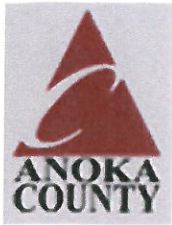


cc: City manager
Fin. Director
Hess



ANOKA COUNTY ELECTIONS AND VOTER REGISTRATION
325 East Main Street
Anoka MN 55303
(763) 323-5275
(763) 422-7526 (fax)
elections@co.anoka.mn.us

MEMORANDUM

TO: City and School District Election Clerks and Administrators
FROM: Cindy Reichert, Anoka County Elections Manager
SUBJECT: Joint Powers Agreement for Conduct of Elections
DATE: October 5, 2012

A voting equipment system is comprised of many components that work together to define ballots, cast and count votes, report, transmit, and display election results, and produce election audit information. The system includes ballot counters, ballot boxes, ADA compliant ballot markers, various software and hardware programs, servers, modems, and other ancillary system components.

The system currently in use in all precincts of Anoka County is the "Accuvote Precinct Optical Scan System" purchased in 2000 from Global Election Systems. That purchase was based on a shared ownership model and required each city in Anoka County to purchase ballot counters and ballot boxes for use in the city voting precincts. The County also purchased several ballot counters to use as back-ups should any of the city-owned equipment need replacement, and has since purchased several reconditioned ballot counters to ensure successful operation of elections through calendar year 2012. The county has continually maintained responsibility for components used county-wide, like system software, servers, and modems.

The time has come to replace the system. The equipment and its software run in a DOS platform that is no longer supported, and new units and parts are no longer available in the marketplace. The most unstable component is our system server which also operates on a DOS platform. That server cannot be replaced and the software that drives the system will not run in a more modern environment. It is imperative that the entire voting equipment system be replaced at the earliest opportunity.

Anoka County has been working toward a complete system replacement scheduled for early 2013. Our staff has collaborated with Election Managers of several other MN Counties, and with the Office of the Secretary of State to determine our needs and options. We've also procured grant funds issued through the Help America Vote Act to partially offset the cost of the replacement. Changes in election law, technology and equipment certification standards have affected not only the technology we use, but the business model of system vendors. As a result, costs have risen considerably.

Our planning has required us to consider many factors and we've worked to engage our partner cities and school districts in discussion. The result is a proposal to enter into a Joint Powers Agreement which addresses not only the equipment purchase itself, but also establishes a model for delivery of election services within our county.

Process for Proposal Development

In 2010 County election staff organized the "ACE Work Group" comprised of city and school district election administrators. Together we performed a systematic examination of the processes, responsibilities and

obligations of each party to Anoka County's election system. We looked at administrative and technical processes, discussed how election services could be delivered in the most logical and cost-effective way, and implemented organizational and procedural improvements in our precincts and respective offices. Throughout the study and planning process the following basic premises were considered by our participants:

- The electoral process is the bedrock of democracy and must be administered with the utmost level of professionalism and integrity
- Government should provide necessary services in an efficient and effective manner at the lowest possible cost
- Solutions developed must ease administrative burden and control the cost of services
- The division of duties between county and local governmental units must be logical and effective
- System security and legal defensibility must be maintained
- Cost-sharing models to support the voting system must be equitable for all parties

We also developed a cost sharing proposal for the next equipment purchase that goes beyond the initial capital purchase and provides on-going support to ensure the future integrity of the system.

Following development of the ACE Work Group proposal, the "Anoka County Voting Equipment Task Force" was convened. This group, comprised of city and school administrators and board members, has met twice in 2012 to review, discuss, and adjust the plan. We are now ready to propose its adoption.

Proposed Multi-Jurisdiction Election Agreement

The ACE Workgroup and Anoka County Voting Equipment Task Force are recommending adoption of an agreement between election jurisdictions in Anoka County that establishes Anoka County as the sole owner of the voting equipment system and calls for an annual fee to be paid to the county by cities and school districts to supplement system costs.

The model used for our last system purchase separated ownership of the system into various pieces and parts, and did not address issues related to the system as a whole such as maintenance, required software and hardware upgrades, and replacement of non-functioning units. Establishing Anoka County as sole owner allows us to more effectively manage the vendor contracts and administrative tasks that apply county-wide.

Rather than transferring ownership of individual components to our cities and schools, the county would collect a fee to supplement system costs. The proposed fee will be based on actual (and defined) capital and operating costs of the voting equipment system with cities paying 30% of the total cost and schools paying 15%, leaving the county with responsibility for 55% of the total cost. Within those percentages, the cost to each individual city and school district will be based upon their population at the time of the 2010 census.

We are also recommending that the agreement include provisions to address other election duties and responsibilities.

Statutes require the Office of the Secretary of State to develop a cost sharing plan for jurisdictions that share the same ballot. That plan allows cities to invoice school districts according to a complex formula for services that are not well defined. Jurisdictions can choose to use either the OSS cost sharing plan or share costs according to a negotiated agreement, *as long as that agreement addresses all expenses included in the OSS plan.*

Our recommendation is to include language in our agreement that addresses each election duty spelled out in the OSS cost sharing plan. Both cities and schools would contribute their share to the county-wide system via

the annual fee outlined above. The contribution of 15% of the total cost of the election system from schools effectively reduces the amount cities would be responsible for from 45% to 30%. In turn, cities would be prohibited from invoicing the schools for the “other election costs” specified in the agreement. This formula recognizes each party’s statutory obligation to share costs, simplifies the fee structure, eliminates the flurry of potentially disparate invoices, and allows all parties to plan for a relatively stable budget expenditure each year.

2013 Voting Equipment Purchase

Instability in the marketplace has led to a crisis in development and manufacturing of voting equipment in the United States. New laws were put into place with the adoption of the Help America Vote Act and a new federal agency, the Election Assistance Commission (EAC), was created to oversee voting equipment certification and distribution of federal grants for voting equipment replacement. That agency proved ineffectual and certification of equipment was at a near stand-still for several years. In the meantime, a series of corporate acquisitions left just a handful of vendors in business, seriously reducing competition.

As a result, Minnesota (which requires all voting equipment to meet federal certification standards) has not certified “next generation” voting equipment. We are currently in a certification application blackout time period that will lift on December 1, 2012. We expect to see applications to our state from at least two voting equipment manufacturers in December. Once our choices have been established we must act quickly to make the purchase so that our new system can be fully operational in time for the fall 2013 local elections. Deployment of the system for 2013 local elections is highly desirable so that election administrators, poll workers, and voters can become familiar with the system well in advance of the State General Election of 2014.

Purchase and Agreement Approval Timeline

Timing of the certification and subsequent equipment purchase affects our agreement approval timeline. Though our cities and schools have expressed agreement in concept, specific system costs will not be known until early 2013. In the meantime, detailed estimates have been prepared and forwarded to each city and school district in Anoka County to include in their 2013 budget. Members of the Anoka County Board of Commissioners have been consulted throughout the process and are supportive of the efforts and recommendation made by the Work Group and Task Force. The County budget has also been structured to incorporate all elements of the equipment purchase and cost-sharing proposal.

The Anoka County Elections Manager is available to attend city/school meetings or work sessions to answer questions and address concerns between October 15th and December 21st. The proposed timeline for review and approval is as follows:

Joint Powers Agreement available from County Attorney	October 31
Draft distributed to Voting Equipment Task Force for review and comment	November 1 – 5
Anoka County Management Committee review and approval	November 13
Anoka County Board review and approval	November 27
Deadline for approval by all parties to the agreement	December 31

- Attachments:** Summary of Proposed Agreement Features
Duties and Responsibilities of Each Party to the Agreement
Statutory Provisions Regarding Division of Election Costs

Summary of Proposed Agreement Features

General Information and Benefits

- Parties: County, Cities, Schools
- Recognizes statutory responsibilities of each party
- Allows for management of county-wide system as a whole
- Standardizes cost-sharing for all jurisdictions in the county
- Simplifies billing structure and minimizes charge-backs between jurisdictions
- Provides platform for consistent budget planning year to year
- Considers most logical division of duties (county-wide v local, city v school)
- Eliminates need for secondary equipment lease agreements between jurisdictions (odd/special)

Equipment System Capital Purchase

- County procures and owns system and all components
- Cities store precinct equipment
- Government partners (cities and schools) reimburse county for part (45%) of cost
 - Each City pays to county an amount equal to 30% of net capital cost after HAVA grant funds expended multiplied by the proportion of total Anoka County population residing in that city at time of 2010 census
 - Each School District pays to county an amount equal to 15% of net cost after HAVA grant funds expended, multiplied by the proportion of total Anoka County population residing in that district at time of 2010 census
- Payment pro-rated over 10 years (2013 through 2022)
- Payments due to county annually September 1st (2013 payment due upon receipt of invoice)
- Net cost amount TBD after purchase early-2013 (estimates have been provided for budget purposes)

Equipment System Operating Costs

- County administers contracts for maintenance and software licenses on which fee is based
- Government partners (cities and schools) reimburse county for part (45%) of actual cost of maintenance and software license contracts
 - Each City pays to county an amount equal to 30% of annual cost of system maintenance and licenses, multiplied by that proportion of total Anoka County population residing in city at time of 2010 census
 - Each School District pays to county an amount equal to 15% of annual cost of system maintenance and licenses multiplied by that proportion of total Anoka County population residing in city at time of 2010 census
- Payments due to county annually September 1st

Agreement Addresses the Following Election Duties, Responsibilities and Cost Allocations

- Ballot Preparation and Printing
- Voting Equipment Programming
- Voting Equipment Testing
- Preparation of Polling Places
- Absentee Ballot Postage
- Transportation of Ballots and Election Supplies
- Election Judge Administration
- Contracted Election Administration Agreements
- County Equipment Lease and/or Programming Services Outside Contract
- Use of software for logistics and operation of elections

Duties and Responsibilities of Each Party

- Election Categories**
- Category A: Federal Offices
State Offices or Constitutional Amendments
Judicial Offices
County Offices or Ballot Questions
Soil and Water District Offices or Ballot Questions
 - Category B: Municipal & Township Offices or Ballot Questions
 - Category C: School District Offices or Ballot Questions
 - Category D: Hospital District Offices or Ballot Questions

County Responsibilities

Except as otherwise provided in the contract or required by statute, the County shall be responsible for the purchase and on-going maintenance of the Voting Equipment System as defined herein.

For all category A, B, C and D elections conducted in or by Anoka County, Anoka County shall:

- Provide to the Governmental Entities those components of the Voting Equipment System necessary to ensure suitable and operational equipment is available in each precinct of the election.
- Provide programming services for all components of the voting equipment system including ballot counters, ballot markers, electronic poll books, and other components of the voting equipment system used to mark, count, record or report election returns and statistics.
- Perform programming and testing of the State Election Reporting System interface, subject to policies of the State.
- Develop a voting equipment testing plan according to statutory requirements for each election
- Provide ballot design and layout services, and arrange for the printing of ballots to be used in the elections
- For each Governmental Entity, determine that proportion of the ballot devoted to offices and questions for that entity as a percentage of the total number of column inches on the ballot, and provide an invoice to the Governmental Entity for that share of the cost of ballot printing, paper and normal delivery charges.
- Pay the cost of postage for all domestic mailed absentee ballots cast in the county and absentee ballots cast under the Uniformed Overseas Citizens Absentee Voting Act (UOCAVA) except those absentee postage costs incurred by Municipalities designated to administer absentee voting laws under M.S. 203B.05.

Municipal Responsibilities

Throughout the duration of the contract, each municipality shall be responsible for storage of the ballot counters, ballot markers, and ballot boxes assigned by the county to that municipality. Municipalities shall make those system components available to other entities assigned their use by the county. Municipalities shall also utilize county provided software to track the assignment, deployment, chain of custody, and associated logistical operations of said equipment in Anoka County.

For all category A and/or B or D elections the Municipalities shall:

- Upon receipt of the county equipment testing plan, perform all duties and assume all costs associated with the production of test decks, and conduct of pre-election and post-election tests and audits of precinct voting equipment
- Perform all duties and assume all costs required to arrange for the use of polling places in the manner required by Minnesota election law, for ensuring the physical set up of rooms and furnishings are conducive to the voting process, and for ensuring that all necessary equipment and supplies are delivered to the polling place for use on Election Day.
- Pick up ballots, supplies and equipment from the Anoka County Elections and Voter Registration Office in Anoka and other storage locations that may be arranged from time to time, and transport them to and from the polling place.
- Perform all duties and assume all costs related to recruiting, hiring, and paying Election Judges for all hours served including, training, testing, election day assignments, and any other work assignments associated with the election.
- Upon receipt of county-issued invoice, pay that portion of the cost of ballot printing, paper and normal delivery charges incurred by the Municipality.

School District Responsibilities

For all elections which include only category C offices and questions, the School District shall:

- Upon receipt of the county equipment testing plan, perform all duties and assume all costs associated with the production of test decks, and conduct of pre-election and post-election tests and audits of precinct voting equipment
- Perform all duties and assume all costs required to arrange for the use of polling places in the manner required by Minnesota election law, for ensuring the physical set up of rooms and furnishings are conducive to the voting process, and for ensuring that all necessary equipment and supplies are delivered to the polling place for use on Election Day.
- Pick up ballots, supplies and equipment from the Anoka County Elections and Voter Registration Office in Anoka and other storage locations that may be arranged from time to time, and transport them to and from the polling place.
- Perform all duties and assume all costs related to recruiting, hiring, and paying Election Judges for all hours served including, training, testing, election day assignments, and any other work assignments associated with the election.
- Upon receipt of county-issued invoice, pay that portion of the cost of ballot printing, paper and normal delivery charges incurred by the Municipality.

STATUTORY PROVISIONS REGARDING DIVISION OF ELECTION COSTS
204B.32 Subd. 2

Statute outlines responsibility for paying election-related expenses. Provides for cost sharing among jurisdictions sharing a single ballot according to voluntary agreement between parties, or according to Secretary of State Allocation Procedures.

204B.32 ELECTION EXPENSES; PAYMENT.

Counties shall pay:

- compensation for personnel performing elections duties on behalf of the county
- the cost of printing the state primary and general election ballot
- the cost of printing the county primary and general election ballot
- all necessary expenses incurred by county auditors in connection with elections
- all expenses related to special county elections.

Municipalities shall pay (subject to Subd. 2):

- the compensation prescribed for election judges and sergeants at arms
- the cost of printing the municipal ballots
- providing ballot boxes
- providing and equipping polling places
- all necessary expenses of the municipal clerks in connection with elections

School districts shall pay - Non-state election year (Odd):

- the compensation prescribed for election judges and sergeants-at-arms
- the cost of printing the school district ballots
- providing ballot boxes
- providing and equipping polling places
- all necessary expenses of the school district clerks

School districts shall pay - State election year (Even):

- printing the school district ballots
- providing ballot boxes
- all necessary expenses of the school district clerk

Secretary of State Allocation Procedures (204B.32, Subd. 2)

Cost of items listed below shared by jurisdictions on the same ballot

- salaries of election judges
- postage for absentee ballots and applications
- preparation of polling places
- preparation and testing of electronic voting systems
- ballot preparation (programming, layout, proofing and printing)
- publication of election notices and sample ballots
- transportation of ballots and election supplies
- administrative expenses of auditor, municipal clerk, school district clerk

Formula: Share = (total election costs) x (% voters in jurisdiction) x (% of ballot)