



COUNTY OF LOS ANGELES

REGISTRAR-RECORDER/COUNTY CLERK

12400 IMPERIAL HWY. – P.O. BOX 1024, NORWALK, CALIFORNIA 90651-1024

CONNOR B. McCORMACK

Registrar-Recorder/County Clerk

February 4, 2003

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:

**APPROVE AN AGREEMENT BETWEEN THE COUNTY OF LOS ANGELES
AND CITY OF LOS ANGELES RELATING TO USE OF THE
NEW INTEGRATED ELECTION SYSTEMS
(ALL DISTRICTS) (4 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve the enclosed Agreement between the County of Los Angeles and the City of Los Angeles for payment by the City to the County in the amount of \$1 million to be received during FY 2003-04 for participation in and use of the Integrated System for the Election Tally System (ETS), Automated Ballot Layout System (ABL), and Direct Recording Electronic Device (DRE) Touch Screen Voting System from Diebold Election Systems, Inc. (DESI).
2. Delegate to the Registrar-Recorder/County Clerk the authority to sign the four year Agreement.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION:

The purpose of this recommended action is to establish an Agreement with the City of Los Angeles to partner in the acquisition of the new Integrated Election System related to the implementation of the Election Tally System (ETS), Automated Ballot Layout System (ABL), and Direct Recording Electronic Device (DRE) Touch Screen Voting System that was approved by your Board on April 16, 2002. This Agreement recognizes the County's strategic vision to foster collaborative public partnerships across jurisdictional boundaries. As such, the Registrar-Recorder/County Clerk (RRCC) approached the City Clerk of the City of Los Angeles (City) to partner in the acquisition of the new Integrated Election System and to participate in the phase-in of Touch Screen voting technology. When approved, this partnership will also pioneer a disaster recovery back-up plan that will enable either jurisdiction to tabulate ballots at both the County and City election tally sites. This Agreement will also present a

mutually beneficial opportunity for each jurisdiction to implement consistent vote tally operational policies and procedures and vital back-up tally systems operating at separate sites on each jurisdictions' different election dates. This partnership also provides uniform and consistent voting parameters for voters who may vote in both the City and County conducted elections.

Since the successful launch of DRE Touch Screen Voting as a pilot project at nine locations during the early voting period in conjunction with the November 2000 General Election, your Board has supported the continued expansion of electronic touch screen voting as funding becomes available. On August 20, 2002, your Board adopted a phased-in plan that established the goal of converting to touch screen voting in multiple stages over the next three years. This phased-in approach allows the County to benefit from the ongoing improvements in this new voting technology and also to provide voters and pollworkers with sufficient time to become familiar with and confident in the use of new voting system technology prior to planned countywide deployment of new voting technology. Touch Screen Voting was next expanded to 21 sites in conjunction with the early voting period for the November 2002 General Election.

This Agreement will continue the election systems partnership between the County and the City that began in 1998 when the City provided one-third of the initial cost for acquisition of the County's new Voter Information Management System (VIMS). This vendor-provided software is used for voter registration, absentee voting, precincting, petition verification, and recruitment of precinct officers and polling locations for both County and City elections. The City plans to conduct early voting by Touch Screen at 15 sites in conjunction with the upcoming March 4 and June 3, 2003 City elections. This County/City elections partnership is anticipated to expand further in the future as funds are identified from federal, state and local sources to fully convert to touch screen voting at all voting precincts on County and City election days.

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.

Strategy 1: Develop standards for user friendly service.

Strategy 2: Design seamless service delivery systems.

Goal No. 3: Organizational Effectiveness: Ensure that service delivery systems are efficient, effective, and goal-oriented.

Strategy 2: Improve internal operations.

Strategy 3: Collaborate across functional and jurisdictional boundaries.

Goal No. 4: Fiscal Responsibility: Strengthen the County's fiscal capacity.

Strategy 1: Manage effectively the resources we have.

Strategy 3: Increase public private partnerships.

FISCAL IMPACT/FINANCING:

The County's hardware/software cost for the acquisition and implementation of the Integrated System from Diebold Election Systems, Inc. (DESI) is \$3,405,438 and was previously approved by your Board on April 16, 2002. The DESI agreement included \$2,025,789 for the ETS and ABL, \$1,379,649 for DRE Touch Screen Voting, and \$105,000 annual software maintenance on the ETS/ABL and approximately \$17,000 annually for the DRE system dependent on the number of units purchased. This four-year Agreement with the City provides for \$1 million in revenue in FY 2003-04 to the County to offset the County's expenditure for the purchase and use of the Integrated System. As part of the City's investment of \$1 million, the City will receive up to \$50,000 in custom programming and professional services requested by the City and approved by the County.

As part of the City's contribution, the City will establish a warehouse facility and provide: 1) a facility for storage of all DRE devices used by the City under the agreement; 2) space for performing software loading and testing of DRE devices; 3) space for performing post election DRE device de-processing; and 4) on-going storage maintenance of DRE devices. The City will incur the cost of configuring and building the facility for storage of DRE units. In the event the County receives State and/or Federal funding for activities pertaining to this project, the City will be entitled to a proportionate refund of investment as determined by the County. Following the four year Agreement and at the written discretion of the City, the term of the Agreement shall be extended by the County for five additional one year periods, for an aggregate term of nine (9) years in which the City will pay a sum equal to 30% of the on-going maintenance costs of the ETS/ABL Systems and 30% of the cost of the DRE system, the amount not to exceed \$100,000 annually.

With the original funding approved by your Board on April 16, 2002, the County was able to purchase 134 of the 400 designated Touch Screen voting units. Approval of this Agreement would allow for the purchase of additional units and provide expanded capability to conduct future small-scale special elections using Touch Screen voting equipment at the precinct level and support additional opportunities for voter education on the new equipment via mock elections and demonstrations at community events.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS:

The term of the Agreement is for four years from the date of execution of the Agreement between the City and County, with five one-year renewal options at the discretion of the City, for an aggregate term of nine years.

City election expenses are charged against the treasury of the City (Election Code Section 13001). This Agreement provides for a lump sum advance payment in FY 2003-04 for election services to be provided to the City Clerk of the City of Los Angeles by the Registrar-Recorder/County Clerk in lieu of assessing such charges on a per transaction basis.

Outside counsel, along with County Counsel, assisted in the drafting of this proposed Agreement. This is neither a Prop A nor cafeteria concession Agreement, therefore the provisions of the County's Living Wage Program (County Code chapter 2.201) are not applicable.

CONTRACTING PROCESS:

On April 16, 2002 the County Board of Supervisors approved a contract for an Integrated System for Election Tally System (ETS), Automated Ballot Layout System (ABL), and Direct Recording Electronic Device (DRE) Touch Screen System with Diebold, Inc and Diebold Election Systems, Inc. (DESI). The City participated as an active member of the committee to evaluate and select a vendor for the Integrated System. Upon approval of that contract, the City and the County began negotiations on this Agreement, which were concluded in late October 2002. County Counsel along with outside counsel assisted in drafting and negotiating this Agreement.

IMPACT ON CURRENT SERVICES:

Approval of the recommended Agreement with the City will allow the RRCC to partner in the acquisition of the new Integrated Election System and recognizes the County's strategic vision to foster collaborative public partnerships across jurisdictional boundaries including City financial participation in the phase-in of Touch Screen voting technology. Once approved, this partnership will also pioneer a disaster recovery back-up plan that will enable either jurisdiction to tabulate ballots at both County and City election sites on each jurisdictions' different election dates. This partnership improves public service by providing uniform and consistent voting parameters to voters who may vote in both the City and County conducted elections.

CONCLUSION:

The Honorable Board of Supervisors
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The Executive Office, Board of Supervisors is requested to return three stamped copies of the approved Board letter and authorize the Registrar-Recorder/County Clerk to sign the Agreement with the City of Los Angeles.

Respectfully submitted,

CONNOR B. McCORMACK
Registrar-Recorder/County Clerk

Attachment (1)

c: Chief Administrative Officer
Executive Officer, Board of Supervisors
County Counsel
Auditor-Controller
Office of Affirmative Action Compliance

Agreement Between
The City of Los Angeles and the County of Los Angeles

Concerning the Use of an Election Tally System, and Direct
Recording Electronic (Touch Screen) Voting Devices

Background

1. On April 16, 2002, the County of Los Angeles Board of Supervisors approved a contract (hereinafter the "County Contract") with Diebold Incorporated and Diebold Election Systems Inc. (hereinafter collectively, DESI) for the Election Tally System (ETS), Automated Ballot Layout (ABL), and Direct Recording Electronic (DRE) Project (#01102ES), hereinafter referred to as the "Integrated System". The project began in April 2002 and is scheduled for completion in August 2003.
2. On April 24, 2002, the Los Angeles City Council authorized the Los Angeles City Clerk to negotiate and execute a contract with the County of Los Angeles Registrar-Recorder/County Clerk concerning the use of the replacement Integrated System and Direct Recording Electronic voting devices. (Council File #: 02-0614).
3. Both the Los Angeles City Clerk and the County of Los Angeles Registrar-Recorder/County Clerk have concluded that this project is consistent with the City and County strategic direction for a joint solution to more efficiently and effectively conduct elections in both jurisdictions and for each to act as a backup election environment to the other.

Agreement

The City of Los Angeles, acting by and through the City Clerk (hereinafter referred to as "City"), and the County of Los Angeles, on behalf of the Los Angeles County Registrar-Recorder/County Clerk (RRCC), and (hereinafter referred to as "County"), do hereby enter into this Agreement for the use of the Integrated System.

The terms of this Agreement are as follows:

1. Term

This Agreement shall be for a four-year term and will commence upon the date of execution. Upon the written request of the City, the term of this

Agreement shall be extended by the County for five additional one year periods, for an aggregate term of nine (9) years.

2. Payments and Maintenance

The City will make a single payment totaling \$1,000,000 in FY 2003-04 to the County Registrar-Recorder/County Clerk after the Integrated System has been completed, and upon successful testing and acceptance by the City.

As part of the City's investment, maintenance is included for four years from the execution date of this agreement.

Upon exercising the optional annual maintenance between the County and DESI for continued support of the Integrated System, and subject to continued use by the City, the City will pay an annual service maintenance fee to the Los Angeles County Registrar-Recorder/County Clerk commencing at the beginning of year five. The City will pay 30% of the annual "Integrated Systems Software Maintenance Fee" and "DRE Maintenance Fee" (as such items are defined in the County Contract) paid by County to DESI, not to exceed \$100,000 payable by the City annually.

3. Use and Entitlements (Deliverables)

Supporting Background

Under the terms of the County Contract, DESI has granted the County a license to use the Integrated System software for as long as the County continues to acquire Maintenance Service from DESI, subject to certain conditions set forth therein.

Section 15.2.6 of the County Contract permits use of the Integrated System by the City. It specifically states: "to permit use and access to the Integrated Systems, including the Integrated Systems Software, the DRE Software, and the DRE Hardware, in whole or in part, for the conduct of Elections within the boundaries of Los Angeles County that are conducted or supported by the RRCC (e.g. and Election conducted by the City of Los Angeles, but supported by the RRCC)".

In return for the City contribution, the City will receive from the County:

1. Complete access to and use of the Integrated System, including all software improvements arising from ongoing maintenance and enhancement of the Integrated System software. The County represents that it has the authority by contractual agreement with DESI to grant full access to the ETS/ABL/DRE Integrated Software by the City for conducting City elections.

2. Full support for the integration of card readers and the Election Tally System.
3. Hardware and software support for the full election cycle. For the two years following the “Integrated System Acceptance Date” (as defined in the County contract), support will be provided on-site and sufficiently staffed by County and/or DESI personnel (including election night) to ensure successful implementation and use of the Integrated System.
4. Use in City conducted elections of up to 134 DRE voting devices (plus any “Optional DRE” as defined in the County contract that are acquired by County from DESI). Should election schedules conflict between the City and the County, the City and County will mutually determine the distribution of the DRE voting devices.
5. City participation with the County in the event the software source code is liberated from the Escrow Company.

4. Termination or Cancellation of City/County Agreement

This Agreement is automatically terminated if and when the County terminates its contract with DESI.

The City may terminate this Agreement for convenience at any time. In such event, neither the County nor the City shall have any further obligations under this Agreement.

5. Test Sites

The City and County shall each provide a test environment for joint use by the City and County during the project period. As needed, City testing will shift to the County location during City election cycles, and County testing will shift to the City during County election cycles to minimize impact to each jurisdiction’s election operations.

6. Card Readers

The County will provide the City with a loan of twelve (12) Card Readers for the City test environment, stress testing and/or for use in the City’s 2003 Elections. If the City requires a card reader loan beyond the 2003 Elections, it will be arranged outside of this Agreement.

The City will be responsible for the pickup and return of all Card Readers to/from the County.

The City will be responsible for the maintenance of, and will be liable for any damage to, the Card Readers while they are in use by the City.

7. DRE (Touch Screen) Warehousing

The City will establish a Warehouse facility and provide the following services:

1. A facility for all DRE Touch Screen Devices utilized by City under this Agreement.
2. Space for truck loading/unloading for DRE delivery and return.
3. Space for performing software loading and bench testing of DRE devices.
4. Space for performing post election and DRE device de-processing.
5. Server test platform for pre-election Tally System testing of logic and accuracy of DRE devices.
6. On-going storage level maintenance of the DRE devices.
7. County access to the DRE Warehouse facility with prior arrangement.

The City will incur the cost of configuring and building the facility for the DRE units.

8. Integrated Software Enhancements and Modifications

As part of the City's investment of \$1,000,000 to be delivered to County in FY 2003-04, enhancements, modifications, custom programming and professional services requested by the City and approved by County will be performed and implemented without additional cost to the City until the cumulative value of all City requested services totals \$50,000. The City will fund from the City's operating budget any City requested enhancements and modifications exceeding the cumulative expended total of \$50,000.

9. Project Management

The City will participate in DESI project control meetings and project control planning.

A separate Steering Committee comprised of City and County executive level members will be established to oversee the joint City/County Integrated System project and address project control issues.

Meetings of the Steering Committee will be conducted monthly.

The City/County Steering Committee will develop the rules and boundaries for its operation, and include:

1. Project oversight.
2. Review of City/County project goals and progress.
3. Significant change orders and/or change in project scope.
4. City election coordination support.

The City Project Manager, and County Project Manager will report directly to the Steering Committee.

The City shall have sole discretion over whether to use all, some, or none of the portions of the Integrated System for the City's 2003 Elections.

10. State and/or Federal Funding of Voting System Modernization

Should the County receive State and/or Federal funding for activities of this project, the City will be entitled to a proportionate refund of its' investment as determined by the County.

11. Mutual Indemnification

Each of the parties agrees to indemnify and hold harmless from all loss or liability for damage, actual or alleged, to person or property arising out of or resulting from the indemnifying party's acts or omissions in the performance of this Agreement.

In the event of third-party loss caused by the negligence, wrongful act or omission of more than one party, each party shall bear financial responsibility in proportion to its percentage of fault as may be mutually agreed between them or as may be judicially determined.

Primary Contacts

For the purposes of this Agreement, notices shall be addressed as follows:

City: Mr. Gregory Allison
City Clerk, Systems Division
200 N. Spring St, Rm. 232
Los Angeles, CA 90012
213-978-0351

County: Ms. Kristin Heffron
Registrar-Recorder/County Clerk
12400 Imperial Highway
Norwalk, CA 90650
562-462-2883

Approvals

IN WITNESS WHEREOF, these parties hereto have caused this Agreement to be duly executed.

DATED: _____

The CITY OF LOS ANGELES

A municipal corporation,

By _____

J. Michael Carey
City Clerk

APPROVED AS TO FORM AND LEGALITY:

ROCKARD J. DELGADILLO
City Attorney

By _____
Assistant City Attorney

DATED: _____

The COUNTY OF LOS ANGELES

By _____

CONNOR B. MCCORMACK
Registrar-Recorder/County Clerk

APPROVED AS TO FORM:

LLOYD W. PELLMAN
County Counsel

By _____

HALVOR S. MELOM
Principal Deputy County Counsel