

1 [Contract Amendment - Voting System - Not to Exceed \$21,980,691.25]

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3 **Ordinance authorizing the Department of Elections to enter into the Fourth Amendment**
4 **of an agreement with Dominion Voting Systems, Inc. to extend the term of the**
5 **agreement through December 31, 2018, increasing the total not-to-exceed amount of**
6 **the Agreement by \$2,289,758, from \$19,690,933.25 to \$21,980,691.25.**

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8 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
9 **Additions to Codes** are in *single-underline italics Times New Roman font*.
10 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
11 **Board amendment additions** are in double-underlined Arial font.
12 **Board amendment deletions** are in ~~strikethrough Arial font~~.
13 **Asterisks (* * * *)** indicate the omission of unchanged Code
14 subsections or parts of tables.

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13 Be it ordained by the People of the City and County of San Francisco:

14 **Section 1. Findings.** The Board of Supervisors of the City and County of San
15 Francisco hereby finds that:

16 (a) In March 31, 2005, the Department of Elections issued a Request for Proposal
17 (RFP) for new voting equipment and voting equipment services. The RFP, pursuant to San
18 Francisco Administrative Code 21.9(a)(2), stated the contract would be for an initial term of
19 four years, with two options to renew for one year each. Sequoia Voting Systems, Inc.
20 (Sequoia) was the highest ranked proposer.

21 (b) In December 2007, the City entered into a contract with Sequoia for the
22 purchase of new voting equipment and voting services (Agreement), as approved by the
23 Board of Supervisors under Resolution No. 654-07. As set out in the RFP, the initial term of
24 the Agreement was four years, from December 11, 2007 to December 11, 2011, with two
25 options for the City to renew for one year each. Dominion Voting Systems, Inc. (Dominion)

1 acquired substantially all of the assets of Sequoia on June 4, 2010, and assumed Sequoia's
2 Agreement with the City.

3 (c) In November 2011, the City exercised its two one-year options and extended the
4 Contract through December 11, 2013, at a cost not-to-exceed \$3,645,900, as approved by the
5 Board of Supervisors under Resolution No. 494-11. Under these extensions, Dominion
6 continued to provide voting services at the rates in effect for 2007-2011 and City was not
7 required to purchase new voting machines.

8 (d) In November 2013, the Board of Supervisors approved an ordinance extending
9 the term of the contract through December 10, 2016 under File No. 269-13. Under that
10 extension, Dominion continued to provide voting services at the rates in effect for 2007-2011
11 and City was not required to purchase new voting machines.

12 (e) The Department of Elections now desires to extend the Agreement through
13 December 31, 2018, at a cost not-to-exceed of \$2,289,758 for the Fourth Amendment. Under
14 this extension, Dominion would continue to provide voting services ~~at the rates in effect for~~
15 ~~2007-2016~~ at increased rates in effect for 2017-2018, and City would not be required to
16 purchase new voting machines.

17 (f) This extension is necessary for five reasons. First, the last time the Department
18 of Elections issued an RFP for a new voting system, the RFP process took over two and a
19 half years to complete given the complicated nature of the purchase. Second, the
20 Department of Elections does not anticipate having additional funds to secure new voting
21 equipment in the current fiscal year, and thus will continue to use the current system. Third,
22 there are no new voting systems currently available that have been certified by the Secretary
23 of State and can accommodate elections using Ranked Choice Voting. Fourth, only one
24 contractor offers Ranked Choice Voting options, which is the City's current contractor,
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1 Dominion. Finally, the City has begun the process of developing an open source voting
2 system, but that system will not be ready for at least two years.

3 **Section 2. Approval of Fourth Amendment**

4 (a) The Fourth Amendment to the Agreement is on file with the Clerk of the Board of
5 Supervisors in File No. 161094, substantially in final form, with all material terms and
6 conditions included, and only remains to be executed by the parties upon approval of this
7 Ordinance. The Board of Supervisors hereby approves the Fourth Amendment to the
8 Agreement in substantially the form contained in File No. 161094.

9 (b) The Board of Supervisors authorizes the Department of Elections to enter into
10 any modifications that, prior to final execution of the amendment by all parties, the
11 Department of Elections determines, in consultation with the City Attorney, are in the best
12 interest of the City, do not otherwise materially increase the obligations or liabilities of the City,
13 are necessary or advisable to effectuate the purposes of the Agreement, and are in
14 compliance with all applicable laws, including City's Charter.

15 (c) In approving this Fourth Amendment, the Board of Supervisors finds that it is
16 reasonable and in the public interest to waive, and does hereby waive, the requirement of
17 Administrative Code Section 21.9 that all City contracts for commodities and/or services be
18 limited to the initial terms and period of extensions included in the solicitation.

19 (d) Within 30 days of the parties executing the Fourth Amendment to the
20 Agreement, the Department of Elections shall submit to the Clerk of the Board of Supervisors
21 a completely executed copy for inclusion in File No. 161094. This requirement and obligation
22 resides with the Department of Elections, and is for purposes of having a complete file only,
23 and in no manner affects the validity of the approved Fourth Amendment to the Agreement.

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1 **Section 3. Open Source Voting.**

2 The Director of Elections shall provide a written update and presentation to the Board
3 of Supervisors during the FY 2017-18 and FY 2018-19 budget process on the status of
4 implementing the open source voting system and alternatives if the open source voting
5 system is not completed by December 2018.

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7 **Section 34. Effective Date.** This ordinance shall become effective immediately upon
8 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
9 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
10 of Supervisors overrides the Mayor's veto of the ordinance.

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13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

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16 By: _____
17 JOSHUA S. WHITE
18 Deputy City Attorney

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