

THE MECHANICAL HAND COUNT VOTING SYSTEM

In the
COUNTY of SHASTA

LEX REX

INSTITUTE

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I. OVERVIEW

- (a) This document sets forth the purpose, plan, and procedure for Shasta County (the “County”) to conduct the tabulation of Ballots cast and report Election results using a mechanical hand count Voting System, in compliance with the State of California’s requirement that each County select a Voting System, devise a Plan for implementation of that system, hold a public hearing, and present that Plan to the Secretary of State for approval more than one hundred and twenty (120) days before the date of an Election.¹ California Elections Code (“Cal. Elec. Code”) § 4005.10(H)(i).
- (b) A County Elections Official has the discretion, with reasonable public notice, to amend a Plan for the administration of Elections. The Elections Official must provide at least thirty (30) days to accept public comments on the amended Plan. Cal. Elec. Code § 4005.10(H)(i)-(ii).
- (c) This document serves as a guide to implement mechanical hand counting as the new Voting System.
- (d) The unbiased, nondiscriminatory, and unemotional mechanical hand counting, by a team that checks and double checks the work of all on the team, is essential to restoring public confidence in the tabulation of their votes.

II. PURPOSE

- (a) The purpose of this Plan is the implementation of Policy as resolved by the Shasta County Board of Supervisors (the “BOS”) at a regularly scheduled and agendized meeting on January 24, 2023, whereby the BOS, after proper notice and conduct of a public hearing, voted to cancel the existing contract with Dominion Voting Systems (the “Dominion Contract”). Policy consists of those rules, standards, and procedures that are enacted, developed, and implemented by federal, state, and local government entities. The BOS, as the local governmental entity, properly enacts, develops, and implements Election procedures within the County’s jurisdictional boundaries. The Dominion Contract provided for electronic tabulation and counting. Cancellation of the Dominion Contract, a Policy action properly taken by the BOS, requires the County Elections Official to devise a workable Plan to comply with the BOS’s Policy directions, while remaining compliant with the California Elections Code for the conduct of mechanical hand counting as the preferred Voting System.
- (b) The BOS’s reason for this change is to mitigate the increasing erosion of public confidence in the integrity of Elections, which the BOS believes is in part attributable to centralized and corporate-controlled Voting Machines and electronic counting. The BOS further seeks to restore public confidence in local Elections by ensuring that Ballot counting and tabulation is conducted by community members, without depending on third-party contractors.

¹ A provisional pilot program is an exception to this Plan, as provided for by code, and discussed in § XI of this Plan.

II – PURPOSE

- (c) This purpose furthers the County Clerk’s/Registrar of Voters’ (the “ROV”) Mission Statement “to promote public confidence and goodwill by providing the very highest level of courteous, efficient service. Further, to ensure the highest possible degree of integrity of the County’s Election process through administration of all federal, state, and local Election laws in a uniform, consistent, and accessible manner.”²
- (d) The purpose of this Plan is to implement BOS Policy, comply with state and federal law, and accomplish the ROV’s mission

III. DEFINITIONS

In order to provide greater coherence, this section defines relevant terms used throughout this Plan.

- (a) **“Ballot”** shall refer to the following:
 - (1) The combination of a card with number positions, that is marked by the Voter, and the accompanying reference page or pages containing the names of candidates and the ballot titles of measures to be voted on, with numbered positions corresponding to the numbers on the card.
 - (2) One (1) or more cards upon which are printed the names of the candidates and the ballot titles of measures to be voted on by punching or marking in the designated area.
 - (3) One (1) or more sheets of paper upon which are printed the names of candidates and the ballot titles of measures to be voted on by marking the designated area and that are tabulated manually or by optical scanning equipment.
 - (4) (1) An electronic touchscreen upon which appears the names of candidates and ballot titles of measures to be voted on by touching the designated area on the screen.
 - (2) An electronic touchscreen may qualify as a ballot even for systems that contain paper Ballots if the votes are tabulated manually or by optical scanning equipment. Cal. Elec. Code § 301.
- (b) **“Ballot Statement”** shall refer to the record of the number of Ballots cast. Cal. Elec. Code § 15302(c).
- (c) **“BOS”** shall refer to the lawfully seated and sworn Shasta County Board of Supervisors.
- (d) **“Canvass”** shall refer broadly to the public processing and tallying of Ballots in an Election. Within this Plan, the Canvass occurs in three stages: (1) Preliminary (telephonic or text) Returns; (2) Semi-Official Returns; and (3) Official Returns.
- (e) **“Central Location(s)”** shall refer to the secure warehouse(s) or central processing center(s) for accepting and counting vote-by-mail Ballots, accepting and ascertaining the return of the

² Mission statement available at: <https://www.shastacounty.gov/county-clerk>

III – DEFINITIONS

Semi-Official Canvass, conducting the Official Canvass, and performing any recounts made necessary due to tie vote or petition.

- (f) **“Central Location Counting”** shall refer to the counting of Ballots performed at the Central Location.
- (g) **“Central Location Board”** and/or **“Central Location Board Teams”** shall refer to the team of Elections Workers appointed by the Elections Official to serve at the Central Location(s). The Central Location Board Teams shall be responsible for accepting and counting vote-by-mail Ballots, accepting and ascertaining the return of the Semi-Official Canvass, conducting the Official Canvass, and performing any recounts made necessary due to tie vote or petition. The design is based on the “Precinct Boards.” However, while the Precinct Board allows only one (1) team to count and tally the votes at the Precinct, the Central Location Board may have multiple teams. Cal. Elec. Code § 339(a).
- (h) **“Central Location Board Member”** shall refer to any member of the Central Location Board and includes regular Elections Workers and the Central Location Board Supervisor (i.e., an “Inspector”). It is patterned after Precinct Board Members, and may include Precinct Board Members who have completed their duties at the Precinct level. Cal. Elec. Code § 339(c).
- (i) **“Central Location Board Supervisor”** shall refer to the supervisor of a Central Location Board at the Central Location(s). The California Elections Code refers to this individual as an Inspector. Cal. Elec. Code § 325.
- (j) **“Close of Polls”** shall refer to the time on Election Day after which all polling stations cease accepting new Voters for the casting of Ballots. This time is established by the relevant electoral authority. Voters already in line at this time are generally permitted to cast their Ballots. Cal. Elec. Code § 10541.
- (k) **“County”** shall refer to Shasta County.
- (l) **“Election”** shall refer to any election, including a primary election, that is provided for under this code. Cal. Elec. Code § 318.
- (m) **“Election Day”** shall refer to the date on which an Election takes place.
- (n) **“Elections Official”** shall refer to any of the following:
 - (1) A clerk or any person who is charged with the duty of conducting an Election.
 - (2) A County clerk, city clerk, Registrar of Voters, or Elections supervisor having jurisdiction over Elections within the County. Cal. Elec. Code § 320.³
- (o) **“Elections Worker”** shall refer to a person who works in an Election in an official capacity.
- (p) **“General Election”** shall refer to either of the following:

³ The use of the term “Elections Official” shall be construed to have the same meaning as the California Election Code’s use of the term “Clerk.”

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- (1) The Election is held throughout the state on the first Tuesday after the first Monday of November in each even-numbered year.
 - (2) Any statewide Election held on a regular Election date as specified in Cal. Elec. Code §1000. Cal. Elec. Code § 324.
- (q) **“Oath”** includes affirmation. Cal. Elec. Code § 335.
- (r) **“Official Canvass”** shall refer to the public process of processing and tallying all Ballots received in an Election, including, but not limited to, provisional Ballots and vote-by-mail Ballots not included in the Semi-Official Canvass. The Official Canvass also includes the process of reconciling Ballots, attempting to prohibit duplicate voting from vote-by-mail and provisional Voters, and the performance of the manual tally of all Precincts. Cal. Elec. Code § 335.5.
- (s) **“The Plan”** shall refer to the entire contents of this document and any appendices or exhibits, created to provide a guide, processes, and procedures for implementing mechanical hand counting in the County.
- (t) **“Policy”** shall refer to those rules, standards, and procedures that are set, developed, approved, and implemented by the BOS.
- (u) **“Precinct”** shall refer to either:
- (1) A geographical area within the County that is made up of Voters and is formed pursuant to Cal. Elec. Code §§ 12200 – 12262.
 - (2) The designated polling place within that Precinct. This is a location where a Voter casts a Ballot and includes the following terms, as applicable: poll, polling location, and vote center. All Voters from the same Precinct are assigned to a specific location to vote in each Election. Cal. Elec. Code §§ 338.5, 338.6.
- (v) **“Precinct Board”** shall refer to the team of Elections Workers appointed by the Elections Official/ROV to serve at a single Precinct or a consolidated Precinct.
- (1) In an Election conducted using consolidated Precincts (i.e., Vote Centers), **“Precinct Board”** shall refer to the team of Elections Workers appointed by the Elections Official to serve at a Vote Center. Cal. Elec. Code § 339(a).
 - (2) When used in relation to proceedings taking place after the polls have closed, **“Precinct Board”** likewise shall refer to any substitutive Canvassing and counting Board that may have been appointed to take the place of the Board theretofore serving. Cal. Elec. Code § 339(b).
- (w) **“Precinct Board Member”** shall refer to a member of the Precinct Board and includes Elections Workers and a Precinct Board Supervisor (an Inspector). Cal. Elec. Code § 339(c).
- (x) **“Precinct Board Supervisor”** shall refer to the supervisor of Precinct Boards at the Precinct level. California Elections Code refers to this individual as an Inspector. Cal. Elec. Code § 325.
- (y) **“Precinct Counting”** shall refer to the counting of Ballots performed at the Precinct location.

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- (z) **“Registrar of Voters”** and/or **“ROV”** shall refer to the County Elections Official, County clerk, city clerk, or other officer or Board charged with the duty of conducting any Election. In Shasta County, the ROV is the elected County clerk. Cal. Elec. Code § 307.
- (aa) **“Returns”** shall refer to the official reports or statements of votes counted and verified in the Canvass, summarizing the total number of votes cast for each candidate or issue. Returns represent the finalized outcome of the Canvass process, at each stage. For instance, the results of the Semi-Official Canvass are summarized in the Semi-Official Returns.
- (bb) **“Roster”** shall refer to the official list of Voters for an Election, which may be in paper or electronic form. The Roster becomes the official list of Voters who have voted in the Election once signed by the Voter or marked by the Elections Official. The Precinct Board shall make a record upon the Roster of the number of Ballots in the Ballot box, the number of signatures on the Roster, and the difference, if any. Cal. Elec. Code §§ 349.5, 15271. **“Roster”** shall include the California Elections Code’s use of the term **“Voter List.”**
- (cc) **“Semi-Official Canvass”** shall refer to the public process of collecting, processing, and tallying Ballots and, for state or statewide Elections, reporting results to the Secretary of State on Election night. This may include some or all of the vote-by-mail and provisional vote totals. Cal. Elec. Code § 353.5.
- (dd) **“Shall”** and/or **“must”** shall be construed as mandatory; **“may”** shall be construed as permissive. Cal. Elec. Code § 354.
- (ee) **“Special Election”** shall refer to an Election, the specific time for the holding of which is not prescribed by law. Cal. Elec. Code § 356.
- (ff) **“Tally Sheet”** shall refer to the official paper where marks for the Ballots cast are written by the respective Teller.
- (gg) **“Teller”** shall refer to a member of a Precinct Board or a Central Location Board that tallies and marks the Tally Sheets.
- (hh) **“Voter”** shall refer to any elector who is registered under the California Elections Code. Cal. Elec. Code § 359.
- (ii) **“Voting Device”** shall refer to any device used in conjunction with a Ballot card or cards to indicate the choice of the Voter by marking, punching, or slotting the Ballot card. Cal. Elec. Code § 360.
- (jj) **“Voting Machine”** shall refer to any electronic device, including, but not limited to, a Precinct optical scanner and a direct recording voting system, into which a Voter may enter his or her votes, and which, by means of electronic tabulation and generation of printouts or other tangible, human-readable records, furnishes a total of the number of votes cast for each candidate and for or against each measure. Cal. Elec. Code § 361.
- (kk) **“Voting System”** shall refer to a mechanical or unbiased, nondiscriminatory, and unemotional hand counting by Precinct Board teams or Central Location Board Teams or an

III – DEFINITIONS

electromechanical, or electronic system and its software, or any combination of these used for casting a Ballot, tabulating votes, or both. “Voting System” does not include a remote accessible vote-by-mail system. Cal. Elec. Code § 362.

IV. VOTE COUNTING PROCESS

- (a) All eligible individuals are encouraged to vote at their respective Precinct until the Close of Polls. For more on the Close of Polls, *see* § VI of this Plan.
- (b) Vote-by-mail Ballots shall be securely held and not counted until the polls close. For the counting of vote-by-mail Ballots, *see* § IX(g) of this Plan.
- (c) After the Close of Polls, the Precinct Boards stationed at individual Precincts are responsible for and shall begin the accurate tallying of votes cast within their respective Precincts, following the procedure for hand counting at the Precinct, as laid out in § VIII of this Plan.
- (d) Subsequently, the respective Precinct Board shall transmit the preliminary vote totals to the Central Location through prescribed communication channels, in a process constitution the Preliminary Canvass. For more on the Preliminary Canvass, *see* § VII(a) of this Plan.
- (e) Following the transmission of the Preliminary Canvass, the Precinct Boards shall securely seal all Ballots and facilitate their prompt and secure transport to the Central Location(s). For more on transporting Ballots, *see* § IX(c) of this Plan.
- (f) Upon receiving the Preliminary Canvass, the Central Location Boards shall aggregate the transmitted data to form a comprehensive summation of results. This will be the Semi-Official Canvass. For more on the Semi-Official Canvass, *see* § IX(e) of this Plan.
- (g) In the following days, the Central Location Boards shall unseal and open all transported Ballot containers to begin the Official Canvass. For more on the Official Canvass, *see* § IX(f) of this Plan.
- (h) The Central Location Boards shall then undertake a meticulous hand-count verification process of all Ballots to ensure absolute accuracy in the vote tallying. For more on Hand Counting at the Central Location(s), *see* § IX of this Plan.
- (i) The finalized, verified, and ratified tallying of votes shall hereby be designated as the Official Canvass, serving as the definitive record of the electoral outcome, and will be transmitted to the Secretary of State. For more on this, *see* § IX(j) of this Plan.
- (j) Notwithstanding any provisions listed or not listed in this Plan, the absence of a specific mention of a statutory requirement from the California Elections Code within this document should not be construed as an indication that such requirement does not apply. All Elections Workers are obliged and mandated to adhere to all relevant and mandatory sections of the California Elections Code in the performance of their duties, whether or not explicitly referenced herein.

V – VOTE COUNTING DUTIES BY COUNTING LOCATION

V. VOTE COUNTING DUTIES BY COUNTING LOCATION

(a) Counting Venues

- (1) The “Mechanical Hand Vote Count” shall take place in one (1) of two (2) locations: either at the Precinct level (including Vote Centers) or at a Central Location(s), which would accommodate vote-by-mail Ballots and Ballots received at the ROV’s offices.
- (2) At the **Precinct level**, counting shall be conducted by each Precinct Board, comprised of at least four (4) Precinct Board Members and a Precinct Board Supervisor. Only one (1) Precinct Board shall count at each Precinct.
- (3) At the **Central Location(s)**, the counting shall be conducted by teams of Central Location Boards. Each team is comprised of at least four (4) Central Location Board Members and one (1) Counting Supervisor. Each team must count Ballots received from only one (1) Precinct at a time. As Ballots arrive at the Central Location(s), uncounted Ballots are to be separated and batched by Precinct.
- (4) Once a Precinct Board has completed its counting, tallying, and reporting procedures, the members of that Precinct Board may be enlisted, if willing, to assist at the Central Location(s), if necessary to expedite the timely release of results.

(b) Precinct Board Duties

- (1) Responsibilities. The Precinct Board Members, under the supervision of the Precinct Board Supervisor, are responsible for counting and tabulating Ballots at the Precinct on Election night.
- (2) Selection. At least twenty-nine (29) days prior to Election Day, the selection of Precinct Board Members, Precinct Board Supervisors, Central Location Boards, and Counting Supervisors must be completed. The Supervisors of the Precinct Boards are to be appointed by the Elections Official.
- (3) Composition and Eligibility. Precinct Boards, appointed for each Precinct, must be comprised of Voters of the State of California. Cal. Elec. Code § 12302. A member of the Precinct Board shall serve only at the Precinct for which he or she was appointed. Cal. Elec. Code § 12302. A person shall serve as a Precinct Board Member at no more than one (1) Precinct. In the case where multiple smaller Precincts are combined into one (1) Vote Center, a person shall serve as a Precinct Board Member to no more than one (1) Vote Center.⁴ Members need not reside in the Precinct to which they are appointed. Volunteers may be Voters who reside anywhere in the State of California.
 - (A) High school students (who are at least sixteen (16) years of age and are legal permanent residents who meet requirements specified in Cal. Elec. Code § 12302(b)(1)(A) – (D)) may also serve as Precinct Board Members, however, these

⁴ However, once the primary duties of counting at the Precinct level have concluded, Precinct Board Members may be recruited to assist at a Central Location to expedite the reporting of results as provided for in this Plan.

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students may not tally votes as Tellers. Instead, they may observe so as to check on any possible error or omission on the part of the Teller reading or calling the Ballot. For more on hand counting at the Precinct, *see* § VII of this Plan. Cal. Elec. Code § 12302(b)(2).

- (B) No person who is unable to read or write the English language shall be eligible to act as a member of any Precinct Board only so long as Cal. Elec. Code § 12303 is in effect. Cal. Elec. Code § 12303.
- (4) Size. The size composition of the Precinct Board shall be determined based on Election Precinct size. This shall be done by the Elections Official during Election Day and while voting is taking place. However, once Ballot tallying begins, each Precinct Board shall consist of a minimum of one (1) Precinct Board Supervisor and two (2) Tellers.⁵ Cal. Elec. Code § 12304.
- (A) For the purpose of Ballot tallying, Tellers are those Precinct Board Members who shall tally Ballots and mark tally Ballot sheets. High School students shall not serve in the Teller position during Ballot tallying. For this reason, no more than two (2) high school students shall serve on any one (1) Precinct Board during the tallying process. Cal. Elec. Code § 12302(b)(2).
- (B) When polls close and preparations to commence Precinct Counting begin, a full contingent of four (4) Precinct Board Members, two (2) of whom must be qualified to act as Tellers, and one (1) Precinct Board Supervisor are necessary to implement this Plan in compliance with Cal. Elec. Code §§ 15276 - 15277 and as described herein. Prior to the Close of Polls on Election Day, a Precinct Board, qualified and trained in conducting the Plan, must be on-site at their Precinct’s designated polling place.
- (5) Duties. The Elections Official shall instruct Precinct Board Supervisors concerning their duties in connection with the conduct of tallying Ballots and the timely reporting of results in accordance with Cal. Elec. Code §§ 12307, 12309, and the provisions of this Plan.
- (6) Supervisors. A Precinct Board Supervisor shall be assigned to each Precinct Board team. The Precinct Board Supervisor may receive greater compensation, if any, than the other Precinct Board Members.
- (7) Additional Requirements. The County shall comply with all selection, appointment, and training provisions of Cal. Elec. Code Div. 12, §§ 12300 - 12320.

⁵ The California Elections Code refers to “inspectors” and “clerks.” This Plan uses the terms “Precinct Board Supervisor” and “Precinct Board Member” to refer to those positions during the implementation of hand counting at the Precinct level. Inspectors and clerks (defined in this Plan as Precinct Board Supervisors and Precinct Board members, respectively), who served during Election Day, may transition to become part of the Precinct Board or new volunteers may substitute in to commence the counting, tallying, tabulation, and reporting process.

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(8) Declaration Requirements. Whether a Precinct Board Supervisor or Precinct Board Member is compensated or serving as an unpaid volunteer, he or she must satisfy the declaration requirements of Cal. Elec. Code § 12321.

(9) Precinct Board Declarations

(A) Precinct Board Supervisor Declaration. The declaration of a Precinct Board Supervisor shall be signed in the presence of a witness and shall be as binding on the signer as would be an Oath of office. Cal. Elec. Code §12321(a)(2).

(i) Each Precinct Board Supervisor shall sign a declaration of intention to faithfully discharge the duties and shall return this declaration to the Elections Official at least fifteen (15) days before Election Day.

(ii) If the appointed Precinct Board Supervisor fails or refuses to sign and file the declaration, the Elections Official shall appoint a substitute who shall make and file the application. Cal. Elec. Code §12321(a).

(iii) For the declaration of a Precinct Board Supervisor, *see* § XIII(a)(1) of this Plan.

(B) Precinct Board Member Declaration. The declaration of a Precinct Board Member shall be signed in the presence of a witness and shall be as binding on the signer as would be an Oath of office. Cal. Elec. Code §12321(a)(2).

(i) On Election Day, and before commencing the performance of duties, each Precinct Board Member shall sign a declaration of intention to faithfully discharge the duties of an Elections Worker, excepting the declaration of the Precinct Board Supervisor, which is addressed hereinabove at § XIII(a)(1) of this Plan.

(ii) The declaration shall be signed before any member of the Precinct Board. The form for each of the declarations shall be provided with the materials for the Precinct. Cal. Elec. Code §12321(b).

(iii) Any Precinct Board Member may administer and certify Oaths (i.e., declarations) required to be administered for an Election. This authorization shall include the power to give any type of Oath required of a public employee. There shall be no fee or charge for administering an Oath. Cal. Elec. Code § 12321(c).

(iv) For the declaration of a Precinct Board Member, *see* § XIII(a)(2) of this Plan.

(c) Central Location Board Duties

(1) Central Location Boards, under the supervision of the Counting Supervisor, shall be responsible for counting and tabulating Ballots at the Central Location(s) where vote-by-mail Ballots shall be received, starting no earlier than 5:00 p.m. on the night of the Election.

(2) The selection, appointment, training, and solemn declarations of the Central Location Board, shall follow the same procedures as those listed above for the Precinct Boards (*see*

V – VOTE COUNTING DUTIES BY COUNTING LOCATION

§ V(b) of this Plan). There shall be multiple Central Location Board Teams at a Central Location(s). These Central Location Boards shall collect any and all vote-by-mail Ballots and/or Ballots that have been transported from a Precinct and to a Central Location(s). Cal. Elec. Code § 15920.

- (3) Unlike the Precinct Board, which shall not be separated into different teams to expedite Ballot counting, the Central Location Board may be broken into separate teams, as needed and at the discretion of the Elections Official, to facilitate timely reporting.
- (4) As with the Precinct Board Members, members of the Central Location Board may be volunteers.
- (5) Each Central Location Board Team shall have a Central Location Board Supervisor, whose role shall be similar to that of the Precinct Boards, in that the Central Location Board Supervisor is in charge of overseeing the Central Location Board and the counting, while instead serving at a Precinct, the Central Location Board Supervisor shall serve at the Central Location. One (1) Central Location Board Supervisor shall be assigned to each Central Location Board Team. The Central Location Board Supervisor may receive greater compensation, if any, than the other Central Location Board Members.

(6) Central Location Board Declarations

- (A) Central Location Counting Supervisor Declaration. Each Counting Supervisor shall sign a declaration of intention to faithfully discharge his or her duties and shall return the declaration to the Elections Official at least fifteen (15) days before Election Day. If the appointed Counting Supervisor fails or refuses to sign and file the declaration, the Elections Official shall appoint a substitute who shall make and file the application. Cal. Elec. Code §12321(a). For the declaration of a Central Board Supervisor, *see* § XIII(a)(3) of this Plan.
- (B) Central Location Board Member Declaration. Any Central Location Board Member may administer and certify Oaths required to be administered during the progress of an Election. This authorization shall include the power to give any type of Oath required of a public employee. There shall be no fee or charge for administering an Oath. For the declaration of a Central Location Board Member, *see* § XIII(a)(4) of this Plan.

VI. PROVISIONS FOR THE CLOSE OF POLLS ON ELECTION DAY

(a) General Procedures at the Precinct

- (1) Before the polls open on Election Day, a record of the total number of blank Ballots delivered to the Precinct shall be kept by the Elections Workers present and delivered to the Precinct Board. This will be later referenced at the Close of Polls against the number of Ballots cast and the number of unused Ballots remaining.

VI – PROVISIONS FOR THE CLOSE OF POLLS ON ELECTION DAY

- (2) For all Elections, all members of the Precinct Board and the Precinct Board Supervisor shall be present at the Close of Polls. As soon as the polls are closed, a member of the Precinct Board shall proclaim that fact verbally and aloud at the place of Election.
- (3) If, at the hour of the Close of Polls, there are any other Voters in the Precinct, or in line at the door, who are qualified to vote and have not been able to do so since arriving at the Precinct, the polls shall be kept open a sufficient time to enable them to vote. Any Voter who arrives at the Precinct after the hour of the Close of Polls shall not be entitled to vote, even if the polls are open when the Voter arrives.
- (4) If the time for the Close of Polls is extended pursuant to a court order, all votes cast during the time that the Close of Polls has been extended shall be by provisional Ballot, unless ordered otherwise. Any provisional Ballots cast pursuant to this section shall be separated and placed in a marked container (i.e., Provisional Ballots Cast After Close of Polls), held apart from other Provisional Ballots cast by Voters prior to the time the Close of Polls was extended.

(b) Destruction of Unused Ballots

(1) **Destruction of Unused Ballots at the Precinct Level**

- (A) Immediately upon the Close of Polls and before any voted Ballot is taken from any of the Ballot containers, a Precinct Board Member shall, in the presence no fewer than two (2) persons and allowing for any other individuals present who wish to observe, proceed to render the unused Ballots unusable in one of the following ways:
 - (i) By drawing across each Ballot's face, in ink or indelible pencil, two (2) lines that cross each other, the cross to be more than three (3) inches square. The Precinct Board Member shall thereupon, immediately and before any Ballots are taken from any Ballot container, place all defaced Ballots within an envelope or other receptacle provided for that purpose.
 - (ii) By tearing or cutting the unused Ballots in a manner so that it is apparent that the Ballot has been intentionally destroyed to prevent its use. If this method of destruction is used, it shall be done in a manner so that the *serial number of the Ballots is retained* for the purposes of reconciliation.
 - (iii) By placing all of the unused Ballots into a special container provided for that purpose. A tamperproof seal shall be provided, containing spaces for entering the total number of unused Ballots enclosed, the beginning and ending serial numbers thereof, and signature lines for no fewer than two (2) members of the Precinct Board following a statement certifying that all of the Ballots were placed in the container in their presence and the information on the seal is true and correct. After all members of the Precinct Board have signed the seal, it shall be placed on the container in a manner so as to ensure that the container cannot be opened without tearing the seal.
- (B) The preceding is in accordance with provisions of Cal. Elec. Code §§14400 – 14403.

VI – PROVISIONS FOR THE CLOSE OF POLLS ON ELECTION DAY

(2) Destruction of Unused Ballots at the Main ROV Offices or Central Location(s)

- (A) Immediately at the Close of Polls, the Elections Official shall openly, in the main office (or one of the Central Locations), in the presence of any persons who are present to observe, proceed to render every unused Ballot remaining in the control of the Elections Official unusable in one of the three manners prescribed for destruction of unused Ballots at the Precinct (*see* § VI(b) of this Plan). Cal. Elec. Code § 14403.
- (B) The Elections Official shall, at once, make and file an affidavit, in writing, as to the number of Ballots destroyed. If using the tamperproof seal procedure, the seal shall be signed by the Elections Official and at least one (1) deputy or assistant Elections Worker or registrar. The Elections Official shall then place the sealed container containing unused Ballots from the main ROV office or Central Location(s) with the sealed containers containing unused Ballots from the Precincts, in a security area until disposition is made pursuant to Cal. Elec. Code §§ 17301 or 17302. Cal. Elec. Code § 14404.
- (C) While state law allows that an Elections Worker **may** recycle for any other lawful purpose any unused Ballots remaining in the control of the Elections Official that clearly identify the Election for which they were prepared, the County does not permit such discretion. **All unused Ballots must be destroyed** at the Close of Polls in one of the three manners prescribed in Cal. Elec. Code § 14403 and prior to commencing the mechanical hand counting process.⁶

VII. CANVASSING OF BALLOTS AND REPORTING OF RETURNS

The Canvass and its Returns are divided into three successive categories: 1) Preliminary (telephonic or text); 2) Semi-Official; and 3) Official.

(a) Preliminary Telephonic or Text Canvass

- (1) Preliminary telephonic, facsimile transmission, or text Returns are wholly unofficial and obtained after the Close of Polls and counting procedures have been completed during Precinct Counting by the Precinct Board Members (*see* § VIII of this Plan). The unofficial tally shall be called or texted to the Central Location(s), as selected by the Elections Official. This unofficial Return shall be reported prior to the Precinct Board gathering, preparing, and returning supplies to the Elections Official (*see* § VIII(d) of this Plan).
- (2) The unofficial Tally Sheet, where the Preliminary Returns are reported, shall be signed by the reporting Precinct Board Member (ideally, the Precinct Board Supervisor) and at least

⁶ This section of the Plan does not apply to “unused vote-by-mail Ballots surrendered by the Voter pursuant to Cal. Elec. Code § 3015,” which are required to be retained by the Elections Official, unopened and unaltered, for twenty-two (22) months from the date of the Election where one or more of the following offices are voted upon: President, Vice President, United States Senator, and United States Representative. Cal. Elec. Code §§ 17301(a) and 17301(b)(9).

VII – CANVASSING OF BALLOTS AND REPORTING OF RETURNS

one (1) other Precinct Board Member, acting as witness, who also was present and observed when the unofficial Returns were reported.

- (3) The Returns obtained in this stage are transmitted to the Central Location(s) and form the basis of the Semi-Official Canvass.

(b) Semi-Official Canvass

- (1) The Semi-Official Returns are intended to be a substantially final tally of the vote, comprised of the Preliminary Returns from all Precinct Boards. To obtain Semi-Official Returns, the Preliminary Returns from each Precinct shall be transmitted to the Central Location(s), where the separate results for each candidate, measure, or proposition shall be manually tallied, pursuant to the procedures specified in § IX(e) of this Plan.
- (2) The Semi-Official Returns do not include any vote-by-mail (absentee) Ballots because, at this time, they have not yet been counted. Vote-by-mail Ballots shall be counted at the Central Location(s) in the manner set forth in § IX(g) of this Plan.
- (3) Semi-Official Returns are covered more generally in Cal. Elec. Code §§ 15150 - 15154 and more completely in §§ VIII and IX of this Plan.

(c) Official Canvass

- (1) The Official Canvass shall commence no later than the Thursday following the Election Day, shall be open to the public, and, for state or statewide Elections, shall result in a report of results to the Secretary of State. The Canvass shall be continued daily, Saturdays, Sundays, and federal and state holidays excepted, for not less than six (6) hours each day until completed. Cal. Elec. Code § 15301.
- (2) The Official Canvass shall include, but not be limited to, the following tasks:
 - (A) An inspection of all materials and supplies returned by Elections Workers. Cal. Elec. Code § 15302(a).
 - (B) A reconciliation of the number of signatures on the Roster with the number of Ballots recorded on the Ballot Statement. Cal. Elec. Code § 15302(b).
 - (C) In the event of a discrepancy in the reconciliation required by subdivision (B), the number of Ballots received from each Precinct shall be reconciled with the number of Ballots cast, as indicated on the Ballot Statement. Cal. Elec. Code § 15302(c).
 - (D) A reconciliation of the number of Ballots counted, spoiled, canceled, and/or invalidated (due to identifying marks, overvotes, or for any other reason provided by statute) with the number of votes recorded by the vote counting system, including vote-by-mail and provisional Ballots. Cal. Elec. Code § 15302(d).
 - (E) Processing and counting any valid vote-by-mail and provisional Ballots not included in the Semi-Official Canvass and reported Semi-Official Returns. Cal. Elec. Code § 15302(e).

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- (F) Counting any valid write-in votes. Cal. Elec. Code § 15302(f).
 - (G) Reproducing any damaged Ballots, if necessary. Cal. Elec. Code § 15302(g).
 - (H) Reporting final results to the BOS and the Secretary of State, as required. Cal. Elec. Code § 15302(h).
- (3) The Official Canvass shall take place at the Central Location(s). The Elections Official shall appoint not fewer than three (3) deputies to open the envelopes or containers with the materials returned from the Precincts. If, after examination, any of the materials are incomplete, ambiguous, not properly authenticated, and/or otherwise defective, Precinct Board Members may be summoned before the Elections Official and examined under Oath to describe Precinct procedures and to correct the errors or omissions. Cal. Elec. Code § 15304.
- (4) If the Returns from any Precinct are incomplete, ambiguous, not properly authenticated, and/or otherwise defective, the Elections Official may require members of the Precinct Board to appear and be examined under Oath concerning the manner in which votes were counted and the result of the count in their Precinct. This section shall apply when Ballots are tabulated manually or automatically at the polls. The County does not vest discretionary subpoena power in the Elections Official. Cal. Elec. Code § 15303.

VIII. HAND COUNTING AT THE PRECINCT (PRELIMINARY AND SEMI-OFFICIAL CANVASS)

The California Elections Code provides guidance for hand counting of Ballots at the Precinct for the Semi-Official Canvass, Official Canvass, recounts, and a tied vote. Cal. Elec. Code § 15270. This Plan includes additional provisions for the preliminary Canvass that takes place at each Precinct, the Returns of which contribute to the Semi-Official Canvass (*see* § VII of this Plan).

(a) General Instructions

- (1) As soon as the polls are closed and unused Ballots have been destroyed or defaced, the Precinct Board shall commence counting the votes by taking the Ballots cast, unopened, out of the box(es) and counting them to ascertain whether the number of Ballots corresponds with the number of signatures on the Roster for that Precinct. The Precinct Board shall make a record upon the Roster of the number of Ballots in the Ballot box, the number of signatures on the Roster, and the difference, if any. Cal. Elec. Code § 15271.
- (2) The count shall be public and shall be continued without adjournment until completed and the unofficial result is declared. During the reading and tallying, the Ballots read and the Tally Sheet kept shall be within the clear view of watchers. Cal. Elec. Code § 15272.
- (3) The Precinct Board Members shall not constitute themselves into separate squads in an attempt to conduct more than one (1) count of the Ballots at the same time. However,

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members of the Precinct Board may relieve each other in the duties of counting Ballots. Cal. Elec. Code §§ 15273 – 15274.

- (4) Those Ballots not rejected shall be placed in one (1) pile and the Precinct Board, together, shall proceed to count by tallying the vote for one or more offices or measures at a time. Cal. Elec. Code § 15275.
- (5) The Precinct Board Members shall ascertain the number of votes cast for each person and for and against each measure in the following manner:
 - (A) One (1) Precinct Board Member shall read from the Ballots. As the Ballots are read, at least one (1) other Precinct Board Member shall keep watch of each vote so as to check on any possible error or omission on the part of the member reading or calling the Ballot.
 - (B) Two (2) of the Precinct Board Members shall each keep a separate Tally Sheet in a form prescribed by the Elections Official. Each Tally Sheet shall contain all of the following:
 - (i) The name of each candidate being voted for and the specific office for which each candidate is being voted. The offices shall be in the same order as on the Ballot.⁷
 - (ii) A list of each measure being voted upon.
 - (iii) Sufficient space to permit the tallying of the full vote cast for each candidate and for and against each measure. For ease of counting, tally marks shall be made in groupings of five (5).
 - (C) The Precinct Board Members keeping the Tally Sheets shall record thereon, opposite each name or measure, with pen or indelible pencil, the number of votes by tallies as the name of each candidate or measure voted upon as they are read aloud from the respective Ballot.
 - (D) Immediately upon the completion of the tallies, the Precinct Board Members keeping the Tally Sheet shall draw two (2) heavy lines in ink or indelible pencil from the last tally mark to the end of the line in which the tallies terminate and initial that line. The total number of votes counted for each candidate and for and against each measure shall be recorded on the Tally Sheets in words and figures. Cal. Elec. Code §§ 15276 – 15277.
 - (E) Upon completion of the Canvass of the Returns for each Election, the Elections Official shall compare the vote-by-mail Voters' list with the Roster of Voters in each Precinct to determine whether any Voter cast more than one (1) Ballot in that Election. Cal. Elec. Code § 15278.

⁷ In some cases, Ballots within the same Precinct may have an additional or different races. Those outliers shall be inserted at the end of the Tally Sheet.

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- (6) Any and all write-in votes shall be counted in the manner prescribed in Cal. Elec. Code §§ 15430 – 15342.5.
- (7) No Precinct Board Member shall make any tally of votes in any manner other than is provided in this Plan, nor in any place other than on the Tally Sheets provided for that purpose. The Ballots, as soon as all of the names and measures marked on them as voted for are read and tallied, shall not thereafter be examined by any person at the Precinct, but, as soon as all are counted, shall be carefully sealed in a strong envelope. The signatures of each member of the Precinct Board shall be written across the seal. Cal. Elec. Code §§ 15278.5 and 15279.

(b) Certifying the Vote

- (1) The Precinct Board shall complete, sign, and return to the Elections Official all furnished forms requiring its signatures in accordance with Cal. Elec. Code § 15280.
- (2) When Precinct Counting has been completed, all members of the Precinct Board shall sign the Certificate of Performance. This shall be delivered to the Elections Official along with all other necessary signed forms. For the Certificate of Performance, *see* § XIII(b) of this Plan.
- (3) The Precinct Board shall sign and post conspicuously on the outside of the Precinct a copy of the result of the votes cast. The copy shall remain posted for at least forty-eight (48) hours after the official time fixed for the Close of Polls. To protect a person's right to cast a secret Ballot under Section 7 of Article II of the California Constitution, in cases where fewer than ten (10) Voters cast Ballots and the Precinct Counting is performed, the Precinct Board shall post only the total number of people who voted at the Precinct. Cal. Elec. Code § 15281.

(c) Accounting for Unused Ballots

- (1) The members of the Precinct Board shall account for the Ballots delivered to them by returning a number of unused Ballots to total the quantity equal to, when added to the number of official Ballots cast and the number of spoiled and canceled Ballots returned, the number of Ballots originally delivered to them. For more on the accounting for the number of Ballots originally delivered to each Precinct, *see* VI(a)(1) of this Plan. Cal. Elec. Code § 14405(a).
- (2) Where Precinct Counting is implemented in this Plan, the accounting of Ballots shall take place at the Precinct. Cal. Elec. Code § 14405(a)(1).
- (3) Where Central Location Counting is implemented in this Plan, the accounting of Ballots shall take place by the Elections Official or designee at the designated Central Location(s) as addressed in § IX of this Plan. Cal. Elec. Code § 14405(a)(2).

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- (4) The Precinct Board shall complete the Roster as required in Cal. Elec. Code § 14107, and shall also complete and sign the Certificate of Performance shown in § XIII(b) of this Plan. Cal. Elec. Code § 14405.

(d) Returning Supplies to Elections Official

- (1) As soon as possible after the Close of Polls, after all Ballots have been counted, and the Preliminary Returns have been phoned or texted into the Central Location(s), each Precinct Board shall prepare the supplies, including the copies of the Roster posted at or near the Precinct and records of the Election for delivery to the Elections Official. Cal. Elec. Code § 14430.
- (2) Each Precinct Board shall enclose and seal in one (1) or more packages, as determined by the Elections Official, all voted, spoiled, canceled, and/or unused Ballots. Cal. Elec. Code § 14431.
- (3) Each Precinct Board shall enclose and seal in one (1) or two (2) packages, as determined by the Elections Official, all of the following:
 - (A) Two (2) Tally Sheets.
 - (B) The Roster of Voters.
 - (C) The Ballot Statement.
 - (D) The challenge list.⁸
 - (E) The assisted Voter’s list. Cal. Elec. Code § 14432.
 - (F) And the signed Certificate of Performance (*see* § XIII(b) of this Plan). Cal. Elec. Code § 15280.
- (4) After Precinct Counting has been completed, the Precinct Board shall immediately transmit to the Elections Official an unsealed statement bearing the result of the votes cast and counted at the Precinct. The statement shall be open to public inspection. Cal. Elec. Code § 14433.
- (5) The sealed packages, described in § VIII(d)(3) of this Plan, containing the lists, papers, and Ballots shall be delivered by a minimum of two (2) of the Precinct Board Members, traveling together, without delay, unopened, to the Elections Official or to a designated receiving station assigned by the Elections Official. Cal. Elec. Code § 14434.
- (6) No list, tally, paper, or certificate returned from any Election shall be set aside or rejected for want of form, nor because it is not strictly in accordance with the Cal. Elec. Code, if it is able to be satisfactorily understood. In other words, a minor administrative error made

⁸ Challenging a Voter is not described in this Plan. *See* Cal. Elec. Code §§ 14240 – 14253 for further information on challenging the legitimacy of Voters.

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by a volunteer or paid Precinct Board Member in preparing supplies for return to the Elections Official shall not invalidate the results of the tally, as delivered. Cal. Elec. Code § 14435.

IX. HAND COUNTING AT THE CENTRAL LOCATION (SEMI-OFFICIAL AND OFFICIAL CANVASS)

(a) General Instructions

- (1) The California Elections Code provides guidance for hand counting of Ballots at a Central Location(s) for Semi-Official Canvass, Official Canvass, recounts, and a tied vote. The counting process is to be conducted in substantially the same manner as Precinct Counting, as described in § VIII of this Plan. Central Location Boards count and tally the Ballots, by Precincts, separately, under the direction of the Elections Official or authorized deputy. This deputy is the Counting Supervisor, assigned to each Central Location Board. Cal. Elec. Code § 15290.
- (2) Counting shall commence after the Close of Polls and continue until completed. Central Location Boards shall be comprised of at least four (4) Central Location Board Members and a Counting Supervisor. Central Location Board Members may relieve each other in the duties of counting Ballots, until all Ballots for an Election have been counted. Cal. Elec. Code §§ 15273 – 15274.
- (3) The primary difference between Precinct Counting and Central Location Counting is that, in the case of Central Location Counting, multiple Central Location Board Teams may work in the same Central Location(s) and the Ballots shall be grouped by Precinct prior to counting, whereas in Precinct Counting, only the one (1) Precinct Board may count at any given time.

(b) Selecting a Central Location(s)

- (1) The Elections Official shall establish one or more Central Location(s) to serve as Election return centers for the purpose of facilitating the compilation of Election Returns, conducting the Official Canvass, and expediting the announcement of the official results to the public. Cal. Elec. Code § 15260(a).
- (2) In establishing a Central Location(s), the Elections Official may designate a group of Precincts that each Central Location(s) shall serve. This designation shall be made available for public inspection no later than fifteen (15) days before the Election. The Central Location(s) may be at any public place designated by the Elections Official, including a space that is leased for that purpose. Cal. Elec. Code § 15260(b).
- (3) The Elections Official may establish one or more Central Location(s) to count Ballots received from designated Precincts and receive the transmitted results of the Semi-Official Canvass via voice telephone connection, text, or facsimile transmission.

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- (4) The list of designated Precincts for each counting Central Location(s) shall be available for public inspection no later than fifteen (15) days before the Election. Cal. Elec. Code § 15261.

(c) Transporting Ballots to Central Location(s)

- (1) Ballots that are to be mechanically hand counted in a Central Location(s), including vote-by-mail Ballots, shall be transported in the following manner:
 - (A) As soon as the Close of Polls occurs, the Precinct Board shall, in the presence of the public, do all of the following:
 - (i) Seal the container used to transport voted Ballots and ensure that the Precinct number is designated on the Ballot container.
 - (ii) Certify, sign, and seal the several packages or envelopes as directed by the Elections Official. The packages are described in § VIII(d)(3) of this Plan.
 - (iii) Select a minimum of two (2) of its Members, who shall travel together, deliver the Ballot container and packages to the Elections Official at the Central Location(s) in the manner prescribed by the Elections Official. The Ballot container and packages shall remain in their exclusive possession until delivered to the Elections Official. Cal. Elec. Code § 15202.
 - (B) Any Ballots or vote-by-mail Ballots received by the Elections Official prior to Election Day must be securely stored until the Close of Polls and preparation for counting commences. If necessary to transport to a Central Location(s) for counting and tallying, the Ballots shall be transported in the same manner as described above, which is in accordance with Cal. Elec. Code § 15201.
- (2) While the Cal. Elec. Code allows that there may be more than one Central Location for a Precinct, the County does not permit such discretion. All Ballots from a single Precinct shall be transported by the Precinct Board Members to be counted at the same Central Location. This section applies in the same manner to Ballots that are received, stored, and later transported by the Elections Official.

(d) Video Live-Stream Requirement

- (1) The County requires that the Central Location Counting process be live-streamed and accessible to the public on the Shasta County Elections website and that the resulting High-Definition video be archived for at least twenty-four (24) months following any Election, during which time it shall remain publicly accessible on the Shasta County Elections website.

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(e) Counting Process for the Semi-Official Canvass

- (1) The Semi-Official Returns are intended to be a substantially final tally of the vote, comprised of the Preliminary Returns from all Precinct Boards. To obtain Semi-Official Returns, the Preliminary Returns from each Precinct shall be transmitted to the Central Location(s), where the separate results for each candidate, measure, or proposition shall be manually tallied.
- (2) The unofficial Tally Sheet, where the Preliminary Returns are reported, shall be signed by the reporting Precinct Board Member (ideally, the Precinct Board Supervisor) and at least one (1) other Precinct Board Member, acting as witness, who also was present and observed when the unofficial Returns were reported. This is the same procedure for reporting unofficial Returns when Ballots are counted at the Precinct instead of at a Central Location(s).
- (3) There shall be an adding machine for each candidate and two (2) adding machines for each measure or proposition (one (1) for YES votes and one (1) for NO votes).
- (4) Adding machines employed for this process shall produce a paper trail, recording, in real-time, all values entered and calculations made, under the observation of a Central Location Board Member at the Central Location(s). There shall be two (2) Central Location Board Members for each adding machine. One (1) member shall enter the values into the adding machine and one (1) member shall observe that those values entered are an accurate reflection of the Precinct Tally Sheets from which the numbers are derived.
- (5) Periodically, a subtotal shall be struck to provide a bulletin of results as they are returned and tabulated into the machines. As the Semi-Official Tally Sheets are received from the Precincts at the Central Location(s), bulletins shall be issued periodically, until all Precincts have reported in by delivering their Tally Sheets. Once all Tally Sheets from all Precincts are received, counted, and totaled, a Semi-Official result for the Election shall be issued at that time.⁹

(f) Counting Process for the Official Canvass

- (1) Ballots and Tally Sheets shall remain in batches by Precinct, as delivered from each Precinct Board. No Ballot shall ever be separated from its original set. This is so that the Ballots from each Precinct can be recounted as they were delivered.
- (2) A Central Location Board Team shall be assigned one (1) Precinct to tally Ballots. The Central Location Board must complete the process and report for that Precinct prior to being assigned another Precinct.

⁹ By using this procedure, it is possible to make an efficient, accurate, and timely release of a Semi-Official Canvass within a matter of hours. In fact, this procedure was used successfully for many decades in Los Angeles, which, at that time, had a population of over 2 million and was the third-largest city in the United States. During that period, voter confidence in the Election process, counting, and results was high. Election Manual, City of Los Angeles, January 1, 1957.

IX – HAND COUNTING AT THE CENTRAL LOCATION

- (3) In the same manner, a Central Location Board Team shall process and count vote-by-mail Ballots that have been divided by Precinct, completing the full count and reporting that count for that Precinct of vote-by-mail Ballots before being assigned another Precinct.
- (4) Tally Sheets from each Precinct shall be compared against Central Location's Official Canvass of votes from each Precinct, respectively. If this results in a discrepancy that either (A) exceeds 0.5% of the total votes for that Precinct or (B) is a percentage that exceeds the percent margin for victory, there shall be an automatic recount for all Ballots from that Precinct.
- (5) Tally Sheets from the Precincts must be recorded and stored by the Elections Official for a minimum of four (4) years following each Election, during which time they shall remain accessible to the public.

(g) Processing and Hand Counting of Vote-by-Mail Ballots

- (1) While the California Elections Code allows the discretionary processing of vote-by-mail Ballots to begin any time during the twenty-nine (29) days prior to any Election, the County does not permit counting to begin until 5:00 p.m. on Election Day. Cal. Elec. Code § 15101.
- (2) Processing vote-by-mail Ballot return envelopes shall include verifying each Voter's signature on the vote-by-mail Ballot return envelope. Cal Elec. Code § 15101(a). The Elections Official shall verify signatures according to Cal. Elec. Code § 3019.
- (3) Processing vote-by-mail Ballots includes sorting the Ballots by Precinct, opening vote-by-mail Ballot return envelopes, removing Ballots, and preparing the Ballots to be hand counted. Under no circumstances may the count of vote-by-mail Ballots begin prior to the Close of Polls on the day of the Election. Cal. Elec. Code § 15101(b).
- (4) The Elections Official shall appoint special Central Location Board(s) in numbers deemed adequate to count the vote-by-mail Ballots. The Elections Official shall provide the forms for Tally Sheets and distribute the declarations to be signed by the Central Location Board Members. Cal. Elec. Code § 15102.
- (5) There shall be no fewer than four (4) persons for each office or proposition to be counted. One (1) shall read from the Ballot, the second one (1) shall keep watch for any error or improper vote, and the other two (2) shall keep the tally. This shall be conducted in substantially the same manner as the count of Ballots cast at the Precincts on Election Day (*see* § VIII of this Plan). Cal. Elec. Code § 15102.
- (6) Members of the Central Location Board who are responsible for processing vote-by-mail Ballots may be volunteers or paid reasonable compensation. This compensation shall be paid by the ROV out of the treasury of the agency conducting the Election as other claims against it are paid. Cal. Elec. Code § 15103.
- (7) The processing of vote-by-mail Ballot return envelopes and the processing and counting of vote-by-mail Ballots shall be open to the public. Cal. Elec. Code § 15104(a).

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- (8) A member of (i) the County grand jury, (ii) at least one (1) member each of (a) the Republican County central committee, (b) the Democratic County central committee, and (c) of any other party with a candidate appearing on any Ballot, and (iii) any other interested organization, shall be permitted to observe and challenge the manner in which the vote-by-mail Ballots are handled, at any and all stages in their processing and counting. Cal. Elec. Code § 15104(b).
- (9) The Elections Official shall notify vote-by-mail Voter observers and the public at least forty-eight (48) hours in advance of the dates, times, and places where vote-by-mail Ballots shall be processed and counted. Cal. Elec. Code § 15104(c).
- (10) The signature of the Voter shown on the affidavit of Voter registration is confidential and shall not be disclosed to any outside person. Cal. Elec. Code § 2194(b)(2). However, vote-by-mail Voter observers shall be allowed sufficiently close access to enable them to observe the vote-by-mail Ballot return envelopes and the signatures thereon and challenge whether those individuals handling vote-by-mail Ballots are following established procedures, including all of the following:
- (A) Verifying signatures and addresses on the vote-by-mail Ballot return envelopes by comparing them to Voter registration information;
 - (B) Accurately duplicating damaged or defective Ballots; and
 - (C) Securing vote-by-mail Ballots to prevent tampering with them before they are counted on Election Day.
- (11) A vote-by-mail Voter observer shall not interfere with the orderly processing of vote-by-mail Ballot return envelopes or the processing and counting of vote-by-mail Ballots, including the touching or handling of the Ballots. Cal. Elec. Code § 15104(d).

(h) Challenging Vote-by-Mail Ballots

- (1) Prior to processing and opening the identifying return envelopes of vote-by-mail Ballots, the Elections Official shall make available a list of vote-by-mail Voters for public inspection. Challenges may be made to this list of vote-by-mail Voters for the same reasons as those made against a Voter voting at a Precinct¹⁰. In addition, a challenge may be entered on the grounds that the Ballot was not received within the time provided by this code or that a person is imprisoned for a conviction of a felony. All challenges shall be made prior to the opening of the identifying return envelope of the challenged vote-by-mail Voter. Cal. Elec. Code § 15105.
- (2) Except as otherwise provided herein, the processing of vote-by-mail Ballot return envelopes, the processing and counting of vote-by-mail Ballots, and the disposition of challenges to vote-by-mail Ballots shall be according to the laws now in force pertaining to the Election for which they are cast. Because the Voter is not present, the challenger

¹⁰ See Cal. Elec. Code §§ 14240 – 14253 for further information on challenging the legitimacy of Voters.

IX – HAND COUNTING AT THE CENTRAL LOCATION

shall have the burden of establishing extraordinary proof of the validity of the challenge at the time the challenge is made. Cal. Elec. Code § 15106.

- (3) If a challenge is overruled by the Counting Supervisor, the decision may be appealed to the Elections Official. If the decision stands, the Central Location Board shall open the return envelope without defacing the affidavit printed thereon or mutilating the enclosed Ballot and, without viewing the Ballot, remove it and destroy the numbered slip, if any remains, and store the Ballots in a secure location. Cal. Elec. Code § 15107.
- (4) If a challenge is allowed, the Central Location Board shall endorse on the face of the return envelope the cause of the challenge and its action thereon. Cal. Elec. Code § 15108.
- (5) The counting and Canvassing of vote-by-mail Ballots shall be conducted in the same manner and under the same regulations as used for Ballots cast in a Precinct. Cal. Elec. Code § 15109.

(i) **Ensuring No More Than One Vote Per Voter**

- (1) The Elections Official shall maintain an accurate list of all Voters who have received and voted a vote-by-mail Ballot at each Election. Within five (5) days, this list, which includes the Election Precinct of the Voter, shall be compared with the Roster of Voters. Upon completion of the Canvass of the Returns for each Election, the Elections Official shall further compare the vote-by-mail Voters' list with the Roster of Voters in each Precinct to determine whether any Voter cast more than one (1) Ballot in that Election. Cal. Elec. Code §§ 15111, 15278.

(j) **Reporting the Vote**

- (1) The Elections Official shall send to the Secretary of State within thirty-one (31) days of the Election in an electronic format in the manner requested one complete copy of results as to all of the following:
 - (A) All candidates voted for statewide office.
 - (B) All candidates voted for the following offices:
 - (i) Member of the Assembly.
 - (ii) Member of the Senate.
 - (iii) Member of the United States House of Representatives.
 - (iv) Member of the State Board of Equalization.
 - (v) Justice of the Court of Appeal.
 - (vi) Judge of the Superior Court.

IX – HAND COUNTING AT THE CENTRAL LOCATION

- (C) All persons voted for at the presidential primary. The results for all persons voted for at the presidential primary for delegates to national conventions shall be Canvassed and shall be sent within twenty-eight (28) days after the Election.
- (D) The vote given for persons for electors of President and Vice President of the United States. The results for presidential electors shall be endorsed “Presidential Election Returns” and shall be Canvassed and sent within twenty-eight (28) days after the Election.
- (E) All statewide measures.
- (F) The total number of Ballots cast. Cal. Elec. Code § 15375.

X. CONCERNS

Several issues must be addressed to mitigate concerns about returning to mechanical hand counting of Ballots. All of these issues are closely related to one another. Those issues are:

- 1) Cost Containment
- 2) Adequate Manpower
- 3) Adequate Space for Conducting the Hand Count.
- 4) Timely Release of Results

The following section of this Plan provides manners in which these concerns may be overcome and/or mitigated.

(a) Cost Containment

- (1) Traditionally, until quite recently, local Precincts have been manned by local volunteers. Civic-minded citizens volunteered and engaged in the Election process, including tallying, hand counting, and reporting to the local Elections Workers the results of the Ballots cast at their local Precincts. Oftentimes, volunteers were paid with nothing more than donuts and coffee in the morning and with pizza and cold sodas in the afternoon and evening.
- (2) Student volunteers received credit or extra credit for government classes. Some honors-level classes required students to engage civic activities like this to achieve full credit for coursework. There is no reason this kind of volunteer activity cannot be done again. An appropriate interpretation of the law **does** permit Precinct Counting and Central Location Counting to be accomplished through a 100% volunteer force.

X – CONCERNS

- (3) Volunteers may populate the Precinct Boards or Central Location Boards.¹¹ The requirement in Cal. Elec. Code §12310 that each member of the Precinct Board shall receive a stipend properly understood as a requirement the BOS is responsible for determining the stipend amount, if any, for the Precinct Board Members, not a requirement that such a stipend be paid.
- (4) The Cal. Elec. Code § 15103 requirement that the Elections Official shall pay a reasonable compensation to each member of the Central Location Board of vote-by-mail Ballots delineates who is responsible for paying the stipend, once set by the BOS. It is not a requirement that each member of the Central Location Board be paid.

(b) Adequate Manpower

- (1) To comprise the Precinct Boards and Central Location Boards, the Elections Official must begin recruitment efforts to secure the Supervisors and Elections Workers necessary for the Primary and Presidential Elections.
- (2) Any Precinct Board Member who wishes to also serve as a Central Location Board Member may do so.
- (3) Supervisors¹² may be compensated differently than members of the Precinct Boards and Central Location Boards. Part of the Supervisors' responsibilities may be to find and recruit volunteer Elections Workers under their charge. Cal. Elec. Code § 12310.
- (4) By recruiting adequate numbers of volunteers, confining counting to commence only after the Close of Polls, dividing the workload between the Precinct and Central Location(s), and by making the respective Supervisor responsible for securing volunteers for his or her team, adequate volunteer manpower can be achieved.
- (5) Recruitment in the community newspaper, social media, service clubs, public schools, private schools, churches, synagogues, and other houses of worship are just a few suggested methods for securing adequate manpower.

(c) Adequate Space for Conducting the Hand Count

- (1) Precinct Counting can occur on-site at the local Precinct. The advantages of Precinct Counting include the fact that the facility has already been secured, can easily accommodate a Precinct Board of five (5) individuals, plus interested observers, and is located closest to the people who cast those Ballots and who have the greatest interest in observing the counting and tallying process.
- (2) Most Precincts' designated polling places in the County are in government buildings, churches, houses of worship, or other public facilities. Requests for additional time to

¹¹ Refer to LEX REX INSTITUTE letter dated March 31, 2023 for greater clarification on the law concerning the permissibility of enlisting unpaid volunteers to count paper Ballots. A true and correct copy of which is attached hereto and incorporated herein in § XIII(c) of this Plan.

¹² Counting Supervisors are referred to as "Inspectors" in the California Elections Code. Cal. Elec. Code § 325.

X – CONCERNS

occupy this space to allow for on-site counting, tallying, and tabulation of the votes cast there should be made by the Elections Official forthwith.

- (3) By providing for Precinct Counting, the amount of space necessary for Central Location Counting shall be mitigated.
- (4) Central Location Counting can take place at any one of several underused or unused warehouses within the County. There can be more than one space selected to serve a region or a grouping of Precincts as outlined later in this Plan. The County may also consider purchasing a warehouse for this purpose and future needs.
- (5) The Elections Official should begin identifying spaces for lease within the jurisdiction and present those options to the BOS.

(d) **Timely Release of Results**

- (1) To mitigate the burden, duration, and workload for volunteers, the BOS should consider a public information campaign to **encourage Voters in the County to return their Ballots in person, on Election Day, at their local Precinct**, if at all possible.
- (2) The Central Location Counting is to be broken down into Precincts. Ballots are to be sorted into Precinct bundles prior to the commencement of counting. This sorting can take place as Ballots come in through the mail or hand delivery and prior to the Close of Polls.
- (3) Once Precinct Board teams have completed their task, willing volunteer members may proceed to the Central Location(s) to help or relieve those teams with the tallying and tabulation tasks.¹³

XI. INSTITUTE PILOT PROGRAM FOR NOVEMBER 7, 2023 SPECIAL ELECTION

The Special Election slated for November 7, 2023 offers an opportunity to institute this Plan for a Mechanical Hand Counting Voting System on a provisional basis, to make assessments concerning areas of success and areas where improvements or adjustments are needed.¹⁴

The BOS, without formally adopting a Voting System, has the authority to provide for the experimental use of the Voting System in a pilot program in the case of a Special Election. Cal. Elect. Code § 19209(b). The requirements that must be met for a pilot program to be implemented are (1) that the Voting System uses only software and firmware with disclosed source code, except for unmodified commercial off-the-shelf software and firmware, meets the requirements of the

¹³ The pilot program for the November 5, 2023 Special Election is the perfect opportunity to assess how long it takes to count, tally and tabulate the Ballots of approximately 8,500 Voters in only two (2) races that are up for Election. This shall provide the ROV with better, grounded numbers for determining how long the task of hand counting shall take.

¹⁴ <https://Elections.shastacounty.gov/special-Election-november-7-2023/>

XI – INSTITUTE PILOT PROGRAM FOR NOVEMBER 7, 2023 SPECIAL ELECTION

regulations adopted by the Secretary of State, and (2) that the Voting System implements risk-limiting audits. Cal. Elec. Code § 19209(b)(1) or § 19209 (b)(2).

This Plan makes use of no software or firmware, so the first requirement is not applicable to the County, should this Plan be implemented. This Plan meets all Secretary of State regulations and shall implement risk-limiting audits as required pursuant to the provisions of the California Elections Code. Cal. Elec. Code § 19209(e)(1) – (4).

The authors of this Plan recommend that the BOS exercise its authority to direct the Elections Official to devise and implement a risk-limiting audit of the November 7, 2023, Special Election in compliance with Cal. Elec. Code § 15367.

Additionally, this Plan must and does meet the requirements that it:

- (1) preserves the secrecy of the Ballot;
- (2) is safe from fraud or manipulation;
- (3) is accessible to Voters with disabilities; and
- (4) is accessible to Voters who require assistance in a language other than English. Cal. Elec. Code § 19101(b).

XII. THE POST-ELECTION ANALYSIS AND EVALUATION

At the conclusion of the pilot program, once final results have been reported and certified, and for each Election cycle thereafter, the Elections Official's office shall conduct an analysis and assessment of the Plan.

This assessment can be defined as actively engaging in self-evaluation and utilizing the findings to inform and improve the planning and implementation of hand counting processes and activities to more effectively carry out the ROV's mission and achieve desired outcomes.

The assessment should note areas of success, identify areas that need improvement, and make recommendations for achieving Plan purposes and goals as set by the BOS.

The Elections Official is the official responsible for devising and executing this analysis and self-evaluation. The Elections Official should engage all stakeholders, including Voters, members of the Precinct Boards, Central Location Boards, any volunteers, whether or not they received a stipend, any professional full-time or part-time County staff, and any candidates that appeared on the Ballot during that Election cycle subject to evaluation.

The Elections Official should also make use of social media, its official website, local news agencies, and any other reasonable means to solicit stakeholder input. A questionnaire should be provided to members of the Precinct Boards and Central Location Boards upon the conclusion of their duties. There should be multiple manners in which to provide input (e.g. email submissions, in-person questionnaires, public hearings, etc.).

XII – THE POST-ELECTION ANALYSIS AND EVALUATION

Finally, the Elections Official should share the lessons learned and make any necessary recommendations for adjustments to ensure the successful implementation of hand counting in the future.

A comprehensive report, encapsulating these findings and recommendations, should be presented by the Elections Official to the BOS. Any proposed adjustments or modifications to the Plan are aimed at guaranteeing a seamless hand counting process, delivering prompt results, and reaffirming the public's trust in the integrity of the County's elections.

XIII – APPENDIX

XIII. APPENDIX

XIII.I – Appendix I – Declarations

- (1) The declaration of a Precinct Board Supervisor shall be in substantially the following form:

State of California

County of Shasta

I do hereby solemnly declare that I shall support the Constitution of the United States and the Constitution of the State of California, and that I shall, to the best of my ability, faithfully discharge the duties of Precinct Board Supervisor for Precinct _____ for the Election to be held on ____, 20__.

_____(Signature).

Signed in the presence of _____ (Signature)
on ____, 20__.

- (2) The declaration of a Precinct Board Member shall be in substantially the following form:

State of California

County of Shasta

I do hereby solemnly declare that I shall support the Constitution of the United States and the Constitution of the State of California, and that I shall, to the best of my ability, faithfully discharge the duties of Precinct Board Member for Precinct _____ for the Election to be held on ____, 20__.

_____(Signature).

Signed in the presence of _____ (Signature)
on ____, 20__.

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XIII – APPENDIX

- (3) The declaration of a Central Location Board Supervisor shall be in substantially the following form:

State of California

County of Shasta

I do hereby solemnly declare that I shall support the Constitution of the United States and the Constitution of the State of California, and that I shall, to the best of my ability, faithfully discharge the duties of Central Location Board Supervisor for the Central Location facility located at _____ for the Election to be held on _____, 20__.

_____(Signature).

Signed in the presence of _____ (Signature)

on _____, 20__.

- (4) The declaration of a Central Location Board Member shall be in substantially the following form:

State of California

County of Shasta

I do hereby solemnly declare that I shall support the Constitution of the United States and the Constitution of the State of California, and that I shall, to the best of my ability, faithfully discharge the duties of Central Location Board Member for the Central Counting facility located at _____ for the Election to be held on _____, 20__.

_____(Signature).

Signed in the presence of _____ (Signature)

on _____, 20__.

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XIII.II – Appendix II – Certificate of Performance

Certificate of Performance

for ____ Precinct, for the ____ Election, held on the ____ day of ____, (year).

We hereby certify that the total number of votes received by each candidate for each office and the total number of votes cast for and against each measure is as indicated on the Tally Sheets.

We further certify that the results of votes cast forms posted outside the polling place and transmitted to the County Elections Official show the total number of votes received by each candidate for each office and the total number of votes cast for and against each measure is as indicated.

Precinct Board Member #1

Precinct Board Member #2

Precinct Board Member #3

Precinct Board Member #4

Precinct Board Member, Relief #1

Precinct Board Member, Relief #2

Precinct Board Member, Relief #3

Precinct Board Member, Relief #4

Precinct Board Supervisor

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March 31, 2023

Honorable Kevin Crye
Honorable Tim Garman
Honorable Mary Rickert
Honorable Patrick Jones, Chair
Honorable Chris Kelstrom

Re: Legal Errors and Distortions of Law from ROV's Letter Dated March 27, 2023

All:

I am an attorney working with the Lex Rex Institute, a nonprofit organization dedicated to government accountability and operation within Constitutional limitations. Shortly before a March 27 meeting of the Shasta County Board of Supervisors (the "Board"), the Board was presented with a memorandum from Cathy Darling Allen, County Clerk/Registrar of Voters (the "ROV") putting forward various arguments against adopting a manual ballot counting system for elections in Shasta County (the "Memorandum"). At numerous points, the Memorandum offered misleading or otherwise dubious interpretations of the California Elections Code (the "Code") and relied on several doubtful lines of argumentation. While the general tenor of the Memorandum was clearly intended to discourage paper balloting and manual counting, it contained remarkably few legal representations. During the March 27, 2023 meeting of the Board, I publicly commented on several of these legal representations, and I intend this letter to serve as a supplement to those comments.¹ It is not this letter's purpose to

¹During the March 27 Board meeting, a question was raised about my presence. I would like to provide a clear explanation to address any potential concerns. On the afternoon of March 26, 2023, I attended a brief Zoom meeting with a group of concerned citizens, who informed me that the Board had questions about California election law and could benefit from the insights of someone knowledgeable on the

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refute all contentions and implications in the Memorandum, but merely to correct and clarify the mistaken points of law and/or legal distortions of the Code.

1. Page 2 of the Memorandum cites Cal. Elec. Code §12310 and §15103 to support the claim that all vote counters in an election conducted by paper ballot “cannot be volunteers but must be paid county staff.” A plain reading of the Memorandum would lead a reasonable person to conclude that vote counters must be salaried county employees, but, in fact, the Code imposes no such requirement: “Each member of a precinct board shall receive a stipend for services fixed by the governing body of the jurisdiction.” Cal. Elec. Code §12310. Further, “[t]he elections official shall pay a reasonable compensation to each member of the canvassing board of vote by mail ballots.” Cal. Elec. Code §15103. It is not at all clear that the Code in these sections is imposing a requirement that vote counters be paid. Rather, the Code is simply specifying the party responsible for issuing such payment if and when it is made. While this section of the Code remains legally untested at this time, even if the Court were to construe this section as imposing a requirement that vote counters be given money compensation, these sections of the Code are perfectly compatible with the giving of token cash compensation to volunteers. It does not suggest counters are required to be County employees.

2. Page 2 of the Memorandum claims that “section 15101 prohibits an election official from processing vote by mail ballots any earlier than 5 PM the day prior to election day. By contrast, a jurisdiction using a voting system can begin processing vote by mail ballots 29 days before the election.” Here, the Memorandum offers a self-serving interpretation of an ambiguous section of the Code. Cal. Elec. Code §15101 reads:

(a) Any jurisdiction in which vote by mail ballots are cast may begin to process vote by mail ballot return envelopes beginning 29 days before the election. Processing vote by mail ballot return envelopes may include verifying the voter's signature on the vote by mail ballot return envelope and updating voter history records.

(b) Any jurisdiction having the necessary computer capability may start to process vote by mail ballots on the seventh business day prior to the election. Processing vote by mail ballots includes opening vote by mail ballot return envelopes, removing ballots, duplicating any damaged ballots, and preparing the ballots to be machine read, or machine reading them, but under no circumstances may a vote count be

topic. These citizens specifically requested my attendance at the Board meeting. Kevin Crye was present at the March 26 Zoom meeting, and this was the first time I ever interacted with him in any capacity. No other Board members were present and, apart from the questions asked during the March 27 meeting, I have never spoken with any other member of the Board. My participation in the Board meeting was not a direct invitation from the Board itself, but rather, I attended as a knowledgeable member of the public, responding to the general invitation for public comment. I hope this puts to rest any misunderstandings.

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accessed or released until 8 p.m. on the day of the election. All other jurisdictions shall start to process vote by mail ballots at 5 p.m. on the day before the election.

The term “necessary computer capability” is not defined in the Code, nor is it the term the Code ordinarily uses to designate an electronic voting system, which would be “voting system” (the same term used for non-electronic systems)² The Memorandum has thus imposed a strict interpretation on an ambiguous section of the code in such a way as to appear maximally favorable to the use of electronic voting systems.

3. Page 11 of the Memorandum refers to a test of hand-counting of ballots performed following a 2022 election and claims “the only variances discovered in the process were both caused by human error.” However, this claim is footnoted, and the footnote reads: “In one case the hand-counter missed a voter’s choice in a ‘vote for two’ contest, and in the second instance, a voter marked a write-in space, then listed a qualified candidate, and voted for the candidate. These marks caused the software to identify the ballot as requiring adjudication and it was not adjudicated correctly.” The Memorandum is misleading in classifying the second instance as “caused by human error”: as acknowledged by the Memorandum, the miscount of the second ballot was caused in part by limitations of the electronic system. As described in the Memorandum, human error was involved, but it was not the exclusive cause of the miscount and would not have been prevented by the use of electronic voting systems, which were already in use in that case.

4. Page 14 of the Memorandum cites the development and implementation of procedures to guarantee voter confidentiality and ballot secrecy as a drawback of a manual counting system. Any and all systems for counting votes must account for confidentiality and secrecy. Implying that such procedures are a unique burden on manual ballot counts is misleading at best.

5. Page 15 of the Memorandum repeats the dubious interpretation of Cal. Elec. Code §12310 and §15103 cited in Part (1) above and implies that the need to perform background checks and implement security measures to accommodate the staff required for a manual ballot count is a unique burden of paper ballot systems. However, electronic voting systems equally require information technology security measures and security measures pertaining to any personnel installing or servicing electronic voting systems. Moreover, the fewer individuals who have access to critical voting infrastructure, the greater the capacity of any given individual to cause harm to the system. The necessity of performing background checks on a greater number of individuals to facilitate a manual vote count may impose a somewhat higher administrative burden on Shasta County, but it will also go some way toward limiting the security risk posed by any individual bad actor.

²“Voting system” means “any mechanical, electromechanical, or electronic system and its software, or any combination of these used to cast or tabulate votes, or both.” Cal. Elec. Code §362.

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6. Similarly, page 17 of the Memorandum cites the requirement to perform a proof-of-concept test on any manual vote counting system as a drawback of a hand-counting system, even while acknowledging that such tests are also required for electronic systems. There is no reason to single out manual count systems in this regard.

7. Page 18 of the Memorandum repeats the self-serving interpretation of Cal. Elec. Code §15101 noted in part (2) above. Again, this section of the Code is ambiguous, and the Memorandum offers a reading biased against manual vote counting systems.

8. Throughout the Memorandum, an implicit argument is made that electronic voting systems should be favored because a final vote count can be produced more quickly. The Memorandum makes repeated reference to Cal. Elec. Code §15372, which requires final counts to be submitted within twenty eight (28) days of an election. However, the Memorandum offers no evidence to suggest that a manual count could not be completed well within the 28-day limit, and there is no reason to believe so.

9. The Memorandum makes repeated reference to the number of registered voters in Shasta County, implicitly suggesting that, at approximately 115,000 voters, a manual ballot count would be too difficult to administer. As can be seen in a 2020 report (accessible at <https://elections.cdn.sos.ca.gov/lor/15day-gen-2020/county.pdf>), Shasta County's 115,000 or so registered voters is by no means unusually high among California counties. A handful of counties have registration below 100,000, but a great many have registration several times higher than Shasta County's. Moreover, and perhaps most importantly of all, the benefits of a manual ballot count are not to be found in greater speed or efficiency, and no reasonable person would suggest so. Manual ballot counts remain the most effective measure to ensure election security, and on that basis alone they are to be strongly recommended.

Very truly yours,

LEX REX INSTITUTE

By: 
Alexander H. Haberbusch, Esq.

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