

**INTEROFFICE COMMUNICATION  
COUNTY OF MILWAUKEE**

DATE: August 22, 2013

TO: Marina Dimitrijevic, Chairwoman, County Board of Supervisors

FROM: James M. Carroll, Principal Assistant Corporation Counsel

SUBJECT: Burton & Mayer, Inc. v. Milwaukee County Election Commission

I request that this matter be referred to the Committee on Judiciary, Safety and General Services for approval of a settlement. I request authority to settle this dispute for the total sum of \$38,000.00, which we request be paid out of the Appropriation for Contingencies.

This settlement is related to the printing of ballots for the April 3, 2012 presidential primary election. In mid-March of 2012, the County Election Commission was notified of potential concerns with approximately 488,000 ballots printed by Burton & Mayer, Inc. of Menomonee Falls. There were concerns that the ballots were too long for some voting machines and/or that some voting machines were not reading the ballots properly. Though Burton & Mayer did not agree that there were problems with the ballots, the County Election Commission decided to have the ballots reprinted by other vendors at additional expense. Burton & Mayer maintains that, to the extent there were any issues with the ballots, it could have resolved those issues in a timely manner and a less expensive manner had it been permitted to do so.

In July 2012 Burton & Mayer sent the County Election Commission a detailed letter explaining its position that the company was not at fault for any alleged problems with the ballots. Burton & Mayer attributed both the ballot length and the ballot reading issues to errors by other vendors responsible for providing ballot specifications and ballot testing. The company demanded payment of the total invoice for the ballots, which totaled \$70,775.94. Thereafter, the County Election Commission (via Corporation Counsel) engaged in a lengthy analysis of the situation that ultimately led to settlement negotiations. Burton & Mayer filed a Notice of Claim demanding full payment of its outstanding invoice. The Election Commission would like to continue what has otherwise been a positive working relationship and to avoid the risks of costly and contentious litigation. Therefore, the parties agreed to resolve the matter for \$38,000.00.

Corporation Counsel and the County Election Commission recommend this settlement for approval. Because the Election Commission does not have funds in its budget for this settlement, it is requested that a fund transfer from the Appropriation for Contingencies be approved.



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James M. Carroll, Principal Assistant Corporation Counsel

cc: Amber Moreen  
Kelly Bablitch  
Alexis Gassenhuber  
Stephen Cady  
Raisa Koltun