law.

**J. CORRECTION OF PERFORMANCE DEFICIENCIES**

- J.1** In the event of a problem or potential problem that could impact the quality or quantity of work, Services, or the level of performance under this Contract, Contractor shall notify the County within one (1) working day, in writing and by telephone.
- J.2** Failure by Contractor to comply with any of the provisions, covenants, requirements or conditions of this Contract shall be a material breach of this Contract.
- J.3** Contractor's Primary Contact and County Representative shall attempt in good faith to promptly resolve any dispute, controversy or claim arising out of this Contract. If these representatives are unable to resolve a dispute, controversy or claim with thirty (30) days after the initial request for a meeting, then the dispute shall be submitted to an executive-level performance review.

If the Primary Contact and County Representative are not successful in resolving the dispute, negotiations shall be conducted by the Chief Executive Officer, or designee and the highest level executive for Contractor. If these representatives are unable to resolve the dispute within ten (10) days after the representatives have commenced negotiations, or 20 days have passed since the initial request for negotiations at this level, the Parties may agree in writing to submit the dispute to mediation.

- J.4** In the event of a non-cured breach, County may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
  - a. Afford Contractor thereafter a time period within which to cure the breach, which period shall be established at the sole discretion of County; and/or
  - b. Discontinue reimbursement to Contractor for and during the period in which Contractor is in breach, which reimbursement shall not be entitled to later recovery; and/or
  - c. Withhold funds pending duration of the breach; and/or
  - d. Offset against any monies billed by Contractor but yet unpaid by County those monies disallowed pursuant to Item "b" of this paragraph; and/or
  - e. Terminate this Contract immediately and be relieved of the payment of any consideration to Contractor. In the event of such termination, the County may proceed with the work in any manner deemed proper by the County. The cost to the County shall be deducted from any sum due to the Contractor under this Contract and the balance, if any, shall be paid by the Contractor upon demand.
- J.5** Unless a remedy is specifically designated as exclusive, no remedy conferred by any of the specific provision of the Contract is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder, now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies by either Party shall not constitute a waiver of the right to pursue other available remedies.

**K. NOTICES**

All written notices provided for in this Contract or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:



Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

**L. PRODUCT WARRANTY TERMS**

**L.1 Hardware Warranty**

Contractor warrants that it owns the Model 72 Product ("Product") and it will transfer good title to County. Contractor further warrants that it shall repair or replace defective parts contained within the Product, including labor, and shall perform preventive maintenance at no cost to County for thirty (30) days commencing from the date of delivery for the MODEL72 ("Fixed Warranty Period"). Labor during the Fixed Warranty Period is limited to Contractor's standard coverage hours, 7:00 AM to 3:00 PM, site local time, Monday through Friday, excluding Contractor holidays.

**L.2 Services Warranty**

For the duration of the Fixed Warranty Period, Contractor further warrants that services will be performed in a good and workmanlike manner, based upon commercially reasonable practices and standards. All services will be provided by Contractor's National Service Organization, which is a definite benefit of purchasing the Product.

**L.3 Warranty Remedies and Limitations**

The foregoing express warranties are exclusive with respect to any product, service or other material provided by contractor hereunder. Contractor expressly disclaims all other representations and warranties, express or implied, statutory or otherwise, including without limitation any warranty of merchantability or fitness or suitability for a particular purpose or those arising from course of performance, dealing or usage. Furthermore, Contractor shall have no obligations or liabilities for any damages whatsoever arising out of or in connection with its performance pursuant to this contract, the products or services sold hereunder, or its use by county. County and Contractor agree that county's sole and exclusive remedy with respect to breach of the above limited warranty obligations shall be limited to direct damages in an amount not to exceed the amount of the purchase price of a particular product or the cost of a service hereunder, whichever is less. All actions on the warranties, hereunder must be commenced in writing within six (6) months of the date of delivery or be otherwise lost. This limited warranty and the limitation on remedies contained herein are reflected in the purchase price of the products.

To the extent permitted by applicable law, in no event shall contractor be held responsible or liable for any other damages whatsoever (including without limitation, damages for loss of business profits, business interruption, loss of business information, loss or inaccuracy of data, and costs of procurement of substitute products) or any other special, indirect, incidental or consequential damages to property, persons or other losses or damages, arising out of or in connection with the performance or operation of the products and services sold hereunder, whether or not Contractor has actual knowledge of the possibility of such loss or damage.

Contractor warrants that all work required to be performed hereunder shall conform to the descriptions contained in this response and will be performed in a professional manner according to generally accepted industry standards. The foregoing express warranty is 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.

**M. ENTIRE AGREEMENT**

This Contract, including all Exhibits and other attachments, which are attached hereto and incorporated

by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Contract not expressly set forth herein are of no force or effect. This Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Contract and signs the same of its own free will.

**N. ELECTRONIC SIGNATURES**

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other mail transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

**IN WITNESS WHEREOF**, San Bernardino County and the Contractor have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

SAN BERNARDINO COUNTY

►  
\_\_\_\_\_  
Dawn Rowe, Chair, Board of Supervisors

Dated: \_\_\_\_\_  
SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Lynna Monell  
Clerk of the Board of Supervisors  
of San Bernardino County

By \_\_\_\_\_  
Deputy

OPEX Corporation  
\_\_\_\_\_  
*(Print or type name of corporation, company, contractor, etc.)*

By ► \_\_\_\_\_  
*(Authorized signature - sign in blue ink)*

Winnie W. Chow  
Name \_\_\_\_\_  
*(Print or type name of person signing contract)*

Director, Legal Affairs  
Title \_\_\_\_\_  
*(Print or Type)*

Dated: \_\_\_\_\_

Address 305 Commerce Drive  
\_\_\_\_\_  
Moorestown, NJ 08057

**FOR COUNTY USE ONLY**

Approved as to Legal Form  
►  
Julie Surber, Principal Assistant County Counsel  
Date \_\_\_\_\_

Reviewed for Contract Compliance  
►  
Date \_\_\_\_\_

Reviewed/Approved by Department  
►  
Stephenie Shea, Registrar of Voters  
Date \_\_\_\_\_

**ATTACHMENT A**  
**PRICING SCHEDULE**

**OPEX Recommended Configuration and Purchase Pricing**

QTY	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
4	Model 72 Base Machine*	\$37,717.00	\$150,868.00
4	Model 72 Adjustable Height Table	\$3,475.00	\$13,900.00
4	Model 72 Drop Sort Filler - Full Length	\$230.00	\$920.00
4	Model 72 Dust Cover	\$240.00	\$960.00
4	Model 72 Envelope Catcher	\$115.00	\$460.00
Freight to San Bernardino, CA			Included
Installation & Training			Included
30 Day Warranty for New Model 72			Included
<b>Purchase of Four (4) new Model 72 Total (pre-tax)</b>			<b>\$167,108.00</b>

**\*Model 72 Base Machine Purchase Discount:** The above quoted base machine unit price for the Model 72 includes a 2% discount contingent upon San Bernardino purchasing four (4) Model 72 at the same time. Should the number of Model 72 go up or down the unit price is subject to change. This discount is only extended to the Model 72 base machine and is not applied to any Model 72 optional items (i.e., Adjustable Height Table, Drop Sort Filler, Dust Cover, and/or Envelope Catcher).

For clarity, the purchase prices listed above are held firm until December 31, 2024 and the purchase of additional units will be based on Contractor's then current published rates starting on January 1, 2025 and thereafter.

The four (4) Model 72 units will be delivered sixty (60) calendar days after Contractor receives a fully executed copy of this Contract.

**OPEX Annual On-Call Maintenance and Software License Pricing**

The below quoted cost is for the annual on-call service rates for the Model 72 for a single year (12 consecutive months). All services offered in this response are commercial off-the-shelf services. The OPEX annual on-call maintenance service begins upon the expiration of the included thirty (30) day warranty.

The pricing quoted below is based on OPEX's prepayment annually in advance payment option. Furthermore, pricing is based on OPEX's standard on-call hours: Monday through Friday, 7AM-3PM, site local time, excluding OPEX holidays. Should the Customer require weekend and/or holiday coverage, then additional service fees will apply (availability fee plus an hourly billable rate and mileage) in addition to the pricing quoted below.

**First Year On-Call Maintenance and Software License Fee**

QTY	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
4	Model 72 Base Machine*	\$3,165.00	\$12,660.00
<b>2024 Annual On-Call Maintenance and License Fees Total (pre-tax)</b> <b>Starts on or Before December 31, 2024</b>			<b>\$12,660.00</b>

**\*Model 72 Base Machine Service Discount:** The above quoted Model 72 base machine unit price includes a machine quantity discount contingent upon San Bernardino placing all four (4) Model 72 on a service contract with OPEX and all units being on the same floor of the same site. Should the number of machine on contract go up or down, the unit price for the base machine is subject to change.

All pricing is pre-tax. Payment is net forty-five (45) days from date of invoice. Upon conclusion of the first-year annual maintenance services OPEX's then-current rates apply for renewal. For clarity, any subsequent annual maintenance periods commencing in calendar year 2025 and later will be based on Contractor's then current rates.

**ATTACHMENT B  
MAINTENANCE AGREEMENT**

**MASTER MAINTENANCE AGREEMENT (“Agreement”)**  
By and between OPEX CORPORATION (“Vendor”) and San Bernardino County (“Customer”)

To Commence Upon the Expiration of the 30-Day Warranty (“Effective Date”)

**1. BASIC TERMS.**

**1.1 *Equipment Covered.*** The machines specifically identified by serial number on Exhibit “A” shall be covered by this Agreement (collectively “Equipment”). Vendor shall furnish “Maintenance Service” (as defined in Paragraph 2.1 below) on Equipment at Customer’s various Equipment “Sites” (as defined in Paragraph 2.2 below). Upon mutual agreement between the parties, and pursuant to the terms herein, Equipment may be added or deleted from the Exhibit “A” from time to time. All Maintenance Service shall be provided in consideration for the payment of Vendor’s maintenance charges set forth herein, plus all sales and use taxes and such other governmental charges as may be imposed on the provision of goods and services hereunder. Service rates for the first year of this Agreement are detailed within Exhibit “B.”

**1.2 *Effective Date; Renewals.*** Maintenance Service shall begin on the Effective Date listed above and shall continue for one year (“Initial Term”). This Agreement may be renewed from year-to-year upon the mutual agreement of both parties (“Renewal Term”). Payment by Customer of Vendor’s invoicing for any Renewal Term shall be deemed as mutual agreement by the parties to renew this Agreement. Rates during any Renewal Term are subject to Vendor’s then-current pricing.

**1.3 *Equipment Not Previously Covered.*** Any machine which Customer seeks to add to this Agreement that has not been continuously covered by a maintenance agreement with Vendor since the expiration of its warranty period, shall be subject to inspection by Vendor. After such inspection, if Vendor, in its sole discretion, determines that the machine is not operating in conformity with the “Published Specifications” (as defined in Paragraph 1.4 below), the machine shall be restored to good operating condition at Customer’s expense, subject to Vendor’s then-current rates, as a condition of adding the machine to Exhibit “A.”

**1.4 *Routine Cleaning.*** The day-to-day routine cleaning and minor adjustments on the Equipment, as described in both Vendor’s equipment operating manuals and other supplementary material (“Published Specifications”) which may be furnished by Vendor to Customer from time to time, shall be performed by Customer. Vendor will notify Customer in writing if the Customer fails to perform routine cleaning on the Equipment.

**2. MAINTENANCE SERVICE.**

**2.1 *Maintenance Service, Generally.*** Maintenance Service is defined as all labor and replacement parts necessitated by normal wear and tear from operation of the Equipment in accordance with Vendor’s Published Specifications, in order to maintain the Equipment in good operating condition (“Maintenance Service”).

**2.2 *Definition of Customer’s Equipment Site(s).*** “Site” is defined as the one (1) floor within Customer’s premises specified in Exhibit “A.” Equipment moved to a different Site is subject to the limitations described in Paragraph 7.1(k) below.

**2.3 *Service Calls.*** Preventive Maintenance Service calls are those periodic calls initiated by Vendor to keep the Equipment operating in accordance with Vendor’s Published Specifications (“PM’s”). Demand Maintenance Service calls are those calls initiated by Customer to request that Vendor repair Equipment that is malfunctioning or not operating in accordance with the Published Specifications (“Demand Calls”). (A PM

may be performed in conjunction with a Demand Call placed by Customer, depending upon, and at the discretion of, Vendor's service technician.) The minimum number of PM's and maximum number of Demand Calls for each piece of Equipment are outlined in the chart below.

<b>Machine Type</b>	<b>Models 72</b>
<b>Demand</b>	unlimited
<b>Preventive Maintenance</b>	12

Demand Calls in excess of the maximum may be billed at Vendor's then-current rates. Additionally, if Vendor, in its sole discretion, determines that the number of "unlimited" calls becomes unreasonable, Vendor reserves the right to charge for excessive Demand Calls after providing written notice to Customer.

**2.4 Field Service Reports.** Vendor shall furnish a summary of the Maintenance Service provided to the Customer upon completion of each Maintenance Service call ("Field Service Report"). The Field Service Report shall contain the following information: (i) date and time of arrival; (ii) specific identification of Equipment serviced; (iii) time of Maintenance Service; (iv) description of the malfunction (if any); and (v) list of parts replaced.

**2.5 Response Times.** Vendor shall exert all reasonable efforts to respond to Demand Calls within four (4) hours after such call is received by Vendor, during the designated "Coverage Hours" (as defined in Paragraph 3.3 below).

**2.6 Parts.** Only new standard parts or factory certified parts shall be used in providing Maintenance Service. Title to all replacement parts provided during the course of providing Maintenance Service pursuant to this Agreement will pass to Customer upon installation.

**3. GENERAL TERMS.**

**3.1 Standard Maintenance Charge.** Vendor's standard maintenance charge provides for Maintenance Service to Equipment covered during any mutually agreed upon Coverage Hours, subject to the terms and conditions set forth in Paragraph 3 below ("Standard Maintenance Charge").

**3.2 Equipment Usage Charge.** Actual Equipment usage shall be measured by Vendor every three (3) months or thirteen (13) weeks ("Quarterly Basis"). Any particular piece of Equipment which processes envelopes in excess of the volumes specified below shall be subject to an additional charge ("Additional Usage Charge"). Additional Usage Charges shall be calculated on half-shift increments; and shall be invoiced based upon 25% of Vendor's Standard Maintenance Charge.

To the extent that the number of envelopes processed by a particular piece of Equipment exceeds the numbers set forth below on a Quarterly Basis, an Additional Usage Charge shall apply:

<u>Equipment</u>	<u>Envelopes per quarter</u>
Eagle	6,500,000
System 150	4,550,000
IEM	4,550,000
MPS 30	11,375,000
MPS 40	16,380,000
MPE 5.0	1,820,000
MPE 7.5	2,275,000
AS180/DS1225/DS2200	N/A*
AS3600/AS3690/AS7200	N/A*
Falcon/Falcon +/FalconV/FalconV +	N/A*
Models 50/51/60/72	N/A*
Mail Matrix	N/A*

\*NOTE: In the event that Equipment usage is extraordinary, Vendor, in its sole discretion, reserves the right to establish an Additional Usage Charge for this Equipment after providing Customer written notice.

**3.3 Maintenance Service Coverage Hours, Generally.** All Equipment located at a particular Site must be maintained during the same Maintenance Service schedule ("Coverage Hours"). Coverage Hours shall be governed by the terms and conditions set forth below.

**3.3.1 Coverage Hours for a Site with an Eagle or System 150.** Coverage Hours shall be 7:00 am to 3:00 pm (Site local time), Monday through Friday, excluding "Vendor Holidays" (as defined in Paragraph 3.5 below).

**3.4 Altering Coverage Hours.** Customer shall be able to increase, decrease or shift, the Coverage Hours for a Site. However, in no event, may the Coverage Hours be decreased to less than forty (40) hours per week.

**3.4.1 Increasing Coverage Hours.** Upon thirty (30) days written notice, Customer may increase the Coverage Hours for a particular Site. Any increase in the Coverage Hours shall be subject to Vendor personnel availability and subject to Vendor's then-current rates based upon half shift increments.

**3.4.2 Decreasing Coverage Hours.** Upon sixty (60) days written notice, Customer may decrease the Coverage Hours for a particular Site. This 60-day notice period applies to any decrease in Maintenance Service, including removing Equipment or Equipment options, reducing the number of covered shifts, or total termination of Maintenance Service for a Site. The notice period shall begin to run from the date on which Vendor receives the written notification. Upon receipt of the 60-day notice, Customer will be provided a credit for any unused Maintenance Service towards future Equipment or Maintenance Service, calculated from the date of the expiration of the sixty (60) day period.

**3.4.3 Shifting Coverage Hours.** Upon thirty (30) days written notice, Customer may shift the Coverage Hours for a particular Site. Any shift in the Coverage Hours shall be subject to Vendor personnel availability and subject to Vendor's then-current rates.

**3.5 Vendor Holidays.** Vendor observes the following holidays ("Vendor Holiday(s)"): New Year's Day; Good Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving; Christmas Eve; and Christmas Day. Upon thirty (30) days written notice, Customer may obtain Maintenance Service coverage on Vendor Holidays. Vendor Holiday coverage shall be subject to Vendor personnel availability and subject to Vendor's then-current rates. When one of the above designated Vendor Holidays is on a Saturday or Sunday, the Vendor Holiday will be observed on the date observed by the federal government and/or by Vendor. Vendor reserves the right to modify the holiday list upon providing at least ninety (90) calendar days' advance written notice to Customer.

**3.6 "Weekend" Coverage.** Upon thirty (30) days written notice, Customer may obtain Maintenance Service coverage on the two days per week not covered pursuant to Paragraph 3.3.1 above ("Weekend Coverage"). Weekend coverage shall be subject to Vendor personnel availability and subject to Vendor's then-current rates.

**3.7 Invoicing.** Vendor shall invoice Customer annually in advance for the Standard Maintenance Charge. Any additional service charges (e.g., machine restoration pursuant to Paragraph 1.3, Weekend Coverage, etc.) shall be invoiced quarterly in arrears. Terms of payment are net thirty (30) days from date the invoice is issued. Late payments shall bear interest at the lesser of (i) 2% per month or (ii) the highest permissible rate by law, payable monthly.

#### **4. PROPRIETARY TECHNOLOGY AND DIAGNOSTICS; CONFIDENTIALITY.**

**4.1 Technology.** Vendor holds intellectual property rights in the Equipment, which includes the Equipment's computer operating system, software components and mechanical components (collectively "Technology"). No licenses, either express or implied, under any patents are granted by Vendor to Customer hereunder, except as expressly stated herein. Customer agrees that it shall not copy, remove, use (except for operation of the Equipment in accordance with the Published Specifications), or disclose Technology to any third party.

**4.2 Diagnostics.** In providing Maintenance Service, Vendor utilizes certain software diagnostics ("Diagnostics"). Vendor holds intellectual property rights in the Diagnostics, and the Diagnostics are for Vendor's exclusive use. Except with the express written consent of Vendor, Customer shall not use, copy, remove, or alter the Diagnostics. It is understood and agreed by Customer that upon termination of this Agreement, Customer shall either: (i) Return the Diagnostics to Vendor at Vendor's expense; or (ii) Purchase, according to Vendor's then-current rates, a non-exclusive, non-transferable and personal limited license to use the Diagnostics.

**4.3 Confidential Information.** During the term of this Agreement, either party may have access to, or be given, certain technical information or data, customer information or data, manuals, drawings, sketches, models, samples, tools, or the like, of the other party, which are of a confidential and/or proprietary nature (collectively "Information"). All Information furnished to the receiving party, whether written, oral or otherwise, shall remain the sole and exclusive property of the disclosing party. Upon request, all Information shall be returned to the disclosing party. Unless such Information: (i) was previously known to the receiving party free of any obligation to keep it confidential; (ii) is subsequently made public by the disclosing party or by a third party, other than by breach of agreement; or (iii) is required to be disclosed to any governmental agency or court of competent jurisdiction by written order or decree (in which case the disclosing party shall be given prompt notice by the receiving party of such order or decree, and shall be given an opportunity to contest or direct such disclosure); the Information shall be kept confidential by the receiving party and shall be used solely for the purposes of fulfilling the terms of this Agreement.

## **5. WARRANTY; WARRANTY LIMITATIONS.**

Vendor warrants that all work required to be performed hereunder shall conform to the descriptions contained in this Agreement and will be performed in a professional manner according to generally accepted industry standards. 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 AGREEMENT.

## **6. INFRINGEMENT AND GENERAL INDEMNIFICATION.**

**6.1 Patent, Copyright and Trademark Infringement Indemnification.** Vendor will (i) indemnify, hold harmless and defend Customer, at Vendor's expense, from and against any claim brought against Customer alleging that any portion of the Equipment infringes a European Union, Canadian or United States patent, copyright, trademark, or other intellectual property right, of any third party; and (ii) hold Customer harmless from and against all costs and damages finally awarded, provided that Vendor is given prompt written notice of such claim and is given information, reasonable assistance, and sole authority to defend or settle the claim.

**6.1.1 Infringement Defense.** In the defense or settlement of a claim pursuant to Paragraph 6.1 above, Vendor may: (i) obtain for Customer the right to continue using the Equipment; (ii) replace or modify the Equipment so that it becomes non-infringing; or (iii) if remedies (i) and (ii) are not reasonably available, grant Customer a depreciated refund pro-rata based upon a sixty (60) month life, measured from the original installation date of the Equipment.

**6.1.2. Infringement Indemnification Limitations.** Vendor shall not have any liability if the alleged infringement is based upon the use or sale of the Equipment in combination with other products or devices not furnished or approved by Vendor. VENDOR DISCLAIMS ALL OTHER LIABILITY FOR PATENT,



COPYRIGHT OR TRADEMARK INFRINGEMENT, INCLUDING ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, AND THE RIGHTS STATED HEREIN ARE THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY.

6.2 [Reserved].

6.3 [Reserved].

## 7. LIMITATIONS.

**7.1 Maintenance Service Limitations.** Notwithstanding anything herein to the contrary, Vendor shall have no obligation hereunder to provide Maintenance Service to Equipment which has deteriorated to such an extent that it cannot, in the reasonable discretion of Vendor, be maintained and needs to be replaced. Vendor shall provide written notice of any such deterioration prior to suspending Maintenance Service. Furthermore, Vendor shall have no implied or expressed obligation hereunder to diagnose, troubleshoot, maintain and/or repair Customer's environmental systems (e.g., HVAC), computer networks, computer systems, computer servers or other networks, or items external to the Equipment or not delivered by Vendor. Vendor's obligations to provide Maintenance Service shall also terminate if Customer:

- (a) fails to provide Vendor with safe and sufficient access to the Equipment, subject to Customer's reasonable site security policies and procedures;
- (b) stores, handles, operates, alters or modifies the Equipment in a negligent manner, otherwise damages the Equipment, or uses the Equipment for purposes other than those set forth in Published Specifications;
- (c) fails continuously or repeatedly to provide routine cleaning after being provided notice by Vendor pursuant to Section 1.4 above;
- (d) fails continuously or repeatedly to provide a suitable environment with regard to facilities (including without limitation HVAC system, humidity, and/or power) as prescribed in the Published Specifications;
- (e) uses or operates the Equipment beyond its intended design parameters;
- (f) damages the Equipment through its use in conjunction with machinery, software, or third-party supplies not covered by this Agreement;
- (g) performs maintenance or repairs on the Equipment not authorized in writing by Vendor, or allows a third party not authorized in writing by Vendor to perform the same;
- (h) alters or modifies in any way the Equipment safety mechanisms;
- (i) operates the Equipment with envelopes or enclosures other than those specified in the Published Specifications;
- (j) fails to follow routine cleaning instructions and/or prohibitions (e.g., use of flammable gases, compressed or canned air) in the process of performing the routine cleaning of the Equipment or if the Equipment is damaged due to fire, water, electrical power loss or disruption, or other external causes or other similar causes; or
- (k) relocates Equipment to a Site other than that defined in this Agreement; provided, however, that should Vendor and Customer agree to continue Maintenance Service on Equipment moved to another Site, Customer's Equipment shall be subject to inspection by Vendor, at Vendor's published rates and terms then in effect for such service, prior to Vendor resuming Maintenance Service on Customer's Equipment.

Any period of suspension or termination referenced shall not relieve Customer of its obligation to make timely payment for the Maintenance Service and/or Software License fees that accrued up to the effective date of termination.

**7.2 General Limitations.** In no event shall either party be liable to the other, 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, to the maximum extent permitted by law, except for a party's gross negligence or willful misconduct, each party's liability for damages under this Agreement, whether in an action in negligence, contract or tort or based on a warranty, shall not exceed the annual fees payable for the Maintenance Service.

**8. GENERAL PROVISIONS.**

**8.1 Governing Law.** This Agreement shall be construed in accordance with the laws of the State of California. Any claim arising out of or in connection with this Agreement shall be brought only in the Superior Court in and for the State of California, and Customer agrees to personal jurisdiction over it in such court.

**8.2 [Reserved]**

**8.3 Assignment.** Neither party may assign this Agreement unless mutually agreed upon by the parties, such agreement not to be unreasonably withheld by either party. However, in no event shall this Agreement be assigned to a competitor of Vendor. **Rights Cumulative; Non-Waiver.** All rights and remedies conferred under this Agreement or by any other instrument or law shall be cumulative and may be exercised singularly or concurrently. Failure or delay by either party to enforce any contract term herein shall not be deemed a waiver of future enforcement of that or any other term.

**8.4 Severability.** In the event any one or more of the provisions contained herein shall for any reason be held to be unenforceable in any respect under the law of any state or of the United States of America, such unenforceability shall not affect any other provision of this Agreement, but this Agreement shall then be construed as if such unenforceable provision or provisions had not been contained herein.

**8.5 Force Majeure.** Neither Vendor nor Customer shall be held responsible for any delay or failure in performance of this Agreement caused by fires, strikes, embargoes, government requirements, acts of God or public enemy or other similar causes beyond their reasonable control.

**8.7. Nondiscrimination Clause.** Vendor is an equal employment opportunity employer and is a federal contractor. Consequently, Vendor and Customer (as applicable) agree that they will comply with Executive Order 11246, the Vietnam Era Veterans Readjustment Assistance Act of 1974 and Section 503 of the Rehabilitation Act of 1973 and also agree that these laws are incorporated herein by this reference. The parties further agree that they will comply with the provisions of Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), as applicable, relating to the notice of employee rights under federal labor laws.

**8.8 Order of Precedence.** Unless otherwise provided herein or agreed to in a signed writing, documents will apply in the following descending order of precedence: (i) main body of this Agreement and Exhibit C; (ii) Exhibits "A" and "B;" and (iii) all other transaction documents.

**8.9 Entire Agreement.** This Agreement, the Exhibits and documents incorporated herein, are the final, full and exclusive expression of the understandings of the parties and supersedes all prior agreements, understandings, writings, proposals, representations and communications, oral and written, of either party.

By signing below, the Parties agree to be bound by the terms of this Agreement and any attached Exhibits.

**OPEX CORPORATION ("Vendor")**

**San Bernardino County ("Customer")**

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT "A" EQUIPMENT SCHEDULE**

1) Customer's Name: San Bernardino County

2) The Equipment covered by this Agreement is located at the following Site(s):

[insert]

3) The Equipment covered by this Agreement includes the machines described below:

(a) Machine Description: [insert]  
Serial Number(s): [insert]

(b) Machine Description: [insert]  
Serial Number(s): [insert]

(c) Machine Description: [insert]  
Serial Number(s): [insert]

By signing below, the Parties agree to be bound by the terms of the Agreement and this Exhibit "A."

**OPEX CORPORATION ("Vendor")**

**San Bernardino County ("Customer")**

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name:

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT "B" SERVICE PRICING**

Pricing for the Initial Term of the Agreement is based on the current rates set forth herein, prepaid annually in advance, per shift, per site. Pricing for any Renewal Term is subject to change, based upon Vendor's published rates then in effect.

<u>Product Description</u>	<u>Price Each</u>	<u>QTY</u>	<u>Extended Price</u>
[insert]	[insert]	[insert]	[insert]
Total Service Costs (pre-tax)			<b>[\$[insert]]</b>

OPEX Service Escalation Procedure

Either the Customer or Vendor's Field Service Technician may declare a "**Down**" machine status:

- A machine is **Down** when in the Customer's judgment the machine is not operating to its specifications and the Customer relinquishes use of the machine to the Field Service Technician for repair or adjustment.
- A machine is **Down** when the Field Service Technician has the machine for repair or adjustment.

**NOTE:** A machine undergoing scheduled system maintenance is not considered **Down**.

- There are two methods for which equipment in a **Down** state is reported and escalated.
  - 1) Upon a **Down** condition of a machine, the Field Service Technician at the Customer's site is to evaluate the cause of the failure. If the Field Service Technician estimates that the problem may not be repaired for a prolonged time period, the Field Service Technician will call Vendor's Technical Support Department ("Technical Support") to report that information. A Level 1 Technical Support Representative will be assigned to the problem and it will be entered in Vendor's automated electronic Help Desk system and tracked to a resolution.
  - 2) When a Customer places a service call for a **Down** machine to Technical Support, an escalation clock is started. If the Field Service Technician does not report that the particular problem has been resolved within 2 hours after the time the Field Service Technician is contractually obligated to arrive at the Customer's site, the call will automatically escalate and a Level 1 Technical Support Representative will be assigned. At that time, the Level 1 Technical Support Representative will enter the problem in the automated electronic Help Desk system and will contact the Field Service Technician and inquire as to what assistance is needed.
- The Field Service Technician must continually update the Customer contact as to:
  - ◆ Status of the repair
  - ◆ Immediate plans for the repair
  - ◆ Contingency plans for the repair (fallback)
  - ◆ Estimated time to completion of the repair

While a call is active with Technical Support and in the Help Desk system, it will follow Vendor's established internal escalation.

- If a machine remains in a **Down** state for a period of 8 hours, the call is automatically escalated to a Level 2 Technical Support Representative (product expert). The Level 2 Technical Support Representative will consult with and assist the Level 1 Technical Service Representative.
- If the problem has not been resolved for a second 8-hour period, the call will be automatically escalated to Level 3, at which time the Lead Technical Support Representative and the Manager of Technical Support are notified and will strategize and coordinate all necessary steps to resolve the problem.

**NOTE:** These are automated electronic internal escalations and include all pertinent information and the plan of action as it is developed and critical steps of the plan which have been completed.

- During the machine **Down** condition, Technical Support personnel must do the following:
  - ◆ The assigned Level 1 Technical Support Representative must keep an up to date activity log in the Help Desk system regarding the problem and all of the steps that have been taken to the present

time.

- ◆ Update the Field Service Technician with all pertinent internal actions and escalations as well as emergency part shipment information, as required.
- ◆ As necessary, consult with or engage the Design Engineering Staff to review the failure information and machine status, review the repair plans and review the contingency plan.
- ◆ As necessary, consult with the Vice Presidents of Manufacturing and Engineering from a design perspective.

While a call is active with Technical Support and in the Help Desk system, all activity that is logged is visible to Regional Service Managers, National Service Managers and higher level Vendor management.

Upon resolution of the failure, the Field Service Technician must contact the assigned Level 1 Technical Support Representative and (i) explain the eventual solution in detail and that information is documented in the Help Desk database for future reference regarding a similar problem, and (ii) report that the machine status can be recorded as "Up."

Upon resolution, a member of Vendor's management team will contact Customer to ensure Customer satisfaction with the results.

# Model 72 Installation Specifications

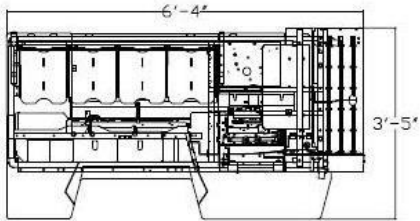
OPEX Corporation: April 2018

**OPEX**<sup>®</sup>  
CORPORATION  
MOORESTOWN, NEW JERSEY 08057

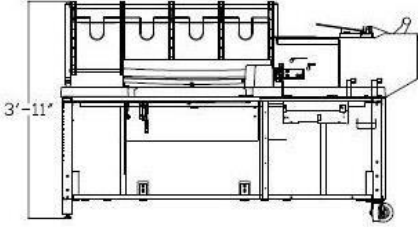
**MODEL 72**  

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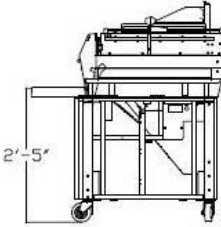
**INSTALLATION SPECIFICATIONS**



OPTIONAL ADJUSTABLE  
HEIGHT WORK SURFACE  
25" MIN. TO 32.5" MAX.



3'-11"



2'-5"

**MODEL 72 SPECIFICATIONS:**

- INPUT VOLTAGE: 115VAC, SINGLE PHASE
- FURNISHED LINE CORD, PLUG: 9FT., IEC POWER CORD
- INPUT CURRENT: 9.25A (Max)
- CIRCUIT BREAKER: 10A
- BTU/HR.: 3788 (Max @ 9.25A)
- POWER RATING: 1110W (Max @ 9.25A)
  
- SHIPPING WEIGHT: 658LBS (WITH PALLET)

**OPEX**<sup>®</sup> CORPORATION 305 COMMERCE DRIVE, MOORESTOWN, NEW JERSEY 08057 (609) 727-1100 FAX (609) 727-1955 Revised 8/10/10

**Model 72 Rapid Ballot Extraction Desk (“Model 72”) Published Specifications**

Envelope Feeding	Friction-based feeder up to 22” of mail
Envelope Width	3.5” – 6.38”
Envelope Length	5” – 11.5”
Envelope Thickness	Up to 0.375”
Cycle Rate	Up to 2,000 ballots per hour (quick extract & stack) Up to 1,000 ballots per hour (extract, unfold, & stack) Note: Machine’s burst cycle rate is 3,600 ballots per hour
Top Cutter	Milling
Dimensions (H x W x D)	47” x 76” x 41”
Additional Features	Verifier Operator LCD Tray Holder
Daily Duty Cycle	Unlimited
Product Description	Please refer to Contractor’s website located at <a href="http://www.opex.com">www.opex.com</a> .



## ATTACHMENT C

### Campaign Contribution Disclosure (SB 1439)

#### **DEFINITIONS**

Actively supporting the matter: (a) Communicate directly with a member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, District Attorney, Auditor-Controller/Treasurer/Tax Collector] for the purpose of influencing the decision on the matter; or (b) testifies or makes an oral statement before the County in a proceeding on the matter for the purpose of influencing the County's decision on the matter; or (c) communicates with County employees, for the purpose of influencing the County's decision on the matter; or (d) when the person/company's agent lobbies in person, testifies in person or otherwise communicates with the Board or County employees for purposes of influencing the County's decision in a matter.

Agent: A third-party individual or firm who, for compensation, is representing a party or a participant in the matter submitted to the Board of Supervisors. If an agent is an employee or member of a third-party law, architectural, engineering or consulting firm, or a similar entity, both the entity and the individual are considered agents.

Otherwise related entity: An otherwise related entity is any for-profit organization/company which does not have a parent-subsidary relationship but meets one of the following criteria:

- (1) One business entity has a controlling ownership interest in the other business entity;
- (2) there is shared management and control between the entities; or
- (3) a controlling owner (50% or greater interest as a shareholder or as a general partner) in one entity also is a controlling owner in the other entity.

For purposes of (2), "shared management and control" can be found when the same person or substantially the same persons own and manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a regular and close working relationship between the entities.

Parent-Subsidiary Relationship: A parent-subsidiary relationship exists when one corporation has more than 50 percent of the voting power of another corporation.

**Contractors must respond to the questions on the following page. If a question does not apply respond N/A or Not Applicable.**



1. Name of Contractor: \_\_\_\_\_
2. Is the entity listed in Question No.1 a nonprofit organization under Internal Revenue Code section 501(c)(3)?  
 Yes  If yes, skip Question Nos. 3-4 and go to Question No. 5      No
3. Name of Principal (i.e., CEO/President) of entity listed in Question No. 1, if the individual actively supports the matter and has a financial interest in the decision: \_\_\_\_\_
4. If the entity identified in Question No.1 is a corporation held by 35 or less shareholders, and not publicly traded (“closed corporation”), identify the major shareholder(s):  
 \_\_\_\_\_
5. Name of any parent, subsidiary, or otherwise related entity for the entity listed in Question No. 1 (see definitions above):

Company Name	Relationship

6. Name of agent(s) of Contractor:

Company Name	Agent(s)	Date Agent Retained (if less than 12 months prior)

7. Name of Subcontractor(s) (including Principal and Agent(s)) that will be providing services/work under the awarded contract if the subcontractor (1) actively supports the matter and (2) has a financial interest in the decision and (3) will be possibly identified in the contract with the County or board governed special district.

Company Name	Subcontractor(s):	Principal and//or Agent(s):

8. Name of any known individuals/companies who are not listed in Questions 1-7, but who may (1) actively support or oppose the matter submitted to the Board and (2) have a financial interest in the outcome of the decision:

Company Name	Individual(s) Name

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9. Was a campaign contribution, of more than \$250, made to any member of the San Bernardino County Board of Supervisors or other County elected officer within the prior 12 months, by any of the individuals or entities listed in Question Nos. 1-8?

No  If **no**, please skip Question No. 10.

Yes  If **yes**, please continue to complete this form.

10. Name of Board of Supervisor Member or other County elected officer: \_\_\_\_\_

Name of Contributor: \_\_\_\_\_

Date(s) of Contribution(s): \_\_\_\_\_

Amount(s): \_\_\_\_\_

Please add an additional sheet(s) to identify additional Board Members or other County elected officers to whom anyone listed made campaign contributions.

By signing the Contract, Contractor certifies that the statements made herein are true and correct. Contractor understands that the individuals and entities listed in Question Nos. 1-8 are prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer while award of this Contract is being considered and for 12 months after a final decision by the County.