



COUNTY OF LOS ANGELES

REGISTRAR-RECORDER/COUNTY CLERK

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CONNOR B. McCORMACK
REGISTRAR-RECORDER/COUNTY CLERK

August 20, 2002

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**AUTHORIZATION TO SUBMIT AN APPLICATION FOR FUNDING
CONSIDERATION UNDER THE VOTING MODERNIZATION BOND ACT OF 2002**

(ALL SUPERVISORIAL DISTRICTS) (3 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

Adopt a Resolution approving the attached *Application for Funding Consideration* in order to reserve the County's allocation of funds under the Voting Modernization Bond Act of 2002.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION:

The purpose of the recommended action is to reserve state funds to upgrade the County's voting system. Proposition 41, approved by the voters at the March 2002 Primary Election, authorized issuance of \$200 million in voting modernization bonds (with a 3:1 state/county match). Proposition 41 created a Voting Modernization Board (VMB) to determine how to allocate these funds to counties. Appointees to the VMB, three by the Governor and two by the Secretary of State, were finalized in June 2002.

The VMB, at its meeting on July 17, 2002, made four key decisions with regard to disbursement of these funds including: 1) selected a formula for allocating available funds; 2) established a deadline of September 3, 2002 for counties desiring funds to submit an initial *Application for Funding Consideration* that must be accompanied by

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an authorizing resolution adopted by the County Board of Supervisors; 3) determined that only hardware and software of new system acquisitions are eligible for funding and set a cap on the state's contribution of \$3,000 per voting device; and 4) required applications for funding to include a plan for how the County will make voting equipment accessible for persons with disabilities.

Filing this *Application for Funding Consideration* with the VMB does not commit the County to the future purchase of any specific voting system or equipment. This preliminary application, that each county must file by the September 3rd deadline if any funds are to be disbursed in the future to that county, requires a description of the type of voting system under consideration (if known) and the anticipated acquisition schedule.

The VMB will determine the amount to be allocated to each county that has submitted an acceptable *Application for Funding Consideration* and set aside that amount either until the county submits a complete and acceptable Project Documentation Package or until the funding allocation period expires. The VMB has not yet set an expiration date for submittal of final Project Documentation Packages.

The selected funding allocation formula is based on equal weighting of four factors: 1) the number of eligible voters; 2) the number of registered voters; 3) the number of polling places; and 4) the average voter turnout at the last four statewide elections. No special funding consideration was given to the nine counties that currently use pre-scored punch card voting systems although these counties, including our County, **must** purchase new voting systems prior to the March 2004 election due to the decertification of pre-scored punch card voting systems as of that date.

Based on the adopted allocation formula, on July 24th the VMB issued a chart (attached) that reveals if all counties apply for their maximum allocation, the County would be eligible for 25.45% of total statewide Proposition 41 funds which is equal to \$49.6 million. The VMB will revise this chart after it has received and reviewed all *Applications for Funding Consideration*. If some counties do not apply or if any of the counties' applications request less than the amounts reflected on the attached chart, additional funds will be available for redistribution to the other counties. In no

circumstance will any county receive state funding in excess of 75% of acquisition costs for hardware and software due to the 3:1 matching fund requirement.

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At this time, the cost for the County to purchase sufficient hardware, software, peripheral equipment, warehousing requirements and vendor support services, including training and ancillary services, to implement an electronic touchscreen voting system for the County's 5,000 voting precincts is estimated at \$100 million. Additional costs will also be incurred in the required transition to a new, paper-based absentee voting system for use by the approximate 20% of the County's voters who cast their ballots by mail.

The source(s) of funds to supplement the County's share of Proposition 41 has not been identified. Some federal funding may become available in the future should HR 3295, currently pending in Congress, become law. However, until legislation is enacted, the amount of federal funding, the process for application for federal funds and the timeline for disbursement are unknown at this time.

The County's *Application for Funding Consideration* envisions a phased-in approach to new voting system acquisition. The three-phase approach, detailed below, recognizes the following obstacles to full countywide implementation of touchscreen voting prior to the March 2004 election:

- Cost: Direct Record Electronic (DRE) or touchscreen voting equipment costs are still very high. Reduction in these costs is expected within the next few years. As mentioned above, the cost for the County to convert to touchscreen voting countywide is currently estimated at \$100 million while the County estimated share of Proposition 41 funds is \$49.6 million, a shortfall of approximately \$50 million. Even if/when equipment prices come down, at a minimum, Proposition 41 requires a 25% County match to receive any state funds.
- Equipment Obsolescence: Currently available touchscreen voting equipment is still first generation. Major improvements are anticipated within the next two years including reduction in the weight of the equipment. By waiting, the County will benefit from these improvements.

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- Learning from Other Counties' Experiences: To date, only one large county in the United States (Riverside, CA) has conducted a major election using touchscreen voting system. Five large counties in Florida will conduct their statewide primary election on touchscreen systems in September 2002. The state of Georgia is attempting a statewide implementation of electronic voting for November 2002. In California, for the November 2002 election, Alameda County will vote on touchscreen equipment countywide for the first time. Other large California counties, including San Diego, Orange, San Bernardino, Sacramento and Santa Clara are in the Request for Proposal (RFP) process and expect to use touchscreen voting for the first time in March 2004. Learning from their experiences will provide a wealth of valuable information to the County.
- Vendor Competition/Resources: Only five companies are certified to sell touchscreen voting equipment in California. To date, only one of these companies has held an election with demonstrated ability to present the touchscreen ballot in character-based foreign languages as is required by the County. The County will benefit from more competition and enhancements to existing systems. Also, with so many large California counties converting to touchscreen voting systems for first use in the March 2004 election, depletion of vendor support resources is a serious concern.
- Absentee Voting: Due to decertification of pre-scored punch card systems, the County must replace two voting systems, the system for voting at the polls and the absentee voting system. With a phased-in approach, the County will transition to a paper-based voting system for both absentee and precinct level voting in the 2003 and 2004 elections. This will allow election administrators to gain valuable experience regarding the strengths and weaknesses of the selected paper system for absentee voting in the future. The County currently needs to accommodate 500,000 absentee ballots. With last year's change in the law eliminating eligibility requirements for permanent absent voters, that number is expected to swell to 700,000 absentee ballots by the 2004 elections. The current generation absentee ballot style that is the commonly-used "companion"

for touchscreen devices is ill-equipped to handle the County's high volume of absentee ballots. This ballot, an unwieldy 10" by 14" paper ballot with all offices and measures printed directly on the page, has never been used to tabulate and integrate more than 100,000 absentee ballots with the touchscreen system totals.

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Research and development time is needed to determine how to integrate more locally appropriate paper absentee balloting with electronic results.

- Partnership with Cities: More time is needed to develop partnerships with the 88 cities in the County to achieve a seamless transition for voters, whether they are casting ballots at County or City elections (especially since, unlike other counties, most cities in the County conduct their own elections). Especially given the unique size of the City of Los Angeles (City), such a partnership in touchscreen system acquisition is crucial for successful implementation. Because the City of Los Angeles elections are larger in scope than any other county in the state and because the City also currently uses decertified punch card voting equipment, a financial partnership for new system purchase would benefit both the County and the City.
- Voter Acceptance: While a transitional paper-based voting system will represent a change from the punch card system, the change is expected to be incremental compared to full conversion to touchscreen voting. The phased-in approach allows voters to become familiar with touchscreen voting during the "early voting" periods in advance of major elections in 2002, 2003 and 2004 as well as during small scale elections in 2003-2005 for voting at the precinct level. This valuable experience will smooth the way for countywide electronic voting implementation.
- Pollworker Recruitment: A deliberative phased-in approach will allow expansion of the County Employees Pollworker Program to reach the necessary goal of a County employee, familiar with use of a personal computer, in each of the 5,000 voting precincts prior to full scale deployment of electronic voting in 5,000 voting precincts countywide.

- Staff resources: Prior to countywide conversion to electronic voting, an assessment for the need of additional departmental technical and operational staff for successful new system implementation will be required.

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- Grand Jury: The recently released 2001-2002 Grand Jury report urged a “go slow” approach, recommending much more extensive evaluation of nascent electronic voting technology prior to contemplating full countywide implementation of an expensive DRE touchscreen voting system.
- Risk Factor: Full countywide conversion to a touchscreen voting system will entail high risk and should not be rushed. The County is only now gaining experience with touchscreen voting systems and will learn more with the upcoming touchscreen voting system program at 21 sites throughout the County during the “early voting” period in conjunction with the November 2002 election.

The attached *Application for Funding Consideration* fully outlines the County’s three-phase approach to new voting system implementation. Highlights include:

PHASE I – This phase will begin in conjunction with the November 2002 General Election when a touchscreen voting system will be in place for “early voting” at 21 locations throughout Los Angeles County from October 22 through November 1, 2002. A contract for sufficient DRE equipment (hardware, software and peripheral equipment) to set up these sites, as well as vendor support services and maintenance, was approved by your Board on April 16, 2002. All 21 sites will contain DRE equipment loaded with software containing every ballot type countywide (approximately 700 distinct types). Therefore, any of the County’s 4 million registered voters will be eligible to cast a ballot on the DRE system at the voter’s choice of the 21 established touchscreen voting sites throughout the County.

In addition to plans to continue use of this DRE equipment during the early voting period in conjunction with future major elections, the new equipment will be available

for election day voting at the precinct level for selected smaller-scale elections (cities, school districts, special elections, etc.) beginning in 2003. The goal is to familiarize as many voters as possible with electronic voting prior to full countywide implementation of electronic voting as described in Phase III below.

PHASE II – The timeline of the decertification of pre-scored punch card voting systems was accelerated by the February 2002 Federal District court decision

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mandating replacement of such systems with any other certified voting system prior to the March 2004 Primary Election. As a result, there is insufficient time and inadequate available funding for the County to finalize a contract for full conversion to a touchscreen voting system for the County's 4 million registered voters prior to March 2004. In addition to the requirement to change voting systems for the County's 5,000 precincts prior to March 2004, conversion to a new absentee voting system to accommodate the County's 500,000-plus absentee voters must also be accomplished by that date, further complicating this difficult process.

Therefore, the County plans Phase II, consisting of purchase of an interim transitional voting system using one of the Secretary of State's certified paper-based voting systems. It is anticipated that a contract for purchase of the selected intermediate system will be brought to your Board by January 2003. The transitional system will be used initially for both voting at the County's 5,000 precincts and for absentee voting by mail beginning with the November 2003 Uniform District Election (UDEL). This interim paper-based system will continue in use through the 2004 elections and until an electronic system can be purchased countywide. After the County's full conversion to an electronic system at some point in the future, the selected paper-based system is anticipated to continue in use as the system for absentee voting by mail.

The cost of the interim paper-based system for countywide conversion is estimated at approximately \$4 million. This estimate covers sufficient equipment for 5,000 voting precincts on election day, for absentee voting by mail, and for ballot tabulation equipment for both precinct and absentee ballots.

PHASE III – Full countywide conversion to a DRE touchscreen voting system in all 5,000 voting precincts is the future goal. The timing of such a conversion is currently unknown primarily due to insufficient funds. Assuming County matching funds are identified and allocated together with the County's share of Proposition 41 funds and a contract is successfully negotiated, the optimal first large-scale DRE election would be the November 2005 UDEL which encompasses approximately 1,000 voting precincts followed by the first countywide deployment in the 2006 Primary Election.

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Implementation of Strategic Plan Goals:

This request supports the County's Strategic Plan as follows:

Goal No. 1: Service Excellence: Provide the public with easy access to quality information and services that are both beneficial and responsive. As the County transitions to a modern, electronic voting system, it is anticipated that voters using the touchscreen system, at first during "early voting" and later at the voting precincts, will find it user-friendly. Additionally, touchscreen voting presents the ballot in the voter's choice of seven languages and allows voters who are blind/visually impaired to cast ballots independently via an audio headset and keyboard.

Goal No. 4: Fiscal Responsibility: Manage effectively the resources we have. Filing an *Application for Funding Consideration* is required by September 3, 2002 in order to reserve the County's share of 3:1 state/county matching funds from Proposition 41 approved by the voters at the March 2002 election to assist in funding voting equipment upgrades.

FISCAL IMPACT/FINANCING

The implementation of new voting systems is contemplated in three phases as explained above.

The first phase, purchase of DRE touchscreen voting equipment for “early voting” in conjunction with the November 2002 election and beyond, is underway in accordance with provisions of the contract executed by your Board on April 16, 2002. Funding was secured in the amount of \$1,750,000 from the Information Technology Infrastructure Fund and a \$1,000,000 loan from a Quality and Productivity Commission’s Productivity Investment Fund (PIF) loan.

The second phase, entailing purchase of an interim paper-based voting system for use in 2003-2004 elections as well as continued use thereafter for absentee voting, is estimated to cost \$4 million. This amount was appropriated to the Department for the FY 2002-3 budget year.

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The third phase, countywide implementation of an electronic voting system, is estimated to cost \$100 million. The County’s share of Proposition 41 funding is currently anticipated to be \$49.6 million. Funding source(s) for the shortfall have not been identified.

IMPACT ON CURRENT SERVICES

None.

Respectfully submitted,

CONNOR B. McCORMACK
Registrar-Recorder/County Clerk

CMC:jh
Attachment (1)

c: Chief Administrative Officer
Executive Officer, Board of Supervisors
Chief Information Officer
County Counsel