

2021 JOINT ELECTION AGREEMENT

Between the County of Hockley, City of Levelland, South Plains College, and Levelland Independent School District

AND

ELECTION SERVICES CONTRACT

Between the County Joint Election Administrator

And the Political Subdivisions Listed Above Respectively

PRELIMINARY RECITALS

- WHEREAS Texas Election Code Chapter 271, Joint Elections, authorizes two or more political subdivisions to hold their elections jointly in the election precincts that can be served by common polling places if the elections are to be held on the same day in all or part of the same territory; and
- WHEREAS The City of Levelland, Texas ("City"), Hockley County, Texas ("County"), South Plains College ("College") and the Levelland Independent School District ("LISD"), being the signing parties to this Agreement, shall hold their respective general elections on Saturday, May 1, 2021.
- WHEREAS The County Joint Election Administrator, Cheryl Smart, hereinafter referred to as "Contracting Officer", along with the Voter Registration/Elections Department (VR/ED) she oversees, and by authority of Section 31.092(a) of the Texas Election Code, enters into this election services contract with each political subdivision holding their respective general election on Saturday, May 1, 2021 for the conduct and supervision of; and
- WHEREAS the City, College, and LISD (also referred to as participating authority(ies), joint participants, political subdivisions), and the County have adopted orders, resolutions or other official documents required by their respective governing bodies reciting the terms of this Joint Election Agreement and Election Services Contract ("Agreement"); and
- WHEREAS the City, County, College and LISD find that this Agreement will adequately and conveniently serve all voters in the City, County, College, and LISD and will facilitate the orderly conduct of the elections; and

THEREFORE, the County, City, College and LISD, agree as follows:

AGREEMENT

1. Joint Election Services – County Expense Reimbursement. The County, by and through the Hockley County Voter Registration/Elections Department (VR/ED), a public office of the County under the direction of the Joint Election Administrator (an appointed County officer and employee) agrees to coordinate, supervise and handle all aspects of administering the Joint Election in accordance with the provisions of the Texas Election Code and as outlined in this Agreement, Notwithstanding anything to the contrary stated in this Agreement, the City, LISD, and College agree to pay to the County reimbursement for all expenses incurred by the County for elections supplies, services and administrative costs, as described in this Agreement – including without limitation all authorized preparatory expenses accrued and actually incurred by the County in anticipation of an election which is suspended, rescheduled, or cancelled as allowed by law or a Force Majeure Event. The VR/ED will serve as administrator for the election; however, each participating authority remains responsible for the lawful conduct of their respective election.
2. Uniform Election Date. Joint elections shall be held Saturday, May 1, 2021, unless

suspended, rescheduled, or cancelled as allowed by law or a Force Majeure Event, including without limitation a: (a) law, rule, order, act or restraint by government, a government official, or a governmental body, regulatory agency, or court or other tribunal, including without limitation an executive order, proclamation, or other official action by the Governor of Texas, which suspends, reschedules, or cancels an election, or suspends Texas statutes or administrative regulations pertaining to the holding of an election; or (b) certification of unopposed candidates under Section 2.051-2.053 of the Texas Election Code or other authority. If a political subdivision cancels its respective election pursuant to Section 2.053, the VR/ED shall be entitled to receive and administrative fee of \$75.00 [Section 31.100 (d)] and shall prepare and submit an invoice for payment within 60 days after the unofficial notification of cancellation is received. Once the cancellation of the election is formally approved by the respective governing body, the political subdivision shall provide a copy of the certification of cancellation to the VR/ED in order for it to be posted at each affected poll place on Election Day.

3. **Voting Equipment.** The VR/ED will provide voting machines and equipment, prepare them for in the election including logic and accuracy testing, and transport them (or arrange to have them transported) to the early voting location(s) and the Election Day polling place(s).

4. **Election Supplies.** The VR/ED will arrange for all necessary election supplies, including but not limited to ballots, election forms, maps, and supplies for election judges, ballot boxes, voting booths, transfer cans, electronic poll book and accessories, etc, and if necessary, instructions and other information needed to enable the election judges to conduct a proper election.

The VR/ED will combine election forms and records in a manner convenient and adequate to record and report the results of the election for each of the participating entities as prescribed by Section 271.009 of the Texas Election Code. Each entity shall use a single ballot specific to the entity containing all the offices or propositions stating measures to be voted on at a particular polling place (Section 271.007 of the Texas Election Code).

Each participating entity will remain the filing authority for applications for a place on the ballot respectively and shall furnish to the VR/ED a list of candidates and/or propositions showing the order and the exact manner in which their candidate names and/or propositions are to appear on the official ballot in both English and Spanish. The list will be delivered to the VR/ED as soon as possible after ballot positions have been determined by each of the participating authorities. Each participating authority will be responsible for proofreading and approving the ballot in so far as it pertains to the authority's candidates and /or propositions. The VR/ED will order programming and ballots based on the ballot approval of each participating authority. In the event, a participating authority approved a ballot containing an error, that authority will be solely, financially responsible for all replacement costs of the programming and ballots, along with any additional related expenses (i.e. shipping, etc).

The VR/ED will be responsible for procuring the election supplies for an election. The ballot allocation will be in accordance to Section 51.005 of the Texas Election Code. In the case of a Local Option election, the ballot allocation will be in accordance to Title 17, Section 501.104 of the Texas Election Code. However, the final ballot order will be calculated and authorized by the VR/ED to ensure sufficient supplies without excessive waste.

5. **Election Notices and other Pre-Election Matters.**

- a. Each authority will post their respective election orders and public elections notices; and provide a copy of the orders and notices with the VR/ED and those issued by VR/ED to each participating authority.
- b. The VR/ED will select and arrange for the use of all voting locations. Voting locations will be, whenever possible, the usual, Court and DOJ approved voting locations for the participating authorities. In the event a voting location is not available or a change has been made for another reason, the VR/ED will arrange for an alternate location or combine it with another and will notify each participating authority of the change.

6. Election Judges, Clerks, and other Election Information.

- a. The VR/ED will be responsible for the appointment of the presiding judge and an alternate for each polling location. The VR/ED will arrange for training and compensation of all presiding judges and clerks. If a person is unable or unwilling to serve, the VR/ED will be responsible for the appointment of a replacement judge for the election and notify each participating authority affected by the change.
- b. The VR/ED will take necessary steps to insure that all election judges appointed for the joint election are eligible to serve.
- c. The presiding judge will be responsible for appointing at least two clerks but no more than the maximum prescribed limit and for insuring the eligibility of each appointed clerk hired to assist the judge in the conduct of the election. The VR/ED is available upon request to assist with eligibility questions and/or confirmations.
- d. Each election judge will receive \$10 per hour and each clerk \$8 per hour (for a maximum of 14 hours per day). The Election Judge will receive an additional \$25 for delivering election returns and supplies to the Hockley County Elections Department on Election Night. Election judges and clerks will be paid by Hockley County and the VR/ED shall prepare and submit an invoice to the entities for payment 60 days after the election.

7. Early Voting.

- a. All participating entities agree to conduct their early voting jointly (Section 271.006 of the Texas Election Code). Cheryl Smart, Joint Election Administrator for the VR/ED is hereby appointed Early Voting Clerk for the joint early voting as with respect to early voting in person and voting by mail. Additional clerks may be appointed by the Early Voting Clerk as needed to assist in the conduct of the election.
- b. The joint early voting will be conducted at the early voting poll place of the City/College/LISD and at minimum, will be the hours that the early voting clerk regularly conducts early voting, and if applicable, will be extended to include any extended or weekend hours.
- c. The Early Voting Clerk may appoint up to eight (8) additional clerks for early voting by personal appearance.
- d. Early voting will be conducted at the following location:
 - Location: Hockley County Court Annex-Election Office
911 Austin St.
Levelland, TX 79336
 - Dates: April 19, 2021 through April 27, 2021 Monday-Friday
9:00 a.m. – 5:00 p.m.
 - Exception: There will be two 12-hour days during voting:
Monday, April 19, 2021 and Tuesday, April 20, 2021
Early Voting Hours are 7:00 a.m. – 7:00 p. m.
- e. The Early Voting Ballot Board (EVBB), consisting of a presiding judge and at least two other members, will be appointed by the VR/ED who is responsible for appointing EVBB clerks and for the eligibility. The presiding election judge of the EVBB will receive \$10 per hour and clerks will receive \$8 per hour. They will be paid for a minimum of 2 hours. EVBB judge and clerks will be paid by Hockley County and the VR/ED shall prepare and submit an invoice to the entities for payment within 60 days after the election.

8. Election Day.

- a. The VR/ED will monitor the polling location on Election Day for adequate supplies, operating voting systems, voter check-in assistance, qualifying voter, etc.
- b. As required by law, the VR/ED will be open on election Day and also available by phone, cell phone, e-mail, and instant messaging (via electronic poll books) to assist all election workers and participating authorities.

9. Return of Elections.

- a. The VR/ED is responsible for establishing and operating the central counting station in accordance with the provisions of the Texas Election Code and this Agreement.
- b. On election night as ballots arrive for processing, the VR/ED will provide timely reports of election results as soon as the returns are processed and the initial reconciliation is completed. The VR/ED is responsible for releasing totals, reflecting precinct returns via "media report"/"summary report" to include early voting and election day, to the joint participants, candidates, media and general public by distribution of hard copies and/or electronic transmittals. Hockley County will operate an election results center to release election results in the Hockley County Annex located at 911 Austin St., Levelland, TX.
- c. On Election Night, the VR/ED will have a designated area at the Hockley County annex-Election Office to accommodate one representative from each participating entity to observe the election results center operation and receive election results. Internet access via data lines will be available as well if needed. Specific instructions regarding recommended arrival time, entrance access, etc. will be sent out via email to each participating entity before Election Day as instructions may vary with each election.
- d. The VR/ED will be responsible for entering election night returns electronically as required by the Secretary of State's Office. A copy of that filing will be provided to the participating entities.
- e. The VR/ED will prepare, after Election Day, the unofficial canvass report after all precinct returns have been accumulated, and will make available a copy of the unofficial precinct/district returns for canvassing to each participating authority as soon as possible after all returns, provisional and mail ballots have been tabulated; the unofficial precinct/district returns will be available by 12:00 noon on May 14, 2021.
- f. All participating authorities will be responsible for canvassing their respective election returns. As stated in Section 271.012 of the Texas Election Code, the presiding officer of the canvassing authority of each participating entity shall issue certificates of election to candidates elected at the joint election to offices of political subdivisions.
- g. The VR/ED will be responsible for conducting the post-election manual recount, unless a waiver is given from the Secretary of State in accordance with Section 127.201 of the Texas Election Code. Each political subdivision must notify the VR/ED if waiver has been granted or denied upon receipt of notification from the Secretary of State. The VR/ED will post required notice of recount and may require a representative of each participating authority to be present and if necessary, assist with the recount process.
- h. The VR/ED is responsible for entering election results precinct return reporting, also known as the Vote Count List, as required by the Secretary of State.

10. Records of Election.

- a. The Contracting Officer (Joint Election Administrator) shall serve as the general custodian of election records in accordance with Section 271.010 of the Texas Election Code. However, each participating entity will be the custodian and responsible for pre-election and post-election records for their respective elections to include but not limited to election orders, public election notices, applications for a place on the ballot, candidate drawing documents, campaign finance reports, along with canvassing records and certificates of election, etc.
- b. Election records will be available to each participating authority as well as to the public in accordance with the Public Information Act, Chapter 552 of the Texas Government Code and Chapter 66 of the Texas Election Code.
- c. Records of the election will be retained and disposed of in accordance with the records retention schedule adopted by the VR/ED Joint Election Administrator, and pursuant to the applicable records retention schedule adopted/accepted by the Texas State Library and Archives Commission on December 1, 2017 and in accordance with Chapter 66 of the Texas Election Code. Election Records shall be kept by the VR/ED for a period of Election Day + 22 months.

- d. If Records of the election are involved in any pending election contest, investigation, litigation, or Texas Public Information Act, the ED/VR will maintain the records until final resolution or until final judgment whichever is applicable. It is the responsibility of any participating authority to bring to the attention of the VR/ED any notice of any pending contest, investigation, litigation, or Texas Public Information Act request which may be filed with a participating authority.
- e. Upon request to maintain records beyond eligibility for preservation according with Section 66.058 of the Texas Election Code, the VR/ED shall supply a written cost estimate for storage to requesting participant.

11. Election Expenses.

- a. The participating authorities mutually agree to pay the actual expenses attributable to their portion of the programming, coding, and ballot layout costs.
- b. The cost of any special request from a participant, which is not agreed upon by all authorities, shall be borne by that participant.
- c. The participating authorities mutually agree to share the cost of all election personnel (excluding the Contracting Officer). This will include the early voting election workers, Election Day workers, Early Voting Ballot Board, along with any temporary employees hired to assist with the delivery of equipment and supplies and election workers at the central counting station, etc. On Election Day, only the political subdivisions sharing the polling location will equally share the personnel cost. Any hours worked over forty (40) hours per week by the full-time employees of the VR/ED (shall be monitored and authorized by the Joint Election Administrator) beginning the Friday immediately before early voting begins and concluding the Friday following election day, due to the complexity of the elections, will be paid at one and one half (1 ½) times his/her regular rate and will be a shared cost by all participating authorities.
- d. The participating authorities mutually agree to provide the county-owned election equipment in accordance with Section 123.032 of the Texas Election Code. The voting system to be used in the election is the ES&S Express Vote. One accessible voting system will be provided at each poll location. Early voting equipment will be shared by participating entities.
- e. The City, LISD, and College shall pay to the county, within (30) days of receipt of a county invoice, all accrued and incurred County Election expenses authorized for reimbursement to the County by this Agreement.

12. Waiver of Damages

The Participating Authorities acknowledge that the electronic voting system and the programming of paper ballots is highly technical and that it is conceivable that despite the effort of the VR/ED it might fail during an election or might contain errors. They also acknowledge that joint election present logistical problems and other problems over and above elections that may be conducted individually. Hockley County, the elected officials assigned herein, or any of their employees or agents will use their best efforts to help ensure that a joint election will be conducted without error or mishap, but on occasion, errors or mishaps occur. Accordingly, the Participating Authorities agree that should an error or mishap occur, they will not make any claim against Hockley County, the elected officials assigned herein, or any of their employees, or agents for damages of any kind including but not limited to damages incurred for having to conduct a second election as a result of such error of mishap.

To the extent possible by law, if legal action is filed against any of the Participating Authorities involving its' respective election and if, the county and/or the elected officials assigned herein or any of their employees or agents is named as a party to this legal action and the complaint is based solely on allegations made against that particular political subdivision, then that political subdivision, Participating Authority, shall be solely responsible for the costs and defense of that suit and shall be authorized to provide counsel of its choice for the County and/or the elected officials assigned herein or any of their employees, or agents.

The VR/ED will print multiple original documents and facilitate the coordination between the participating authorities and their respective governing bodies in order for each to have an original, signed and completed contract for each authorities records. The VR/ED shall file a copy of this executed contract.

13. Interpretation

Unless otherwise designated in this Agreement, “Force Majeure Event” shall mean the following events to the extent they are not reasonable within the control of the County, and should the County claim a reason to excuse timely performance of the Agreement or the suspension of said timely performance because of one or more of said events: (i) acts of God; (ii) civil disturbances and disturbances caused by the public enemy; (iii) strikes, lockouts or other worker disputes; (iv) wars, blockades, insurrections, or riots; (v) pandemics or epidemics; (vi) landslides, lightning, earthquakes, fires, storms, floods, high-water washouts, or other inclement weather, natural disasters, or fire events; (vii) explosions, breakage, or accident to machinery or equipment; (viii) inability to obtain or delays in obtaining necessary governmental approval or documents in order to conduct an election (provided the County first used reasonable efforts to obtain the same); or (ix) laws, rules, orders, acts or restraint by government, a government official, or a governmental body, regulatory agency, or court or other tribunal, including without limitation an executive order, proclamation, or other official action by the Governor of Texas suspending, rescheduling, or cancelling an election, or suspending Texas Statutes or administrative regulations pertaining to the holding of an election.

The past, present, or future tense shall each include the other, the masculine, feminine, or neuter gender shall each include the other, and the singular and plural number shall include the other where necessary for a correct meaning in the Agreement. All statements made in the preamble and preliminary recitals of this Agreement are incorporated by reference. This agreement is subject to all protections afforded to a signing party pursuant to a proper application of the doctrine of governmental immunity.

14. Occurrence of Force Majeure Event

Should the County be rendered unable by an authorized Force Majeure Event to carry out its obligations under this Agreement, the obligation of the County, so far as it is affected by said event, shall be suspended during the continuance of the authorized Force Majeure Event, but for no longer period, and the Force Majeure Event shall so far as possible be remedied with all reasonable dispatch if allowed by law, and further: (a) the County shall give prompt notice (but not later than 30 days after the occurrence of said event) and a reasonably full explanation of said event to the other signing parties of this Agreement; (b) the County shall take all reasonable action within its power to remove the basis for non-performance (including securing alternative supply sources, if available); and (c) after doing so, the County shall resume performance as soon as possible if authorized by law to proceed. It is agreed that the settlement of strikes or lockouts or the resolution of differences with workers shall be entirely within the discretion of the County, and regarding those circumstances, the above requirement that any Force Majeure Event shall be remedied with all reasonable dispatch shall not require the settlement by the County of strikes, lockouts or worker differences by acceding to the demands of the opposition in such disputes, when to do so would be inadvisable in the reasonably exercised discretion of the County.

SIGNED AND ENTERED into this joint Agreement the ____ day of _____, 2021 in duplicate originals.

HOCKLEY COUNTY

Sharla Baldrige, County Judge

Cheryl Smart, Joint Election Administrator

THE CITY OF LEVELLAND

Barbra Pinner, Mayor

Andrea Corley, City Secretary

SOUTH PLAINS COLLEGE

Dr. Robin Satterwhite, President

Ronnie Watkins, Dean of Administrative Services

LISD

Jeff Northern, Superintendent of Schools

Teresa Montemayor, Business manager