



DEAN C. LOGAN
Registrar-Recorder/County Clerk

Los Angeles County Registrar-Recorder/County Clerk

January 22, 2019

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:

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

15 January 22, 2019

CELIA ZAVALA
EXECUTIVE OFFICER

**AUTHORIZE THE REGISTRAR-RECORDER/COUNTY CLERK TO ENTER INTO AN MOU AND REIMBURSE THE CALIFORNIA SECRETARY OF STATE FOR CERTIFICATION TESTING FOR ALL REQUIRED COMPONENTS OF THE VOTING SOLUTIONS FOR ALL PEOPLE (VSAP) INITIATIVE.
ALL SUPERVISORIAL DISTRICTS (3 VOTES)**

SUBJECT

The Registrar-Recorder/County Clerk (RR/CC) requests approval to enter into an MOU with the California Secretary of State (SOS) in the amount of \$360,000 for the testing and certification of the entire VSAP solution to be conducted by a State-Approved Testing Agency (S-ATA) under contract with the SOS.

IT IS RECOMMENDED THAT THE BOARD:

1. Delegate authority to the Registrar-Recorder/County Clerk, or designee, to execute an MOU with the SOS for certification testing in the amount of \$360,000 for the entire VSAP solution.
2. Delegate authority to the Registrar-Recorder/County Clerk, or designee, to execute similar agreements or necessary amendments to the existing MOUs with the SOS for recurring and similar testing throughout the certification phase of the full VSAP implementation in accordance with the requirements mandated by the State in the California Voting System Standards (CVSS) and per California Code of Regulations, Voting System Certifications Regulations, Section 20702.
3. Delegate authority to the Registrar-Recorder/County Clerk to increase the total maximum sum up to ten (10%) percent of the total for additional services (if needed) provided approval from County Counsel and Chief Executive Office is obtained.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Elections Code Section 19202 prohibits a voting system, in whole or in part, from being used unless it has been certified or conditionally approved by the SOS.

Your Board approved an MOU with the SOS for testing and certification of the new VSAP tally system on April 3, 2018. The RR/CC seeks an additional, separate MOU with the SOS to test and certify the entire VSAP solution. The VSAP solution consists of the 1) VSAP Ballot Marking Device (BMD); 2) VSAP BMD Manager (BMG); 3) VSAP Ballot Layout Application (VBL); 4) VSAP Interactive Sample Ballot (ISB0; and 5) VSAP Tally System (Tally).

The RR/CC is in the process of a complete overhaul of the current voting equipment as part of the VSAP project. VSAP was developed by the RR/CC to address an aging voting system and an increasingly large and complex electorate. The project has taken a collaborative approach to voting system design and implementation that has put voters at the center of the process and maximized stakeholder participation.

The RR/CC is currently in Phase V (Phased Implementation) of the VSAP project. On June 12, 2018, the RR/CC entered into a contract with Smartmatic USA Corporation to provide prime contractor services to manufacture (hardware and software) and implement approximately 31,500 custom-designed BMDs in collaboration with Los Angeles County.

All components of the new BMDs and related voting equipment (VSAP solution) must be fully tested and certified by SOS for conditional use and full rollout beginning in the 2020 Presidential Election Cycle based on standards in the CVSS. The CVSS describe the requirements for the electronic components of voting systems. The CVSS provide a set of requirements against which voting systems shall be tested to determine if they provide all the basic functionality, accessibility, and security capabilities required of voting systems in California. The CVSS specify the required functionality, performance characteristics, documentation, and test evaluation criteria for the certification of voting systems.

The S-ATA will follow standards and requirements in the CVSS to develop test plans and procedures for the analysis and testing of systems in support of the certification testing process, and test evaluation criteria for the certification of voting systems.

Implementation of Strategic Plan Goals

This request supports the County Strategic Plan as follows:

Goal No. III, Realize Tomorrow's Government Today: Our increasingly dynamic, and complex environment, challenges our collective abilities to respond to public needs and expectations. We want to be an innovative, flexible, effective, and transparent partner focused on advancing the common good.

FISCAL IMPACT/FINANCING

Funding for the certification testing of the entire VSAP solution in accordance with the requirements mandated by the State in the CVSS is included in the Department's FY 2018-19 Budget. Funds will be deposited into an Agency Trust Account set up by the SOS for this specific purpose.

If the initial deposit is not sufficient to reimburse the cost of all expenditures associated with the

examination of the voting system, the Secretary of State's office will require an additional deposit of funds into the Agency Trust Account to be received by the Office of Voting Systems Technology Assessment of the Secretary of State's office as directed. The RR/CC has planned accordingly for this contingency. Additional funding to augment the initial MOU and/or for future testing will be requested through the annual budget process.

Any remaining unused funding will be returned back to the County.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Elections Code section 19202 prohibits a voting system, in whole or in part, from being used unless it has been certified or conditionally approved by the SOS.

The Secretary of State requires prospective voting system's managers to submit an application for the certification testing. Only after the Office of Voting Systems Technology Assessment (OVSTA) of the Secretary of State's office has received a completed application, including the deposit of funds into an Agency Trust Account sufficient to guarantee and reimburse the cost of any expenditures associated with the examination of the voting system, may an examination begin. No application shall be deemed to be complete until all required documentation and funds for examination have been submitted to the SOS.

The OVSTA shall conduct the examination of new voting systems seeking initial certification as well as for modified versions of systems that have been certified. The OVSTA shall use a state-approved testing agency or expert technicians as provided in Division 19 of the Elections Code. The examination shall meet the standards established in the California Voting System Standards (October 2014). For more information, visit <https://admin.cdn.sos.ca.gov/regulations/elections/california-voting-system-standards.pdf>

The certification of the entire VSAP solution will also bring additional funding to the County. The State currently has \$49M in 2002 Voting Modernization Bond (VMB) funding earmarked for the County. The allocation of VMB funding is contingent upon a voting system that is certified by the State, so the certification of the entire VSAP solution will allow the County to seek reimbursement from the VMB funding pool.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Successful certification testing and approval for use of the entire VSAP solution by the SOS will replace the County's aging voting system with modern voting technology that will support an enhanced voting experience, more voting options and improved usability and security of the voting equipment. Furthermore, it will provide for greater accessibility, transparency and security of elections, and strengthen public trust and confidence in the democratic process.

Full implementation of the entire VSAP solution will occur for the March 2020 Presidential Primary Election utilizing vote centers as authorized by the California Voter's Choice Act.

CONCLUSION

County Counsel has reviewed and approved this Board Letter. The Chief Information Office (CIO) has reviewed and approved this Board letter. The CIO determined this recommended action

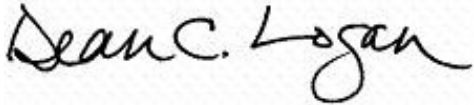
The Honorable Board of Supervisors

1/22/2019

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contains no new Information Technology (IT) specifics. Therefore, no formal CIO Analysis is required.

Respectfully submitted,

A handwritten signature in black ink that reads "Dean C. Logan". The signature is written in a cursive style with a large, looped "L" at the end.

DEAN C. LOGAN

Registrar-Recorder/County Clerk

DCL:AN:RF

APL:PT:VW:ca

Enclosures

c: Chief Executive Office
County Counsel



MEMORANDUM OF UNDERSTANDING
BETWEEN
COUNTY OF LOS ANGELES
AND
CALIFORNIA SECRETARY OF STATE
FOR
VOTING SYSTEM TESTING AND REVIEW FOR CERTIFICATION

Prepared by:

Registrar-Recorder/County Clerk
Contracts Section
12400 Imperial Highway
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Norwalk, CA 90650
contracts@rrcc.lacounty.gov

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EXHIBITS

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| 1 | SOS CERTIFICATION TESTING APPLICATION |
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**MEMORANDUM OF UNDERSTANDING
BETWEEN COUNTY OF LOS ANGELES
AND
CALIFORNIA SECRETARY OF STATE FOR
VOTING SYSTEM CERTIFICATION**

This Memorandum of Understanding ("MOU") is made and entered into this _____ day of _____, 2019 by and between the County of Los Angeles, a political subdivision of the State of California ("County"), by and through its Department of the Registrar-Recorder/County Clerk ("RR/CC"), and the California Secretary of State ("SOS") is hereinafter referred to collectively as the "Parties" and each individually as a "Party."

WHEREAS, Elections Code section 19202 prohibits a voting system, in whole or in part, from being used unless it has been certified or conditionally approved by the SOS.

WHEREAS, the SOS has authority to conduct voting system testing and to ensure compliance with the California Voting System Standards ("CVSS"), California law and federal law. The CVSS provide a set of specifications and requirements against which voting systems are tested to determine if they provide all the basic functionality, accessibility, and security capabilities required of voting systems. The CVSS specify the functional requirements, performance characteristics, documentation requirements, and test evaluation criteria for the certification of voting systems.

WHEREAS, RR/CC seeks SOS testing and review for certification of a newly developed voting system aligned with the principles of the Voting Solutions for All People ("VSAP") project. The SOS will use this information to develop test plans and procedures for the analysis and testing of the VSAP voting system in support of the testing and review for certification processes.

NOW, THEREFORE, in consideration of the mutual covenants herein set forth, the Parties agree as follows:

I. PURPOSE

The purpose of this MOU is to document the Parties' understanding and expectations of the state process for testing and review for certification of the VSAP system as required by state statute, federal law and state regulations.

II. SCOPE

The County is seeking approval of the entire VSAP Voting System Version 2.0 consisting of the 1) VSAP Ballot Marking Device ("BMD"); 2) VSAP BMD Manager ("BMG"); 3) VSAP Ballot Layout Application ("VBL"); 4) VSAP Interactive Sample Ballot ("ISB"); and 5) VSAP Tally System ("Tally").

Testing will be carried out in accordance with requirements and guidelines specified in those sections of the CVSS that are relevant and applicable to those components.

III. GENERAL TERMS AND CONDITIONS

1. This MOU shall take effect upon the execution hereof by the Parties, and shall expire one (1) year thereafter ("Initial Term"), unless sooner terminated or extended, in whole or in part, as provided in this MOU.

Upon expiration of the Initial Term, and upon mutual agreement by the Parties, the SOS and County may renew this Agreement for three (3) additional one-year terms ("Extended Term") through a written amendment to this MOU.

The aggregate term of this MOU will not exceed four (4) years.

2. Either Party may terminate this MOU by giving thirty (30) days prior written notice thereof to the other Party.
3. This MOU may be modified or amended only upon the mutual written consent of the Parties.
4. Each Party will appoint a person or persons to serve as the official contact(s) and coordinate the activities of the respective Party in carrying out this MOU. Unless otherwise provided under this MOU, all notices, submissions or deliveries to be made to RR/CC and SOS under this MOU shall be directed as indicated below.

RR/CC

Operations Manager: Name: Aaron Nevarez
 Title: Division Manager
 Address: 12400 Imperial Highway
 Suite 5001A
 Norwalk, CA 90650
 Phone: (562) 462-2800
 Email: ANevarez@rrcc.lacounty.gov

Contracts Administrator: Name: Veronica Williams
 Title: Contracts Manager
 Address: 12400 Imperial Highway
 Suite 5115
 Norwalk, CA 90650
 Phone: (562) 462-2905
 Email: vwilliams@rrcc.lacounty.gov

CALIFORNIA SECRETARY OF STATE

Operations Manager: Name: NaKasha Robinson
 Title: Senior Election Technology Analyst
 Address: 1500 11th Street, 6th Floor
 Sacramento, CA 95814
 Phone: (916) 695-1635
 Email: nakesha.robinson@sos.ca.gov

Contracts Administrator: Name: Dana Winder
Title: Contracts Analyst
Address: 1500 11th Street, 4th Floor
Sacramento, CA 95814
Phone: (916) 653-3775
Email: dana.winder@sos.ca.gov

IV. RR/CC RESPONSIBILITIES

1. RR/CC will submit the required application for the SOS to contract with a certified testing facility as outlined in the CVSS.
2. RR/CC will deposit \$360,000 designated as the initial deposit of funds into an Agency Trust Account sufficient to guarantee and reimburse the cost of any expenditures associated with the examination of the VSAP Tally System Version 2.0, pursuant to Elections Code section 19222.

V. CSOS RESPONSIBILITIES

1. SOS will carry out the certification testing and review for certification process of the VSAP voting system in an expeditious manner to minimize costs and avoid delays.
2. Testing and review for certification shall be carried out in accordance with the requirements adopted in the CVSS.
3. SOS will contract with an approved testing agency, as needed, to assist in carrying out the testing and review for certification process.
4. SOS will provide the County with an itemized report of withdrawals from the Agency Trust Account that includes information about the charges, deliverables, invoices, and payments that are covered by the withdrawals.

VI. INDEMNIFICATION

Each Party agrees to indemnify, defend and save harmless the other Party, officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this MOU, and from any and all claims, losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by that Party in the performance of this MOU.

VII. FISCAL PROVISIONS

RR/CC will deposit \$360,000 into an Agency Trust Account set up by the SOS for testing and review for certification of the entire VSAP Voting System Version 2.0 in accordance with the requirements mandated by the CVSS. If the initial deposit is not

sufficient to reimburse the cost of all expenditures associated with the examination of the voting system, the Secretary of State's office will require an additional deposit of funds into the Agency Trust Account to be received by the Office of Voting Systems Technology Assessment of the Secretary of State's office as directed. Upon termination or expiration of this MOU, the SOS will promptly return any and all remaining funds in that Agency Trust Account to the RR/CC.

VIII. ELECTRONIC SIGNATURES

The Parties hereby agree facsimile and electronic scanned versions of original signatures of authorized signatories of each party have the same force and effect as original signatures such that the parties need not follow up facsimile or electronic transmissions of executed documents with original wet-signature versions.

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**MEMORANDUM OF UNDERSTANDING
BETWEEN COUNTY OF LOS ANGELES
AND
CALIFORNIA SECRETARY OF STATE
FOR
VOTING SYSTEM TESTING AND REVIEW OF THE ENTIRE VOTING SOLUTIONS
FOR ALL PEOPLE SOLUTION**

IN WITNESS WHEREOF, and executed as the date first above written, the Parties to this Contract do hereby agree and consent to all terms and conditions provided herein.

COUNTY OF LOS ANGELES

CALIFORNIA SECRETARY OF
STATE

DEAN C. LOGAN
Registrar-Recorder/County Clerk

Deputy Secretary of State

APPROVED AS TO FORM:

County Counsel

By _____
Michael Owens
Deputy County Counsel