

State of California



SECRETARY OF STATE

CONDITIONAL APPROVAL OF USE OF *ELECTION SYSTEMS AND SOFTWARE* OPTICAL SCAN VOTING SYSTEM

I, JOHN MOTT-SMITH, Division Chief of the Elections Division of the Secretary of State's Office of the State of California, do hereby certify that:

1. *Election Systems and Software* of Omaha, Nebraska ("Vendor"), has requested approval for use in the City and County of San Francisco their Ranked Choice Voting (RCV) voting system consisting of Procedures for the Optech III-P Eagle and Optech IV-C, submitted on or about March 23, 2004 to be used in conjunction with the following system components:
 - a. ES&S Unity Version 2.4.2
 - i. Election Data Manager (EDM) V. 7.2.1.3 (RCV mod.)
 - ii. Audit Manager (AM) V. 7.0.2
 - iii. Optech Image Manager V. 3.2.0.0
 - iv. Hardware Programming Manager (HPM) V. 5.0.3.2 (RCV mod.)
 - v. Data Acquisition Manager (DAM) V. 5.0.3.0
 - vi. Election Reporting Manager (ERM) V. 6.4.3.2b (RCV mod.)
 - vii. RMCOBOL (COTS) V. 7.50.01
 - viii. COBOL-WOW (COTS) V. 3.12.00
 - b. ES&S Optech Ballot Scanners
 - i. IV-C, Model 400, Central Ballot Counter, Firmware V 1.08c (RCV mod.)
 - ii. Eagle III-P Precinct Ballot Counter
 - c. IDA Board with PIC Micro Controller, Firmware V. RCV 74r1
 - i. HPS EEPROM, Firmware V. 1.30 (RCV mod.)
 - ii. BIT EEPROM, Firmware V. 1.10 (RCV mod.)
 - d. Other Hardware
 - i. ES&S Memory Packs, APS EEPROM, Firmware V. 1.52RCV (RCV mod.)
 - ii. Peripherals to a PC supporting Unity 2.4.2 RCV
 - A. Memory Pack Reader (MPR)/IDA with PIC Micro Controller IDA 1.02.01
 - B. OmniDrive Pro (to upload PCMCIA card ballot images to ERM)
2. The request for approval of the voting system as described in Paragraph 1, was considered at a duly noticed public hearing held February 17, 2005, at Sacramento, California.

3. The Voting Systems and Procedures Panel has recommended that the request for approval be granted, with certain conditions.
4. Election Systems and Software's Ranked Choice Voting System is hereby approved for use subject to the following terms and conditions:
 - a. No substitution or modification of the voting system described in Paragraph 1 shall be made with respect to any component of the voting system, including the Procedures submitted on or about March 23, 2004, until the Secretary of State has been notified in writing and has determined that the proposed change or modification does not impair the accuracy and efficiency of the voting system sufficient to require a re-examination and approval;
 - b. The voting systems may only be used in the City and County of San Francisco;
 - c. The voting systems may only be used through December 31, 2005;
 - d. The RCV components may only be used with State-certified equipment;
 - e. Voter education shall be conducted to ease potential voter confusion, with an emphasis on ballot layout design;
 - f. Actual voted ballots must be used for recounts; ballot records and images may not be used to satisfy the mandatory 1% manual recount required by state law;
 - g. The City and County of San Francisco is urged to prepare separate ballots for ranked choice voting in order to avoid potential confusion when casting ballots in elections that have both traditional and ranked choice voting options;
 - h. Election Systems and Software agrees in writing to provide, and shall provide, to the Secretary of State, or to the Secretary of State's designee, within 30 (thirty) days of the Secretary of State's demand for such, a working version of the voting system as described in Paragraph 1, including all hardware, firmware and software of the voting system, as well as the source code for any software or firmware contained in the voting system as described in Paragraph 1, including any commercial off the shelf software or firmware that is available and disclosable by the vendor, provided that the Secretary of State first commits to Election Systems and Software in writing to maintain the confidentiality of the contents of such voting system or source code so as to protect the proprietary interests of Election Systems and Software in such voting system or source code. The terms of the commitment to maintain confidentiality shall be determined solely by the Secretary of State, after consultation with Election Systems and Software. The voting system described in Paragraph 1 shall not be installed in any California jurisdiction until such an agreement has been signed by Election Systems and Software;

- i. Any reasonable costs associated with the review of the source code for any software or firmware contained in the voting system as described in Condition “h” shall be borne by Election Systems and Software;
- j. The Secretary of State reserves the right, with reasonable notice to the Vendor and to the counties using the voting system, to modify the Procedures used with the voting system and to impose additional requirements with respect to the use of the system if the Secretary of State determines that such modifications or additions are necessary to enhance the accuracy, reliability or security of the voting system. Such modifications or additions shall be deemed to be incorporated herein as if set forth in full;
- k. Any county using any voting system described in Paragraph 1 shall, prior to such use, file with the California Secretary of State a copy of its Election Observer Panel plan.



IN WITNESS WHEREOF, I hereunto set my hand and affix the Great Seal of the State of California, this 7th day of March, 2005.

A handwritten signature in cursive script that reads "John Mott-Smith".

JOHN MOTT-SMITH
Division Chief, Elections