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CALIFORNIA SECRETARY OF STATE’S OFFICE
VOTING MODERNIZATION BOARD

In the Matter of: )
) )
) )
Voting Modernization Board )
Board Meeting )

VOTING MODERNIZATION BOARD
STEPHEN KAUFMAN, CHAIR
JUNE AWANO LAGMAY
GABRIEL SANDOVAL

SECRETARY OF STATE BUILDING
MP ROOM
1500 11TH STREET
SACRAMENTO, CALIFORNIA

FRIDAY, MAY 31, 2019
10:01 A.M.

Reported by: PETER PETTY
APPEARANCES

VMB MEMBERS:

Stephen Kaufman, Chair
June Awano Lagmay
Gabriel Sandoval

VMB STAFF:

Arman Hirose-Afshari
Jana Lean
Stacey Jarrett
Robbie Anderson
NaKesha Robinson

PRESENTERS:

Dean C. Logan, County of Los Angeles
Brandi Orth, County of Fresno

PUBLIC COMMENT:

Kim Alexander, California Voter Foundation
1. Call to Order 4
2. Public Comment 4
3. Adoption of March 15, 2019 Action Items and Meeting Notes 5
4. Impact of the Secretary of State Notice of Withdrawal of Certification and Conditional Approval of Voting Systems 6
5. Los Angeles County’s VSAP Implementation 13
6. Staff Report on Future Reimbursement Requests 25
7. Project Documentation Plan Review and Funding Award Approvals 52
8. Los Angeles County’s Phase 2 Documentation Package Staff Report 65
9. Adjournment 91

Reporter’s Certificate 92
Transcriber’s Certificate 93
May 31, 2019

10:01 A.M.

MR. KAUFMAN: All right. We’re going to call this meeting to order. Welcome, everybody to the meeting of the Voting Modernization Board. It is Friday, May 31st, 10:00 a.m., and we are all here from our trip up from Burbank this morning. And so, why don’t we go ahead and call roll.

MS. JARRETT: Stephen Kaufman.

MR. KAUFMAN: Here.

MS. JARRETT: June Awano Lagmay.

MS. LAGMAY: Present.

MS. JARRETT: Gabriel Sandoval.

MR. SANDOVAL: Present.

MR. KAUFMAN: Okay. Thank you. Good morning, everybody. Thank you for those of you who are here in attendance.

Do we have any public comment to begin our proceedings?

MS. ALEXANDER: Yes.

MR. KAUFMAN: Kim Alexander.

MS. ALEXANDER: Good morning.

MR. KAUFMAN: Good morning.

MS. ALEXANDER: Kim Alexander with the California Voter Foundation. Thank you for having this meeting today and for all the hard work the staff and the counties are
doing to upgrade their voting equipment. We know it’s a lot
to do at once and really appreciate that it’s happening and
that there’s more funding coming from -- hopefully in the
next budget from the Governor that we’ll provide even more
resources for the counties to get the job done.

I just want to flag again the issue I brought forth
at the last hearing which is the desire for many folks to
have access to the publicly-owned source code that Los
Angeles County has developed for its voting system.

I know that there are some hurdles that have to be
overcome for that to happen, but that represents a huge
public investment potentially in a different approach to
acquiring and developing voting systems.

And so, we’re very eager to have that and I hope that
in future staff reports before this board agrees to award
additional funds to L.A., that you will include some --
something on the record that will give the public some idea
of what the timeline will be for making that source code
public -- publicly available to other developers. And also,
what hurdles need to be overcome so we all know what we have
to do to get to that desired goal.

Thank you.

MR. KAUFMAN: Okay. Thank you. Okay. The next item
on our agenda is the adoption of the March 15, 2019 action
items and meeting minutes. Do we have a motion to approve
the minutes?

    MS. LAGMAY: I found no errors or misinformation. So
I move adoption of the minutes from March 15th, 2019.

    MR. Sandoval: Second.

    MR. KAUFMAN: Great. We have a first and second.

All in favor?

    MR. Sandoval: Aye.

    MS. LAGMAY: Aye.

    MR. KAUFMAN: Okay. No opposition. We can move on
from that one. And now let’s get to a couple of reports that
we discussed at our last meeting on March 15th, a couple of
kind of standing items that we will receive reports from as
the year progresses.

    And the first one is a report on the impact of the
Secretary of State Notice of Withdrawal of Certification and
Conditional Approval of Voting Systems. Do we have an update
from staff on those proceedings and how matters are winding
its way through the -- their way through the Secretary of
State’s Office?

    MS. ROBINSON: Yes. Good morning members of the
board and guests. I am NaKesha Robinson with the Secretary
of State’s Office and the report on the status of Notice of
Withdrawal of Certification and Conditional Approval of
Voting Systems.

    Currently our office has under review four various
voting systems. One from Dominion Voting Systems, Democracy Suite 5.10, the County of Los Angeles’ VSAP Tally Version 2.0 or Voting Solutions for All People, Election Systems & Softwares, EVS 6.0.4.2, and Hart InterCivic’s Verity 3.1.

Since the last meeting, we have some updated numbers on the request for conditional approval for extension of use and where each of the counties stand.

As of today, 26 counties have implemented a CVSS certified voting system. Our office received a request for extension on or before April 5th, 2019 from the following 13 counties: Amador, Calaveras, Humboldt, Lassen, Los Angeles, Modoc, Orange, San Bernardino, San Joaquin, San Mateo, Santa Barbara, Stanislaus, and Yolo.

Nine of the counties made requests as contingency plan should there be any delays to move to a CVSS certified system. Two were asked for clarifying information and the final two were asked to resubmit their request with additional information. The remaining 19 counties are in various stages of procuring a CVSS certified voting system.

Some upcoming key dates: August 27, 2019 the withdrawal goes in to effect. However, between August 27th, 2019 and February 27th, 2020, election scheduled six months from August 27th shall not be affected by this action. Therefore, any federal, state and county, municipal, district, or school election schedule between August 27th,
2019 until February 27th, 2020, may continue to use voting systems not tested and certified to CVSS.

Effective February 28th, 2020, voting systems not tested and certified to CVSS may no longer be used except for those jurisdictions that have received a conditional approval for extension of use by the Secretary of State’s Office.

That concludes my report.

MR. KAUFMAN: Okay. Couple questions. On the 13 extensions that have been received, you said that there were two that requested -- was it that the Secretary of State requested --

MS. ROBINSON: Yes.

MR. KAUFMAN: -- clarification of them?

MS. ROBINSON: Yes. The Secretary of State requested clarification from those two counties. So in essence we just requested that they provide additional information to support their request.

MR. KAUFMAN: Their request for an extension?

MS. ROBINSON: Yes.

MR. KAUFMAN: Okay. So there were nine you said that basically submitted as a contingency in the event that their proposed system or upgrade does not get certified presumably.

MS. ROBINSON: Presumably and/or they are in the procurement process but should, you know, delays happen that they are protected just in case.
MR. KAUFMAN: Okay. So there’s two that applied for an extension, you’re trying to clarify why the applied for an extension.

MS. ROBINSON: Not necessarily why they applied, they did not supply enough information for us to make a decision regarding their extension.

MR. KAUFMAN: Okay. And then you said there were two others -- there was -- I didn’t quite get that --

MS. ROBINSON: So okay.

MR. KAUFMAN: -- there were two others that there was additional information that was requested?

MS. ROBINSON: Let me go over the numbers for you once more.

MR. KAUFMAN: Okay.

MS. ROBINSON: So 13 requests were received for request for extension. Of the 13, nine did so as a contingency plan. There were two that we requested additional clarifying information from so that brings us to 11. And then the final two were asked to resubmit their request for extension with additional information so that brings us to 13.

MR. KAUFMAN: Okay. What was the issue with those other two?

MS. ROBINSON: Which -- the final two?

MR. KAUFMAN: The final two that were asked to
resubmit.

MS. ROBINSON: They were asked to resubmit because there was not enough information within the request to make a determination to grant the extension or not.

MR. KAUFMAN: Okay. Gabe, any questions?

MR. SANDOVAL: I’m trying to get a sense, just follow up. Is there a distinction between the first two that there is some effort to seek clarification and the last two that you’re seeking information generally?

MS. ROBINSON: Yes.

MR. SANDOVAL: Can you provide some clarity on that?

MS. ROBINSON: Sure. Yeah. So the first two essentially was to just clarify some dates that they had listed, and since we requested that information both have updated us and we -- the responses have been satisfactory.

The final two, again, we asked that they resubmit their request entirely in a different format providing enough information for us to reasonable make a determination as to whether or not to grant their request for extension.

To date we have received one revised request for extension from one of the counties and we’re still awaiting the other.

MR. SANDOVAL: Thank you.

MR. KAUFMAN: And I’m sorry, and are these four that are kind of having a back and forth, are they on our list of
counties who have not submitted all phases and used up all
their VMB funding, this list of 16 if you will?
I’m just wondering where they are in the process.
MS. ROBINSON: Yes. At least one of those counties
is listed there.
MR. KAUFMAN: Okay. So they’re folks we may be
seeing down the road.
MS. ROBINSON: Yeah.
MR. KAUFMAN: Okay. June, did you have any
questions?
MS. LAGMAY: One just occurred to me. Of the 19 that
are in various stages of getting a certification,
subjectively are there any that raise a red flag that gives
you some worry that, you know, are they on track, they need
more nudging than others, anything that, you know, raises a
red flag for you?
MS. ROBINSON: I would not necessarily classify it as
a red flag. There are definingly some who need a wee bit
more nudging --
MS. LAGMAY: Uh-huh.
MS. ROBINSON: -- than others. We have had a few
counties that have actively been communicating with us,
letting us know that they have been having some difficulty
whether with the procurement process and/or making vendor
contact, if you will, to procure CVSS certified voting
system. So we’re actively working with both the county and
the vendors to make sure that that transition happens as
smoothly as possible.

MS. LAGMAY: So you keep that communication –
MS. ROBINSON: Yes, absolutely.
MS. LAGMAY: -- open. Have you moved, have you
moved.

MS. ROBINSON: Absolutely.

MS. LAGMAY: Okay, thank you. That’s all.

MR. KAUFMAN: Okay. What’s the next event that is
scheduled to happen in that process?

MS. ROBINSON: So in the process -- so the next event
that is scheduled to happen regarding upcoming key dates. So
essentially the withdrawal does go into effect on April 27th,
but as I mentioned earlier per elections code counties will
have six -- essentially a six-month grace period to continue
using those systems up until February 27th of 2020.

MR. KAUFMAN: Okay. I guess what I was getting at
was -- are there more testing or certification dates that are
currently --

MS. ROBINSON: Oh, yes.

MR. KAUFMAN: -- planned that we should know about
that are upcoming in the next, you know, between now and
August.

MS. ROBINSON: So we are actively testing three of
the systems I mentioned earlier, Dominion Voting Systems, Democracy Suite 5.10, the County of L.A.’s VSAP Tally Version 2.0, and Election Systems & Softwares, EVS 6.0.4.2. Hart InterCivic’s Verity 3.1, we received that application roughly about three weeks ago. So it’s still in the infant stages of navigating the testing and certification process.

I can give you rough estimates of when we estimate to be completed with testing. With the first three systems, we estimate testing to be done -- I’m sorry, with the first two, Dominion System and Election Systems & Software System, we anticipate testing be wrapped up on both of those systems by late summer, early fall. With the County of L.A. system, we expect to wrap up testing on that one sometime mid to late fall.

MR. KAUFMAN: Okay. Thanks, NaKesha.

MS. ROBINSON: Okay. You’re welcome.

MR. KAUFMAN: All right. Next, we have -- we kind of just heard a little bit of it, update on the status of L.A. County’s VSAP implementation. And we have Dean Logan, the Registrar Recorder from the County of Los Angeles, here with us today. Good morning, Dean.

MR. LOGAN: Good morning.

MR. KAUFMAN: Thanks.

MR. LOGAN: Thank you. Thank you for the opportunity to be here and to give you an update when -- when we were
here last, I gave a fairly comprehensive update on the Voting
Solutions for All People Initiative in L.A. County. So today
I’m just going to touch on a few high points.

Things are moving along well. As you heard, our
certification application has been submitted and testing has
started. So we have a good working relationship with the
Secretary of State’s Office and their testing authority on
their ongoing meetings and schedule that’s being established
on that. So everything seems to be aligned timewise and all
the documentation for that has been submitted. So that is in
good shape.

The manufacturing of the hardware and the code freeze
on the software for the system are both on track with the
schedule that I presented here last time as well. So we
expect to be receiving test units from our manufacturing
vendor within the next month which will aid with the
Secretary of State’s testing but we will also, as I mentioned
last time we will also be doing third-party testing of that
equipment as well. So next time I come I should be able to
report to you on some of the results of that testing.

There was a feature story on NBC Nightly News in
early May on the project in LA County and then that was
followed up by a segment this week about -- that relates to
the California certification issue that you were just
discussing. So we are getting a lot of coverage both here in
the State of California but nationally on the model. I think
the particular interest there is the element of public
ownership and the open source nature of our system. So I’ll
talk about -- a little bit of that before I conclude my
remarks.

But upcoming things we also, we’re approved I think
this happened after our last meeting. We were approved by
the Secretary of State to -- under the provisions of Senate
Bill 360 to conduct a pilot, a small pilot use of the
equipment -- components of the new system during the November
2019 election. So that is a provision in the law that allows
for a limited pilot prior to certification. That is mainly,
I would make the distinction between efforts to educate the
public and show the new model of the solution which is an
ongoing effort. And that the pilot is really more about our
ability to test in the real time environment the hardware or
the e-poll book components in a live election.

So while we will be doing that in November in a
limited capacity, we’ll be doing that in the traditional
polling place model. We won’t be doing that in the Vote
Center Model that will take place in March 2020 when the full
system is implemented.

A couple of notes to respond to Kim Alexander’s
public comment. I appreciate the interest in the sharing of
the solution and that is one of the benefits and one of the
goals of L.A. County’s project is to do this because it’s publicly owned, is to expand the market and make components of our system available and applicable to other jurisdictions.

Couple of things that I think are important to note on that. One is we first have now, especially now that the Legacy System’s have been decertified, in California, our first and foremost obligation is to get this implemented and do it right in L.A. County. So that obviously is the focus of our resources and our time.

However, because it is the first publicly owned voting system that it -- I will say will be certified in California, and because there is interest in that, we definitely have that in our project plan. I have established and sent invitations to a group of stakeholders and people with expertise in this area to establish an open tech working group that will look at that, look at issues of the licensing of the open source software, look at a government structure for the publication and the sharing of that software in the context of the security layer that’s necessary in the elections environment and also, layered against the process for certification of voting systems in California.

So that works ongoing. I don’t have a specific timeline on that. I will say, I think it’s important in the context of this meeting to say, I don’t believe that there is
any obligation on L.A. County’s part linked to the funding
from Prop 41 that’s allocated to L.A. County associated with
the sharing of that software. I mean, I think our use of
that Prop 41 funding is to provide a replacement voting
system for L.A. County.

So I’m happy to continue to report on that. I just
want to be clear on the record that I don’t think there’s a
linkage to that in terms of funding allocation going forward.

Beyond that -- so that’s the stuff that’s specific to
the voting system project in L.A. County. Obviously, there
is a parallel effort in our project that -- to implement the
voter’s choice act elements of that which is moving to the
Vote Center Model in the L.A. County, specific Vote Center
Model that was passed in the Voter’s Choice Act.

So to that end we are mid-way through a second round
of community meetings where we are meeting in geographic
areas throughout L.A. County to both educate the public about
the new model and the new system, but also to get there
feedback on best locations and issues of accessibility and
kind of the environment in which voters would prefer to see
this implemented in.

Those meetings are going extremely well. I would say
on average we have between 40 and 60 attendees at each of
those meeting. They are robust discussions and I think that
that process is playing out very well for us.
Similarly, we have teams going out to -- we have over 2,000 potential Vote Center locations that have been identified through these community meetings and we are in process now of sending teams to assess those for meeting accessibility requirements and also meeting the electrical requirements that will be necessary for those Vote Centers.

So as those -- that’s kind of happening on a rolling bases as we complete those processes. We’re also obtaining letters of commitment from those facilities so that we can lock those facilities down for the March and November 2020 elections.

And I guess, final thing I will mention -- well, maybe two final things I’ll mention. One is that in addition to the pilot that I talked about already, we will conduct a mock election -- a two-day mock election in September over a weekend where we will open 50 Vote Center sites with the new equipment, and we will have a -- use that as an opportunity to educate the public about the new process and to demonstrate what that new voting experience will be like in L.A. County.

We have an ambitious goal in that over the two days we hope to engage over 100,000 people in L.A. County in that process so efforts are in place to do that now and we will certainly be sure that your board is informed of that and given the opportunity to attend and participate that -- in
that as well.

Following that from the conclusion of the mock election at the end of September through the end this calendar year, we will then have a traveling demonstration center that will go throughout the County of L.A. to community meetings and locations and set up to allow voters to come in and see what this is like and get familiar with prior to the March election.

So a lot of activity going on. I think you’re going to see, because you’re all in the L.A. area, you’re going to see increased media attention on this. We’re excited about it and especially the new development with the fact that our Legacy voting system, and I think that this is important to be on the record too that if you recall one of the main drivers of this project, over a decade ago, was following an assessment that determined there was not a system available on the market that was certified for use in California that could meet the needs in L.A. County. There was nothing that had the capacity for our jurisdiction, given the size of the jurisdiction, the diversity of the jurisdiction, and the needs of our voters. That’s what started this process.

Now we layered on that -- we now have that Legacy system that we’ve been using in the interim process is now no longer certified as you heard in the staff report. And two factors that I think -- I don’t want to be overly sensitive
on this but I think two factors that ought to be on the record given the dialog that just took place about whether or not counties are being nudged or moving fast enough. I just want to be sure that everybody knows that that notification of the decertification happened within the year of the March 2020 presidential primary and the procurement of a voting system is not a simple process and is a time-consuming process. Additionally, when we started this process the presidential primary was in June so our project plan lost two months of time in that process too.

So I don’t say that as a complaint, I say that as context that speaking for L.A. County and also speaking for my colleagues around the state who are in similar situations where they face the need to replace their Legacy voting systems and desire to do that, that they are on fast track to do that. And so there’s a lot of coordination and cooperation going on across the state. Thank you.

MR. KAUFMAN: Thank you, Mr. Logan. I have just a couple quick follow-up questions. When is this September mock election? Do you have those dates?

MR. LOGAN: I believe it’s September 28th and 29th. It’s a weekend so if those are Saturday and Sunday, those are the right dates.

MR. KAUFMAN: Okay. Close enough. And with respect to the pilot project in the November elections, how many
municipalities in L.A. County have November elections? I’m aware of a couple. But.

MR. LOGAN: Yeah, great question. We actually won’t know the final number of jurisdictions that are in that election until 88 days prior to that election. Because of the election consolidation, most cities in L.A. County have now consolidated in even your -- it’s a very small number of jurisdictions. Right now, it looks like about a dozen jurisdictions probably eight or nine of those which are cities polling their municipal election.

So under the provisions of the pilot we will work with those jurisdictions to decide where we are going to conduct the pilot and there are very specific requirements in the law in terms of the -- a limit on the number of pieces of equipment that can be used in that and also the auditing requirements. There’s a requirement for a risk limiting audit and/or I guess one form of a risk limiting audit would be just simply to hand count all the ballots in that particular pilot as well.

So there are provisions to ensure the integrity of the election despite that it’s being done in advance of certification.

MR. KAUFMAN: Does the county run all of those elections in November or?

MR. LOGAN: Yes.
MR. KAUFMAN: I mean, apart from the pilot program?
The county handles all -- is at this point is handling all of those municipal elections.

MR. LOGAN: That’s correct. All of the elections in L.A. County for November will be conducted by our.

MR. KAUFMAN: Okay. So it’s possible that some will be -- well it’s not possible it will happen that some of them will be conducted on the Legacy system and some of them will be conducted on the new system?

MR. LOGAN: Absolutely, and it’s even possible and I think in fact probable that even where we are using, you know, the new equipment there will be some of the votes cast on the Legacy system and some cast on the new equipment.

MR. KAUFMAN: But you will treat a polling place as a Vote Center would be treated essentially? You’re not going to have two -- would you have voting two weeks in advance at the polling places?

MR. LOGAN: No. No, this will be -- the pilot will take place on election day --

MR. KAUFMAN: In those.

MR. LOGAN: -- in a selection of polling places.

MR. KAUFMAN: Okay. Thanks. Anybody else?

MS. LAGMAY: I have an observation. I was -- I’m excited for your community outreach meetings. I got the letter in the mail of one in my area in Monrovia, California
on June 6th at the Second Baptist Church so I do intend to drop in on that.

At these meetings have you sensed a pattern of what the most positive feedback comments have been as well as the most negative ones? Are they kind of pooling into two basic areas?

MR. LOGAN: Yeah. As I was talking to my colleague from Fresno County about that at the beginning of the meeting. There’s definitely a pattern at these meetings. I think that they -- not surprising that the draw to these meetings are people who are engaged and passionate about the elections process. So while the focus of these meetings, at least in L.A. County, are really about the Vote Center placement project, identifying good locations for the Vote Centers, it’s not unusual for people to show up with other questions about the elections process. Again, not surprising given what we read daily in the news about the elections process. So we have found that we need to be really clear in our communication about the purpose of the meeting and covering that issue and then allowing for additional dialog.

So some of the issues that come up are things that are legislative issues so there are a lot of questions about voter identification and the legal requirements for voter eligibility there’s quite a bit of dialog on that.

Specific to the Vote Center model, to your point
about what are the more -- the most positive feedback we’re getting, I think is the recognition of the extended voting period of moving away from a single day of voting and providing the opportunity for people to have the flexibility to go to the Vote Center of their choice rather than being limited to a particular location.

And the last one which I particularly enjoy is a little bit of inside baseball but it’s also not surprising that a lot of poll workers come to these meetings and they have two things that they’re interested in. One, are we still going to employ poll workers? And two, when they learn about the data that shows that the provisional ballots drop significantly as a result of this model, their support for this model goes up substantially.


Thank you.

MR. KAUFMAN: Gabe, anything?

MR. SANDOVAL: Good.

MR. KAUFMAN: Okay.

MR. LOGAN: Thank you.

MR. KAUFMAN: Thank you, Mr. Logan we’ll see you again in a couple minutes.

All right. Let’s go to item six on our agenda which is the Staff Report on Future Reimbursement Requests. An item that will become even more important as the year goes on
and we start to see some of the folks who are now gearing up.

So Robbie.

MR. ANDERSON: Good morning, everybody. My name is Robbie Anderson, I’m the staff attorney to the VMB and I’m going to do the report on the memorandum that was issued on May 28th which is Guidance on Future Reimbursement Requests. And the purpose of the memo was to provide guidance to the VMB by clarifying which county expenditures are authorized for reimbursement under Elections Code Section 19254(c)(3). Numerous counties have inquired as to whether particular expenditures would be considered reimbursable from the funds administered by the board.

Specifically, there are three questions in the memo:

1) can a county that has previously been reimbursed by the VMB for a new voting system be reimbursed for the purchase of another new voting system, 2) can a county that has been reimbursed by the VMB for a new voting system be reimbursed for the purchase of voting equipment to expand their existing system, and 3) can a county that has been reimbursed by the VMB for a specific piece of voting equipment be reimbursed for the purchase of a replacement of that same equipment?

And in addition, we will identify some examples of equipment that would expand an existing system or would be deemed a component that would be subject to reimbursement by the VMB.
Since the inception of the VMB, 34 counties have used their entire allocated VMB funds to purchase new voting systems and voting equipment. 16 counties have not been reimbursed by the VMB for a new voting system. These 16 counties can come forward at any time for reimbursement for a new voting system. The remaining 8 counties have been reimbursed by the VMB for a new voting system but still have remaining VMB funds from their original formula allocation. And those 8 counties that we’re focusing on in the memo are: Calaveras, El Dorado, Humboldt, Mendocino, Nevada, Solano, Tulare, and Ventura.

Voting systems and related technologies have evolved significantly since the establishment of the VMB in 2002. The Secretary of State has received questions from counties that previously have been reimbursed by the VMB for a new voting system. And specifically, they have inquired as to whether they can request their remaining funds for new voting technology that will expand the functionality and capabilities of their existing voting system.

And as we discussed earlier, the Secretary of State has ordered the withdrawal of certification and conditional approval of certain older voting systems that did not meet California voting system standards.

In the effort to purchase new systems or expand the capabilities of their current systems to meet California’s
certification requirements, the Secretary of State anticipates that those 8 counties will seek reimbursement from the VMB to help pay for their new voting technology.

So due to these factors, the intent is to provide a recommendation to the VMB on how the remaining funds can be used to reimburse counties for purchases of voting equipment that will expand their existing voting system.

Section 19254(c)(3) provides the following as one of the elements that VMB must contemplate prior to authorizing reimbursement to a county. So (c)(3) states: The County has not previously requested fund money for the purchase of a new voting system. Applications for expansion of an existing system or components related to a previously certified or conditionally approved application shall be accepted.

That section does not expressly define the reference to expansion of existing system or components. So we looked at the language of the statute and so the language expansion of an existing system is clear and then it relates to an existing voting system.

Section 19254(a) broadly refers to issuing bonds for the purpose of updating voting systems. So if a county has a voting system in place and additional equipment is available to enhance the efficiency of the system and/or to provide additional services to the voters throughout that equipment,

Section 19254(c)(3) provides the VMB with the authority to
reimburse a county who purchases that equipment.

The purpose of Proposition 41 was to assist counties in the purchase of modern voting equipment. And is likely that the legislature chose to include the terms expansion of an existing voting system knowing that at the time some counties had recently purchased a voting system that may need financial assistance for the purchasing of additional equipment that would enhance efficiency in voter services. The included language provides the VMB with the authority to determine which expenses could be properly be reimbursed.

So getting back to the three questions. So the first question, can a county that previously had been reimbursed by the VMB for a new voting system be reimbursed for the purchase of another new system? That answer is no, under Elections Code Section 19254(c)(3).

And question two which is most pertinent here today, can a county that has been reimbursed by the VMB for a new voting system be reimbursed for the purchase of voting equipment to expand their existing system? And the answer to that is yes. Section 192545(c)(3) does not provide any express limitation for the reimbursement of an expansion of an existing voting system to a county who has already been reimbursed for a new voting system. If a piece of voting equipment is a reasonable expansion, of the county’s overall voting system solution, reimbursement is proper.
And the third question regarding whether or not a county can -- who has been reimbursed for a specific piece of equipment be reimbursed for the purchase of a replacement of that same equipment? The answer to that is no. For example, if county X was reimbursed for a ballot sorter in 2012, but that sorter no longer functions property, the VMB may not authorize reimbursement for that new ballot sorter.

And so now we get into the components -- voting systems' expansion and components. And voting systems typically consist of the following: client workstation or server, a stand-alone workstation, a precinct scanner for tabulation, central scanner for tabulation, election management system software which can have many functions such as ballot layout or election programming, tabulation software, ballot marking devices, adjudication software, ballot on demand workstation and printer, and external supporting peripherals that are not subject to certification, which include keyboards, mice, printers, network switch, various cables, accessibility devices such as sip and puff, jelly switches, or other external controls, carrying cases for polling place equipment, ballot boxes, accessibility tables, and printer or ink cartridges. The item listed just now in their entirety or combination of make up a voting system.

But in addition to those items, in the electronic poll book or e-poll book and Remote Accessible Vote by Mail
System or RAVBM are components that work with the county’s overall voting solution. An e-poll book is required for counties who conduct elections using Vote Centers and all counties are required to offer RAVBM, voting for voters with disabilities, and military or overseas voters.

Both of these pieces of voting technology should be considered by the VMB as an expansion of an existing voting system that is reimbursable.

The Secretary of State’s Office has certified e-poll books and RAVBM systems for use in California.

Back in 2014, the VMB authorized reimbursement to a county for an automated vote by mail sorting scanning system and ballot on demand printers. Although neither of these items were certified by the Secretary of State’s Office, the VMB considered these items a valid expansion to the counties overall voting system solution. And found the expansion to be in line with the spirit of the Voting Modernization Bond Act of 2002.

And the -- so it should be noted that while reimbursement to the counties by the board is limited, the voting system replacement funds provided in last year’s state budget is very broad.

Newly enacted Elections Code Sections 19400 and 19402 allow counties to use their allocated funds for a variety of items and services that cannot be reimbursed by the VMB.
So in conclusion, it is our recommendation that the VMB consider approving any future expansion requests for reimbursements for voting technology and/or equipment as part of the county’s overall voting system solution because such reimbursement does not go beyond the scope and intent of the bond measure approved by the voters of California and is in line with the spirit of the VMB Act of 2002.

MR. KAUFMAN: Thank you, Robbie. I have a few questions.

MR. ANDERSON: Okay.

MR. KAUFMAN: And I want to really take some time on this issue because I think we need to be really clear moving forward about what we’re able to do and what we may not be able to do.

So there have been county -- a number of counties and some who are here today who have implemented systems in phases and we have awarded funding for one phase of a system and then down the -- for example, polling place system, and then down the road we’ve awarded funding for a vote by mail system. And that has all, I guess, either falls in the category of one entire system that’s being approved in phases or perhaps an enhancement of something that we’ve done previously. Is that the -- basically the logic that underlies --

MR. ANDERSON: Yes.
MR. KAUFMAN: -- that methodology? But if we were to -- or if we did award funding five years ago to a county to implement a vote by mail system, and they now have a better vote by mail system that they want to implement, if they’re replacing that equipment essentially, we’re not authorized to do that?

MR. ANDERSON: No. That was the question three, we think that’s in line with purchasing a new voting system. You’ve already been reimbursed for it. The intent was to, you know, provide funds for new equipment not replacement equipment.

MR. KAUFMAN: But it’s --

MS. LAGMAY: Newer.

MR. KAUFMAN: Yeah, I mean, if it’s a new way of dealing with an old issue, is that viewed as a replacement?

MR. ANDERSON: We would have to look at the old system compon -- you know, components of what it did and then look at the new equipment and see if it’s different or if it expands. So we would have to look at that individually.

MR. KAUFMAN: I mean, if we have a situation where there’s a, I don’t know, some kind of tabulator that provides, I don’t know, new functions when tabulating the votes but it’s, I don’t know, how do you say this? I guess the question is that replacing something that was there before or is it a new type of, you know, mechanism that’s
going to provide an enhancement and added functionality to a
system?

MS. LEAN: So that is the discretion of the board to
determine that. However, we think that it’s pretty clear in
the Voting Modernization Bond Act that they do put that
specifically that you shall not be reimbursed for a second
system essentially, right?

And so I think the thought pattern of the staff is
that if you were purchased for that specific equipment
before, that under the bond act it wouldn’t be able to be
authorized.

MR. KAUFMAN: Okay. As distinguished from the
scenario that I described which is, you came to us before for
a polling place system and now we’re reviewing the next phase
of your submission which is for a vote by mail system.

MS. LEAN: So there are 16 counties that can come
forward who have had a phase before. They’ve come forward
for one part -- one part of the voting system not the
complete package.

MR. KAUFMAN: Right.

MS. LEAN: And so that’s how we distinguished it in
the staff report. So if a county came forward just for
accessible units which quite a few counties did back --
starting in 2002, right.

MR. KAUFMAN: Yes, I remember.
MS. LEAN: Do you remember that? And so they came forward with that but they didn’t replace their entire system which is what Fresno County’s here today. Because they replaced a portion of their system but not their entire system. So we feel --

MR. KAUFMAN: And to be clear, they came to us then because they needed to meet a certain federal requirement. So it was this little piece of what they were adding on to whatever they had at the time.

MS. LEAN: Correct. Correct. And as you know over the years there’s been many different secretaries and many different certification statuses. So there -- it depends on what year you’re in and what Secretary you have on what is certified and what is not certified for use.

So there’s been a lot of expansion from the board and I know you’ve been around from the beginning and thank you June and Gabriel for being here now because we do appreciate this. But with this -- I think what we want to come forward with for the staff report and the reason why we put this together is we do see a need that counties absolutely need access to funding. But we do want to go within the spirit of the law and so that’s why we’re here giving a recommendation to make sure we’re within that spirit and not going beyond it.

MR. KAUFMAN: Yeah. I can assure you speaking on
behalf of my fellow boards members that we do want to go within the spirit of law. That should first and foremost guide our actions here as much as we want to be helpful and give away money to counties who are trying to do the right thing, we do have to do things within the parameter of the statutes that give us the ability to be here.

But we are -- the reality is we are going to have funds at the end of the day, we think, on the table, you know, once folks have kind of come through here for their first bite of the apple. It seems or at least the premise always was that there would be funding on the table that will have to be reallocated.

So, yeah, I think these issues will become increasingly important as people are kind of looking for that remaining funding and we’re looking to figure out a way to give it out.

I did -- and then I’ll turn to my fellow board members, I did want to ask not to pick on Alameda, but given that I just had read your memo and then I read the Alameda request which is to replace their prior system, how do we reconcile that with what you just presented us as the mandate of the statute? And does their settlement in the fact that they’re kind of tapping into money that was theirs and then kind of taken back change that scenario?

MS. LEAN: So it’s a -- in our opinion it’s a little
bit of different scenario. So we’re going to get into that
staff report in a moment. Unfortunately, Alameda County is
not here today. The person who was planning to be here is
their assistant registrar, she had a little bit of an
emergency procedure she had to go so she was unable to be
here today.

However, so Alameda County in that settlement
agreements, if we can go back in time a little bit, they --
they’re one of the first counties to get reimbursed from the
Voting Modernization Board back in December of 2002. They
came forward because they bought a system. Turns out the
whole lawsuit that was discussed a little bit in the staff
report was -- there was a vendor who sold them a piece of
equipment that wasn’t in fact certified. So what happened
was, they did purchase that they ended up not being able to
use it completely because it was not certified, they had to
come back and get it certified.

So through this whole agreement, there was a small
portion of money that needed to be reimbursed back to the
Voting Modernization Board because of that. So once they got
certification, it was fine they could use the equipment. But
with going through this whole lawsuit that went on for many,
many years it was determined that those funds should be
returned back to the Voting Modernization Board. So
specifically, for the equipment that they didn’t get
reimbursed for.

So we think it’s a little bit of a different scenario than this analysis but it could be deemed the same, I mean, it is a judgment call.

MR. KAUFMAN: And I was a little bit confused by it and again I don’t want to jump ahead too much to Alameda but it’s a topical point here in the context of the memo. And I want to clarify, there was a lawsuit that resulted in a refund because that system wasn’t certified although the report seemed to suggest that -- was it the same system that was in place or another system that was in place that was kind of aging and now required replacement?

MS. LEAN: So their original system if I go back, I believe that was the Sequoia system. If I --

MR. KAUFMAN: Yes.

MS. LEAN: -- I got to go way back in my memory.

MR. KAUFMAN: Well, that was what was in the staff memo.

MS. LEAN: Okay. Well, I didn’t write the staff report but, thank you. So if we go back then, that equipment didn’t necessarily fulfill all the requirements of HAVA.

So they did come forward and say, hey we got to get a new system, so they came forward with that new system. However, one of the components that was in the system that they bought by Diebold, had, I believe, ranked choice voting...
attached to it that wasn’t in fact certified at that time,
but they purchased it and it was going to be placed into use
even though it wasn’t certified by the Secretary of State’s
Office. Which is something that under all Secretary of
State’s has been an absolute requirement.

So it started this whole long, very long process of
them having to – one, I believe the vendor had to give them
back money for the equipment, they had to go back and get it
certified, then they could use it. So it was a whole long
process, it was quite a few years ago but they did get funds
and it’s in its own separate account in the Voting
Modernization Fund just for that specific purpose. So I
believe that was the thought pattern in the staff report is
because it was allocated directly to them in it’s own
separate fund that was reimbursed that they would still be
authorized to have that money.

MR. KAUFMAN: Even though it’s for a newer system?
MS. LEAN: For a newer system, correct, sir.
MR. KAUFMAN: And Robbie, do you have any
thoughts you want to add on that given that you were the
author of your memo?
MR. ANDERSON: No, as Jana said, you know, that they
basically they gave the funds back to the VMB so they were
really never reimbursed for the new system. So now they’re
coming forward for a new system I think that’s okay because
they weren’t previously reimbursed for a complete new system.

MR. KAUFMAN: I don’t want to be -- I don’t want to
over lawyer this but we have had issues in the past when
we’ve done things that may be questionable on the statute and
I did note with interest that the statute doesn’t actually
say, that a county has been reimbursed for the purchase of a
voting system. But it says, the county has not previously
requested fund money for the purchase of a new voting system.

So I’m just throwing it out there how this fits into
that. I don’t want us walking out on a tightrope at all if
we think it’s going to present an issue. So and I’m
completely understanding and appreciative of this situation
with Alameda but I want to make sure we’re doing things
within the parameters of the statute.

So we can revisit it when we get to Alameda or we can
take another look at that but I just want to be sure we’re,
you know, on strong grounds if we do this. And I understand
it’s a unique situation, they gave money back that we gave
them in the first place so it should be kind of, you know,
opportunity to start over again but I’m just looking at the
language.

MS. LAGMAY: Mr. Chair, are you addressing the fact
of protecting the actions of the board in case there is a
challenge from another county that says, well you gave it to
them.
MR. KAUFMAN: Another county or otherwise I just want to make sure that we’re, you know, --

MS. LAGMAY: Defensible.

MR. KAUFMAN: -- taking appropriate actions that are defensible --

MS. LAGMAY: Defensible.

MR. KAUFMAN: -- under the statute.

MS. LAGMAY: Got it.

MR. SANDOVAL: I agree with my colleagues. There has to be some clarity as to whether or not this is within parameters of the law as drafted and there is obviously an intent to be within the spirit of the law but that is insufficient if there’s a challenge. Where within the spirit of the law it is also supported by legislative history in a way that we feel comfortable about what direction we’re taking. We are here to be responsible and also ensure that whatever we do, even though we’re all focused on insuring that voting machines are modernized throughout the state, but that we do that within the law.

MS. LEAN: Understood. So with that in mind it’s kind of -- it’s the next report. We can hold that over to the next meeting if you’d like, so we can do some more clarification on that.

MR. KAUFMAN: Yeah. I think that might be a good idea particularly since Alameda’s not even here. Does this,
I mean, it’s not -- I know we have other meetings that are on calendar we’re trying to keep this process moving particularly at a time when counties are trying to get their systems in place and prepared for March. But are we imperiling anything at this point or they’re pretty well in place one way or the other?

MS. LEAN: Well, I think we should have a complete clarity for the board to make a decision so we’ll hold it over.

MR. KAUFMAN: Yeah. I think that’s the right thing to do. Are there other questions that my fellow board members have of staff regarding the memo putting aside the Alameda issue?

MS. LAGMAY: Yeah. What I took away from this is that there’s no such thing as buyer’s remorse on the use of the VMB funds. And the second thing is, I totally agree with my fellow board members that we want to stay within the parameters of the law -- the challenge in the background however though is technology is evolving so darn fast, exponentially fast, and what you put into place on -- in January is completely overwritten by February. So I just want to bring that to the front of our minds that that’s the challenge that we’re facing here -- part of it.

MR. SANDOVAL: And in terms of the memorandum it seems as if the last section that you address is what could
be perceived as part of the expansion and not necessarily run afoul of how this money can be used. Has there been any concerns raised externally suggesting that this perhaps would still be problematic from outside groups or any other individuals?

MR. ANDERSON: Not that I’m aware of.

MR. SANDOVAL: Okay. And then another question that I have is, what is the shelf life of a voting system just as a general matter? Because it seems that there’s multiple upgrades or ever-changing evolving items of concern or efficiencies or whatever the case may be. So just as a general educational request, what is the shelf life of a voting system these days?

MS. LAGMAY: Maybe Dean could answer that.

MR. SANDOVAL: Or anybody.

MS. ROBINSON: I’m not sure that there’s a right or wrong answer to that. Right now, we know what the Legacy systems, I mean, most folks are operating on roughly 15- to 20-plus-year-old technology. And as -- remember June mentioned earlier, you know, you put something in place today tomorrow it’s obsolete so essentially as long as the thing can keep on ticking it, you know, you can use it unless other actions determine otherwise.

MR. KAUFMAN: And let me just interject. I don’t think anybody anticipated when the statute was written that
we’d be sitting here 18 day -- 18 years later still
contemplating applications for funding. So this whole notion
of not replacing an existing system when you think of how
many iterations we’ve gone through and how many different
certification requirements have come and gone in the years
since, you know, personally speaking I’d be happy to award
funding that a county still has sitting on the table for
replacement system if that’s what they need to do or want to
do at this point.

But we’re kind of bound by what we’re authorized to
do and I think that’s what we’re talking about here. But, I
mean, it’s almost inconceivable that any of the counties
haven’t updated their systems or changed their systems in the
last, almost couple decades since this statute passed for
reasons not entirely within their control.

MR. SANDOVAL:  Right.

MR. KAUFMAN:  So, we empathize with all of you
counties out there that are trying to do the right thing. We
just want to make sure we’re going at it in the way that
we’re permitted to do it.

MR. SANDOVAL:  Agreed.

MR. KAUFMAN:  All right. We will -- we will have
further conversation about this and Robbie, perhaps you and I
can have an offline conversation at some point --

MR. ROBINSON:  Sure.
MR. KAUFMAN: -- as well. But, yeah, we’ll table Alameda and take a look at that issue particularly.

Okay. Thank you for your memo —

MS. LEAN: I have one —

MR. KAUFMAN: -- by the way, thank you —

MS. LEAN: -- one more —

MR. KAUFMAN: for your work on that.

MR. SANDOVAL: Yeah, thank you.

MR. ROBINSON: You’re welcome.

MS. LAGMAY: Mr. Chair —

MS. LEAN: So would you like this to be brought to the next meeting so that we can talk about it and perhaps we can take a look at it and perhaps have a vote on what we -- what you guys would think would be appropriate?

MR. KAUFMAN: On the policy itself as opposed to its application to a particular county?

MS. LEAN: Yes, sir.

MR. KAUFMAN: Yeah, I mean, I did note -- I know you guys were, I mean, I assume you’re looking for us to adopt this rationale, I mean, it looks like you’re -- there’s a recommendation that we follow this, I don’t know where -- this is an interpretation of what the statute provides. So I don’t know if there is something for us to actually adopt.

MS. LAGMAY: Mr. Chairman, we could note and file the memo that we noted and understood its meaning but that is not
an adoption of its recommendation. And if things change, then we could adopt something further down the line.

MR. KAUFMAN: Yeah. Well, we could but hold -- let me just, I mean, are -- you are looking for us to adopt the recommendation?

MS. LEAN: That would be --

MR. KAUFMAN: As a policy?

MS. LEAN: -- that would be preferable if it’s possible here today. I do know there are a few counties who, based on this interpretation, will be moving forward and bringing a project documentation plan to the board. So it would be helpful to have at least a guidance for those counties who submit a plan to know if that’s something within the spirit of the law and be something that would potentially be agreed upon by the board.

MR. KAUFMAN: I’ll start. I guess, I’ll be honest here, I’m a little -- I don’t know if I’m speaking for everybody but, we’ve had a little bit of time to read this and absorb this but I don’t know that I’ve had an opportunity to really contemplate all the different scenarios that this might effect and to feel comfortable adopting it today without giving it a little bit more thought particularly given our conversation here this morning.

So that’s my starting point, then I’ll let my fellow commissioners express their opinions on that.
MS. LAGMAY: I’m willing to defer on this. I would also like some, if possible, some examples of some counties that would be wanting to use the funds and what for so I can wrap my mind about the concrete things. So I support the decision to defer this at least one meeting.

MR. KAUFMAN: Well, there’s not a decision yet. I expressed my opinion.

MS. LAGMAY: The decision -- Oh.

MR. KAUFMAN: If we decide that it’s not, then we have a decision but.

Gabe, thoughts? I was trying to note, our next meeting -- I don’t think it’s scheduled -- is it July or August?

MS. LEAN: It’s not scheduled until August but I do know we have quite a few counties who are -- one of the 16 and then --

MR. KAUFMAN: Yeah.

MS. LEAN: -- one of the 8 that are looking forward to coming forward to the board. I believe June was off the table, not you June, just the month of June, was off the table.

MR. KAUFMAN: June is off.

MS. LEAN: But we can try to figure out a date in maybe early July or can keep the August date. We can do that at the end of the meeting. Sorry, I just wanted to make sure
that we did have one already established for August.

MR. KAUFMAN: Yeah. I just, I don’t want to jump the
gun with Gabe talking but I think we need to get clarity to
the counties so that they can come before us and get their
plans submitted. But I also think we need to be comfortable
before we vote on a policy that, I don’t know if all of us
are completely comfortable with yet. So.

MR. SANDOVAL: So several things, one is it would be
important to find out on what bases these particular counties
are relying on this memorandum. So if it’s on question one
or two, or is it three, or is it four, which is it that they
are relying on, right?

MS. LEAN: Question number two, sir.

MR. SANDOVAL: Okay, question number two. And then
there is also, I think it’s important for me and I think my
colleagues to get a better understanding of the legality of
the interpretation that has been made particularly with
regard to the last element and also the questions have been
raised with regard to Alameda County.

And then also, understanding who else has reviewed
this particular public policy in a way that ensures that if
in fact there’s concerns raised and we end up in court, does
the Attorney General, who’s going to defend us also feel that
there’s no problem with regard to this particular policy?

MS. LEAN: We did not run this legal interpretation
by the Attorney General.

MR. SANDOVAL: Not the Attorney General, of course, the attorney general’s office.

MS. LEAN: Understood. That’s kind of what I meant.

But --

MR. SANDOVAL: That’s not what you said.

MS. LEAN: That’s true, sir. But we have run this through quite a few of our attorneys here and through our chief counsel. Yes.

MR. KAUFMAN: Let me ask you this, I’m -- my issue is the issue I was kind of raising affected number one, I don’t know if number one, is a wide-ranging issue or if it’s really just kind of the Alameda situation. Or -- I guess, one and three technically.

But if it’s number two that’s the focus of our attention or the focus of our concern, I’m wondering if we might come up with something today if we’re all comfortable with that second category which, honestly to me seemed to be the kind of easiest category. And do something today to, you know, provide some guidance on number two -- or adopt number two as a recommendation and then kind of take some more information with respect to question number one and question number three and come back on that.

MS. LAGMAY: I’m agreeable to that, to bifurcate the issue.
MR. KAUFMAN: Does that get us where we need to go in terms of moving the ball forward?

MS. LEAN: Yes, sir.

MR. KAUFMAN: Okay. So if we have some general consensus on that, does someone want to make a motion?

MS. LAGMAY: You want to do it?

MR. SANDOVAL: Go ahead.

MS. LAGMAY: All right. So I move that the second questioned named in the memo dated May 28th, 2019, that is, can a county that has been reimbursed by the VMB for a new voting system be reimbursed for the purchase of voting equipment to expand their existing system, that we – and that the answer to that is a positive yes, that we adopt that as policy of this board in considering applications from counties in the future specific to expansion of existing systems only, at this point.

Do I have a second?

MR. KAUFMAN: Can I just ask you if you -- well, I was a little bit concerned about your word only at the end.

MS. LAGMAY: At this time. Just leave it out.

MR. KAUFMAN: Can I ask for clari – okay, I was –

MS. LAGMAY: Yes.

MR. KAUFMAN: -- just going to ask for clarification.

I just -- I don’t want to say -- you’re saying that that’s the only thing that we’re considering at this time, but I
don’t want to make it exclusionary for folks who may be coming --

MS. LAGMAY: I understand. Okay.

MR. KAUFMAN: -- before the [indiscernible].

MS. LAGMAY: So since we’re simply putting an item forward, let’s delete the latter part of that sentence and just say, for the -- for expansion of their existing system period.

MR. KAUFMAN: Do we need to repeat that for the record? Or why don’t I take a crack at it.

We are considering a motion that the Voting Modernization Board will adopt a policy that says that a county coming before the board can -- the county coming before the board that has been reimbursed by the VMB for a new voting system before can be reimbursed for the purchase of voting equipment to expand their existing system. Period.

MS. LAGMAY: That’s fine.

MR. KAUFMAN: Is that a good way of phrasing it?

MR. SANDOVAL: Yes, it’s acceptable.

MR. KAUFMAN: Do you have --

MS. LAGMAY: Robbie, does that sound palatable to you?

MR. ANDERSON: Yes.

MS. LAGMAY: Okay.

MR. KAUFMAN: Gabe, do you want to second that?
MR. SANDOVAL: Second.

MR. KAUFMAN: Okay. Now, we can vote on it. Any further discussion?

MS. LAGMAY: No.

MR. KAUFMAN: Okay. You want to call for a vote?

MS. JARRETT: Stephen Kaufman.

MR. KAUFMAN: Aye.

MS. JARRETT: June Awano Lagmay.

MS. LAGMAY: Aye.

MS. JARRETT: And Gabriel Sandoval.

MR. SANDOVAL: Aye.

MR. KAUFMAN: Okay. And then we are going to agree, I think, in line with what June was saying. We’ve accepted and heard the staff presentation and memo on the kind of larger issue, more global issue, of Guidance on Future Reimbursement Requests and we’ve -- we’re going to direct staff to continue to look at the two other pieces of that that are still on the table, namely questions number one and number three, and come back to us with further report at our next meeting. Good?

MS. LAGMAY: Very good.

MR. KAUFMAN: Okay.

UNIDENTIFIED SPEAKER: Yes, sir. Thank you.

MR. KAUFMAN: Okeydokey. We didn’t even know it was an issue before he gave us the thing telling us it was an
issue. Okay.

All right. Now comes the fun portion of the program where we get to give away money.

We are at item number seven which is Project Documentation Plan and Review -- Plan Review and Funding Award Approvals. Per our just completed conversation, we are going to defer and take off the calendar the Alameda County request and place them on calendar for the next board meeting which we will do our best to make happen promptly whether it be the August meeting or a meeting we can schedule in July.

And then next up is Fresno County. I know we have folks from Fresno County here with us today. Why don’t we take the staff report on the Fresno County Project Documentation Plan and then the folks from Fresno can proceed to the mic and add whatever you’d like to add. Okay?

MR. HIROSE-AFSHARI: Good morning.

MR. KAUFMAN: Good morning.

MR. HIROSE-AFSHARI: So this is Fresno County’s Phase 3 Project Documentation Plan staff report summary. Fresno County’s Phase 3 staff recommended funding award amount is $1,436,475.08. Fresno’s Phase 3 county’s estimated total system cost is $2,898,404.46. Fresno’s vendor is Dominion Voting Systems and their equipment is the ImageCast System. What is composed of hardware including ImageCast Central Scanners, and software including Democracy Suite Software.
Fresno County’s Phase 3 Project Documentation Plan meets the requirements for completeness. The ImageCast Voting System and corresponding components are certified for use in California. Fresno County will be replacing its existing optical scan voting system with an entirely new and modernized voting system from Dominion Voting Systems. This will mark its first significant change in voting technology in over twenty years. While Fresno County received Phase 1 funding from this board in 2006 and Phase 2 funding in 2008, these funds were awarded for the augmentation of the existing Diebold Optical Scan voting system and did not change the core function or capabilities of the existing system. With procurement of the ImageCast Voting System, Fresno County will be able to successfully transition from a polling place model to a Vote Center Model, as set forth under the requirements of the Voter’s Choice Act.

Fresno County began their search for a completely new voting system as a result of the significant increase in maintenance and repair costs, as well as the Secretary of State’s recent decertification of voting systems not tested and certified to California Voting System Standards. As a result, the procurement of a new voting system was required, and Fresno County released a Request for Proposal, or RFP, in August 2018 to vendors offering state-certified software and hardware. In early 2019, Fresno County’s Voter Accessibility
Committee determined that the ImageCast system provided an accessible, easy to approach and comprehensive system capable to meet the diverse needs of its voters. Fresno County plans to undertake a public outreach program to introduce the new voting system to its voters and solicit feedback. The county will hold demonstrations at over 60 community events to promote the new voting system and provide opportunities for hands-on engagement.

For the March 3, 2020 presidential primary, Fresno County will operate a minimum of 46 voter centers throughout the county. At each Vote Center, three ImageCast X touchscreen ballot marking devices, two mobile ballot printing kits, and one ImageCast on-site tabulator will be deployed to improve the in-person voting experience. These units will provide on-demand ballots for any voter in the county in addition to enhanced electronic ballot marking options.

Fresno County has also purchased Election Management software, which will improve efficiency and flexibility of their ballot layout, as well as the speed of election officials to aggregate and accurately report election results. Fresno County asserts that its new adjudication software will improve the efficiency of the post-election processes and increase public transparency.

Fresno County will only receive VMB payments once it
has submitted detailed invoices for its certified voting
equipment. Please note that the staff-proposed funding award
is based upon allowable reimbursement under Proposition 41
for voting equipment hardware and software only. The
warranties, implementation support, and service charges
listed in the Fresno County contract with Dominion voting
Systems are not covered as reimbursable claims under
Proposition 41.

MR. KAUFMAN: Thank you, Arman.

June, do you have any questions of Arman before I
call up Fresno?

MS. LAGMAY: I have a favor to ask simply and how the
staff report is just structured. It would help me a lot if
you started out with the -- when you do the little graph on
the top, start out with the original asking amount -- I’m
sorry, the amount allocated by the VBM funds and then the
amount awarded in the first allocation and then the amount
being asked now, the current allocation, and then the amount
remaining. Because trying to make it rectify with Robbie’s
excellent table on the back of his report was kind of
confusing to me. So it would allow me to get a long view of
the project from the beginning instead of seeing it
mid-stream at, you know, Phase 3.

If the Chair doesn’t mind.

MR. KAUFMAN: No, I think that’s a great
recommendation.

MS. LAGMAY: And also, if you could add one more field of the -- you have it down here, the vendor or the voting system that’s -- would -- I would actually ask is in the future if there is a graph made, such as the one that Robbie had on the back of his report, that very well laid out the original allocation amount and the amount remaining, maybe another field of the vendor or voting system so that at a glance we could see how they’re kind of lining up.

MS. LEAN: Can I ask a little clarity on that? So for the vendor that was previously purchased, how about we work with you to make sure we get exactly what you want for the next meeting.

MS. LAGMAY: Yeah. And I don’t want to make it like footnotes and then like a huge, I know it can get complex but or leave it blank if it’s still in process, when something is like concrete enough to be named it can be entered but it would just -- mostly what would help me is following the money from the beginning to the current more than anything.

MS. LEAN: Understood.

MS. LAGMAY: Okay. Thank you.

MS. LEAN: I think I got what you want and we’ll make sure to send you a draft and you can give us an idea. We’ll put together an example.

MS. LAGMAY: I asked for --
MR. KAUFMAN: That will be great.

MS. LAGMAY: Okay.

MS. LEAN: Thank you.

MR. KAUFMAN: I think I followed the money piece of
it, I’m not sure I understood exactly what you wanted with
the vendors but we’ll work on the draft and make sure if
follows for everybody.

Okay. We have some folks from Fresno. Please come
up to the podium and introduce yourself. And thank you for
making the trip over here today.

MS. ORTH: It was a lovely drive down this morning.

Good morning, Commissioners. Thank you for having us. I’m
Brandi Orth, the Fresno County Clerk Registrar of Voters.

MR. KAUFMAN: Good morning.

MS. ORTH: And before you today is our application
for reimbursement funding for a new voting system from the
Prop 41 funds. I can attest that we are still using the same
voting system from 20 years ago. We originally purchased the
Optical Scan system that was originally named the Global
System in 1999. It has gone -- that company and the purchase
of that product has gone over various names over the years
and the current company who is responsible for maintaining
the equipment is Dominion.

After a competitive bid, it was a coincidence that
Dominion happened to be the newest vendor also. And as Arman
listed for you all of the new technology and the new parts of
the system and everything that we are going to be purchasing.
We’re really excited that our board of supervisors in March
agreed and approved us going to the Vote Center Model for
March of 2020. This is the equipment that will make that
possible.

We hope that it has a lot of advantages for not only
administration side but a great service to the voters with
the technology that’s going to be out there. And so when you
talk about a shelf life I think sometimes that also refers to
funding available for counties. And so we certainly have got
our money’s worth out of our current voting system and we’re
anxiously awaiting the arrival of the new equipment which
actually should be coming in about a month or so.

And so if there’s, I’m happy to answer any questions
that you may have of me.

MR. KAUFMAN: I have just kind of a couple of
technical questions. I’m just curious and wanting to
understand how the system -- it all works and it all fits
together. So I was noting that in each Vote Center you’re
going to have three touchscreen ballot marking devices. So
these are the devices that people push the button for their
votes.

MS. ORTH: Correct.

MR. KAUFMAN: To cast their votes. But then there’s
two mobile printing ballot kits. So how do those interrelate
with the three touch --

MS. ORTH: It’s pretty cool.

MR. KAUFMAN: Okay.

MS. ORTH: Okay. So in the Vote Center Model what
will happen is the voter will come in and we will have an
electronic roster, that’s not part of our application, and we
will be able to ascertain if they have voted anywhere in the
state as of that moment. We can then go ahead and process
them through. They may either ask for a paper ballot which
is the mobile ballot printers. We’re having two because, you
know, we’re all about redundancy and making sure everything
works all the time. So they will be precincted from their
record and we will be able -- for the first time ever to
print off their exact ballot.

In Fresno County in November of ‘18, we had over 263
versions of the ballot and that you know when someone votes
provisionally they’re in the wrong place and they really
don’t get their specific ballot. So they may lose the
opportunity to vote on races that they’re eligible for. So
they’re going to get their real ballot.

They also have the opportunity, as well as our
accessible voters, to go to the ballot marking device. It’s
not a tabulator, it’s a ballot marking device, which is
required to have three of these in the Vote Center with an
uninterrupted power supply to them. And from what we’re learning from other counties who have already used this equipment, a lot of voters like it. It’s like a cell phone on steroids kind of thing a big long screen, and it’s a touch screen thing. And so you will make your choices and then it will print out what you voted on, and then we will also have a ballot tabulator on top of a ballot box in each of the Vote Centers where the voter then will put their paper ballot in. And if they have not voted on anything, it will kick it back to them and ask the voter for sure is that what you wanted or an overvote and there’s just so many additional services with the equipment and then the ballot will drop into the ballot box.

MR. KAUFMAN: Okay.

MS. ORTH: So a lot of different names and a lot of different features.

MR. KAUFMAN: Yeah. I was a little confused by it. But so the ballot -- the tabulators have their own printer that prints those ballots out that people cast on the tabulator and the two ballot printing -- what you call the ImageCast, no, the two mobile printing ballot kits, those are just spitting out the ballots -- printing out the ballots that people then complete by hand. And they both go in to the one single --

MS. ORTH: Correct.
MR. KAUFMAN: -- tabulating box.

MS. ORTH: Correct. So a voter could choose either way.

MR. KAUFMAN: Either one, right.

MS. ORTH: Exactly.

MR. KAUFMAN: That’s great.

June, any questions?

MS. LAGMAY: No questions.

MR. KAUFMAN: Gabe?

MR. SANDOVAL: Can you speak a little bit about the training that’s being provided to those who are going to be responsible for making sure the new system operates smoothly on site?

MS. ORTH: Well, we just had our first kickoff meeting with the vendor and so we’re learning all of those and we’re setting those to schedules. And so we will have I think it’s about eight different module components of us getting trained and our staff, and then that will roll out to a very different kind of precinct officer training at the appropriate time.

When we train now under the poll model, they have a two-hour training class and a handbook and we hope that they use the handbook to do the right thing. Because of the technology that’s going to be out there now, the training will become more of -- almost like a clerical training where
you’re on the computer, you’re working through the screens, you’re really learning a lot more about the process. And so we believe that because of the increase training, our precinct officers will be better trained than they are today. And so we’ll have all of that.

We will also have tremendous IT support, not only from my employees but from the county IT is partners with Fresno County. We’re very lucky to have them. And they’re going to be in the Vote Centers making sure the equipment is working, testing it and doing all of those things to have a really successful election day.

MR. SANDOVAL: Great. Thank you.

MR. KAUFMAN: Just one more question. What kind of sites have you selected for your Vote Centers?

MS. ORTH: Well, we’re in the process right now. We have not officially selected anything yet. Kind of similar to L.A. County, it’s a long process. We’ve had several of our community meetings already. We’ve had our VAC Committee that we’ve had for several years that’s already had two meetings this year and its -- we’re getting a lot of response, a lot of inclusion of folks. We also have a LAC, the language committee, and they’ve been very active. And we’ve had two of those meetings already.

And we created a Vote Center Act Advisory Committee and we’ve had two meetings of those, we meet monthly. And
we’ve had over 70 people at each of those meetings representing a huge cross section of the electorate which is really exciting. And they’re very interested. Sometimes we get a little off topic in our discussion also. But what we’re doing is, as you know, we have to create an election administration plan and a huge outreach component. We have our unofficial draft that we’ve shared with our committee members right now. And we’ve gotten some feedback on it and then we’ll have the first official draft we hope to at our June meeting and we’ll start the public process of going through that.

What we’ve already done also is, as you know there are 14 considerations for siting a Vote Center and you are to use census data in order to geographically kind of allocate where those centers should go. My staff has already done that work and we’ve shared those maps. They’re on our website. We’ve also worked with our master polling place list and are working to identify those facilities that are physically capable of hosting a Vote Center. And for Fresno County right now, we have to provide 46. Probably by the time we get to the 88th day that number’s going to up a little bit.

But so we’re -- we already have a draft map online of the locations that we believe are great candidates for Vote Centers. We’ll be working with our advisory committee and
that’s what I’m hoping with their help through the summer we solidify those choices. Also, we’ll use that group to help us locate our 31 drop boxes throughout the county.

And so we got a lot going on right now. And we’re very excited to engage the public and put things on our website and we’re very appreciative of Secretary of State’s staff who I think we may bother them a little bit too much sometimes, but they’re always very kind to us and always help us get through the process. So we’re really excited for what is about to happen.

MR. KAUFMAN: Great. Thank you.

MS. LAGMAY: Thank you.

MR. KAUFMAN: Well thank you for sharing that. Appreciate your presentation and all the efforts that Fresno County is going through to implement our new system.

MS. ORTH: Thank you.

MR. KAUFMAN: Thanks, Ms. Orth.

Okay. Do we have a motion to approve Fresno County’s Phase 3 Project Documentation Plan and issue of Funding Award Letter in the amount of $1,436,475.08?

MS. LAGMAY: Was that the motion?

MR. KAUFMAN: Well, I was hoping somebody would make it, but I was suggesting that could be the motion.

MS. LAGMAY: I move that the --

MR. KAUFMAN: You can just say so moved.
MS. LAGMAY: Precisely, so moved.

MR. SANDOVAL: Second.

MS. LAGMAY: As iterated by the Chair.

MR. KAUFMAN: Okay. You want to read it -- you want to do it just for formality sake?

We can do it. All in favor?

MS. LAGMAY: Aye.

MR. KAUFMAN: Aye.

MR. SANDOVAL: Aye.

Any opposed? Okay. The ayes have it.

Congratulations Fresno.

All right. Next on our agenda Los Angeles County Phase 2.

Mr. Logan, why don’t we start with the staff report again.

MR. HIROSE-AFSHARI: Okay So this is Los Angeles County’s Phase 2 Project Documentation Package Staff Report and I’ll try to provide more detail after the allocation amounts, as you requested.

So today L.A. County is remaining VMB approved allocation amount is $49,026,236.33. Today they come before the board to request an amount of $2,803,990.25 this would make their new allocation amount, if approved, to $46,222,246.08.

L.A. County’s vendor is Digital Foundry Inc. and
Runbeck Election Services. Their system is the V-S-A-P or VSAP Vote-by-Mail Tally 1.0 System which is composed of hardware including the IBML Imagetrac Scanner Version 6400, and software which included VSAP Vote-by-Mail Tally 1.0 System.

Los Angeles County’s Phase 2 Project Documentation Plan appears to meet the requirements for completeness. The VSAP Vote-by-Mail Tally 1.0 System and corresponding components are certified for use by Los Angeles County.

The VSAP project was launched by Los Angeles County in 2009 in response to growing voting system needs and unique challenges as a result of the increasing voting population and complexity of election administration. The county asserts that the previous voting system did not offer the technical nor functional elasticity necessary to accommodate the growing demands of the electorate’s diversity and size. As such, Registrar-Recorder/County Clerk of L.A. sought to create a new comprehensive system that could fulfill the goals of increased accuracy, transparency, security, with a human-centered focus.

Los Angeles County has adopted a multi-phased approach to modernizing its voting system. Phase 1 funding was awarded to Los Angeles County for 171 AccuVote TS Diebold units in 2004. This current plan today represents a request for reimbursement of the first phase of its VSAP system.
This initial phase consists of the implementation of a new vote-by-mail tally system. This includes a redesigned vote-by-mail ballot, a modernized tally system, and a certified ballot on-demand system. These components were fully implemented during the November 2018 General Election.

Los Angeles County contracted with two vendors to acquire the components of the first phase of the VSAP. Los Angeles County contracted with Digital Foundry for services that included development, manufacturing, and testing of software which directly lead to the completion and acquisition of the certified VSAP Vote-by-Mail 1.0 System.

In addition, L.A. County purchased Runbeck Election Services Sentio Lite Ballot Printing System which is a ballot on demand system.

Los Angeles County established two formal advisory committees to promote insight and expertise of the implementation of the VSAP system. The VSAP Advisory Committee is composed of 24 members including community leaders from language minority groups, voters with disabilities, and various ethnic communities to advise L.A. County on the creation and implementation of the process.

The County also established the VSAP Technical Advisory committee to provide oversight on the testing and implementation on the new software and hardware components.

Los Angeles County contends that the new vote-by-mail ballot
and ballot on-demand equipment garnered positive responses both in public demonstrations in the community and on election day.

Los Angeles County will only receive VMB payments once they have submitted detailed invoices for its certified voting equipment and software. Please note that the staff-proposed funding award is based upon allowable reimbursement under Proposition 41 for voting equipment hardware and software only. Planning and report documents are not required as components of the software package and therefore are not allowable for reimbursement under Proposition 41. However, other funding mechanisms are available to the county to seek reimbursement of these items.

That concludes my report.

MR. KAUFMAN: Thank you, Arman. Mr. Logan, would you like to join us again?

MR. LOGAN: Good morning. Still morning, right?

MR. KAUFMAN: Still morning.

MR. LOGAN: Good morning. Again, Dean Logan, Registrar Recorder County Clerk for County of Los Angeles.

MR. KAUFMAN: Good morning.

MR. LOGAN: Thank you for consideration of this request and thank you to Secretary of State staff for their work and coordination with our office in the submission of this request. I don’t have anything specifically to talk
about in terms of the recommended allocation but in light of
the earlier conversation about policy and the nature of the
Los Angeles County voting solutions for all people project, I
think it’s important to put a couple of things on record and
to seek your -- or to make a recommendation to your board on
how you might help guide us in the future.

So trying to think of where to start here. So I
think what -- it’s not represented in the staff report is
that the request for reimbursement that we submitted was
actually a larger amount and included components that were
not in this request. So we submitted a request for
reimbursement in the amount of $3,523 -- $3,523,464 so
there’s a differential there about $719,000 that’s not
included.

In addition to that, we had at least entertained
discussion about an additional expense of $130,524 which was
the cost to L.A. County for the certification of Tally
Version 1.0. We were advised by the Secretary of State’s
Office that certification costs were not allowable under Prop
41 and we withdrew that from our original request.

So let me address those two separately and then offer
what I hope is a recommendation of how we might move forward
because these are complicated issues and not necessarily
issues that need to be resolved today.

On the $719,474 differential of what we submitted for
reimbursement and what was not included in the staff report, again, in light of the conversation, Mr. Chair, that you brought up I just want -- I want to be sure that we have a correct understanding that if that is viewed now as we have submitted a request for that, if that means that we no longer have the opportunity to come forth and provide justification or argumentation of why we think that that should be reimbursable under Prop 41, then I would ask that you take action today to adopt the staff recommendation but to defer action on the remainder of that request, the $719,474 so that remains on the table. My concern would be if you didn’t do that that it could be defined as we had previously made request for that. That’s my first request.

And I guess, I should say that, again, while we did not anticipate making full arguments about this today I think we do have a difference of opinion in the staff report that while planning and report documents are not required for the purchase of software they are required in order to get a voting system certified in the State of California. And we are unique in L.A. County in that L.A. County’s voting system is a publicly-owned system so it’s not there -- there wasn’t one fixed price that we purchased this system for. We purchased consulting services to build the software. We bought off-the-shelf commercially available hardware and we paid for integration services for that and that is what
became the certified voting system that’s before you today.

So our belief is that the -- those elements that are not
included in the staff recommendation had we gone with a
commercial vendor solution those costs would have been
incorporated in to the price of the system and would have
been reimbursed under Prop 41. And so we think that warrants
further discussion and review.

Similarly, same point on the certification costs. So
again, I don’t think we have the problem of requesting
submission again on those because we didn’t submit those
based on the discussion, we took that amount out. However,
we believe, again, that for commercial systems that when
you’re awarding reimbursement for those systems embedded in
the price -- in the cost of those systems is what those
vendors paid to get those systems certified in California,
and we don’t believe that it’s appropriate for a
Publicly-owned system to be interpreted differently from
that. That is a cost -- in order to get reimbursed for a
system it has to be certified. So that is a legitimate cost
for the acquisition and purchase of the system. And in fact
I would argue that the ballot on demand equipment that’s
included in the staff recommendation is a commercial system
that was certified by the Secretary of State and I would
argue that in the price of that system was the cost for
Runbeck Election Systems to get that certified in California,
at least in part. Probably also true in the previous award
that you just approved today for a system purchase from
Dominion Election System.

So again, these are complicated issues. They’re
further complicated because this is the first time we’ve gone
down the road of a publicly-owned system. But a lot has been
said today about the spirit of the law in Proposition 41
which I believe that, I think there’s general agreement, that
that -- the intent was to replace voting systems in
California with modernized equipment that did not have the
faults and the vulnerabilities that the Legacy Punch Card
Systems had.

In L.A. County’s case, there wasn’t a solution out
there to do that so we extended the life of our Legacy System
and we embarked on this process to build and manufacture and
certify a publicly-owned voting system. Now today we’re on a
timeline where that has to be done because the Legacy System
has now -- is no longer certified.

So while I appreciate the point that’s made that
there are other funding mechanisms for those costs, the total
cost of this voting system will exceed the balance of our
Voting Modernization Board allegation -- allocation from Prop
41 and will, we believe, exceed the amount allocated in the
state budget. So the interpretation and the decision not to
allow reimbursement of that increases the cost to Los Angeles
So, again, I’m -- what I’m asking today is that we defer that for further discussion. We understand it’s a complicated issue. We understand there’s history with interpretation of Prop 41 that we have to look at carefully both for your board’s protection, for the Secretary’s protection, and quite frankly for Los Angeles County’s protection. But we don’t feel that that’s been fully exhausted at this point and we don’t want to be penalized for having requested it and then having it denied.

MR. KAUFMAN: Thank you. Let me ask you a couple of questions. First of all, I am not unsympathetic to the notion that the county has been required to incur costs because of the nature of its project that others have probably born but they haven’t been let’s say as visible as those costs are when you’ve incurred them because of the way they break down. I think you’re probably right. Some of these costs get incorporated into the cost of buying a particular product and so they’re not characterized other way. And I truly believe that we should treat counties equally in terms of what they get reimbursed for.

So, but, you know, what I think and what my board members think doesn’t necessarily matter if the statute doesn’t provide for one thing or another and I’m not suggesting that the statute prohibits those costs. I’m just
saying we need to be mindful of that issue. So that’s what
we’re struggling with but -- and just to clarify again, you
said you did not submit -- you haven’t submitted the
certification costs in this round that doesn’t --
MR. LOGAN: That’s right. Not the certification cost
for the tally system.
MR. KAUFMAN: For the tally system. That’s not to
say that you won’t do so with respect to the larger --
MR. LOGAN: Correct.
MR. KAUFMAN: -- Vote Center system.
MR. LOGAN: And I think that actually -- we can kick
that can down the road, I mean, we will go through
certification of the full voting solutions. As we’ve heard,
the certification is pending for the full solution and this
issue will come up again at that time. So we could either
incorporate that in when we make that request and come in and
argue the authority at that point. But I just wanted to at
least get it on record.
MR. KAUFMAN: Right. But what -- but the $750,000,
$700,000, again, what makes up that amount again, --
MR. LOGAN: So that’s --
MR. KAUFMAN: -- the differential is?
MR. LOGAN: It’s $719,474 and it refers to 13
deliverables that were included in our submission to the
staff that were not put forward for -- in their staff
recommendation to your board. Based on the interpretation
that they were not --

MR. KAUFMAN: Right. But the deliverable -- can you
give us a few examples?

MR. LOGAN: Yeah. So there are things related to the
development of and manufacturing of software. So, I mean,
to -- if you’re developing a new program, you have to have a
project plan, you have to project management, you have to do
various forms of testing and documentation, and again those
are documents that actually when we apply for certification
that we have to provide. But those are -- I don’t want to
speak for staff, I think those were interpreted to be
research and development costs and planning costs rather than
acquisition costs. I think our argument and again if you
defer it, I will probably come back with more detailed
opinion. I’d like to have -- I’d like on our end to do some
more analysis on that because we believe that they’re
fundamental to the acquisition of the system. They are
system costs.

MR. KAUFMAN: Okay. I know you’re thinking through
this on the fly to just given what’s occurred here today.
But are you -- you’re suggesting, just so I understand it,
you’re suggesting that we approve the Project Documentation
Plan but defer an amount -- defer an award on an amount?

MR. LOGAN: Yeah. Well that amount is not before you
today. The only reason I --

MR. KAUFMAN: Well, I --

MR. LOGAN: -- I was not intending to bring that up.

I brought that up in light of your comments, Mr. Chair, about the wording in the Proposition that says that if you have made a request for those funds. So I don’t -- maybe that’s an interpretation of the request was made to staff, staff didn’t included it in the recommendation to you. So I don’t know whether that meets the definition of that we submitted a request or not. And that’s the clarity I’m seeking, that’s the only clarity I’m seeking today. I’m not asking you to fund the $719,000.

MS. LAGMAY: Uh-huh.

MR. LOGAN: I just want to leave it on the table for further.

MR. KAUFMAN: Understood and we don’t want to do anything to prejudice you in the future.

MS. LAGMAY: What does Robbie say?

MR. KAUFMAN: And we get that so we’ll ask staff if they have an opinion but I just wanted to be clear on what you were asking and we’ll try and figure out how we navigate that.

Are there other -- well, I guess we can ask.

MS. LAGMAY: Yes. Ask Robbie first.

MR. KAUFMAN: Do you have any thoughts on that issue?
MR. ANDERSON: We’ll have to look at it. I just --

MS. LEAN: Okay. So staff -- the staff recommendation for the 2.8 million did come from what we considered as allowable costs under Proposition 41. We are very cautious about research and development especially what --

MR. KAUFMAN: We understand.

MS. LEAN: -- in the last go around. So we went through each and every one of their invoices and deliverables. So we had NaKesha here as our technical expert go through everything with us to make sure that we were within the bounds of software. Right? And hardware. So that was the staff recommendation costs that we put forward to you for the recommendation and if there’s further discussion to go with that, I think we’re open to it. It’s just within being very cautious of dealing with the research and development costs association we did not included that as a recommendation.

MR. KAUFMAN: And I think we understand that, and I think Mr. Logan understands that. I think the issue on the table is just given the prior conversation which me being the lawyer I think I probably opened the door to but it needs to be said. You know, I just want to make sure whatever we -- we can have that conversation and we can continue to, you know, talk about it in this forum or elsewhere but I think
the point is just making sure nothing we do prejudices their ability. If we do decide at some point that those type of costs fall into this category versus that category, is not precluding the county from getting that award down the road.

MS. LEAN: So it could be interpreted based on the staff report that’s come forward and what we think is allowable costs, that’s the amount. So if it was, let’s look at that a little bit more for a legal interpretation whether or not they consider that as a submission to the board.

MR. KAUFMAN: Yeah, yeah, because the language again was requesting money for the purchase of a new -- of a voting system. So but I’m just thinking, I mean, one of the ways we could do it is we could approve the Project Documentation -- well, I don’t know if it does any good to approve it and leave the amount open. I mean, that doesn’t get you your money.

MR. LOGAN: Yeah. Actually, because we -- in our case this is money that’s already been spent.

MR. KAUFMAN: Yeah.

MR. LOGAN: We’ve already submitted the invoices. We -- our preferences would be that you move forward with the approval of the staff recommendation of the 2.8 million. Again, just to put a placeholder on the deliverables that -- and again how you interpret that and how you want to word that --
MR. KAUFMAN: Right. We can make a note. Yeah.
Okay. I think I have a good -- an idea about that.

MS. LEAN: I would recommend that also to move forward with the staff recommendation. Just to make it really clear that payment request form with the invoices would need to be submitted again once they get the Funding Award Letter from the board, from the Chair, and acknowledge that funding award.

MR. KAUFMAN: Sure.

MS. LAGMAY: Yeah. I think the key word is acknowledge if we could make that.

MR. KAUFMAN: Acknowledge that there might be additional --

MS. LAGMAY: Yes. Precisely.

MR. KAUFMAN: -- additional funding requested for this project.

MR. SANDOVAL: As part of the same request.

MR. KAUFMAN: As part of the same request or something like that.

MS. LEAN: We’re breaking new ground so there’s a lot of --

MS. LAGMAY: I have a --

MR. KAUFMAN: Go ahead.

MS. LAGMAY: -- Dean, a couple questions on dollar figures. Okay. So you originally asked for 3.5
MR. LOGAN: Correct.

MS. LAGMAY: And it got knocked down to 2.8. Now, all your Foundry invoices add up to 3.695 instead of 3.523.

Okay. All your Foundry invoices add up to 3.695, you didn’t ask for 3.695, you asked for 3.523, it -- was that having to do with the certification?

MR. LOGAN: I would have to check on that to tell you what that specific differential --

MS. LAGMAY: Because all your invoices add up to 3.695, and you’re certainly not getting that today but you only asked for 3.523.

MR. LOGAN: Right. And in a lot of those numbers are similar I think that is somewhat confusing because that’s just the Digital Foundry invoices, correct?

MS. LAGMAY: Yes. For the contract with --

MR. LOGAN: Right. So then there’s an addition to that in the approved funding or recommendation are the cost for Runbeck Election Services so my assumption and I would have to go back and double check this is that we made -- independently made determinations that there were portions of those invoices that either we were covering in the local match or --

MS. LAGMAY: Oh, I see.

MR. LOGAN: -- that -- yeah.

MS. LAGMAY: Oh, I see. Okay. So that’s stuff I
would have never laid eyes on.

MR. LOGAN: Right.

MS. LAGMAY: Yeah. Okay. And then all these sundry invoices from Imagetrac, 63 pages worth and 84 pages from L.A. County peripheral, are -- is the money your asking for today going to be paying toward those or --

MR. LOGAN: Yes. So that’s --

MS. LAGMAY: I mean, there’s no way for me to know what money is paying for what invoices.

MR. LOGAN: Yeah. So the Imagetrac Scanners are the actual hardware, the tally scanners, the commercial off-the-shelf scanners that are used by the tally system, the four units and the associated operating system that go with those. L.A. County has already paid for those so a portion of the reimbursement is --

MS. LAGMAY: Okay.

MR. LOGAN: -- that cost minus the local match.

MS. LAGMAY: All right. And last question, just want to be absolutely sure, the amount you are asking for is $2,803,990.25. Only be --

MR. LOGAN: That’s the recommendation that’s before you today. We support that recommendation with the caveat that that we may come back with additional expenses related to this particular phase of the project.

MS. LAGMAY: Okay. That’s all for the moment. Thank
MR. KAUFMAN: Gabe, any questions?

MR. SANDOVAL: No questions.

MR. KAUFMAN: Okay. I think you can sit down and we’ll have a little conversation here. Is every -- is -- I’m going to -- I’ll kind of propose some language here -- see if there’s anyone one wants to make a motion or if you want to discuss it.

But I would propose a motion in which the board approves L.A. County’s Phase 2 Project Documentation Plan and issue a Funding Award Letter in the amount of $2,803,990.25 with the understanding that L.A. County may submit requests for additional funding for this phase of the project in the future. Happy to have a conversation about it or you can.

MS. LAGMAY: Maybe a little clarification about funding that would have been submitted if not for the initial opinion of staff -- or something, you know, I mean, that would have otherwise been included in this package.

Something like that.

MR. KAUFMAN: Yeah. We could say request for additional funding for this phase of the project, something like that.

MS. LAGMAY: That might --

MR. KAUFMAN: Exists, like currently exists or that otherwise have been.
MS. LAGMAY: Otherwise would have been included as part of this request and maybe --

MR. KAUFMAN: I don’t know about otherwise included as part of this request but I wonder if we could say existing.

MS. LAGMAY: Funds for --

MR. KAUFMAN: Just trying nuances here. Are we all on kind of board with this conceptually?

MR. SANDOVAL: Yes.

MS. LAGMAY: Yes, we are. Can the City Attorney come up with wording?

MR. KAUFMAN: So let’s just come up with the magic words. Request for -- we could say request for reimbursement of existing costs for this phase of the project that were not previously submitted.

MS. LAGMAY: Here’s another way -- or that we --

MR. SANDOVAL: Upon further direction from staff. So it’s --

MR. LOGAN: Mr. Chair, can I --

MR. KAUFMAN: Sure.

MR. LOGAN: -- offer a suggestion?

MR. KAUFMAN: Yes. You may.

MR. LOGAN: Perhaps something to the effect of including reconsideration of costs evaluated in the staff report but not included in the recommendation.
MR. SANDOVAL: Concurrently submitted or.

MR. KAUFMAN: You said including reconsideration of
costs included in the staff report? Included in the
submissions?

MR. LOGAN: No.

MS. LAGMAY: No. In the County’s report.

MR. LOGAN: In the decision.

MR. KAUFMAN: In the County’s report.

MR. LOGAN: But not included in the staff
recommendation.

MR. SANDOVAL: I think that works.

MR. KAUFMAN: I just a little it’s -- I like it
conceptionally. I wonder about the word reconsideration --

MS. LAGMAY: Think it’s consideration?

MR. KAUFMAN: -- maybe it’s just, maybe it’s just
consideration.

MR. SANDOVAL: Consideration.

MS. LAGMAY: Yeah, okay.

MR. KAUFMAN: Yeah.

MR. SANDOVAL: Further consideration.

MR. KAUFMAN: Further consideration. All right.

Let’s try this again, see if we can get it out. This would
be a motion to recommend that Los Angeles -- that approval --
I’m sorry, a motion to recommend approval of Los Angeles
County’s Phase 2 Project Documentation Plan --
MS. LAGMAY: In the amount.

MR. KAUFMAN: Yeah, and issuance of a Funding Award Letter in the amount of $2,803,990.25 with the understanding that L.A. County may request --

MS. LAGMAY: Reimbursements of certain charges mentioned in their staff report but not included in their --

MR. KAUFMAN: Well, I liked his including consideration -- hold on. Yeah. L.A. County may request additional -- is somebody over there writing this down by the way? Hopefully. L.A. County may request additional funding for this phase of the project including consideration of -- that’s too many includings, sorry.

MR. SANDOVAL: I think.

MR. KAUFMAN: Go ahead. I’m probably making it more complicated than it needs to be.

MR. SANDOVAL: Yeah. I think he, Dean Logan, mentioned they’ve already submitted their request.

MR. KAUFMAN: Right.

MR. SANDOVAL: But it was in part of the --

MS. LAGMAY: Recommendation.

MR. SANDOVAL: Recommendation by staff.

MR. KAUFMAN: Right. It’s consideration of costs and we said including, including.

MR. SANDOVAL: So they’ve done what they needed to do.
MR. KAUFMAN: It’s included in the county’s submission.

MS. LAGMAY: Yes, yes.

MR. SANDOVAL: Correct.

MR. KAUFMAN: But not included --

MR. SANDOVAL: In the recommendation.

MR. KAUFMAN: -- in the staff’s recommendation.

MR. SANDOVAL: So it falls on us.

MR. KAUFMAN: Yeah.

MR. SANDOVAL: For further consideration.

MR. KAUFMAN: Right. So let’s just go with a comma after the amount and say including consideration of costs included in the County’s submission but not included in the staff --

MS. LAGMAY: Staff recommendation.

MR. KAUFMAN: -- report -- recommendation to the board.

MS. LAGMAY: Okay. We’ll use that, okay?

MR. KAUFMAN: Clear as mud, right?

Do we need to somehow read that back again or are we -- do we have any sense of clarity?

UNIDENTIFIED SPEAKER: Re-word that.

MR. KAUFMAN: I’ll try this again.

MR. SANDOVAL: One more for the record, please.

MR. KAUFMAN: And I know there’s a lot of includeds
but I don’t care at this point as long as we all understand what it says. So the motion -- all right, this is a motion -- somebody should write this down while I say it.

A motion to approve Los Angeles County’s Phase 2 Project Documentation Plan and issue a Funding Award Letter in the amount of $2,803,990.25 including consideration of costs included in the County’s submission but not included in the staff’s recommendation to the board -- or the staff report to the board.

MR. SANOVAL: Let me -- let me see that.

MR. KAUFMAN: You’re not going to be able to read this. Did somebody write it down so we could read it back? Did it make sense?

MS. ALEXANDER: You had it better before.

MR. SANOVAL: Yeah.

MS. ALEXANDER: You had it before.

MR. KAUFMAN: Yeah. I think we still need the with the understanding piece.

MS. ALEXANDER: Understanding that L.A. may request additional funding from the state of the project including an original submission.

MS. LAGMAY: Yes.

MS. ALEXANDER: [inaudible]

MS. LAGMAY: That’s it.

MR. KAUFMAN: There, Kim got it.
MS. LAGMAY: Needed a City Clerk.

MS. ALEXANDER: Do you want me to say it again?

MR. KAUFMAN: Yeah.

MS. ALEXANDER: The rest of it was with understanding, -- with the understanding that Los Angeles may request additional funding for this phase of the project included in its original submission, but not included in the staff’s recommendation.

MR. SANDOVAL: I would change its slight to say may receive. Because to say may request makes it seems like it’s making another request. So I would make that amendment, may receive.

MR. KAUFMAN: You don’t have to make an amendment because she’s not even a member of the board.

MR. SANDOVAL: I’m using it in the vernacular not in a --

UNIDENTIFIED SPEAKER: Well she got it.

MR. KAUFMAN: Yeah.

MR. SANDOVAL: Yeah. That’s that makes -- with that little tweak, that will be great.

MR. KAUFMAN: I agree. Does somebody want to move?

MR. SANDOVAL: I move.

MS. LAGMAY: I second.

MR. KAUFMAN: We’ll take a vote. So I just -- I’m just concerned do we have a record of that in the minutes?
Did you get that? Okay. I just want to make sure we have it in writing somewhere. Thank you.

Thank you for your assistance, Kim.

All right. Let’s vote on this. All in favor of the motion, say aye.

MS. LAGMAY: Aye.

MR. SANÓVAL: Aye.

MR. KAUFMAN: All opposed. We’re good. Dean, you get your money and you have our caveats and --

MR. LOGAN: I’ll be back.

MR. KAUFMAN: -- reservation –

MS. LAGMAY: Yes?

MR. KAUFMAN: -- reservation of rights for future consideration.

MS. LEAN: So sir, we’ll go ahead and include that language in the Funding Award Letter.

MR. KAUFMAN: Yeah.

MS. LEAN: Okay.

MR. KAUFMAN: Let’s do that.

Okay. Do we have any other business? It seems like we have a few things ahead of us. While we’re on other business should we talk about a July meeting or given what we did are we okay waiting till August? Should we try and do a July meeting if it’s even feasible given everybody’s schedule.
MS. LAGMAY: I think it would depend what Alameda says.

MR. KAUFMAN: Yeah. Do you have any sense of that, Jana?

MS. LEAN: I do not. I’ll have to get a hold of them and find out.

MR. KAUFMAN: Okay. For what it’s worth, I’m unavailable those first two weeks but could be available sometime in the second two weeks of July given, you know, different days here and there but.

MR. SANDOVAL: Same here.

MS. LAGMAY: For the record, I’m gone the whole second half of July.

MR. KAUFMAN: Great. I think we just answered our question. But I don’t know.

UNIDENTIFIED SPEAKER: August 9.

MS. LEAN: So August it is. So I think the next meeting that is scheduled is Friday, August 9th.

MR. KAUFMAN: All right. We’ll live with that. You report back -- will you check with Alameda and tell us if there’s any urgencies and then we’ll deal with that if we have to try and deal with that?

MS. LEAN: Absolutely, sir.

MR. KAUFMAN: We’ll do phone calls from afar or whatever if we have to. Okay.

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Anything else we need to talk about before we adjourn for the day? Okay. With that I’ll take a motion to adjourn.

MS. LAGMAY: I move that we adjourn, Mr. Chair.

MR. KAUFMAN: Okay. And I know we have a second from Gabe.

MR. SANDOVAL: Second.

MR. KAUFMAN: And we’re all in favor of that so we are adjourned for the day.

MR. SANDOVAL: Yes.

MR. KAUFMAN: Thank you all for your participation today.

MR. SANDOVAL: Thank you.

(Thereupon, the Hearing was adjourned at 1:57 p.m.)

--oOo--
REPORTER’S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of June, 2019.

[Signature]

PETER PETTY
CER**D-493
Notary Public
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I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 31st day of June, 2019.

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