

052506 VMB

MEETING
STATE OF CALIFORNIA
SECRETARY OF STATE
VOTING MODERNIZATION BOARD

SECRETARY OF STATE
1500 11th STREET
AUDITORIUM
SACRAMENTO, CALIFORNIA

THURSDAY, MAY 25, 2006
10:30 A.M.

KATHY L. SWINHART, CSR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10150

CAPITOL REPORTERS (916) 923-5447

1

□

1

APPEARANCES

2

3 PANEL MEMBERS:

4 Mr. John A. Perez, Chair

5 Mr. Stephen Kaufman, Vice Chair, via telephone
Page 1

6 Mr. Carl Guardino, via telephone

7

8

9 STAFF:

10 Mr. Michael Kanotz, Staff Counsel

11 Ms. Jana Lean, Staff Consultant

12 Ms. Katherine Montgomery, Executive Assistant

13 Mr. Chris Reynolds, HAVA Coordinator

14

15

16 ALSO PRESENT:

17 Ms. Candace Grubbs, Butte County

18 Mr. Steve Weir, Contra Costa County

19 Mr. Victor Salazar, Fresno County

20 Ms. Gail Pellerin, Santa Cruz County

21 Mr. John Arntz, San Francisco County

22 Mr. Lou Deidier, ES&S

23

24

---o0o---

25

□

1

INDEX

2

PAGE

3 I. Call to Order 4

4 II. Roll Call and Declaration of Quorum 8

5 III. Public Comment 4

6 IV. Adoption of March 27, 2006 Actions & Meeting Minutes 8

7

8 V. Project Documentation Plan Review and Funding Award Approval 8

9 (A) Alpine County 8

(B) Butte County 10

052506 VMB

10	(C) Contra Costa County - Phase 2	16
	(D) Fresno County	20
11	(E) San Francisco County - Phase 2	29
	(F) Santa Cruz County	23
12	VI. Change to Approved Project Documentation Plan:	
13	(A) San Diego County	40
14	(B) Tulare County	44
15	VII: Staff Report on Related Issues	46
16	VIII: Other Business	53
17	IX: Adjournment	55

18 ---o0o---

19

20

21

22

23

24

25

3

CAPITOL REPORTERS (916) 923-5447

□ 1

SACRAMENTO, CALIFORNIA

2

THURSDAY, MAY 25, 2006, 10:45 A.M.

3

---o0o---

4

CHAIRMAN PEREZ: All right. I'm going to call this meeting to order. We'll operate on what we can until we establish a quorum, and then we'll proceed with doing the course of business.

8

I'd like to call to order the May 25th meeting -- the May 25th, 2006 meeting of the Voting Modernization Board.

10

If you would please do a preliminary roll call, Katherine.

12

EXECUTIVE ASSISTANT MONTGOMERY: Sure.

13

John Perez.

14 CHAIRMAN PEREZ: Here.

15 EXECUTIVE ASSISTANT MONTGOMERY: Stephen Kaufman.

16 BOARD MEMBER KAUFMAN: Here.

17 EXECUTIVE ASSISTANT MONTGOMERY: Okay. Michael
18 Bustamante, Tal Finney and Carl Guardino are not here yet.

19 CHAIRMAN PEREZ: Okay. As soon as one of the three
20 of them joins us, we will have a quorum and we'll have them
21 go on the record at that point.

22 The next item before us is public comment. Do we
23 have any public comment cards on your agenda?

24 STAFF CONSULTANT LEAN: No.

25 CHAIRMAN PEREZ: Okay. The next item is Item IV,

4

CAPITOL REPORTERS (916) 923-5447

□ 1 adoption of our March 27th meeting. We'll have to put that
2 over until we establish a quorum.

3 We can now go to Item V, project documentation plan
4 review and funding. We can receive our staff reports on
5 each of the items, Mr. Kaufman and I can begin asking
6 questions, and then we'll revisit them individually to take
7 approval action once we establish a quorum and take action
8 at that point.

9 So if you would, Jana, please start us off.

10 Is our first one Alpine or Butte?

11 STAFF CONSULTANT LEAN: Alpine.

12 CHAIRMAN PEREZ: Here it is. Very good.

13 Jana, if you would walk us through Alpine, please.

14 STAFF CONSULTANT LEAN: Alpine County is --

15 BOARD MEMBER KAUFMAN: Before you start, was there
16 any report [unitelligible] on this item?

17 CHAIRMAN PEREZ: On this item, no.

18 BOARD MEMBER KAUFMAN: Okay.
19 CHAIRMAN PEREZ: Matter of fact, other than Item V
20 are there any supplemental documents.
21 BOARD MEMBER KAUFMAN: Okay. Sorry to interrupt. Go
22 ahead.
23 STAFF CONSULTANT LEAN: Okay. Alpine County, they're
24 coming forward for their full allocation of \$8,115.19.
25 They're purchasing the Diebold AccuVote optical scan

CAPITOL REPORTERS (916) 923-5447

□ 1 Central Count, two units, and the Diebold-TSX with the
2 AccuView printer, two units.
3 Alpine County anticipates receiving its new voting
4 equipment by late April of this year. The county plans to
5 begin using this equipment for the June 6 Primary Election.
6 The AccuVote-TSX units are equipped with the AccuVote
7 printer, which is a VVPAT component, a voter verified paper
8 audit trail component.
9 Alpine County's project documentation plan meets the
10 requirements for completeless. The Diebold AccuVote
11 optical scan -- central optical scan units and the
12 AccuVote-TSX touch screen units are certified for use in
13 California.
14 Alpine County will be converting from the Datavote
15 punch card voting system. The county is the smallest
16 county in California with approximately 790 registered
17 voters and has only five voting precincts in the entire
18 county. Since 1993, Alpine County has conducted all
19 countywide elections as all-mail ballot elections and has
20 received good response from its voters.
21 Alpine chose to purchase the Diebold system because
22 the equipment uses current technology and software, and it

23 has been determined by the county to be the easiest to
24 install and implement in their small-sized county.

25 For the June 6, 2006 Primary Election, a touch screen

6

CAPITOL REPORTERS (916) 923-5447

□

1 unit will be available for use at the county clerk's office
2 located in the central region of the county. The county is
3 considering placing a touch screen unit at a drop-box
4 location at the western side of the county during the
5 November 2006 General Election.

6 Alpine County will only receive VMB payments once it
7 has submitted detailed invoices for its certified voting
8 equipment. Please note that the staff-proposed funding
9 award is based upon allowable reimbursement under
10 Proposition 41 for voting equipment hardware and software
11 only. The support service line items listed in Alpine
12 County's contract with Diebold would not be covered as a
13 reimbursable claim under Proposition 41.

14 would you like me to do the --

15 THE REPORTER: I'm sorry, would you like -- I can't
16 hear you.

17 STAFF CONSULTANT LEAN: I wanted to ask him if he
18 wanted the staff recommendations at this point.

19 So it is our recommendation that Alpine County's
20 project documentation plan be approved and a funding award
21 letter be issued in the amount of \$8,115.19.

22 CHAIRMAN PEREZ: Mr. Kaufman, do you have any
23 questions?

24 BOARD MEMBER KAUFMAN: Not on this one.

25 BOARD MEMBER GUARDINO: And I -- Mr. Chairman, I

1 stepped -- this is Carl Guardino. I stepped away for a
2 moment with apologies, but I am back.

3 CHAIRMAN PEREZ: Very good. Now let's -- let's
4 re-call the roll, please.

5 EXECUTIVE ASSISTANT MONTGOMERY: Okay. John Perez.

6 CHAIRMAN PEREZ: Here.

7 EXECUTIVE ASSISTANT MONTGOMERY: Stephen Kaufman.

8 BOARD MEMBER KAUFMAN: Here.

9 EXECUTIVE ASSISTANT MONTGOMERY: Carl Guardino.

10 BOARD MEMBER GUARDINO: Here.

11 CHAIRMAN PEREZ: We now have a quorum.

12 I'd like to take a break in the item that we're
13 currently in, which is Item V(A), and go back to Item IV
14 for a minute. Item IV is adoption of our March 27th action
15 and meeting minutes.

16 Mr. Guardino, have you had a chance to review those?
17 And would you move approval, please.

18 Carl?

19 BOARD MEMBER GUARDINO: Sorry. I was on -- I had you
20 on mute --

21 CHAIRMAN PEREZ: No problem.

22 BOARD MEMBER GUARDINO: -- so that my office
23 environment back here wouldn't be disruptive.

24 CHAIRMAN PEREZ: would you move approval of the
25 minutes.

1 BOARD MEMBER GUARDINO: Yes. I move approval of the
2 minutes of our last meeting.

3 CHAIRMAN PEREZ: Mr. Kaufman?

4 BOARD MEMBER KAUFMAN: I'll second.

5 CHAIRMAN PEREZ: All in favor, aye?

6 THE BOARD MEMBERS: Aye. Aye.

7 CHAIRMAN PEREZ: We have those approved.

8 Back to Item V(A), Alpine County. We've now heard
9 the staff report and the staff recommendation.

10 Is there a representative from Alpine here?

11 STAFF CONSULTANT LEAN: No.

12 CHAIRMAN PEREZ: No representative. I just have a
13 quick question.

14 Given that all their countywide elections since '93
15 have been done as all-mail, what they're proposing for June
16 6th, is that for early voting or is that for election day
17 voting at that one or potentially two locations for the
18 DRE?

19 STAFF CONSULTANT LEAN: The touch screen unit will be
20 available out there for election day.

21 CHAIRMAN PEREZ: Election day. Okay. Very good.

22 Is there a motion on the staff recommendation?

23 BOARD MEMBER KAUFMAN: I'll move approval of the
24 staff recommendation for issuance of a funding award letter
25 for Alpine County in the amount of \$8,115.19.

9

CAPITOL REPORTERS (916) 923-5447

□ 1 CHAIRMAN PEREZ: Mr. Kaufman moves.

2 BOARD MEMBER GUARDINO: I'll second the
3 recommendation.

4 CHAIRMAN PEREZ: Mr. Guardino seconds.

5 Call the roll, please.

6 EXECUTIVE ASSISTANT MONTGOMERY: Okay. John Perez.

7 CHAIRMAN PEREZ: Aye.

8 EXECUTIVE ASSISTANT MONTGOMERY: Stephen Kaufman.

9 BOARD MEMBER KAUFMAN: Aye.
 10 EXECUTIVE ASSISTANT MONTGOMERY: Carl Guardino.
 11 BOARD MEMBER GUARDINO: Aye.
 12 CHAIRMAN PEREZ: The item is approved.
 13 Item V(B), Butte County. Jana, if you will walk us
 14 through Butte County.

15 STAFF CONSULTANT LEAN: Butte County is coming
 16 forward for their full VMB funding allocation of
 17 \$1,469,905.57. They are purchasing the Diebold
 18 AccuVote-TSX with AccuView printer, 600 units, and the
 19 AccuVote optical scan Central Count scan, four units.

20 Butte County anticipates receiving its new voting
 21 equipment by the beginning of this month, May 2006. The
 22 county plans to begin using this equipment in the June 6,
 23 2006 Primary.

24 The AccuVote-TSX unit is a compatible component of
 25 the voter verified paper audit trail when the printer is

CAPITOL REPORTERS (916) 923-5447

□ 1

attached to the DRE.

2 Butte County's project documentation plan meets the
 3 requirements for completeness. The Diebold AccuVote-TSX
 4 touch screen units and the AccuVote-OS Central Count
 5 optical scan units are certified for use in California.

6 Butte County will be converting from the Mark-A-Vote
 7 optical scan voting system. Butte considered only DRE,
 8 direct recording electronic units for the polling place and
 9 optical scan for absentee and vote-by-mail ballots. Butte
 10 County believes that it would be too complicated for poll
 11 workers to work with two different systems; therefore, they
 12 decided to only provide DRE units at the polling sites.

13 Butte County has begun an extensive outreach program
 Page 9

14 to educate voters on the new voting system and to allow
15 voters a chance to use the system before the June 6, 2006
16 Primary.

17 Butte indicated that they also plan to purchase the
18 Express Poll 4000 vote card creation device and associated
19 accessories. This equipment is not yet certified for use
20 in California; therefore, any costs associated with this
21 device would not be eligible for reimbursement under
22 Proposition 41 until this equipment is certified.

23 Butte County will only receive VMB payments once it
24 has submitted detailed invoices for its certified voting
25 equipment. Please note that the staff-proposed funding

11

CAPITOL REPORTERS (916) 923-5447

□ 1 award is based upon allowable reimbursement under
2 Proposition 41 for voting equipment hardware and software
3 only. The support services and extended warranty line
4 items listed in Butte County's contract with Diebold would
5 also not be covered as a reimbursable claim under
6 Proposition 41.

7 It is our staff recommendation that Butte County's
8 project documentation plan be approved and a funding award
9 letter be issued in the amount of \$1,469,905.57.

10 Any questions?

11 CHAIRMAN PEREZ: Mr. Kaufman -- oh, well, actually,
12 first, is there anybody here from Butte?

13 STAFF CONSULTANT LEAN: Yes.

14 CHAIRMAN PEREZ: Please come forward just to save us
15 time.

16 Okay. And joining us at the podium is Candace
17 Grubbs, the county clerk registrar of voters for Butte

18 County.

19 MS. GRUBBS: Correct.

20 CHAIRMAN PEREZ: Mr. Kaufman, any questions?

21 BOARD MEMBER KAUFMAN: I had -- actually, I just was
22 not clear on what the Express Poll 4000 voter card creation
23 device is --

24 CHAIRMAN PEREZ: My question --

25 BOARD MEMBER KAUFMAN: -- and what it does.

CAPITOL REPORTERS (916) 923-5447

1 CHAIRMAN PEREZ: My question as well.

2 MS. GRUBBS: Well, the Express Poll is an electronic
3 poll book. That will be coming forth for certification. I
4 think a letter is already in on that.

5 BOARD MEMBER KAUFMAN: I'm sorry. I know we're going
6 to go through this again, but you're fading out. Could you
7 speak up a little bit.

8 CHAIRMAN PEREZ: What I'll do is I'll summarize,
9 too --

10 BOARD MEMBER KAUFMAN: Okay.

11 CHAIRMAN PEREZ: -- just to make sure we cover the
12 main points.

13 MS. GRUBBS: Okay. The Express Poll is essentially
14 an electronic poll book which the whole voter registration
15 roll is -- is uploaded to. And it will also create the
16 voter access card.

17 These have not been approved yet, we -- we know that,
18 but a letter for their certification has been sent to the
19 Secretary of State, and we're assuming that that process
20 will go on right after this election.

21 STAFF CONSULTANT LEAN: That is my understanding as
22 well.

23 CHAIRMAN PEREZ: So for you, Carl and Steve -- and I
24 know, you know, you don't pick this up well with our sound
25 system -- in essence it's an electronic poll book that

CAPITOL REPORTERS (916) 923-5447

13

1 captures the entire list of registered eligible voters, and
2 it creates the enabling card, the smart card that activates
3 the system for the voter to be able to vote.

4 BOARD MEMBER KAUFMAN: Okay. So it's not -- it's not
5 anything that falls within HAVA requirements. It's just an
6 add-on component that makes the system work even more
7 efficiently.

8 STAFF CONSULTANT LEAN: Correct.

9 CHAIRMAN PEREZ: Although isn't there a HAVA
10 requirement with respect to the countywide poll book?

11 STAFF CONSULTANT LEAN: That would have to be -- we
12 have Chris Reynolds here, who is our HAVA coordinator for
13 the Secretary of State. I can't really answer the
14 question.

15 BOARD MEMBER KAUFMAN: I thought it was statewide
16 registration.

17 CHAIRMAN PEREZ: Yeah, so did I.

18 MR. REYNOLDS: Chris Reynolds, HAVA coordinator for
19 the Secretary of State's office.

20 No, there's no requirement for a county to have such
21 a device available. But what is required is a statewide
22 voter registration list that contains the name and
23 information of every registered voter in the state.

24 CHAIRMAN PEREZ: You were right, Steve.

25 BOARD MEMBER KAUFMAN: Okay.

1 CHAIRMAN PEREZ: Okay. Any other questions? Carl,
2 do you have any questions for -- for Ms. Grubbs?
3 Hearing none, is there a motion?
4 BOARD MEMBER KAUFMAN: Yeah. I will move to accept
5 the staff recommendation to issue a funding award letter to
6 Butte County in the amount of \$1,469,905.57.
7 CHAIRMAN PEREZ: Okay. And, Mr. Guardino, do you
8 second?
9 BOARD MEMBER GUARDINO: I'll second.
10 CHAIRMAN PEREZ: would you go ahead and call the
11 roll.
12 EXECUTIVE ASSISTANT MONTGOMERY: John Perez.
13 CHAIRMAN PEREZ: Aye.
14 EXECUTIVE ASSISTANT MONTGOMERY: Stephen Kaufman.
15 BOARD MEMBER KAUFMAN: Aye.
16 EXECUTIVE ASSISTANT MONTGOMERY: Carl Guardino.
17 CHAIRMAN PEREZ: Carl?
18 BOARD MEMBER KAUFMAN: Oh, Carl?
19 BOARD MEMBER GUARDINO: Yeah, sorry. A journalist
20 just stepped in and interrupted me, but I'm here.
21 And are we on the motion or the -- or the second for
22 Butte?
23 CHAIRMAN PEREZ: We've got a motion and a second.
24 Steve and I have voted in favor. We're waiting for your
25 vote.

1 BOARD MEMBER GUARDINO: I do, too. I heard both the
2 report and then the reporter to speak to me right now, so
3 it's with deep apologies.
4 CHAIRMAN PEREZ: Very good.

5 BOARD MEMBER GUARDINO: It's very busy around here
6 today.

7 CHAIRMAN PEREZ: Mr. Guardino votes aye. So three
8 ayes. We are approved. Thank you very much.

9 MS. GRUBBS: I thank you and Butte County thanks you.

10 CHAIRMAN PEREZ: Thank you.

11 Next item for us is Contra Costa. If you would walk
12 us through the Gunaden [phonetic] report.

13 STAFF CONSULTANT LEAN: Contra Costa County is coming
14 forward with their Phase 2 project documentation plan.

15 Based upon the allowable expenses, the staff is
16 recommending an allocation of \$2,018,156.25. This will
17 leave them a remaining allocation of approximately \$9,000.

18 The county is purchasing the ES&S AutoMARK Voter
19 Assist terminals, the additional terminals that were not
20 being purchased in Phase 1. So they're purchasing 668
21 units. They're also purchasing the Pitney Bowes Relia-Vote
22 system.

23 Contra Costa has secured their Phase 2 voting
24 equipment, and they anticipate using this new additional
25 AutoMARK unit for the first time in the June 6, 2006

16

CAPITOL REPORTERS (916) 923-5447

□ 1 Primary.

2 The voter verified paper audit trail requirement does
3 not apply to Contra Costa County's Phase 2 project
4 documentation plan as the system is a paper-based optical
5 scan system.

6 Contra Costa County's Phase 2 project documentation
7 plan meets the requirements for completeness. The ES&S
8 AutoMARK voter assist terminals are certified for use in

9 California.

10 The deployment of Contra Costa County's Phase 2
11 AutoMARK voting equipment will bring the county into
12 compliance with the Help America Vote Act and the state
13 accessibility requirements.

14 Contra Costa is planning to purchase the Pitney Bowes
15 Relia-Vote base system for use in conjunction with ES&S
16 ballot counting system for absentee ballots. Contra Costa
17 County asserts that the Relia-Vote system will enable them
18 to increase security of returned absentee ballots, improve
19 the accuracy of sorting the ballots into counting groups
20 and provide a complete audit trail for the ballots from the
21 time the ballot arrives in the election office. The county
22 believes that it is imperative to modernize their
23 processing and preparation for the counting of increasing
24 numbers of absentee ballots. The Relia-Vote system is a
25 third-party combination of hardware and software to support

17

CAPITOL REPORTERS (916) 923-5447

□ 1 the county's voting system and does not itself require
2 certification as a system for use in California.

3 Contra Costa County will only receive VMB payments
4 once they have submitted detailed invoices for their Phase
5 2 voting equipment. Please note that the staff-proposed
6 Phase 2 funding award is based upon allowable reimbursement
7 under Proposition 41 for voting equipment hardware and
8 software only. The election support system -- or sorry --
9 election support services listed in Contra Costa County's
10 contract with ES&S and the extended price and annual
11 licensing fee items on the Pitney Bowes quotation list
12 would not be covered as a reimbursable claim under
13 Proposition 41.

14 It is our staff recommendation that Contra Costa
15 County's Phase 2 project documentation plan be approved and
16 a funding award letter be issued in the amount of
17 \$2,018,156.25.

18 Do we have any questions?

19 CHAIRMAN PEREZ: We have Steve Weir with us from --
20 from Contra Costa, if you'd come forward.

21 I have -- I guess I just have one question.

22 On the Pitney Bowes system, you're only looking for
23 one. Is that because if there's failure in the system,
24 it's not a voting system, therefore you need -- you don't
25 need backup since it's just a supplemental support?

CAPITOL REPORTERS (916) 923-5447

18

□ 1 MR. WEIR: Correct.

2 CHAIRMAN PEREZ: Okay. Mr. Kaufman, any questions?

3 BOARD MEMBER KAUFMAN: Yeah.

4 So I understand what's going on here, it looks to me
5 like your county then purchased a limited number of the
6 optical scan terminals for purposes I guess of a special
7 election held within the county earlier this year.

8 Was that basically attached to the limited amount and
9 now you're purchasing the balance and bringing the number
10 up to the number of polling locations that you have?

11 MR. WEIR: That's -- that's correct. We acquired for
12 the -- excuse me -- November 8, '05 election about a
13 hundred units so that we could roll those out in 20 percent
14 of our precincts. This will bring us up to a full
15 compliment.

16 BOARD MEMBER KAUFMAN: Okay. So both -- essentially
17 both phases of your award here are the same equipment just

18 in different amounts?

19 MR. WEIR: Right.

20 BOARD MEMBER KAUFMAN: Okay.

21 CHAIRMAN PEREZ: Very good.

22 BOARD MEMBER KAUFMAN: And I assume that based on
23 your initial run-throughs, this is a successful voting
24 system for you.

25 MR. WEIR: Yes, it is.

19

CAPITOL REPORTERS (916) 923-5447

1 CHAIRMAN PEREZ: Any other questions? Carl?

2 Okay. Is there --

3 BOARD MEMBER GUARDINO: None from me.

4 CHAIRMAN PEREZ: Is there a motion?

5 BOARD MEMBER GUARDINO: I move that we approve Contra
6 Costa County's request from the staff recommendation.

7 CHAIRMAN PEREZ: Carl Guardino moves.

8 BOARD MEMBER KAUFMAN: I'll second.

9 CHAIRMAN PEREZ: Steve Kaufman seconds.

10 EXECUTIVE ASSISTANT MONTGOMERY: John Perez.

11 CHAIRMAN PEREZ: Aye.

12 EXECUTIVE ASSISTANT MONTGOMERY: Stephen Kaufman.

13 BOARD MEMBER KAUFMAN: Aye.

14 EXECUTIVE ASSISTANT MONTGOMERY: Carl Guardino.

15 BOARD MEMBER GUARDINO: Aye.

16 CHAIRMAN PEREZ: Very good. We have approval.

17 Next item, V(D), Fresno County.

18 STAFF CONSULTANT LEAN: Fresno County, their staff
19 recommended a funding award based upon allowable
20 reimbursement. They have approximately \$700,000 remaining
21 in their allocation. They're purchasing the Diebold
22 AccuVote-TSX with the AccuView printer, a thousand units,

23 and the AccuVote-OS optical scan, 80 units.

24 Fresno County anticipates receiving the first 500 of
25 the AccuVote-TSX units by mid May 2006 and plans to begin

CAPITOL REPORTERS (916) 923-5447

20

□ 1 using this equipment for the June 6, 2006 Primary. The
2 county anticipates receiving the second 500 AccuVote-TSX
3 units and 80 AccuVote optical scan by mid September 2006
4 and plans to implement this equipment in the November 7th,
5 2006 General Election.

6 The AccuVote-TSX units possess the voter verified
7 paper audit trail.

8 Fresno County's project documentation plan meets the
9 requirements for completeness. And the Diebold
10 AccuVote-TSX touch screen units and the AccuVote optical
11 scan units are certified for use in California.

12 Fresno County will be augmenting their existing
13 Diebold optical scan voting system with the touch screen
14 units and additional optical scan units. Fresno County
15 believes that the deployment of one optical scan unit and
16 one touch screen unit in all of its polling places will
17 bring the county into full compliance with the requirements
18 of the Help America Vote Act.

19 As stated earlier, Fresno County plans to deploy 500
20 of its TSX units during the June 6 Primary and the other
21 500 units and the 80 additional optical scan units during
22 the November General Election. The county believes that by
23 using this quasi-phased approach, it would provide the
24 county's staff and poll workers an easier transition to the
25 new blended voting system. Fresno County will offer early

□ 1 voting in their county offices on AccuVote-TSX touch screen
2 units.

3 Fresno County will only receive VMB payments once it
4 has submitted detailed invoices for its certified voting
5 equipment. Please note that the staff-proposed funding
6 award is based upon allowable reimbursement under
7 Proposition 41 for voting equipment hardware and software
8 only. The support service line item listed in Fresno
9 County's contract with Diebold would not be covered as a
10 reimbursable claim under Proposition 41.

11 It is our staff recommendation that Fresno County's
12 project documentation plan be approved and a funding award
13 letter be issued in the amount of \$3,527,333.19.

14 CHAIRMAN PEREZ: Okay. Joining us is Victor Salazar,
15 the county clerk registrar of voters for Fresno.

16 Any questions, Mr. Kaufman?

17 BOARD MEMBER KAUFMAN: No questions from me.

18 CHAIRMAN PEREZ: Mr. Guardino?

19 BOARD MEMBER GUARDINO: None here.

20 CHAIRMAN PEREZ: I have no questions.

21 Is there a motion?

22 BOARD MEMBER KAUFMAN: I will move to approve the
23 staff recommendation and issue a funding award letter to
24 Fresno County in the amount of \$3,527,333.19.

25 BOARD MEMBER GUARDINO: I second the motion.

22

□ 1 CHAIRMAN PEREZ: Okay. It's been moved and seconded.
2 Mr. Salazar knows that if we're going to move
3 approval, he's not going to have to speak. Never belate a
4 deal that's being sealed.

5 Call the roll.

6 EXECUTIVE ASSISTANT MONTGOMERY: John Perez.

7 CHAIRMAN PEREZ: Aye.

8 EXECUTIVE ASSISTANT MONTGOMERY: Stephen Kaufman.

9 BOARD MEMBER KAUFMAN: Aye.

10 EXECUTIVE ASSISTANT MONTGOMERY: Carl Guardino.

11 BOARD MEMBER GUARDINO: Aye.

12 CHAIRMAN PEREZ: Okay. We've got approval.

13 If there's no objection, I'd like to move next to
14 Santa Cruz and then come back to San Francisco, just
15 because I have several questions for San Francisco and I'd
16 like to deal with Santa Cruz quickly.

17 STAFF CONSULTANT LEAN: Okay. We'll begin with Santa
18 Cruz County.

19 Staff is recommending the funding award of
20 \$1,661,152.11. This will -- this is not their full
21 allocation. There will be -- have a remaining allocation
22 of approximately \$37,000.

23 Santa Cruz County is purchasing the Sequoia Voting
24 System AVC Edge II touch screen units with the Verivote
25 printer, 165 units, and the optical -- sorry -- the Optech

23

CAPITOL REPORTERS (916) 923-5447

□ 1 Insight Precinct Ballot Counter optical scan units, 165
2 units, and also the Optech 400-C ballot counters, two
3 units.

4 Santa Cruz County anticipates receiving their new
5 voting equipment by mid July 2006. The county plans to
6 begin using this equipment in the November 7, 2006 General
7 Election.

8 The AVC Edge DRE units being purchased by Santa Cruz

9 County includes a VeriVote printer, which is a voter
10 verified paper audit trail component.

11 Santa Cruz County's project documentation meets all
12 the requirements for completeness. The Sequoia AVC Edge
13 with the VeriVote touch screen units, the Optech Insight
14 units and the Optech 400-C units are certified for use in
15 California.

16 Santa Cruz County will not be able to convert to
17 their new voting system until the November 7th, 2006
18 General Election due to the vendor's inability to deliver
19 the new equipment before the June 6, 2006 Primary Election.

20 For the June 6, 2006 Primary Election, Santa Cruz
21 County will continue using its existing Mark-A-Vote optical
22 scan units in their polling places and will be borrowing 12
23 AVC Edge touch screen units from Monterey County to be
24 strategically placed around the county on election day.
25 The county also plans to have one screen unit available at

CAPITOL REPORTERS (916) 923-5447

□ 1 the county clerk's office for early voting and on election
2 day. The deployment of the 12 units during the June 6,
3 2006 Primary Election is an attempt to comply with the Help
4 America Vote Act and state law accessibility requirements.

5 During the November 7, 2006 General Election, Santa
6 Cruz County will be fully converting from their existing
7 Mark-A-Vote optical scan voting system. The county intends
8 to employ one AVC Edge II with VeriVote touch screen unit
9 and one Optech Insight optical scan unit at all their
10 polling places to bring the county into full compliance
11 with the requirements of HAVA and state accessibility
12 requirements. The touch screen units will provide access
13 to those voters with disabilities and also satisfy the

14 second-choice voting requirements by allowing over votes --
15 by not allowing over votes and identifying under votes to
16 each voter.

17 Santa Cruz County is developing an extensive outreach
18 program to introduce the new voting system to their voters.

19 Santa Cruz County will only receive VMB payments once
20 it has submitted detailed invoices for its certified voting
21 equipment. Please note that the staff-proposed funding
22 award is based upon allowable reimbursement under
23 Proposition 41 for the voting equipment hardware and
24 software only. The installation and training line items
25 listed in Santa Cruz County's contract with Sequoia would

25

CAPITOL REPORTERS (916) 923-5447

□ 1 not be covered as a reimbursable claim under Proposition
2 41.

3 It is our staff recommendation that Santa Cruz
4 County's project documentation plan be approved and a
5 funding award letter be issued in the amount of
6 \$1,661,152.11.

7 Questions?

8 CHAIRMAN PEREZ: Yeah, I think we're going to have a
9 couple.

10 Joining us is Gail Pellerin, the county clerk.

11 Do you want to go first or shall I, Stephen?

12 BOARD MEMBER KAUFMAN: Why don't you go ahead.

13 CHAIRMAN PEREZ: My big question is with respect to
14 the deployment of the 12 touch screen units.

15 Can you just kind of help us understand how you got
16 to 12. Was it just that was what Monterey was willing to
17 lend or was there some -- was there some thinking, you

18 know, that got you to the number 12, and how is it that you
19 came to the disbursement of the 12 that you came into?

20 MS. PELLERIN: Sure.

21 we definitely tried to get as many touch screen units
22 as we could for June, and they were able to give us 12.
23 And we did ask a number of different counties and the
24 vendor.

25 we have one that's been operating in our office for

CAPITOL REPORTERS (916) 923-5447

□ 1 early voting and one that's starting in watsonville at the
2 city clerk's office today. And that will be available for
3 weekend voting as well, from 9:00 to 5:00 on the weekend
4 before the election. And we're doing outreach to each of
5 the disability groups.

6 As far as the ten other locations, we're training the
7 individual who is going to manage the touch screen at each
8 of those ten locations, and they're pretty much scattered
9 geographically throughout the county in accessible
10 locations. So we just picked the best, most successful
11 sites that we have that meet the requirements of ADA and
12 Title 24 for accessibility.

13 CHAIRMAN PEREZ: So there wasn't -- for example, the
14 polling location I use when I vote early in Los Angeles is
15 the Braille Institute. So that, you know, obviously makes
16 a tremendous amount of sense for placement of a -- of an
17 audio system unit.

18 MS. PELLERIN: We have a senior center. We have a
19 local -- a fire station because it meets all the
20 requirements for accessibility. We did pick an area up at
21 the summit for anybody -- so they don't have to drive all
22 the way into town. We selected sites in -- at health

23 centers over in Watsonville.

24 So we did take that into consideration as well as we
25 have six voters who do request the audio cassettes, and we

CAPITOL REPORTERS (916) 923-5447

27

1 made sure they were near their home precincts.

2 CHAIRMAN PEREZ: Very good.

3 How many languages do you offer your ballot in?

4 MS. PELLERIN: We only -- we're not covered under the
5 Voting Rights Act, but we do have Spanish on our ballots.
6 I'm sorry. On the DRE, not on the ballots. We provide a
7 written translation of the local measures and the state
8 props. But with the new touch screen, we're able to offer
9 Spanish as well with the instructions and the propositions
10 and local measures translated.

11 CHAIRMAN PEREZ: Very good.

12 Mr. Kaufman, any questions?

13 BOARD MEMBER KAUFMAN: I think you covered it, Mr.
14 Chair. Thank you.

15 CHAIRMAN PEREZ: Mr. Guardino?

16 BOARD MEMBER GUARDINO: No questions, but hello, Gail
17 Pellerin.

18 MS. PELLERIN: Hi. I could have picked you up on the
19 way here, Carl.

20 BOARD MEMBER GUARDINO: Next time.

21 MS. PELLERIN: Okay.

22 CHAIRMAN PEREZ: Is there a motion?

23 BOARD MEMBER KAUFMAN: Carl, do you want the honor or
24 should I do it?

25 BOARD MEMBER GUARDINO: You are so good at it,

28

□ 1 please, Mr. Kaufman.

2 BOARD MEMBER KAUFMAN: Okay. I will move to accept
3 the staff recommendation and issue a funding award letter
4 to Santa Cruz County in the amount of \$1,661,152.11.

5 BOARD MEMBER GUARDINO: Second.

6 CHAIRMAN PEREZ: Mr. Kaufman moves. Mr. Guardino
7 seconds.

8 Katherine.

9 EXECUTIVE ASSISTANT MONTGOMERY: John Perez.

10 CHAIRMAN PEREZ: Aye.

11 EXECUTIVE ASSISTANT MONTGOMERY: Stephen Kaufman.

12 BOARD MEMBER KAUFMAN: Aye.

13 EXECUTIVE ASSISTANT MONTGOMERY: Carl Guardino.

14 BOARD MEMBER GUARDINO: Aye.

15 CHAIRMAN PEREZ: We have approval.

16 Lastly, 5(E), San Francisco.

17 BOARD MEMBER KAUFMAN: You say that with such an
18 ominous tone.

19 STAFF CONSULTANT LEAN: The City and County of San
20 Francisco is simply --

21 CHAIRMAN PEREZ: I have to pay particular attention
22 to the three counties I've lived in. So, you know, San
23 Francisco will have to deal with the fact that I used to
24 live there.

25 STAFF CONSULTANT LEAN: They have submitted their

29

□ 1 Phase 2 project documentation plan. Staff is recommending
2 a funding award of \$2,392,695.90.

3 They will be purchasing the ES&S AutoMARK voter
4 assist terminals, 565 units. San Francisco anticipates

5 receiving the AutoMARK units by the beginning of May 2006.
6 The jurisdiction plans to use the AutoMARK units for the
7 first time at the June 6, 2006 Primary.

8 The voter verified paper audit trail requirement does
9 not apply to San Francisco's Phase 2 project documentation
10 plan as the system is a paper-based optical scan system.

11 San Francisco County's Phase 2 project documentation
12 plan meets the requirements for completeness. And the ES&S
13 AutoMARK voter assist terminals are certified for use in
14 California.

15 At the March 19th, 2003 meeting of the Voting
16 Modernization Board, the Board approved San Francisco
17 County's Phase 1 project documentation plan and awarded
18 funding for reimbursement of the county's purchase of 682
19 ES&S Optech III-P Eagle precinct based optical scan units
20 and two Optech central count ballot tabulators.

21 Fresno [verbatim] County's current optical scan
22 voting system includes the ranked choice voting enhanced
23 system software component mandated by the City and County
24 of San Francisco's charter. The certification of the
25 ranked choice voting component expired in December 2005.

30

CAPITOL REPORTERS (916) 923-5447

□ 1 The AutoMARK is not certified for use with San Francisco's
2 existing voting system. So currently, if San Francisco
3 uses the AutoMARK with their existing voting system, it
4 must run it separately as an independent voting system with
5 two different versions of the Unity Election Management
6 system, and San Francisco will be required to print two
7 ballot types, two types of ballots for each polling place.

8 Finally, it should be noted that an obstacle to the

9 possible certification of existing Optech III-P Eagle to
10 work with the AutoMARK units and the newer version of Unity
11 is that the Optech III-P Eagle are not compliant with the
12 federal 2002 voting system standards.

13 Based upon feedback from the public, the
14 certification status of the AutoMARK and the county's
15 existing contract with ES&S, San Francisco extended its
16 existing contract with ES&S to purchase the AutoMARK units
17 to comply with the Help America Vote Act.

18 San Francisco County will only receive VMB payments
19 once it has submitted detailed invoices for the certified
20 voting equipment. Please note that the staff-proposed
21 funding award is based upon allowable reimbursement under
22 Proposition 41 for the voting equipment hardware and
23 software only. The delivery, installation, package
24 removal, battery chargers and related support service line
25 items listed in San Francisco County's contract with ES&S

31

CAPITOL REPORTERS (916) 923-5447

□ 1 would not be covered as a reimbursable claim under
2 Proposition 41.

3 It is our staff recommendation that San Francisco
4 County's project documentation Phase 2 plan be approved and
5 a funding award -- a funding award letter be issued in the
6 amount of \$2,392,695.90.

7 And I know you have questions.

8 CHAIRMAN PEREZ: Joining us is John Arntz, the
9 director of elections for the City and County of San
10 Francisco.

11 Do you have any comments you want to make before we
12 ask questions or do you want to just wait for our
13 questions?

14 MR. ARNTZ: No. Well, I mean, not any questions, but
15 I have a comment.

16 When I was stuck in traffic on the way here, I was
17 thinking about this whole process. And I want to thank
18 Jana, and I think the Board ought to be very thankful and
19 acknowledge Jana's work in this whole process. Because I
20 know working with San Francisco, she hasn't had an easy job
21 and she's had many questions come her way and she's fielded
22 them very well. I feel that the application we put
23 forward, a lot of it was because of the structure and the
24 information that Jana provided us, so I want that to go on
25 the record.

32

CAPITOL REPORTERS (916) 923-5447

□ 1

But other than that --

2 CHAIRMAN PEREZ: Thank you.

3 Mr. Kaufman or Mr. Guardino, would either of you like
4 to go further or shall I proceed?

5 BOARD MEMBER KAUFMAN: Well, let me just ask the
6 beginning one -- one question.

7 So is the current plan -- I think the Chair will
8 probably ask you to explain the whole -- how the voting
9 will work, but is the current plan that you're going to
10 have, what, one -- is there going to be one AutoMARK unit
11 in each precinct or what's the allocation, I guess, of
12 what's being sought here in Phase 2?

13 MR. ARNTZ: Yeah, correct. Well, each polling place
14 will have one AutoMARK. And we have 561 polling places, so
15 an AutoMARK in each of those polling places. But also at
16 City Hall, which is our early voting central voting center,
17 we have two or three AutoMARKS there.

18 CHAIRMAN PEREZ: Did you get that, Stephen?

19 BOARD MEMBER KAUFMAN: Yes.

20 CHAIRMAN PEREZ: Okay. I -- and Mr. Kaufman's
21 correct about my questions. Here -- here are the things
22 that kind of stick out in my mind, and I'm trying to figure
23 out how the pieces fit together.

24 One, that the certification for your ranked choice
25 expired in December 2005, but the people in San Francisco

CAPITOL REPORTERS (916) 923-5447

□ 1 are very clear that this is a priority for them; two, the
2 fact that the system is already integrated; and three, that
3 your Optech -- Optech III-P Eagles are not compliant with
4 the 2002 voting system standards.

5 So help me get my head around those three issues as
6 we vote to give you this approval.

7 MR. ARNTZ: Well, one step at a time. So for this
8 election, we'll have the AutoMARKS to be compliant with the
9 HAVA requirements for this election.

10 And the Eagles are -- I don't know of any reason that
11 they would be prohibited from being used in San Francisco
12 for this election. But then --

13 BOARD MEMBER KAUFMAN: And I'm sorry to interrupt,
14 but is that because there's no -- there's no race that you
15 need to be concerned with?

16 MR. ARNTZ: Correct. There is no ranked choice
17 voting for June, so November is a question for ranked
18 choice voting.

19 The Eagles have been certified for ranked choice
20 voting traditionally in the past by the voting procedures
21 panel. And ES&S has indicated that it will go forward with
22 the certification requests a third time to the O'Connell --

23 the Secretary of State's office to have the Eagles and the
 24 Unity system certified for ranked choice voting this
 25 November.

34

CAPITOL REPORTERS (916) 923-5447

□

1 The AutoMARKS will also have to in some way mark the
 2 ranked choice cards. And at this time, ES&S has not gone
 3 forward to the Secretary of State's office. Any -- any
 4 application of the AutoMARKS will be incorporated not with
 5 the Eagles, but with the ranked choice voting.

6 So, I mean, there will be ranked choice voting in San
 7 Francisco this November. I do think that the Eagles can --
 8 can handle the job. I still think they're capable of
 9 handling the election. But moving forward into the future,
 10 I mean, San Francisco will have to upgrade the technology
 11 from the Eagles. It's a lower technology. It probably
 12 would not -- would not pass scrutiny under the new 2005
 13 standards.

14 The City as a policy has not yet decided if it's
 15 going to move forward with ES&S in the future. Most likely
 16 it would at this point. The reason I say this is that San
 17 Francisco as of March had a contract with essentially
 18 Sequoia Voting Systems. Sequoia indicated by its actions
 19 that it could not provide and support San Francisco in the
 20 equipment to be ready for the June election. So basically
 21 I ended those contract negotiations, and we moved to ES&S.

22 So even though there's been a decision essentially by
 23 the department and also supported by the City, present in
 24 the formal recognition is ES&S. But since we're purchasing
 25 the AutoMARKS and since ES&S has the ranked choice voting

35

1 or it developed and certified it conditionally twice, and
2 also ES&S and RP response indicated that the 100 would be
3 upgraded and put forth in the ranked choice voting, I think
4 that San Francisco does have, you know, a very solid set of
5 options going forward for ranked choice voting and also for
6 future technology that would be more -- more compliant and
7 meet the stricter standards of the 2005 requirements.

8 CHAIRMAN PEREZ: Stephen, anything else on that?

9 BOARD MEMBER KAUFMAN: No. I think -- I think that
10 covers it.

11 CHAIRMAN PEREZ: Carl?

12 Oh, Jana --

13 BOARD MEMBER GUARDINO: No, nothing.

14 STAFF CONSULTANT LEAN: I actually do have a
15 question.

16 I do know that an ES&S representative is here in the
17 audience and perhaps he can come forward and address when
18 they plan to submit that application to the Secretary of
19 State so you might feel more comfortable with this funding
20 award.

21 CHAIRMAN PEREZ: And you're making your way down.

22 I -- I'm sure you can understand kind of where my
23 discomfort lies --

24 MR. DEIDIER: Sure.

25 CHAIRMAN PEREZ: -- with the fact that we have gone

36

1 through -- there have been two -- what's the term again?
2 Not -- two temporary certifications, two conditional
3 certifications for a finite period of time.

4 what I don't want to see us getting into is a

5 situation where we come forward and San Francisco's got
6 more money invested with a given vendor anticipating, you
7 know, that -- that the -- another conditional approval and
8 finding ourselves not having that conditional approval and
9 having to go back and being a little hamstrung by how far
10 we are.

11 So --

12 MR. DEIDIER: Hi. My name is Lou Deidier. I am a
13 vice-president and regional manager for ES&S.

14 To give you a little insight, San Francisco on ranked
15 choice voting is jurisdictionally specific. The AutoMARK
16 is currently ITA-qualified with both the Eagle ballot and
17 the oval [phonetic] ballot. That report is on file with
18 the Secretary of State. We did not take it forward because
19 we did not have a customer at the time.

20 So all we have to do to initiate basically the use of
21 the Eagle, the AutoMARK and Eagle ballot, is bring that
22 back in and go through the certification testing. There
23 would be no changes to the Eagle, no changes to the
24 AutoMARK. The AutoMARK will mark that ballot.

25 CHAIRMAN PEREZ: What timeline do you anticipate?

37

CAPITOL REPORTERS (916) 923-5447

□ 1 MR. DEIDIER: We'll submit it after the election.
2 We're looking probably July we'll submit a letter.

3 And basically understand that we will go through
4 whatever requirements the State wants us to. But there
5 will be no ITAs because those are done. They're already on
6 file and here.

7 CHAIRMAN PEREZ: Carl or Stephen?

8 BOARD MEMBER KAUFMAN: No, nothing further.

9 BOARD MEMBER GUARDINO: No.

10 CHAIRMAN PEREZ: Is there a motion?

11 BOARD MEMBER KAUFMAN: Yeah.

12 well, you know, I -- I understand the predicament
13 that faces San Francisco, and it seems to be an extremely
14 complicated scenario. Having said that, I think the
15 project documentation plan that is before us meets all the
16 requirements that -- that we need to look for in issuing
17 our funding award.

18 So I am going to move that we accept the staff
19 recommendation and issue a funding award letter to San
20 Francisco in the amount of \$2,392,695.90. And add to that
21 that we hope that San Francisco is able to reconcile all of
22 these issues by the November election.

23 BOARD MEMBER GUARDINO: I will second the motion.

24 CHAIRMAN PEREZ: It's been moved by Mr. Kaufman and
25 seconded by Mr. Guardino on the question.

38

CAPITOL REPORTERS (916) 923-5447

□ 1 I want to preface my vote by saying I am cautiously
2 optimistic that we get there by November, but I do have
3 some concerns. This is one of several instances where
4 the -- because of the number of moving pieces and the
5 timing and the variety of standards that have to be dealt
6 with, I am very concerned that our approval is helpful to
7 the county but doesn't give the county a false sense of
8 hope of putting all the pieces together. And so I'll leave
9 it at that.

10 And you wanted to add something before we vote?

11 MR. ARNTZ: I don't want to interrupt you, but I do.

12 CHAIRMAN PEREZ: Okay. Go ahead.

13 MR. ARNTZ: I want to say that I appreciate the

14 Board's basically understanding of San Francisco's
15 challenge to move forward. Your assessment is correct,
16 absolutely. And what -- if -- I don't know how the Board
17 operates, but I would be more than happy to keep the Board
18 informed of our progress going forward. I can provide
19 reports or I could appear before the -- before the Board.

20 And I think it's important that, you know, since the
21 Board is giving us money, that it does understand or does
22 have the comfort to know that the assurances that have been
23 provided for various equipment have been met. So I'd be
24 happy to do that.

25 CHAIRMAN PEREZ: We'd appreciate that.

39

CAPITOL REPORTERS (916) 923-5447

□ 1

Katherine.

2 EXECUTIVE ASSISTANT MONTGOMERY: John Perez.

3 CHAIRMAN PEREZ: Aye.

4 EXECUTIVE ASSISTANT MONTGOMERY: Stephen Kaufman.

5 BOARD MEMBER KAUFMAN: Aye.

6 EXECUTIVE ASSISTANT MONTGOMERY: Carl Guardino.

7 BOARD MEMBER GUARDINO: Aye.

8 CHAIRMAN PEREZ: We have three votes. We have
9 approval. And we are now done with Item V on our agenda,
10 move forward to Item VI, change to approved project
11 documentation plan.

12 The first item, VI(A), is San Diego County.

13 STAFF CONSULTANT LEAN: This is the first time that
14 the Board has heard any changes to the project
15 documentation plan, so it's a little different.

16 San Diego County is requesting that their full
17 funding award be issued and that the change to their

18 project documentation plan be approved. They're purchasing
19 the Diebold AccuVote-TSX units, 10,200 units, and the
20 AccuVote optical scan, four units.

21 At the February 9th, 2004 meeting of the Voting
22 Modernization Board, the Board approved San Diego County's
23 project documentation plan and awarded a funding award for
24 reimbursement of the county's purchase of 10,200
25 AccuVote-TSX units and the four optical scan units. The

40

CAPITOL REPORTERS (916) 923-5447

□ 1 county used this equipment at the March 2nd, 2004
2 Presidential Primary Election.

3 On April 30th, 2004, the prior Secretary of State
4 issued orders decertifying the use of all DRE voting
5 systems in California and specifically banned the use of
6 the Diebold AccuVote-TSX hardware and firmware voting
7 equipment.

8 After the decertification of the voting system, San
9 Diego County amended their contract with Diebold to supply
10 the county with non-DRE voting equipment at no cost to the
11 county for all future elections until January 1, 2007, or
12 until new DRE units were recertified.

13 On February 17th, 2006, the current Secretary of
14 State certified for use in California the Diebold
15 AccuVote-TSX with the AccuVote -- or AccuView printer
16 optical scan central count units, AccuVote-OS and other
17 related voting system components.

18 San Diego County used these newly certified Diebold
19 AccuVote-TSX units with the printer and optical scan
20 without tabulators for the first time at their April 11,
21 2006 countywide Special Election for the 50th Congressional
22 District.

23 San Diego County is requesting the voting
24 Modernization Board approve the change to their existing
25 project documentation plan which incorporated the

41

CAPITOL REPORTERS (916) 923-5447

□ 1 amendments to the contract and the receipt of the newly
2 certified AccuVote-TSX units with the related hardware and
3 software.

4 So it is our staff recommendation that San Diego
5 County's change to their approved project documentation
6 plan be approved and that a new funding award be issued in
7 the amount of \$16,726,146.64.

8 CHAIRMAN PEREZ: Okay. Mikel Haas is with us.

9 STAFF CONSULTANT LEAN: He is not -- he was not able
10 to attend today. If any questions arise that would
11 preclude you from voting on this, we can get him on the
12 line.

13 CHAIRMAN PEREZ: Okay. Mr. Kaufman?

14 BOARD MEMBER KAUFMAN: Yeah, I have one
15 clarification, Jana.

16 So at one point -- well, I guess it was in February
17 9, 2004, we issued an award letter in the same amount?

18 STAFF CONSULTANT LEAN: Correct.

19 BOARD MEMBER KAUFMAN: And the only thing that -- and
20 so the -- but the funds were not released --

21 STAFF CONSULTANT LEAN: No.

22 BOARD MEMBER KAUFMAN: -- or they were released?

23 STAFF CONSULTANT LEAN: No funds were released
24 because by the time that they would have submitted
25 invoices, the system was decertified.

42

1 BOARD MEMBER KAUFMAN: Okay. So essentially all
2 we're doing is issuing the same funding amount but based on
3 different documentation and contract to support the
4 payments.

5 STAFF CONSULTANT LEAN: That's correct.

6 BOARD MEMBER KAUFMAN: Okay.

7 CHAIRMAN PEREZ: Mr. Guardino, any questions?

8 BOARD MEMBER GUARDINO: No, sir.

9 CHAIRMAN PEREZ: Okay. Is there a motion?

10 BOARD MEMBER KAUFMAN: I'll move to approve the staff
11 recommendation and I guess issue a new funding award letter
12 to the County of San Diego in the amount of \$16,726,146.64.

13 Do we need to indicate that this supersedes the prior
14 funding award letter?

15 CHAIRMAN PEREZ: I think it would be -- I think it
16 would be wise to do that.

17 BOARD MEMBER KAUFMAN: Okay. So let's add that to
18 the motion, that that letter will supersede the prior
19 letter that I guess was issued following the February 9,
20 2004 meeting.

21 CHAIRMAN PEREZ: Mr. Kaufman moves.

22 BOARD MEMBER GUARDINO: I second.

23 CHAIRMAN PEREZ: Mr. Guardino seconds.

24 Katherine.

25 EXECUTIVE ASSISTANT MONTGOMERY: John Perez.

1 CHAIRMAN PEREZ: Aye.
2 EXECUTIVE ASSISTANT MONTGOMERY: Stephen Kaufman.
3 BOARD MEMBER KAUFMAN: Aye.
4 EXECUTIVE ASSISTANT MONTGOMERY: Carl Guardino.

5 BOARD MEMBER GUARDINO: Aye.

6 CHAIRMAN PEREZ: We have three votes. We have
7 approval.

8 Next, Tulare County.

9 STAFF CONSULTANT LEAN: Tulare County is also moving
10 forward with a change to their project documentation plan,
11 but they're asking for some additional money. At the --
12 they're purchasing the Optech Insight Plus with the LCD
13 display.

14 At the January 18, 2006 meeting of the Board, the
15 Board approved Tulare County's project documentation plan
16 and awarded funding for reimbursement of the county's
17 purchase of 115 Optech Insight Ballot Counter optical scan
18 units, 126 AVC Edge touch screen units, and 160 Verivote
19 printers.

20 The VMB approval of Tulare's plan extended to
21 equipment currently certified in California as of January
22 18th, 2006. The county was informed by the Board that upon
23 certification of the Optech Insight with the LCD component,
24 the county could submit an amendment to their application
25 for consideration. This is what they're doing.

44

CAPITOL REPORTERS (916) 923-5447

□ 1 On March 20th, 2006, the Secretary of State certified
2 the Optech Insight Plus ballot counter with the LCD
3 display. Tulare County is requesting that the Voting
4 Modernization Board approve the change to their existing
5 project documentation plan which would incorporate the
6 option in their contract to purchase the Optech Insight
7 with the LCD display now certified for use in California.

8 So it is our staff recommendation that Tulare

9 County's change be approved and that a new funding award
10 letter be issued in the amount of \$1,407,590.89. It's
11 essentially a new funding award amount.

12 CHAIRMAN PEREZ: How much larger is this amount than
13 the previous one?

14 STAFF CONSULTANT LEAN: About \$30,000.

15 CHAIRMAN PEREZ: Okay. Any questions?

16 BOARD MEMBER KAUFMAN: I have none.

17 CHAIRMAN PEREZ: I have none.

18 Mr. Guardino?

19 BOARD MEMBER GUARDINO: No.

20 CHAIRMAN PEREZ: Okay. Is there a motion?

21 BOARD MEMBER KAUFMAN: I'll do it one more time.

22 I move that we accept the staff recommendation and
23 issue a new funding award letter to Tulare County in the
24 amount of \$1,407,590.89. And that this funding award
25 letter supersede the prior funding award letter issued by

45

CAPITOL REPORTERS (916) 923-5447

□ 1 this Board following the January 18th, 2006 meeting.

2 BOARD MEMBER GUARDINO: while he seems less
3 enthusiastic than on most motions, I will second the
4 motion.

5 CHAIRMAN PEREZ: It's been moved and seconded.
6 Katherine.

7 EXECUTIVE ASSISTANT MONTGOMERY: John Perez.

8 CHAIRMAN PEREZ: Aye.

9 EXECUTIVE ASSISTANT MONTGOMERY: Stephen Kaufman.

10 BOARD MEMBER KAUFMAN: Aye.

11 EXECUTIVE ASSISTANT MONTGOMERY: Carl Guardino.

12 BOARD MEMBER GUARDINO: Aye.

13 BOARD MEMBER KAUFMAN: Tulare County, don't take the

14 tone of my voice as anything other than full support.

15 STAFF CONSULTANT LEAN: well, the good news is
16 there's no one from Tulare County present to hear your
17 tone, sir.

18 CHAIRMAN PEREZ: Okay. what do we have next?

19 Item No. VII, staff report on related issues. First
20 is the report on county second quarterly status for April
21 through June of 2006.

22 STAFF CONSULTANT LEAN: As the Board requested, they
23 have -- you asked that counties who have not begun their
24 project documentation plans and submitted them to the Board
25 or any counties who are in a phased approach submit

46

CAPITOL REPORTERS (916) 923-5447

□ 1 annual -- sorry -- quarterly reports to the Board on the
2 status of where they are.

3 I'm sorry, Stephen and Carl, they were not in your
4 original packet. I have packets here for you, but they can
5 be accessed on the Prop 41 site. I did not e-mail you the
6 reports. My apologies.

7 CHAIRMAN PEREZ: Let's accept these and discuss them
8 at our next meeting, if that's okay with everyone.

9 BOARD MEMBER KAUFMAN: That's fine.

10 Can we get the e-mails, though, Jana?

11 STAFF CONSULTANT LEAN: I will mail you the packet
12 because it's a big packet, but I will e-mail you the
13 report.

14 BOARD MEMBER KAUFMAN: Okay.

15 CHAIRMAN PEREZ: Okay. Next -- well, Item VII(B),
16 the vv --

17 BOARD MEMBER KAUFMAN: One second before we jump

18 ahead.

19 Are there any -- just one overall question. Are
20 there any counties we should be concerned about in terms of
21 responsiveness, timing?

22 STAFF CONSULTANT LEAN: There's one county who I did
23 not get a report from, but I will by the next meeting.

24 BOARD MEMBER KAUFMAN: Okay.

25 CHAIRMAN PEREZ: Okay. Item VII(B), VVPAT retrofit

CAPITOL REPORTERS (916) 923-5447

□ 1 funding.

2 STAFF CONSULTANT LEAN: I would like to turn this
3 over to Chris to come up on the stage and address you --
4 come up here.

5 CHAIRMAN PEREZ: Yeah, come up here so they can hear
6 you.

7 STAFF CONSULTANT LEAN: Chris Reynolds from our
8 executive office. He's the HAVA coordinator. And he is
9 bringing forward a proposal for the Board just to discuss
10 and review.

11 MR. REYNOLDS: Hi. For the record, this is Chris
12 Reynolds, the HAVA coordinator with the Secretary of
13 State's office.

14 The staff report and background materials that the
15 committee has -- the Board has received lay out the issues
16 succinctly. I guess I would only add that the concept or
17 the proposal that the Board is considering or reviewing
18 today is simply a wait and make sure that the right source
19 of funding is used for the right purpose.

20 Specifically, we're talking about funding for
21 retrofitting existing voting systems with the voter
22 verified paper audit trail to meet state requirement.

23 The state law that created the requirement for a
24 VVPAT, voter verified paper audit trail, stipulates that
25 equipment voting systems with a VVPAT will be paid for with

CAPITOL REPORTERS (916) 923-5447

□

1 federal funds; in other words, the Help America Vote Act of
2 2002 funds, HAVA funds or VMB funds.

3 However, the Secretary of State was informed by the
4 federal oversight agency, an authorizing body for HAVA, the
5 Election Assistance Commission, that a retrofit of an
6 otherwise HAVA-compliant voting system is a state
7 requirement and not a federal mandate and, therefore, was
8 not an allowable HAVA cost.

9 This would leave VMB as the legislatively identified
10 source of funding. However, some counties have used those
11 funds already to meet the federal requirements.

12 HAVA has a provision that addresses this situation,
13 however. Section 251(c)(1) allows for retroactive payments
14 to states to reimburse the cost for purchasing compliant
15 voting systems so long as the purchase occurs after
16 November of 2000. And I can explain the rationale for this
17 if the Board desires to hear it.

18 But what appears to complicate this matter to some
19 extent is that the state funding has been provided to the
20 counties just like HAVA funds will be provided to the
21 counties to actually purchase voting systems.

22 So we sought clarification from the EAC, the Election
23 Assistance Commission on this matter, and we were told that
24 a county remittance of VMB funds and a subsequent
25 reimbursement of those now unreimbursed costs for purchase

1 of a HAVA-compliant voting system is consistent with the
2 provisions of HAVA Section 251(c)(1) that I mentioned.

3 And we know that there are counties that are
4 interested in availing themselves of this mechanism to
5 realize full cost recovery for voting system upgrades that
6 are required by the state and federal law. And because the
7 Secretary of State administers HAVA, and because for lack
8 of a better way to express it we came up with this
9 mechanism, we're presenting it to the VMB for
10 consideration.

11 You are the policymakers as it relates to all things
12 involving Prop 41. We would only say that we believe this
13 would be of great benefit to some counties, those that are
14 in this situation, and it is a viable policy option.

15 With that, I'm available to answer any questions.

16 CHAIRMAN PEREZ: I'll defer to the only lawyer on the
17 call first.

18 BOARD MEMBER KAUFMAN: Gee, thanks.

19 Well, as I recall this discussion, myself and Mr.
20 Phinney, the other lawyer on the committee, I mean, our
21 main concern is less about policy and more about whether
22 legally we could do this. And we asked staff to seek this
23 opinion from the Election Assistance Commission.

24 Now that we have the remand in which they seem to
25 give the go-ahead, I would think that there are no -- no

1 further issues as Chris says.

2 It seems to me it's something that can only help the
3 counties, to meet obligations that may have come into play
4 after they purchased their original equipment.

5 So, Chris, is that kind of your recollection of how
6 we got there and your opinion of where we are now?

7 HAVA COORDINATOR REYNOLDS: Exactly so.

8 CHAIRMAN PEREZ: And I would only add that I shared
9 yours and Tal's concerns and am feeling much more
10 comfortable with this issue looking at the EAC's response.

11 HAVA COORDINATOR REYNOLDS: And we appreciate the --
12 the early direction that we had received from members about
13 seeking EAC concurrence and verification that this was a
14 viable policy option.

15 CHAIRMAN PEREZ: Michael, procedurally what's before
16 us?

17 STAFF COUNSEL KANOTZ: Mr. Chair, Michael -- Mr.
18 Chair, Michael Kanotz.

19 Procedurally what is before us is an outline of how a
20 county would come forward with a request like this for, in
21 my mind, the Board's input into the procedure. In terms of
22 actually considering this concept and approving these kind
23 of changes for the counties, the Board would have to do
24 that on a county by county basis.

25 But I -- I can say that this is something that I --

51

CAPITOL REPORTERS (916) 923-5447

□ 1 I've considered in terms of the use of voting modernization
2 funds and in terms of the eligibility provisions of the
3 voting Modernization Act. I don't see an issue. What
4 we're talking about here is -- is using these funds for
5 voting equipment, namely the voter verified paper audit
6 trails.

7 CHAIRMAN PEREZ: So -- so essentially what we have
8 before us is additional information that will help us

9 evaluate county by county requests that come forward in --
10 not a policy decision as such today.

11 STAFF COUNSEL KANOTZ: That's correct.

12 And in -- and in addition, the report gives counties
13 some guidance -- because this is a little bit of a unique
14 situation, gives counties some guidance in constructing and
15 submitting their amended project documentation plans.

16 CHAIRMAN PEREZ: Very good.

17 Mr. Kaufman, any other questions?

18 BOARD MEMBER KAUFMAN: Nothing further.

19 CHAIRMAN PEREZ: Mr. Guardino?

20 BOARD MEMBER GUARDINO: No, sir.

21 CHAIRMAN PEREZ: Very good.

22 Then I think we're --

23 STAFF CONSULTANT LEAN: I'd like to make one --

24 CHAIRMAN PEREZ: Yes, Jana, please.

25 STAFF CONSULTANT LEAN: -- one quick comment.

52

CAPITOL REPORTERS (916) 923-5447

□ 1 So this is the staff's proposal. If a county
2 would -- chooses to do this process, this is what the staff
3 would propose us telling the counties, that they would have
4 to at a minimum supply this information one through eight,
5 and it's all in a case by case basis.

6 The only reservation that we would have is to just
7 make sure that we could accounting wise, just number to
8 number, make sure that we know where the funds are coming
9 from and how to account for the money. But staff is very
10 much behind this concept.

11 CHAIRMAN PEREZ: Very good. Thank you.

12 With that, I will move on from Item VII to Item VIII.
13 And Item VIII is other business, the voting modernization

14 finance committee meeting.

15 So --

16 STAFF CONSULTANT LEAN: I want to give just a brief
17 overview of that.

18 We had to hold a voting modernization finance
19 committee meeting on May 17th. When the bonds were issued
20 last time, as of last year, they had the wrong provisions
21 of -- they had it within 35 years, but our bond
22 specifically says it has to be within 10 years. So it's
23 just an amendment to the ability for the finance committee
24 to sell the voting modernization bond.

25 So I just wanted to let you know that that meeting

53

CAPITOL REPORTERS (916) 923-5447

□ 1 did occur and everything went smoothly.

2 CHAIRMAN PEREZ: Very good.

3 Seeing no other items before us, do either of you
4 have anything else to add before we go forward with the
5 adjournment?

6 BOARD MEMBER GUARDINO: No, sir.

7 BOARD MEMBER KAUFMAN: When is the next meeting date?

8 CHAIRMAN PEREZ: When is our next meeting day?

9 STAFF CONSULTANT LEAN: The next meeting date would
10 be June 21st. Are we all still available for that date?

11 CHAIRMAN PEREZ: Let's take a second and look.

12 It is fine on my calendar.

13 BOARD MEMBER KAUFMAN: Yeah, I'd be able to make it.
14 It shouldn't be a problem.

15 CHAIRMAN PEREZ: It shouldn't be. He said it's fine
16 on his calendar so long as he'd be able to make it back in
17 the evening. And that was Mr. Kaufman.

18 Now, I have a question. Is this one of those
19 meetings where we might actually be able to hold it in Los
20 Angeles?

21 STAFF CONSULTANT LEAN: Can I get back to you on
22 that?

23 CHAIRMAN PEREZ: Absolutely. Let's try to do June or
24 July --

25 STAFF CONSULTANT LEAN: In Los Angeles.

54

CAPITOL REPORTERS (916) 923-5447

1 CHAIRMAN PEREZ: -- in Los Angeles.

2 STAFF CONSULTANT LEAN: We have one county who has
3 submitted something for the June meeting. It's Kern
4 County, and it's --

5 CHAIRMAN PEREZ: Kern County you have to drive from
6 Bakersfield to Burbank to fly to Sacramento.

7 STAFF CONSULTANT LEAN: Okay. Well, that looks like
8 a good -- a good possibility, then. We'll let you know. I
9 will look and see what other counties submit their plans.

10 CHAIRMAN PEREZ: Very good.

11 Okay. With that, is there a motion to adjourn?

12 BOARD MEMBER KAUFMAN: So moved.

13 BOARD MEMBER GUARDINO: We actually don't need a
14 motion, but we'll all make it.

15 CHAIRMAN PEREZ: Makes me feel better.

16 BOARD MEMBER GUARDINO: Okay.

17 BOARD MEMBER KAUFMAN: We'll all make it, and we'll
18 all second it.

19 CHAIRMAN PEREZ: It's been moved by Mr. Kaufman,
20 seconded by Mr. Guardino.

21 All in favor, Aye?

22 THE BOARD MEMBERS: Aye.

23 CHAIRMAN PEREZ: We are adjourned.
24 (whereupon the proceedings adjourned at 11:49 a.m.)
25 ---o0o---

CAPITOL REPORTERS (916) 923-5447

55

□ 1

2 REPORTER'S CERTIFICATE

3

4 STATE OF CALIFORNIA)
5 COUNTY OF SACRAMENTO) ss.

6

7

8 I, KATHY L. SWINHART, certify that I was the official
9 Court Reporter for the proceedings named herein, and that
10 as such reporter, I reported in verbatim shorthand writing
11 those proceedings;

12 That I thereafter caused my shorthand writing to be
13 reduced to typewriting, and the pages numbered 1 through 55
14 herein constitute a complete, true and correct record of
15 the proceedings.

16

17 IN WITNESS WHEREOF, I have subscribed this certificate
18 at Sacramento, California, on the 13th day of June 2006.

19

20

21

22

23 _____
KATHY L. SWINHART
24 CSR NO. 10150

25

052506 VMB
CAPITOL REPORTERS (916) 923-5447