

Kenai Peninsula Borough

Office of the Borough Clerk

MEMORANDUM

TO: Members, Kenai Peninsula Borough Assembly

THRU: Brent Johnson, Assembly President *BJ*
Tyson Cox, Assembly Vice President *TRC*
Mike Navarre, Borough Mayor *MN*

FROM: Michele Turner, Acting Borough Clerk *(MT)*

DATE: February 9, 2023

RE: Ordinance 2022-19-43 Appropriating Funds and Authorizing the Borough Clerk to Contract for an Upgraded Voting System, Software, and Related Equipment to Continue to Provide an Accessible Voting System for Persons with Disabilities (Johnson, Cox, Mayor)

A complaint was filed following the October 6, 2015 Borough election with the Alaska State Commission for Human Rights (“ASCHR”) alleging discrimination on the basis of a physical disability due to the Borough allegedly not accommodating the complainant’s vision disability by providing an accessible voting machine. The Borough entered into the conciliation agreement on December 18, 2018. As part of the conciliation agreement entered into in the Malley case, the Borough committed to adopting a voting system to provide private, independent voting by visually impaired citizens. The ADA compliant voting equipment must be provided at every polling precinct or location in the Borough where voting occurs.

On February 9, 2021, ASCHR approved an amendment to the conciliation agreement to provide the Borough more time to acquire ADA compliant voting equipment in order to comply with the terms of the conciliation agreement. Following the Borough’s ADA compliant regular election in 2021, ASCHR closed the case with the expectation that the Borough would continue to provide ADA complaint voting equipment and ADA complaint elections moving forward.

KPB 4.70.100 states that nothing in Title 4 Elections prohibits the use of other ballot counting systems which have been approved for use in state elections and the election supervisor (Borough Clerk) may prescribe rules for the use of these systems as have been adopted by the state for use in state elections.

KPB 4.10.120 provides that the Borough clerk may contract for the provision of specialized materials and supplies without obtaining competitive bids. In 2021, quotes were obtained from two companies, Dominion Voting Systems Inc. (Dominion) and Election Systems & Software (ES&S). After vetting the quotes, capabilities and services that each company could provide the

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Borough for the costs quoted, Dominion was determined to be the superior choice to fulfill the Borough's needs.

In addition, the Borough is benefiting from the ability to incorporate the scope of work, deliverables, and specifications terms from the State of Alaska's Voting System RFP pursuant to KPB 5.28.030 which allows the Borough to join other units of government in cooperative purchasing venture that serves the best interests of the Borough.

In 2021, the Assembly approved the purchase of 7 ADA compliant voting machines for use at Borough vote centers, and the lease with an option to purchase 26 ADA complaint voting machines and related hardware components and services. The Agreement included an annual software use license. Per the Agreement, if the action is not taken prior to March 2023 the Borough must purchase all 26 leased voting machines.

Alternatively, the vendor – Dominion – will allow the Borough to enter into a new Agreement to upgrade and purchase updated voting machines that will allow transmission of results over wireless networks. The new machines are utilized by the State of Alaska, will ensure much faster delivery of election results, and at the same time retain necessary election security and integrity. If the Borough purchases the old machines, they will be obsolete in a matter of months and it will be very difficult to get the machines serviced if there are ever issues or updates needed.

This Ordinance will appropriate \$269,572.00 for the purchase of the ADA compliant voting system.

Your consideration is appreciated.

FINANCE DEPARTMENT FUNDS/ACCOUNT VERIFIED	
Acct. No.	<u>100.27910 FB</u>
Amount:	<u>\$269,572.00</u>
By:	<u>BH</u>
By:	<u>CJ</u> Date: <u>2/9/2023</u>