

MEMORANDUM
COUNTY OF PLACER
DEPARTMENT OF ADMINISTRATIVE SERVICES
PROCUREMENT SERVICES DIVISION

TO: Honorable Board of Supervisors

FROM: Brett Wood, Purchasing Manager *BW*

DATE: November 8, 2011

SUBJECT: Approve Change Order No. 1 in the amount of \$1,522.52 to Blanket Purchase Order No. 18441 with Francotyp-Postalia, Inc., DBA FP Mailing Solutions for Postage Meter Rental, Extending the Effective Term Through November 7, 2013 at a total cost not to exceed \$1,644.40

ACTION REQUESTED

Approve Change Order No. 1 to Blanket Purchase Order (BPO) No. 18441 with Francotyp-Postalia, Inc. dba FP Mailing Solutions of Addison, Illinois for postage meter rental, and authorize the Purchasing Agent to sign the resulting change order extending the effective term through November 7, 2013.

BACKGROUND

County Counsel currently has a BPO with FP Mailing Solutions for rental of a postage meter effective through March 31, 2012. FP Mailing Solutions has offered to upgrade the postage meter at no additional cost to the County. However, the upgrade rental agreement will be effective for a period of 24 months from the date FP Mailing Solutions receives a signed agreement from the County. The rental fee will remain the same at \$67.60 per month plus 7.25% sales tax. Purchasing Policy Manual Section 2.1(d) requires your Board's approval for equipment rental/lease contracts exceeding one year. The extended contract will go to November 7, 2013 or an additional 21 months beyond the date of the current expiration.

FISCAL IMPACT

In order to accommodate the two-year agreement, it is necessary to increase the total dollar amount of the BPO with FP Mailing Solutions to pay for the monthly rental rates during the extended term. The existing balance of this BPO is \$121.88 the additional expenses resulting from this recommended two-year agreement will total \$1,522.52, resulting in a new BPO amount of \$1,644.40. County Counsel's Fiscal Impact Statement is attached.

Attachments: FP Mailing Solutions' Rental Agreement
County Counsel Fiscal Impact Statement

cc: Chris Coffman, Office Manager, County Counsel



Rental Agreement

FP Mailing Solutions
 140 N. Mitchell Ct.
 Suite 200
 Addison, IL 60101-5629
 Tel: (800) 341-6052
 www.fp-usa.com

CHECK ALL THAT APPLY:

- New Customer
- Renewal
- Change of Ownership (If name/address change please provide current account information for verification):

- Upgrade From: T1000
- Lease Company: _____
- National Account
- GSA Contract No.: _____
 State Contract No.: _____
- USPS® (letter must be attached)

FOR UPGRADES, RENEWALS, AND CHANGE OF OWNERSHIP:

Account No.: 500001647
 Contract No.: _____

PLEASE PROVIDE ALL RELEVANT INFORMATION:

Promo Code: _____
 Special Promo Terms: _____
 Price and/or Terms Exceptions Approval (attached)
 Master Billing Acct. No.: _____
 Master Postage Acct. No.: _____

Internal Use:

Navision No.: _____

Customer Information

Billing Address	
Customer: PLACER COUNTY COUNSEL <input type="checkbox"/>	
Department:	
Street: 175 FULWEILER AVE	
City: AUBURN	County:
State: CA	Zip: 95603-4543
Tel: 530-889-4044	Fax: 530-889-4069
E-mail: CCOFFMAN@PLACER.CA.GOV	
Contact Name: CHRIS COFFMAN	
Tax ID:	<input type="checkbox"/> Tax-Exempt Certificate Attached

Shipping/Installation Address	
Customer: SAME	
Department:	
Street:	
City:	County:
State:	Zip:
Tel:	Fax:
E-mail:	
Contact Name:	
Distribution to: <input type="checkbox"/> Dealer <input checked="" type="checkbox"/> Customer <input type="checkbox"/> Fulfilled from Dealer Inventory	

Rental Information

Quantity	Item #	Item Description	Monthly Rate	Rental Billing Information	
1	O1	Optimail Postage Meter	\$ Included	<input checked="" type="checkbox"/> Annual Billing	<input type="checkbox"/> Semi-Annual
1	54R	15lb Refurbished Scale	Included	<input type="checkbox"/> Quarterly Billing	
1	RGPFX	Platinum rateguard	Included	Initial Postage	
1	614	Sealer	Included	Please make check payable to CMRS-FP	
				Check Number	_____
				Amount	\$ _____
				Recurring Postage	
<input checked="" type="checkbox"/>	+Unlimited Resets to be included			<input type="checkbox"/> Reset Debit (application attached)	
	Total Monthly Rental		\$ 67.60	<input type="checkbox"/> On-Demand Debit (application attached)	

*If unlimited resets is not checked above, I agree to pay the then-current list price for each occurrence. _____ (initials required)
 Terms: 24 -month rental term (60-mo. initial term will apply unless otherwise selected). _____ (initials required)

This agreement and the Terms & Conditions attached hereto shall automatically and without any further action by either party hereto, renew for one year periods following the expiration of the initial term and any such renewal terms, unless and until either party hereto provides written notice to the other party of its intent to so cancel. Such written notice must be delivered no later than ninety (90) days (or the maximum time period permitted by applicable law) prior to the end of the current term. Cancellation will be effective at the end of the then-current term. FP can change the monthly rate and fees after the initial term, with 30 days prior notice.

Customer Acceptance	
Authorized Representative:	
Tel:	
Tax ID or Drivers License No:	State:
Authorized Signature: X	
Title:	Date:

Dealer Information:	
Dealer Name: FP Mailing Solutions	Dealer #: 4140
Address: 140 N. Mitchell Court, Suite 200, Addison, IL 60101	
Tel: 630.827.5861	Fax: 800.884.6905
Sales Representative: Sharon L. Schaffer	

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Rental Agreement Terms and Conditions

Francotyp-Postalia, Inc., d/b/a FP Mailing Solutions, Inc. ("FP"), makes the following agreements with the customer set forth on the first page of this Rental Agreement ("Customer") for the Term - an Initial Term (commencing on the Installation Date) - and for any Renewal Term under the term plan customer selected above:

1. EXPLANATION OF PRODUCTS

a. Meter - A device that manages the financial transactions of a mailing machine. This can be a standalone unit or a device, known as a Postal Security Device (PSD), which is inserted and housed in the mail handling equipment.

b. Rental Equipment - Any equipment outside of the meter that is rented from FP. Examples include mailing machine base, accessories, scales, etc. Such equipment may require service, which will be invoiced separately to the customer.

c. Rental Services - Non-tangible product services that are rented by FP. Examples include rateguard™, resets, etc.

2. FP WILL:

a. Rent to Customer and facilitate installation of the above-listed meter, rented equipment, and/or services at Customer's installation address, in good working order and ready to use.

b. Maintain the meter in proper operating condition by repair or replacement of non-consumable parts.

3. CUSTOMER WILL:

a. Pay FP using one of our acceptable payment methods including: mailing to the lockbox address stated on invoice or paying online at www.fp-usa.com. Failure to pay on-time can result in any of the following: locking of the meter device, being unable to perform resets, and FP recovery of the meter. Customer will be billed an NSF fee equal to lesser of \$50 or maximum allowed by law if check or electronic payment is returned due to non sufficient funds.

b. Intend the rental payments hereunder to be net to FP, and Customer shall pay all sales, use, or excise taxes; fees or charges imposed on the shipment, transportation, delivery, ownership, leasing, rent, sale, purchase, possession, or use of the equipment (except Federal or State net income or franchise taxes imposed on FP). Customer shall reimburse FP upon demand for any taxes listed paid by or advanced by FP. FP is responsible for any personal property taxes on items rented. The customer is responsible for sending FP any property tax bills.

c. Use reasonable care in the handling and operation of the rented meter, equipment, and/or services and be responsible for any loss or damage to the rented equipment, including provision for proper insurance coverage. FP should be named as "additional insured" and an updated certificate of insurance should be on file at FP at all times. Use of non-FP consumables (ink, rate chips, etc.) could result in a malfunction to the machine. The customer is responsible for repair due to damage done by non-FP products. In the event the meter or equipment is damaged the customer is responsible for the lesser of repair or replacement costs. These costs are available in the "my account" section of the FP website.

d. Not use special attachments, printing plates, or other devices, including electronic scales or supplies, with the provided equipment unless FP supplies them or agrees to their use in writing.

e. Use postage meters only for postage imprinting and recording purposes. (Tampering with or misuse of the postage meter(s) is punishable under Postal Laws and Regulations.)

f. Make immediately available for examination and audit by FP or the USPS® any postage evidencing system or PSD in their possession.

g. Notify FP of any change in location of the rented meter, equipment, and/or services, and reimburse FP for any reasonable cost incurred by FP as a result of the change. Reporting of the change of meter location is required by the USPS®.

h. Return the rented equipment to FP, at Customer's expense, to a location designated by FP, in good condition; normal wear and tear accepted. Customer also agrees to reimburse FP for any cost FP incurs to return the rented equipment to good condition.

i. Be responsible for paying for rate updating software if rateguard™ coverage is not selected.

j. Customer will be responsible for the shipping and handling fees when an exchange is done not related to a contract change or warranty claim. See the "my account" section of the FP website for the current fees.

4. ADDITIONAL TERMS FOR teleset™ METER RENTALS:

a. A bank designated by the Postal Service will act as a depository for Customer's advance postage payments.

b. Before resetting its teleset™ meter, Customer must have at least the amount of the reset increment in Customer's account at the designated bank.

c. If FP provides temporary advance funds to Customer's account to cover the resets, Customer agrees to repay FP's advance within five (5) business days and to pay FP's then-current service fee and/or interest.

d. FP will invoice Customer quarterly in arrears for the reset fee (if applicable) on each completed telephone reset transaction.

e. If Customer discontinues its teleset™ Meter rental account, FP will endeavor to have the USPS® return the funds (must be over \$25) in Customer's account within 90 days after Customer's written request, per USPS® CFR Volume 73, Number 210, pages 61255-61356 and Domestic Mail Manual 604.9.2.8 regulations; but FP does not guarantee that those funds will be returned by any specific date.

f. teleset™ downloads must be performed on an analog phone line.

5. rateguard™:

a. FP rateguard™ is a service that provides automatic rate upgrades to FP Customers when USPS® rate changes occur. When signed up for rateguard™, the Customer pays a monthly charge to be billed on the same billing cycle as their FP postage meter or FP postage scale. The Customer will receive updated rates (rate chip, rate card, software download, or other necessary products) - free of charge from FP, per their rateguard™ Program agreement.

b. FP will provide eligible Customers the opportunity to receive the necessary updated rates (rate chip, rate card, software download, or other necessary products). The Customer's account must remain current and be in good standing at the time of each rate change to remain eligible for the benefits of the rateguard™ program.

c. The rateguard™ Program must remain in effect on the Customer's account for a minimum of the initial contract term. Once the initial term is satisfied, rateguard™ will remain in effect until the end of the corresponding rental equipment and/or services rental agreement.

d. FP reserves the right to modify pricing with 30-days written notice, after the initial contract term.

e. rateguard™ does not cover carrier rate changes occurring fewer than 60 days from the date that rateguard™ is added to the Customer's existing rental agreement/contract. This restriction does not apply to new Customers who have signed a rental agreement fewer than 60 days before a carrier rate change.

6. GENERAL PROVISIONS:

a. Customer acknowledges FP's exclusive ownership of the meter(s) and equipment, and that Customer has no rights except for use for the Rental Term, and agrees to indemnify and defend FP from any claims, legal actions, and costs (including attorney's fees) resulting from Customer's use and operation, and will take reasonable action, to protect FP's ownership.

b. THIS AGREEMENT IS THE ENTIRE AGREEMENT BETWEEN CUSTOMER AND FP, SUPERSEDES ANY PRIOR UNDERSTANDINGS OR WRITINGS, AND IS SUBJECT TO WRITTEN FINAL ACCEPTANCE BY FP'S MAIN OFFICE.

c. Notices must be in writing and are given, when received by mail, to Customer's or FP's main office or to another address of which Customer or FP later give notice.

d. When distribution to customer is selected, the equipment must be set up with the customer within 15 days as rental billing will begin at that time. Any billing issues, as a result of delayed installation, will be the responsibility of the Customer.

e. FP reserves the right to replace your rented equipment with products with similar or enhanced features in the event your current equipment is not replaceable or has been decertified by the USPS.

7. IF CLAIMS OR DISPUTES BETWEEN CUSTOMER AND FP SHOULD ARISE:

a. If Customer fails to pay rent or other amounts due FP on the date due, or if any legal action commences which may result in another's taking of the equipment: FP can terminate this Agreement, without notice or legal action, and Customer will allow FP to enter the location of the Equipment and repossess it; and Customer will pay FP accrued rent up to the repossession date or the current term expiration date, whichever comes later, and a delinquency charge of 1.5% per month (but not in excess of the lawful maximum) on any unpaid amounts until paid. Customer further agrees that, should it become necessary to place the account with a collection agency or attorney, Customer will pay all collection costs and attorney fees incurred by FP in addition to other amounts due.

b. In the event of any litigation between Customer and FP, Customer and FP hereby agree that any and all disputes, claims, actions, or controversies arising between the parties of whatever nature (including, but not limited to, any and all contractual, statutory, equitable, or tort claims) shall be brought only in either the United States District Court for the Northern District of Illinois or in the Circuit Court of the 18th Judicial District, DuPage County, Illinois; and both Customer and FP hereby consent to both venue and personal jurisdiction in those courts to the exclusion of all others. Each party also waives any right to a trial by jury.

8. ACKNOWLEDGMENT OF DEPOSIT REQUIREMENT:

a. Customer hereby acknowledges that it must transfer funds to the USPS®, through a lockbox bank ("lockbox bank") for the purpose of prepayment of postage on Computerized Meter Resetting System (CMRS)-equipped meters ("Deposit").

b. Customer may make Deposits in the lockbox bank account, identified as United States Postal Service-CMRS-FP. The USPS® may, at its discretion, designate itself or a successor as recipient of Deposits by Customer.

c. Any Deposit made by Customer shall be credited by the USPS® only for the payment of postage through CMRS-equipped meters. Customer shall not receive or be entitled to any interest or other income earned on such Deposits.

d. The USPS® will provide a refund in accordance with the rules and regulations governing deposit of funds for CMRS, published in the Domestic Mail Manual Transition Book or its successor.

e. FP may deposit funds on behalf of Customer. The USPS® will make no such advances. Any relationship concerning advances is between Customer and the Meter Manufacturer.

f. Customer acknowledges that the terms of this Acknowledgment of Deposit may be changed, modified, or revoked by the USPS®, with appropriate notice.

g. Postal regulations governing the deposit of funds for CMRS are published in the Domestic Mail Manual Transition Book or its successor. Customer acknowledges that it shall be subject to all applicable rules, regulations, and orders of the USPS®.

9. ASSIGNMENTS:

a. FP may assign the payments and other obligations owned by Customer under this Rental Agreement to a third party (the "Assignee") without any prior notice to Customer. If FP does make such an assignment, Customer agrees that the assignee has all the rights and remedies granted to FP under this agreement, but none of FP's obligations. Customer also agrees to unconditionally pay all amounts due under this agreement to the Assignee, without set-off, regardless of any problems that may arise with respect to the equipment or any claims, defense, or off-sets that you may have or assert against FP.

10. TERM AND TERMINATION:

a. This Agreement shall be for the initial Term set forth on the first page of this Agreement, and shall automatically, without any action by either party, renew for a period of one year (a "Renewal Term") at the end of such initial Term. At the end of such Renewal Term, this Agreement, again, automatically renews for an additional Renewal Term, unless terminated in accordance with the terms of Section 10.

b. Either party to this Agreement may provide notice to the other party of its intent not to renew this Agreement pursuant to paragraph (a) above. Such notice must be in writing and must be delivered to the other party no later than ninety (90) days (or the maximum time period permitted by applicable law) prior to the end of the Initial Term or then-current Renewal Term.

c. This Agreement may be terminated at any time by either party in the event of a material breach of these Terms and Conditions by the other party. In the case of such a breach, the non-breaching party must provide written notice of such breach to the breaching party. The breaching party shall have ninety (90) days (or the maximum time period permitted by applicable law) from the time it receives such notice to cure such breach.

11. USPS® ACKNOWLEDGMENT:

a. To the extent that the activities for which the Postal Service is obliged to perform particular functions, those functions will be governed by the Domestic Mail Manual, as may be amended from time to time, or its successor, in effect at the time of the obligation. Specifically, to the extent that the Postal Service provides refunds to customers using postage evidencing devices, the policy and procedure governing the payment of refunds will be conducted in accordance with the Domestic Mail Manual, as amended, in effect at that time.

b. If the meter is used in any fraudulent or unlawful scheme or enterprise, or is not used for any consecutive 12 month period, or if the undersigned takes the meter or allow the meter to be taken outside the United States without proper written permission of the U.S. Postal Service, Washington, DC 20260-6807, or if the undersigned otherwise fails to abide by the signs of postal regulations and this lease regarding care and use of the meter, that this Agreement and any related postage meter rental may be revoked. The undersigned further acknowledge that any use of this meter that fraudulently deprives the U.S. Postal Service of revenue can cause me to be subject to civil and criminal penalties applicable to fraud and/or false claims against the United States. The submission of a false, fictitious or fraudulent statement can result in imprisonment of up to five (5) years and fines of up to \$10,000 (18 U.S.C. 1001). In addition, a civil penalty of up to \$5,000 and an additional assessment of twice the amount falsely claimed may be imposed (3 U.S.C. 3802). A false statement in this application or the mailing of matter bearing a fraudulent postage meter imprints are examples of violations of these statutes.

c. The undersigned is responsible for immediately reporting (within twenty-four hours) the theft or loss of the postage meter that is subject of this agreement to the lessor. Failure to comply with this notification provision in a timely manner may result in the denial or refund of any funds remaining on the postage meter at the time of loss or theft.

d. The undersigned understands that the rules and regulations regarding the use of this postage meter as documented in the Domestic Mail Manual may be updated from time to time by the United States Postal Service and it is the undersigned obligation to comply with any current and future rules and regulations regarding its use.

THESE TERMS AND CONDITIONS APPLY ONLY TO THE METER, RENTED EQUIPMENT, AND/OR SERVICES SET FORTH ON PAGE ONE OF THIS AGREEMENT AND DO NOT APPLY TO ANY OTHER FP EQUIPMENT.

Signature of Customer's Authorized Representative:

By:

Printed Name:

Date:

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MEMORANDUM
from the office of
PLACER COUNTY COUNSEL
Extension 4044

FISCAL IMPACT STATEMENT

TO: Honorable Board of Supervisors
FROM: Anthony J. La Bouff
DATE: November 8, 2011
RE: Fiscal Impact Statement
FP Mailing Solutions - Extend BPO18441 to a Maximum of 24 Months

Funds for this BPO are included in the current FY 2011-2012 County Counsel's budget for these expenses resulting in no additional fiscal impact to the General Fund.

The BPO with FP Mailing Solutions is for the rental of a postage meter to timely and accurately date stamp and mail legal documents according to California Civil Procedure. The request to extend the BPO up to a maximum of 24 months will not change the usage or incur any additional fiscal impact to the General Fund for FY 2012-2013.