

**ELECTION SERVICES CONTRACT
BETWEEN FAYETTE COUNTY ELECTIONS ADMINISTRATOR
AND THE SMITHVILLE INDEPENDENT SCHOOL DISTRICT
RELATING TO AN ELECTION TO BE HELD ON MAY 6, 2023**

THE STATE OF TEXAS §
 §
COUNTY OF FAYETTE §

This Election Services Contract is made and is entered into pursuant to §31.092, Texas Election Code, by and between the FAYETTE COUNTY ELECTIONS ADMINISTRATOR, Terri Hefner (the "ELECTIONS ADMINISTRATOR"), the duly appointed County Elections Administrator for Fayette County, Texas (the "COUNTY") and the SMITHVILLE ISD (the "DISTRICT"), and is based upon the following terms and conditions:

PURPOSE OF AGREEMENT AND AUTHORITY:

The County owns an electronic voting system that the County has obtained from Elections Systems and Software (hereinafter "ES&S"). The electronic voting system has been duly approved by the Secretary of State pursuant to §§122.031-122.039, §122.061 and §122.091, Texas Election Code, as amended, and duly approved by the United States Department of Justice pursuant to the Voting Rights Act of 1965, as amended, for use in Fayette County. The District desires to use portions of the County's electronic voting system in its election, said portions hereinafter referred to as the "voting system equipment," and desires to obtain limited election services, as further set out herein, from the County through the Elections Administrator. The District is willing to compensate the County for such use and services, in accordance with the applicable provisions of Chapters 31 and 123 of the Texas Election Code, as amended. The Elections Administrator and the District have determined that it is in the public interest of the inhabitants of the District, who are also inhabitants of the County, that this Election Services Contract, made also in accordance with and based on the Interlocal Cooperation Act, Chapter 791, Government Code, as amended, be made and entered into for the purposes of having the County and the Elections Administrator furnish to the District certain voting system equipment, voting equipment, and election services in order that the District may conduct its election of May 6, 2023, hereinafter referred to as the "election" or as the "May 6, 2023 election".

DUTIES AND SERVICES OF THE ELECTIONS ADMINISTRATOR:

1. Conduct all Early Voting for the District's election each weekday, Monday, April 24 through Tuesday, May 2 with Early Voting conducted at the Fayette County Elections Office, 275 Ellinger Road, La Grange, TX 78945.
2. Conduct all Election Day voting and tabulation for the District's election on Saturday, May 6, 2023 from 7:00 am to 7:00 pm at the Fayette County Elections Office, 275 Ellinger Road, La Grange, TX 78945, as well as oversee tabulation of all voted ballots from Early Voting and Election Day, excluding any Provisional Ballots received.
3. Supervise meeting, if required or requested, of Early Voting Ballot Board to qualify any Provision Ballots received during the District's election.
4. Coordinate between the District and ES&S to order the ballots for the District's election and perform ballot proofing, Spanish translation and spelling.
5. Serve as sole custodian of all ballots from the time of receipt from ES&S, to the time of delivery of tabulated results to the District's representative after 7:00 pm on Election Day.

6. Provide unofficial tabulated election results to District's representative as soon as possible after 7:00 pm on Election Day, with unofficial results from the election announced thereafter on Election Day by the District's representative.
7. Submit to the District for approval, two (2) names of qualified registered voters to conduct Early Voting and serve on Election Day as Presiding Judge and Alternate Judge, for a minimum of 13 hours each, to be paid by the District. In addition, the Alternate Judge will serve during Election Day as the Presiding Judge of the Early Voting Ballot Board, which includes qualifying Provisional Ballots if needed and serving as the Presiding Judge of the Tabulation Board.
8. Notify Presiding and Alternate Judges of appointment
9. Submit all information necessary to the District for payment by the District of all election workers who worked the election of the District.
10. Order supplies needed to conduct the Districts election, with supplies to be billed directly to the District and paid for by the District.
11. Provide advisory services, through the Elections Administrator and during standard County business hours, to the District's representative or contact person.
12. Provide voting system equipment from the County to the District for use during the election which consists of the ES&S Express Vote Ballot Marking Device and peripherals and mailing of flash drives to ES&S for programming in accordance with the number of units rented.
13. Transport, setup, and return all voting system equipment used for the election.

DUTIES AND SERVICES OF THE DISTRICT:

The District is contracting with the Fayette County Election Office to assist the District with their May 6, 2023 election. The District's responsibilities in regard to the election are as follows:

1. Arrange for polling places.
2. Procure ballots and sample ballots through the County.
3. Post all required notices for the District's election.
4. Approve the names of qualified registered voters identified by the County to conduct Early Voting, Election Day voting, Early Voting Ballot Board duties, and tabulation duties for the District's election.
5. Fax copies of applications for ballots by mail received at the District's office to the County within 24 hours of receipt.
6. Pay all election workers of the election for the District, and prepare W-2 or 1099 for if necessary.
7. Provide the County with the candidate information needed to order ballots and program voting equipment.
8. Reimburse the County for postage costs incurred mailing ballots to voters in the District's Election.
9. Pay media programming costs (including postage costs) and all invoices for supplies associated with the District's election.
10. Make public announcements through the District's representative of unofficial tabulated election results for the District's election of May 6, 2023.
11. Accept responsibility, by the District's representative, on Election Day after 7pm, of all tabulated ballots, as well as any leftover ballots and election supplies, excluding the provisional ballots, after delivery of unofficial tabulated results.

BALLOTS

The District will be billed directly by ES&S for costs concerning preparation of the ballots by ES&S. The District agrees to pay ES&S for those and any associated costs. The District also agrees that upon approval by

the District of the final ballot proof, the County will have the authority to order the ballot for the election for the District with the charge from ES&S for preparation of the ballots to be incurred and paid for by the District.

USE OF COUNTY VOTING EQUIPMENT:

The District shall use the electronic voting system equipment and supplies in a careful and proper manner. The District shall take note of how the unit was packed upon receipt, and pack unit for return in like manner. The District shall take receipt of the voting system equipment from the County through the Elections Office. The District shall comply with the manufacturer's manual, enclosed in each ExpressVote case, as well as any other instructions from the Elections Office as to the use and operation of said electronic voting system equipment and with any laws, ordinances, and regulations relating to the possession, use and maintenance of the electronic voting system equipment, and shall limit its use only for the purposes of holding the election.

CONDITION OF EQUIPMENT UPON RECEIPT:

The District shall inspect the voting system equipment within twenty-four (24) business hours after receipt of the voting system equipment. Unless the District, within this period of time, gives written notice to the County, specifying any defects in or other objections to the voting system equipment, the District agrees that it shall conclusively be presumed that the District has fully inspected and has acknowledged that the voting system equipment is in good condition and repair and that the District is satisfied with and has accepted the voting system equipment in such good condition and repair.

INSPECTION:

The County and the Elections Administrator shall at all times during the election have the right to enter on the premises where the election is being held for the purposes of inspecting the voting system equipment and observing its use.

ALTERATIONS:

The District acknowledges that the voting system equipment is technical and the District shall make no alterations to the voting system equipment. The District shall not remove the installed programmed flash drive for any reason, without the prior consent of the Elections Administrator.

CARE AND STORAGE:

The District, at its own cost and expense, shall keep the voting system equipment in a dry, secure and protected location before, during, and after the election. The District shall also keep equipment in good condition during operation and storage, and shall see that the voting system equipment is not subjected to inclement weather or to careless or rough usage.

LOSS AND DAMAGE:

The District assumes all risk of loss and damage to the voting system equipment from any cause while it is in the possession of the District. In the event of loss or damage to the voting system equipment while in the possession of the District, the District, at the option of the County, shall:

1. Pay for the repair of the voting system equipment, at the District's cost and expense, subject however to warranty coverage provided by the manufacturer,
2. Replace the property with like property from ES&S, in good repair, which property shall then become subject to this Contract, or

3. Pay to the County three thousand, five hundred and thirty dollars (\$3,530.00) for the loss and damage, occurring while in the possession of the District, of each ES&S ExpressVote Ballot Marking Device, which is the “stipulated loss value” of each ES&S ExpressVote Ballot Marking Device.

GENERAL CONDITIONS:

1. 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 non-transferable functions specified by §31.096, Texas Election Code, as amended.
2. The Elections Administrator shall file copies of this Contract with the County Judge and with the County Auditor of Fayette County, Texas.
3. Nothing contained in this Contract shall be construed to interfere with an election to be conducted by Fayette County, Texas.

COMPENSATION:

In accordance with §31.100(b), Texas Election Code, as amended, only the actual expenses directly attributable to the Election Services Contract shall be charged. The District agrees to pay to the County \$500.00 (five hundred dollars) plus an administration fee of \$250.00 (two hundred and fifty dollars) for a total of \$750.00 (seven hundred and fifty dollars) for the conduction of the election (See Appendix A). This money will be deposited in its entirety to the county Election Services Contract Fund. The Elections Administrator or the County Auditor or the Elections Systems and Software (ES&S) vendor shall submit to the District cost for the equipment provided, along with any actual expenses incurred by the County or the Elections Administrator in regard to providing the ES&S ExpressVote Ballot Marking Device(s) for the District’s election, including expenses for additional test ballots, if any, ink cartridges, postage and supplies, no later than twenty (20) days after the election, or no later than twenty (20) days after the County receives any billing from ES&S, if any, whichever date is later. The District shall pay the cost of the equipment provided, and the actual expenses, within thirty (30) days of receipt by the District of the statement.

MISCELLANEOUS COMPENSATION:

The Elections Administrator and the District agree that the County will incur costs and expenses in connection with the making of arrangements and preparations for the District’s election, and in the event the election to be held at the expense of the District is enjoined or cancelled, or if for any reason whatsoever the District shall decide not to proceed with the election, or if the date of the election is postponed or otherwise changed, the District agrees it shall be obligated to the County for payment to the County of the cost incurred by the County on behalf of the District until the date the District notifies the County of the cancellation of the election, for any materials, supplies and postage concerning the District’s election and for any additional test ballots or other supplies, as well as an administrative fee of \$75.00 (seventy-five dollars) to be paid to the County, which costs are agreed by the District to be fair and reasonable costs and expenses incurred and to be incurred by the County in making arrangements and preparations for the District’s election.

AMENDMENTS:

Any Amendments or additions to this Contract must be in writing and must be signed by the Elections Administrator on behalf of the County, and signed by the District, in order to be valid and of effect.

IN WITNESS WHEREOF, the Elections Administrator and the District have executed this Contract in two originals on the respective dates written below their signatures, said Contract being effective, complete and binding as to both the Elections Administrator and the Districts of and on the later date of signature set forth below.

FAYETTE COUNTY
ELECTIONS ADMINISTRATOR

Approved for the Elections
Administrator:

Terri Hefner,
Fayette County Elections Administrator
P. O. Box 605
La Grange, Texas 78945
Phone: (979) 968-6563
Fax: (979) 968-6426

Blake A. Watson
Assistant Fayette County Attorney

DATE: _____

DATE: _____

THE SMITHVILLE ISD

ATTEST:

By: _____

By: _____

Printed
Name: _____

Printed
Name: _____

Title: _____

Title: _____

Address: _____

DATE: _____

Phone: _____

Fax: _____

DATE: _____

APPENDIX A

<u>Fee for Political Subdivision who Joins a Fayette County Election</u>				<u>Fee for Political Subdivision who Contracts with County to Conduct the Election</u>			
Number of Voters	County Rate	Election Admin Fee	Total	County Rate	Election Admin Fee	Plus wages, supplies, programming fees etc.	Total
1-500	\$500.00	\$250.00	\$750.00	\$500.00	\$250.00	TBD	TBD
501-1500	\$1,500.00	\$250.00	\$1,750.00	\$1,500.00	\$250.00	TBD	TBD
1501-2500	\$2,500.00	\$250.00	\$2,750.00	\$2,500.00	\$250.00	TBD	TBD
2500-3500	\$3,500.00	\$250.00	\$3,750.00	\$3,500.00	\$250.00	TBD	TBD
3500+	\$4,500.00	\$250.00	\$4,750.00	\$4,500.00	\$250.00	TBD	TBD

<u>Contract for Election Equipment Services only</u>					
Express Vote	Cost per each piece of equipment for each day of use	Election Admin Fee	Early Voting only total	Election Day only total	Combined Early and Election Day total
	\$140.00	\$100.00	\$1,080.00	\$240.00	\$1,220.00