COUNTY OF LOS ANGELES
REGISTRAR-RECORDER/COUNTY CLERK
12400 IMPERIAL HWY. – P.O. BOX 1024, NORWALK, CALIFORNIA 90651-1024

CONNY B. McCORMACK
Registrar-Recorder/County Clerk

June 12, 2007

REVISED
June 26, 2007

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

Dear Supervisors:

APPROVE AGREEMENT BETWEEN THE CALIFORNIA SECRETARY OF STATE AND THE COUNTY OF LOS ANGELES REGARDING VOTING SYSTEM REVIEW (ALL DISTRICTS – 3 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve and instruct the Chairman to sign the attached Letter Agreement (Agreement) with the California Secretary of State (SOS) and the County of Los Angeles (County) regarding the Secretary of State's Voting System Review.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION:

The purpose of this recommended action is to ensure Los Angeles County's compliance with the SOS review of voting systems that are certified for use in California and to maintain a secure, accurate and viable vote tally system for the conduct of elections in Los Angeles County. The SOS had initially indicated intent to review the County's existing Microcomputer Tally System (MTS) pursuant to Section 19222 of the California Elections Code. This Agreement will remove MTS from the SOS review with the understanding and commitment that the County has decided to change tally systems to Diebold GEMS II for the February 5, 2008 Presidential Primary Election, pending certification of that system by the SOS. The Agreement also provides for conditions in which MTS may continued to be used to ensure that the County has a working and viable tally system in place based on a determination made by either the County or the SOS related to the status of certification, testing and implementation of GEMS II.

Implementation of Strategic Plan Goals:

This request supports the County 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. The Agreement supports efforts to assure the public of the transparency, integrity and viability of Los Angeles County's vote tabulation system.

Goal No. 3: Organizational Effectiveness: Ensure that service delivery systems are efficient, effective, and goal-oriented. The Agreement allows the County to maintain a secure and viable vote tally system, which is critical to the accurate, transparent, and secure administration of federal, state and local elections.

FISCAL IMPACT/FINANCING:

There is no cost to the County of Los Angeles associated with this Agreement.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS:

The RR/CC is responsible for conducting federal, state and local elections in accordance with the California Elections Code. In conjunction with that responsibility, the RR/CC must ensure that all voting systems utilized in administering elections in Los Angeles County meet applicable state and federal voting systems certification requirements.

The RR/CC currently utilizes a blended voting system where paper-based ballots are tabulated on the County's MTS vote tabulation system. MTS is a County-owned and developed system maintained and supported by the County's Internal Services Department (ISD). In this regard, the County is considered a voting systems vendor. MTS was certified for use as part of the Los Angeles County blended voting system and has been used successfully and accurately to tabulate ballots since 1998.

It has been the County's intent to replace the MTS with an updated vote tally system that meets modern technical standards and provides options for adoption of different polling place equipment in future elections to best serve voters.

On May 15, 2007, the SOS notified the RR/CC of her intent to initiate a review of all voting systems certified for use in California and, more specifically, to conduct a review of the County's MTS and related components. In consultation with County Counsel, the RR/CC responded to the SOS on May 18, 2007 requesting clarification of issues related to the manner and location in which the review would be conducted.

On May 30, 2007, the SOS responded to the RR/CC and provided a copy of Agreement Number 06I58101 between the SOS and the Regents of the University of California, which describes all aspects of the review of voting systems and the manner in which it will be conducted. The SOS also provided unsigned copies of the Conflict of Interest Statement SOS review team members will be asked to sign and a listing of the University of California team members identified to date as participating in the review. In this letter the SOS indicated the review would be conducted at no cost to the County and affirmed their agreement to conduct a significant portion of the MTS review on site at the RR/CC Headquarters in Norwalk.

After further review of the documents presented by the SOS and ongoing consultation between the County and the SOS from June 12 through June 21, both parties agreed that submission of the MTS for review under the Secretary's proposed review of voting systems would represent a waste of public resources since the system is slated for replacement. Instead, the parties are proposing to enter into the attached agreement that is before your Board.

The Agreement your Board is considering was transmitted to the County by the Secretary on June 21, 2007. The executed Agreement memorializes the County's intent to replace the existing, certified MTS with the Diebold GEMS II tally system in 2008, upon certification of that system by the SOS for use in California. Implementation and use of GEMS II is subject to Diebold submitting the system to the SOS for certification prior to July 1, 2007, and thereafter being certified by the SOS.

The Agreement also provides assurances that MTS will remain a viable vote tally system that may be used in the conduct of elections in Los Angeles County should either the County or the SOS determine that a successful election cannot be conducted using GEMS II, or in the event that GEMS II does not receive certification by November 1, 2007. Such continued use of MTS beyond calendar year 2007 would be subject to further conditions or directives, as determined by the SOS, after consultation with the County, to safeguard or enhance the security, accuracy or reliability of the County's vote tallying processes.

The Agreement was drafted by and submitted to the RR/CC by the SOS. The Agreement and associated documentation has been reviewed by County Counsel and representatives from the Office of the Chief Information Officer (CIO) and the Internal Services Department (ISD).

CONTRACTING PROCESS:

There was no contracting process associated with this Agreement.

IMPACT ON CURRENT SERVICES:

Approval of the Agreement will ensure the RR/CC remains compliant with state voting systems' certification requirements and with the discretionary review of voting systems being conducted by the SOS.

CONCLUSION:

Upon approval and execution of the Agreement, it is requested that the Executive Officer/Clerk of the Board, return one adopted stamped copy of the approved Board letter and two originally signed copies of the Agreement to:

County of Los Angeles
Registrar-Recorder/County Clerk
12400 Imperial Highway, Room 7201
Norwalk, CA 90650

Attention: Dean Logan, Chief Deputy
Registrar-Recorder/County Clerk

Respectfully submitted,

Conny B. McCormack
DCL

Conny B. McCormack
Registrar-Recorder/County Clerk

CBM:DCL

Attachment

c: Chief Administrative Office
County Counsel
Chief Information Office
Internal Service Department

DEBRA BOWEN | SECRETARY OF STATE | STATE OF CALIFORNIA
1500 11th Street, 6th Floor | Sacramento, CA 95814 | Tel (916) 653-7244 | Fax (916) 653-4620 | www.sos.ca.gov

June 21, 2007

The Honorable Zev Yaroslavsky
Chairman, Board of Supervisors
County of Los Angeles
Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012
Re: Letter Agreement

Dear Chairman Yaroslavsky:

The purpose of this letter is to memorialize an agreement between the Secretary of State ("Secretary") and the County of Los Angeles ("County") in regards to a review of the County's Microcomputer Tally System ("MTS") as directed by the Secretary pursuant to her authority in Elections Code section 19222.

Currently, MTS is certified and approved for use in conjunction with the InkaVote device, InkaVote Optical Scan Ballots, and LRC 1000 CPM Card Reader. *See* Attached Certification. MTS has been used by the County for tabulation of votes since receiving initial certification and approval for use on January 16, 1998. The County has expressed a desire to change to a tabulation system that meets modern technical standards and provides options for adoption of different polling place equipment in future elections to best serve voters.

As such, the County hereby commits and agrees to use the Diebold GEMS II tally system ("GEMS II") for the February 5, 2008, federal primary election, upon certification by the Secretary for use in elections in the State of California. Implementation and use of GEMS II is subject to Diebold submitting the system to the Secretary for certification prior to July 1, 2007, and thereafter being certified by the Secretary.

Accordingly, and to avoid the waste of public moneys, the Secretary and the County agree that MTS will not be included in the current review of voting systems. Moreover, in the event that either the County or Secretary determine that a successful election cannot be conducted using GEMS II, or in the event that GEMS II does not receive certification by November 1, 2007, then the Secretary agrees that MTS, the InkaVote device, the InkaVote Optical Scan Ballots and the LRC 1000 CPM Card Reader may be used for the February 5, 2008, primary election pursuant to further conditions or directives, as determined by the Secretary, after consultation with the County, to safeguard or enhance the security, accuracy or reliability of MTS. Any such condition or directive will include only requirements that are practical to implement and will be issued

within a reasonable timeframe before the election to allow for full compliance. Conditions will be for the purpose of ensuring continued election security and accuracy in the County while recognizing that MTS was not created under the 2002 Voluntary Voting System Standards established by the Elections Assistance Commission.

This agreement does not affect the certification status of the InkaVote Plus Precinct Ballot Counter with ADA Unit.

Sincerely,

Debra Bowen

Debra Bowen
Secretary of State

COUNTY OF LOS ANGELES

By _____
ZEV YAROSLAVSKY
Chairman, Board of Supervisors

ATTEST:
Sachi A. Hamai
Executive Officer-Clerk
of the Board of Supervisors

By_____

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
COUNTY COUNSEL

By_____

State of California

SECRETARY OF STATE

I, BILL JONES, Secretary of State of the State of California, do hereby certify that:

1. The County of Los Angeles has requested approval for use in California elections their InkaVote voting system.

2. The request was considered at an October 30, 2002 public hearing duly noticed as required by law.

3. The InkaVote voting system consists of:

- Microcomputer Tally System (MTS) version 1.2, certified January 16, 1998
- LRC 1000 CPM Card Reader, has been tested and the certificate is on file with the Secretary of State
- InkaVote Device
- InkaVote Optical Scanning Ballots

4. The use of the InkaVote voting system described above is hereby approved for use subject to the following terms and conditions:

a. Any County, City and County, City, or District may use the InkaVote voting system, subject to any approval required by Section 5 of the Voting Rights Act of 1965, as amended.

b. The County, City and County, City, or District shall use the appropriate, state-approved procedures with the InkaVote voting system and, prior to such use, shall have on file with the California Secretary of State a copy of their Election Observer Panel plan.

c. No further changes or modifications to the InkaVote voting system shall be made until the Secretary of State has been notified in writing and has determined that the change or modification does not impair its accuracy and efficiency sufficient to require a reexamination and approval.

IN WITNESS WHEREOF, I hereunto set my hand and affix the Great Seal of the State of California, at Sacramento, this 1st day of November 2002.

BILL JONES
Secretary of State

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