

**ELECTION SERVICES CONTRACT
WITH THE COUNTY ELECTIONS OFFICER
STATE OF TEXAS, COUNTY OF ERATH**

THIS CONTRACT made by and between the City of Stephenville, hereinafter referred to as “Political Subdivision,” and Gwinda Jones, County Election Officer for Erath County, Texas hereinafter referred to as “Contracting Officer,” and by authority of Section 31.092(b), Texas Election Code, for the conduct and supervision of the November 7, 2023 Special Election. THIS AGREEMENT is entered into in consideration of the mutual covenants and promises hereinafter set out:

Political Subdivision is holding a special election to Amend the City Charter (at the expense of Political Subdivision).

The County owns an electronic voting system, the ES&S ExpressVote System (Version 6.1.1.0), which has been duly approved by the Secretary of State pursuant to Texas Election Code Chapter 122 as amended and is compliant with the accessibility requirements set forth by Texas Election Code Section 61.012. Political Subdivision desires to use the County’s electronic voting system and to compensate the County for such use.

NOW THEREFORE, in consideration of the mutual covenants, agreements, and benefits to the parties, IT IS AGREED as follows:

DUTIES AND SERVICES OF “CONTRACTING OFFICER”

The Contracting Officer shall be responsible for performing the following duties and shall furnish the following services and equipment.

- (a) Contact the designated polling places and arrange for their use in the election.
- (b) Procure and distribute election kits and all necessary election supplies.
- (c) Procure all necessary voting machines and equipment, transport machines and equipment to and from the vote centers and prepare the voting machine and equipment for use at the vote centers. Perform all testing as required by law.
- (d) Work with ES&S Service Bureau to program ballot on behalf of Political Subdivision. The Contracting Officer may enter into a separate election’s services contract with another political subdivision for an election conducted on the same day. The participating parties shall share a mutual ballot in those precincts where jurisdictions overlap. However, in no instance shall a voter be permitted to receive a ballot containing an office or proposition stating a measure on which the voter is ineligible to vote. Each Political Subdivision will furnish a list of candidates and/or propositions showing the order and the exact manner in which they are to appear on the official ballot, including

titles and text in each language in which the ballot is to be printed as soon after the filing period as possible.

(e) Serve as early voting clerk and provide deputy early voting clerks to assist with the early voting. As Early Voting Clerk, the Contracting Officer, shall receive applications for early voting ballots to be voted by mail. Any requests for early voting ballots to be voted by mail received by the Political Subdivision shall be forwarded immediately to the Contracting Officer, for processing.

(f) Notify the Political Subdivision of the date, time, and place of the election school and arrange for a facility for holding the school.

(g) Publish the legal notice of date, time, and place of the test of the electronic tabulating equipment and conduct such test.

(h) Be responsible for accumulating votes cast at each of the vote centers. In accordance with TEC, Chapter 127.151:

Accumulation Station Manager: Gwinda Jones, County Clerk
Station Supervisor: Sharlene Talamantes, Election Coordinator

The Contracting Officer will prepare the unofficial canvass reports after all precincts have been counted and will deliver a copy of the unofficial canvass to the Political Subdivision as soon as possible after all returns have been tabulated. All participating authorities shall be responsible for the official canvass of their respective elections.

The Contracting Officer shall be responsible for conducting the post-election manual recount required by Section 127.201 of the Texas Election Code unless a waiver is granted by the Secretary of State. Notification and copies of the recount, if waiver is denied, will be provided to each participating authority and the Secretary of State's Office.

(i) Assist in the general overall supervision of the election and provide advisory services in connection with the decisions to be made and the actions to be taken by the officers of the Subdivision who are responsible for holding the election.

DUTIES AND SERVICES OF "POLITICAL SUBDIVISION"

(a) Political Subdivision will furnish a list of candidates and/or propositions showing the order and the exact manner in which they are to appear on the official ballot, including titles and text in each language in which the ballot is to be printed as soon after the filing period as possible.

(b) Publish and Post Notice of Election.

(c) Political Subdivision will provide copies of the Order of Election, Cancellation of Election, official canvass, and any other notices or orders regarding the Election made by the Political Subdivision

FEES

(a) The Contracting Officer will be responsible to pay the early voting judges/clerks, Election Day judges/clerks, and the ballot board. If more than one entity is holding an election on the same date the election judge/clerk costs will be divided by the participants. The Political Subdivision will receive a statement for their portion of the costs as applicable, including a summary and copies of all invoices. The number of election judges used will vary depending on the number and type of election(s) being held, but the number of judges will never be less than three per location.

(b) Political Subdivision shall be responsible for paying a rental fee of voting machines during the election(s) at a rate of 3% of the purchase price of the equipment. This fee will be paid individually; it is not split between entities sharing the election. This includes the ExpressVote machines (ballot marking device), DS200s (scanner), laptops (electronic voter registration list), and ElectionWare reports software needed to conduct the election.

(c) ES&S will program and code the ballot for the election and bill Erath County. The Contracting Officer will then bill the Political Subdivision for their portion of the election.

(d) Contracting Officer will provide absentee ballot services to mail and process absentee ballots. The fee for the service is \$350.00, \$.68 per packet for postage, and \$2.56 per ballot packet processed.

(e) Political Subdivision will be charged the actual cost of publishing the Notice of Logic and Accuracy Test, or their portion of the fee if multiple entities are holding an election on the same day.

(f) There will also be a mileage fee and supply kit fee. If more than one entity is holding an election on the same date, these fees will be divided between the participants.

(g) An administrative fee of ten percent (10%) of the total cost of the election will be charged for overall supervision by the Contracting Officer.

(h) With the exception of the rental fee, if multiple entities share an election, the percentage of the election cost paid by the Political Subdivision will be based on the

number of registered voters within that entity. The Contracting Officer will include the percentage calculations with the statement and invoice copies.

GENERAL CONDITIONS

(a) Nothing contained in this contract shall authorize or permit a change in the officer with whom or the place at which any document or record relating to the election is to be filed, the place at which any function is to be carried out, the officers who conduct the official canvass of the election returns, the officer to serve as custodian of the voted ballots or other election records, or any other nontransferable function specified by section 31.096 of the Texas Election Code.

(b) The Contracting Officer is the agent of the Political Subdivision for the purposes of contracting with third parties with respect to the election expenses within the scope of the Contracting Officer's duties, and the Contracting Officer is not liable for the failure to pay a claim.

(d1) Unless otherwise agreed in the contract between the parties, where the Political Subdivision or Contracting Officer fails to perform one or more of its contractual duties, the consequences set out in this clause will follow if and to the extent that that party establishes: (1) that its failure to perform was caused by an impediment beyond its reasonable control and (2) that it could not reasonably have avoided or overcome the effects of the impediment.

(d2) The party invoking this clause shall be presumed to have established the conditions described in the preceding paragraph in the case of the occurrence of one or more of the following impediments: war (whether declared or not), armed conflict or the serious threat of the same (including but not limited to hostile attack, blockade, military embargo), hostilities, invasion, act of a foreign enemy, extensive military mobilization, civil war, riot, rebellion, revolution, military or usurped power, insurrection, civil commotion or disorder, mob violence, act of civil disobedience, act of terrorism, sabotage or piracy; plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including quarantine, social distancing, isolation or other behavioral restrictions; act of authority whether lawful or unlawful, compliance with any law or governmental order, rule, regulation or direction, curfew restriction, expropriation, compulsory acquisition, seizure of works, requisition, nationalization; act of God or natural disaster such as but not limited to violent storm, cyclone, typhoon, hurricane, tornado, earthquake, landslide, flood, damage or destruction by lightning, drought; explosion, fire, destruction of machines, equipment and of any kind of installation, prolonged breakdown of transport, telecommunication or electric current; shortage or inability to obtain critical material or supplies to the extent not subject to the reasonable control of the subject party ("force majeure event").

(d3) This provision shall become effective only if the party failing to perform notifies the other party within a reasonable time of the extent and nature of the Force Majeure event, limits delay in performance to that required by the Event, and takes all reasonable steps to minimize damages and resume performance.

(d4) If the party failing to perform does not prove an impediment listed above, they are subject to a penalty fee due to the other party equal to the rental cost of the equipment and all expenses accrued up to that time/date.

(d5) If the party failing to perform does prove a Force Majeure event, the Political Subdivision will be responsible for all expenses accrued up to the time/date of the Force Majeure event.

(e) The Contracting Officer shall have this contract approved by Commissioners' Court of Erath County.

(f) Only the actual expenses directly attributable to the Contract may be charged (Section 31.00(b), Texas Election Code).

By signing this agreement, Political Subdivision is acknowledging that the Contracting Officer may enter into a separate election's services contract with another political subdivision for an election conducted on the same day.

IN WITNESS WHEREOF, the parties hereto acting under authority of their respective governing bodies have caused this Contract to be duly executed in several counterparts, each of which shall constitute an original, as of the ____ day of _____, 2023.

City of Stephenville

Attest

Gwinda Jones, Erath County Clerk

Date