Memorandum

To: Honorable London. N. Breed, Mayor
              Honorable Members, Board of Supervisors

From: John Arntz, Director

Date: November 4, 2022

RE: Update on the Status of the Open Source Voting System Pilot Program in San Francisco

The purpose of this memorandum is to provide the Mayor and Board of Supervisors (Board) with an update on the Open Source Voting System Pilot Program in San Francisco that the Board authorized on February 4, 2022 under Ordinance No. 12-22. The ordinance required the Department of Elections (Department) to "submit information documenting the City's intended open source voting pilot program to the California Secretary of State, on behalf of the Board of Supervisors, and, upon approval of the Secretary of State, to implement such a system for use at the November 8, 2022 election."

On February 7, 2022, the Department submitted a final version of an application to the Secretary of State's Office (SOS) requesting the SOS's approval for the City to use components of an open source voting system provided by the vendor VotingWorks. The Department and the vendor continued to discuss the application with and provide updated documents to the SOS until early May.

On May 6, 2022, the SOS denied the application. The SOS noted that the voting system was incomplete and unable to conduct elections in San Francisco:

> "While our office is open to pilots involving voting systems using open-source platforms, it is just as important that these systems, like every other current voting system in use in California, comply with all state and federal election laws and function as designed and as required by law to ensure the integrity and security of the votes being cast is protected. Because the proposed system is not complete and still under development, including but not limited to the Rank Choice Voting portion of the system, and testing by the City and County of San Francisco to ensure the functionality works has not been conducted, your request to conduct a pilot program pursuant to California Elections Code section 19209 during the November 8, 2022, Consolidated General Election is denied." (Attachment 1)

While not discussed in the letter from the SOS, San Francisco Charter Section 13.102 requires that most local officials be elected using ranked-choice voting. Thus, any voting system used during a pilot program at a general election in San Francisco must be able to accommodate ranked-choice voting contests.

Subsequent to the SOS denying the City's application for approval to conduct the pilot program, the SOS scheduled monthly meetings regarding updates on development of VotingWorks' system. Included in the meetings are VotingWorks, Board President Walton's office, the City Attorney's Office, Elections Commission President Chris Jerdonek, and the Department of Elections.

In the notes from the most recent meeting occurring on October 14, the SOS states that VotingWorks has indicated that "(n)o further development of the SF system has taken place since submittal of the initial

application in January of 2022," and that "(t)here are no milestones to report." The SOS also states that "VotingWorks still needs to develop the RCV functionality as required by the County of SF." (Attachment 2)

Between the time the SOS denied the City's application in May seeking to conduct the pilot program and the October meeting, the SOS submitted proposed regulations related to the experimental use of a voting system in a pilot program to the Office of Administrative Law (OAL) on August 5, 2022. According to the SOS, these regulations would "provide California jurisdictions a clear, concise path when seeking the experimental use of a voting system in a pilot program. (The documents associated with these proposed regulations can be viewed at: **www.sos.ca.gov/administration/regulations/proposed-regulations**). The SOS accepted written comments on the proposed regulations related to pilot voting systems through September 19, 2022, then held a public hearing on September 20, 2022, and is currently reviewing all the comments received regarding the regulations.

In summary, to implement the VotingWorks system to conduct a pilot program at a general election in San Francisco, the SOS must adopt the final regulations for the experimental use of voting system in a pilot program. Also, VotingWorks must complete the development of its system, including the ranked-choice voting component, before an application to use its system in a pilot program in San Francisco can be approved.

I will be glad to answer any questions or provide more information regarding these matters.

cc: David Chiu, City Attorney
        Elections Commission