

Contract for Election Services
Local Entity Countywide Vote Center Elections

This Contract is made and entered into this _____ day of _____, 20____ by and between Hon. Dwight D. Sullivan, County Clerk and County Election Officer for Galveston County("Contracting Officer") and _____ on behalf of _____("Contracting Authority").

This Contract is being entered into pursuant to Texas Election Code, Chapter 31, Subchapter D for the purpose of ensuring that the Contracting Officer and the Contracting Authority understand the tasks each is to perform in connection with the following election and any subsequent runoff election, to-wit:

Purpose of Election: _____

November 4, 2014
Election Date

December 16, 2014
Runoff Election Date

Early Voting will be held from October 20, 2014 through October 31, 2014 with the polls being open from 8 a.m. to 5 p.m. the first week and from 7 a.m. to 7 p.m. October 25th and 27th-31st and from 1 p.m. to 6 p.m. on Saturday, October 26th.

1. Duties and Services of the Contracting Officer.

The Contracting Officer shall be responsible for performing the following duties and furnishing the following services and equipment in connection with the election and any subsequent runoff election.

1.1 Program, or arrange to have programmed, the ballot.

[Cost: Based upon the number of contests on the ballot. See the Fee Schedule]

1.2 Arrange to have published the legal notices of the first test of the electronic tabulating equipment as provided in Texas Election Code §127.096 and conduct all required tests of the electronic tabulating equipment under Texas Election Code §§127.096-127.098 and §§129.021-129.023. The first test shall be conducted at least five days prior to the election. In addition, it will be performed during normal business hours and be open to the public.

[Cost: The cost for publishing the notice will be split equally between all the entities involved. See the Fee Schedule]

1.3 Provide technical and equipment support for the electronic poll books, voting machines and equipment being provided to the Contracting Authority. In the event there is an equipment failure the Contracting Officer shall try to remedy the problem over the phone. If he is unable so to do he will dispatch to locations within Galveston County the appropriate technical support personnel and equipment to correct the failure. [Cost: Included in the 10% election fee]

1.4 On behalf of the Contracting Authority, obtain voter registration lists/polling books from the Voter Registrar to be used during Early Voting and on Election Day. [See Section 2.3 below]

1.5 Provide Ballot by Mail services for the Contracting Authority [See the Fee Schedule]

1.6 Hire Judges, Alternate Judges, and clerks to serve as election workers at the various polling locations. Workers will be paid in accordance with Section 3 of this contract and will be required to complete election training as a prerequisite for serving if they have not attended said training within 90 days of election day for this election. Workers will be paid \$10 per hour for attending said training.

1.7 Select the countywide vote center polling locations in coordination with the Contracting Authority and with the approval of the Galveston County Commissioner's Court.

1.8 Determine on the days and hours when early voting and election day will be conducted to ensure uniform hours are established for all the countywide vote centers. In doing so the Contracting Officer shall abide with the Texas Election Code §85.005 which requires cities to have at least two twelve-hour days of early voting.

1.9 Provide the Contracting Authority a sample ballot for them to proof and approve or provide corrections. *[See section 2.7 for related information]*

For additional Duties of the Contracting Officer see the table in subsequent pages.

2. Duties and Services of the Contracting Authority.

The Contracting Authority will be responsible for performing the duties and services set forth in this section and will consummate this contract **on or before August 1, 2014.**

2.1 Prepare and submit any required submissions to the U.S. Department of Justice under the Federal Voting Rights Act of 1965 for its election and runoff election.

2.2 Publish notices of the election in accordance with Section 4.003(a) of the Texas Election Code.

2.3 By **August 15, 2014**, provide the Contracting Officer with the Contracting Authority's requirements for voter registration lists and poll books for Early Voting and Election Day.

2.4 In accordance with Texas Election Code §4.008 as amended, deliver written notice of the election to the Contracting Officer.

2.5 If the Contracting Authority wishes to select additional polling locations within its footprint, it will submit a list of same and the contact information for each facility to the Contracting Officer by **August 4, 2014**. Regardless of who selects the polling locations the Contracting Authority shall comply with Texas Election Code §43.062, and shall notify prospective voters of the new location by placing a notice at the old polling location and a notice at the new polling location. *[See Section 1.7 for additional information on the selection of countywide polling places]*

2.6 Provide to the Contracting Officer the language for any ballot propositions, the names of election contests, the names of candidates as they are to appear on the ballot, a copy of a sample ballot, ballot draw information and a completed "Requirements to Program the Ballot" form. These materials will be provided in an electronic form to the Contracting Officer by **no later than August 19, 2014**. All language on the ballot must be provided in both English and Spanish.

2.7 Return to the Contracting Officer, by **noon on September 8, 2014**, confirmation that the sample ballots the Contracting Officer has prepared and provided to the Contracting Authority are satisfactory or provide changes that need to be made. The Contracting Officer intends to conduct the L&A test on the Contracting Authority's ballot no later than **September 11, 2014**. [See Section 1.9 for related information on ballot proofing]

2.8 The Contracting Officer will be conducting elections for numerous Contracting Authorities on the same day. The parties understand that each election has its own challenges and requirements and that failure to provide the information in paragraphs 2.5, 2.6 and 2.7 by the above dates will place an undue burden on the Contracting Officer that may prevent him from being able to provide his services to the Contracting Authority in a timely and accurate manner. **Should the Contracting Authority miss said deadlines, and should the Contracting Officer be unable to provide his services in a timely and accurate manner the Contracting Authority shall hold the Contracting Officer and his employees harmless from any election errors and corresponding liability and/or damages that may result, including but not limited to the costs incurred related to an election contest and/or the need to conduct a subsequent election.**

2.9 As required by § 67.017 (b) and the Secretary of State's Office, make an electronic precinct-by-precinct report to the Secretary of State's Office by no later than the 30th day after Election Day.

2.10 Unless otherwise stipulated, transport, or have its Presiding Election Judges transport on its behalf, the voting machines and equipment to and from the Contracting Authority's Early Voting and Election Day voting locations.

2.11 Supervise, with the assistance of the Contracting Officer, the overall conduct of its election in Contracting Authority's jurisdiction including the supervision tabulation of results.

2.12 (Reserved) *This section intentionally left blank.*

2.13 Pay a \$100 fee per Early Voting and Election Day polling location within its jurisdiction to cover a portion of the Contracting Officer's costs for hiring two election judges to provide the Contracting Authority and its Judges election support services throughout the term of this Contract. In instances where a polling place is located within the jurisdiction of more than one entity contracting for election services with the Contracting Officer, the \$100 fee per location will be shared between those jurisdictions.

Cancellation of Contract: Contracting Authority may cancel this Contract without incurring any expenses by notifying Contracting Officer of its intention to so cancel by no later than forty-eight (48) hours after its candidates filing deadline. Should Contracting Authority desire to cancel this Contract after that time it may do so upon twenty-four (24) hours notice to Contracting Officer but Contracting Authority will be obligated to pay Contracting Officer the greater of a fee of \$500 or the cost of services and equipment rendered up through the date of cancellation.

Special Provision: Bilingual Poll Worker Requirements. Galveston County was a party in Civil Action No. 3:07 CV 377 styled "The United States of America, Plaintiff, v. Galveston County, Texas, Defendant in the United States District Court for the Southern District of Texas, Galveston Division". It entered into a Consent Decree that acknowledged it is covered under both Section 4(f)(4) of the Voting Rights Act as amended and 42 U.S.C. §1973(b)(4)(Section 4(f)(4) to provide Spanish language written materials and assistance to voters. Galveston also has an obligation to ensure that its polling places and poll workers comply with the Help America Vote Act of 2002 ("HAVA"), 42 U.S.C. §§15301 et. seq. Although this Consent Decree expired December 31, 2010, Galveston County agreed that it is permanently enjoined from:

a) Failing to provide in Spanish "any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots", that they provide in English as required by Section 4(f)(4) of the Voting Rights Act, 43U.S.C.S1973b(f)(4); and

b) Failing to ensure that poll workers provide and receive adequate training regarding (1) the use of providing provisional ballots under Section 302(a) of HAVA; and (2) the display of all HAVA-required signs under Section 302(b) of HAVA.

Contracting Authority understands that regardless of whether it desires to engage the Contracting Officer's services, it likewise has an obligation to comply fully with the applicable terms and provisions of the Voting Rights Act and the Help America Vote Act.

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Selection of Services and Fee Schedule:

The Contracting Authority hereby selects the following services that it wants the Contracting Officer to provide and those services for which the Contracting Authority shall be responsible. The Contracting Officer will affirm his willingness to perform the services requested by the Contracting Authority by signing this agreement.

Contracting Authority to Perform	Contracting Officer to perform	Service
	<input checked="" type="checkbox"/>	Procure and distribute to the Election Judges all necessary election supplies, including but not limited to sample ballots, election kits, and office supplies such as paperclips, and pens. Each kit and unused election supplies are to be returned by the Contracting Authority to the Contracting Officer after the voting polls close on Election Night. [Cost: \$50 per kit]
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Arrange for receiving and checking in the supplies and equipment being returned by the Election Judges after the voting polls close on Election Night. [Cost: Overtime for staff and part time workers hired to provide this service will be evenly split between the entities contracting with the Contracting Officer.]
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Procure all necessary voting machines and equipment for use at early voting and election day locations and prepare them for use. [Cost: \$250 per eSlate or JBC and \$300 per DAU eSlate]
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Transport, or arrange to have transported, the voting machines and equipment to and from the early voting locations. [Cost: \$100 delivery per location].
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Arrange for programming of the ballot and the Logic and Accuracy Testing of the counting equipment. [Cost: Determined by the number of contests on the ballot: \$550 for up to ten contests, \$1,100 for up to 20, \$1,650 for up to 30, \$2,450 for up to 40 and \$3,000 for 41 or more contests.]
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Arrange for the use of a central counting station and for the tabulating and supervisory personnel and equipment needed at the counting station. Prepare the testing materials for the tabulation of the ballots to be used with electronic tallying equipment. Prepare the unofficial tabulation of precinct results, doing to on Election Night if requested. [Cost: \$350 for use of the equipment plus overtime for county employees doing the tabulation if applicable (est. max. \$350)]

Contracting Authority to Perform	Contracting Officer to perform	Service
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>Assist the Contracting Authority in the general overall supervision of the election and any subsequent runoff election and provide advisory services in connection with the decisions to be made and the actions taken by the Contracting Authority who is the convening authority for the election/runoff election. [Cost: Included in the 10% election fee]</p>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>Conduct Early Voting, Election Day Voting, and bilingual training with at least two training sessions being offered during the evening hours beginning at 5:30 p.m. The Contracting Officer offers three courses 1) 1 ½ hour equipment training classes 2) 1 ½ hour epollbook training and 3) 4 hour election procedures classes. Workers who have not worked with the equipment in the last 12 months shall take all three classes. Any worker who has not taken the procedures course within 90 days of election day should take it or retake it. [Cost: \$20 per trainee for each of the equipment and epollbook classes, \$50 per trainee for the election procedures class or \$80 per trainee for all three classes]</p>
<p>In order to serve as a Judge or Alternate Judge, the person who desires to perform such services is required to complete the election procedures training. Clerks shall be required to complete the elections procedures training but if they have attended a County-conducted election procedures training within 180 days of the commencement of Election Day will not be required to attend additional training for this election cycle.</p>		
<input type="checkbox"/> Allow	<input type="checkbox"/> Decline	<p><i>Waiver of evening training:</i> The County employee overtime costs associated with conducting training after normal business hours will be shared equally among those entities who have election workers attend these sessions. By checking the Decline box your workers will not be allowed to attend evening training.</p>
<input checked="" type="checkbox"/> Use ePollBooks [Vote Center Elections]	<input type="checkbox"/> Use Paper Poll Books	<p><i>For Countywide Vote Center elections</i> ePollBook will be used. The cost will be \$100 for each with two being deployed to every polling location. <i>Paper Pollbook Option:</i> Depending upon the circumstances the Contracting Office may decide to use paper poll books, at his option. If he does so, there will be no cost to the Contracting Authority. [Cost: \$100 each with two per polling location]</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>Determine the polling locations within their jurisdiction. If the Contracting Authority is performing this task he/she will inform the Contracting Officer of said selections and provide the facilities contact information for each location.</p>

Contracting Authority to Perform	Contracting Officer to perform	Service
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>Hire judges, alternate judges, and clerks that, in the opinion of the Contracting Officer, are sufficiently trained for the Contracting Authority's election or as are specified by the Contracting Authority. In order to comply with the Texas Election Code, workers must be registered voters from within the jurisdiction holding the election.</p> <p>[Cost: Base cost of \$10 per hour per worker. If Contracting Officer is unable to locate workers who reside within the territorial boundaries of the Contracting Authority or otherwise meet all Election Code requirements he may hire qualified county employees who will be paid at their normal overtime rate. Additionally, it is the Contracting Officer's practice to pay any worker who serves more than 40 hours in a given pay week time and a half for the hours served in excess of 40 hours. If the Contracting Officer is to hire the election workers the Contracting Authority agrees to abide by this policy.]</p>
<p>The Contracting Officer will notify the Election Judges of the dates of the election and any subsequent runoff election as required by Texas Election Code §4.007. Otherwise the Contracting Authority shall perform this service. [No additional cost]</p>		
<p>The cost for all printed ballots (including ballots by mail, sample ballots for polling locations, and test ballots for use in the Logic and Accuracy testing) is \$.25 per ballot.</p>		
<p>Ballots by Mail: The Contracting Officer will provide ballot by mail services to the Contracting Authority. The cost for this service is \$1.75 per ballot sent to a voter within the Contracting Authority's jurisdiction. If a two-page ballot is required the cost will be \$1.90 per ballot. This service includes sending the voter an application for a ballot by mail, processing said application, providing the voter with the appropriate ballot, postage costs and all the associated envelopes and printed materials other than the actual ballot.</p>		
<input type="checkbox"/> Accept	<input type="checkbox"/> Decline	<p>The Contracting Authority may have an observer present during the tabulation of the votes. If Contracting Authority desires an observer it will, prior to Election Day, provide the Contracting Officer with the name and contact information of the person who will represent them at the Central Counting Station.</p>

3. Compensation, Billing, and Payment.

Attached to this Contract is a Schedule of Fees for Services rendered by Contracting Officer to Contracting Authority. Pursuant to Texas Election Code §31.100 these fees are the actual expenses incurred by Contracting Officer in providing the various services contained herein.

During this election cycle the Contracting Officer will be hiring two part time election judges to assist in preparation of the election, answering inquiries from polling locations, and post election duties. As noted in paragraph 2.13, the Contracting Authority shall pay \$100 per Early Voting and Election Day polling location within its

jurisdiction to help defray the \$7,500 cost of hiring this part time help.

If the Contracting Officer is hiring the election workers for the Contracting Authority the following is agreed:

(1) The base rate of pay for each worker who has attended training is \$10 per hour and the base pay for any clerk who has been unable to attend training is \$8 per hour.

(2) If any election worker serves more than 40 hours during a normal pay week (*Thursday through Wednesday*) they will be paid time-and-a-half for each hour served over 40 during that pay week.

(3) If the Contracting Officer is unable to locate qualified election workers who reside within the Contracting Authority's territorial boundaries the Contracting Officer is authorized to hire qualified County employees who meet all Election Code requirements at their normal overtime rate. In signing this agreement the Contracting Authority agrees to reimburse the Contracting Officer for the payment of election workers as outlined in this paragraph.

In addition to the attached Schedule of Fees, Contracting Authority will pay Contracting Officer the greater of Seventy-Five (\$75.00) Dollars or an additional ten percent (10%) for general supervision of the election.

Pursuant to Texas Election Code §31.098, Contracting Officer may contract with third persons for election services and supplies agreed to herein and, upon reimbursement by Contracting Authority, which the Contracting Authority hereby agrees to pay when invoiced, will pay the claims for those election expenses on Contracting Authority's behalf.

Contracting Officer will invoice Contracting Authority for services rendered under this Contract. Contracting Authority will make payment to Contracting Officer in accordance with the terms and provisions of what is commonly referred to as the Texas Prompt Payment Act.

4. Voting System.

The Hart Intercivic 6.1 E-Slate System owned by Galveston County will be the voting system used by Contracting Officer in providing services under this Contract.

5. Authorized Representatives.

Contracting Officer's Authorized Representative for all purposes of this Contract is its' Chief Deputy Clerk for Elections.

The parties recognize that Contracting Authority may be contracting with Contracting Officer solely for services to be provided for its own election. Alternatively, the parties recognize that Contracting Authority may have contracted with other political subdivisions for the conducting of joint elections and that Contracting Authority is contracting with Contracting Officer for services to be provided for its own election as well as for the elections of other political subdivisions as a result of these separate joint election agreements. Regardless of whether the Contracting Authority is acting solely on behalf of its own election or on behalf of itself and other political subdivisions as a result of separate joint election agreements, Contracting Authority's Authorized Representative for all purposes of this Contract is

In the case of a Joint election, the Contracting Authority makes known that _____ will serve as the party making decisions relating to said Joint election and the Contracting Authority will be bound by decisions made by this person on its behalf.

6. General Provisions.

As specified in Texas Election Code §31.096 this Contract may not change:

- (1) the authority with whom applications of candidates for a place on a ballot are filed;
- (2) the authority with whom documents are filed under Texas Election Code S251.001 et. seq.; or
- (3) the authority to serve as custodian of voted ballots or other election records.

As set forth in Texas Election Code §31.099 not later than the 10th day after the date this Contract is executed the Contracting Officer shall file a copy of this Contract with the County Treasurer and the County Auditor.

7. WAIVER OF DAMAGES. The parties acknowledge that the Hart Intercivic 6.1 ESlate System and the programming of paper ballots is highly technical and that it is conceivable that despite the efforts of the Contracting Officer it might fail during an election or might contain errors. The Contracting Authority agrees that should the electronic voting system fail, it will not make any claim against the Contracting Officer, the County of Galveston, or any of their full or part-time employees, independent contractors or agents for damages of any kind, including but not limited to any and all costs relating to an election contest and/or costs and damages incurred for having to conduct a second election caused as a result of such failure or error.

The Contracting Authority acknowledges that holding multiple simultaneous elections presents logistical problems and other problems over and above a single election. The Contracting Officer and his employees and agents will attempt to help ensure that these simultaneous elections are conducted without error or mishap, but on occasion, errors or mishaps do occur. Accordingly, the Contracting Authority agrees that should an error or mishap occur that it will not make any claim against the Contracting Officer, the County of Galveston, or their full or part-time employees, independent contractors or agents for damages of any kind including but not limited to any and all costs relating to an election contest and/or costs and damages incurred by the Contracting Authority for having to conduct a second election, as a result of such error or mishap.

If legal action is filed against the Contracting Authority involving its election and if, the County and/or the Contracting Officer is named as a party to this legal action and the complaint is based solely on allegations made against the Contracting Authority, the Contracting Authority shall be solely responsible for all costs and defense of that suit. In addition, Contracting Authority shall be required to provide adequate

legal counsel for the County and/or the Contracting Officer and, upon notice to the Contracting Authority and/or County shall be entitled to settle such claim or legal action upon terms it deems most advantageous to itself.

For purposes of implementing this Contract, the Contracting Officer and the Contracting Authority designate the following individuals, and whenever the Contract requires submissions of information or notice to the Contracting Officer or the Contracting Authority, submissions or notices shall be made to these individuals:

Contracting Officer:

Dwight Sullivan, County Clerk
Attention: William Sargent, Chief Deputy Clerk for Elections
Galveston County Justice Center
600 59 th Street, Suite 2001
Galveston, TX 77551-4180
409-770-6005
Email: William.Sargent@co.galveston.tx.us

Contracting Authority:

Phone: _____
Email: _____

Although the parties recognize that pursuant to §31.092 of the Texas Election Code this Contract need not be submitted to the Galveston County Commissioners' Court to be placed on the Consent Agenda as a Receive and File Item, they find it prudent so to do.

8. Galveston County Title VI Assurance Clause

Galveston County is committed to ensuring that no person, on the ground of race, color, national origin, religion, sex, age, disability or Veteran status, shall be subjected to discrimination, excluded from participation, or denied the benefits of, its programs and activities.

In accordance with this policy, it requires its service providers and contractors, to agree that during the performance of this contract, the service provider or contractor, for itself, its assignees and successors will abide by the following:

Compliance with Non-Discrimination Laws and Regulations

During the performance of this contract, contractor, for itself, its assignees and successors in interest (hereinafter referred to as "contractor") agrees as follows:

- (1) Compliance with Regulations. The contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, DOT) Title 49, Code of Federal**

Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are incorporated herein by reference and made a part of this contract.

(2) **Nondiscrimination.** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the basis of race, color, national origin, religion, sex, age, disability or Veteran status in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) **Solicitations for Subcontractors, Including Procurement of Materials and Equipment.** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, religion, sex, age, disability or Veteran status.

(4) **Information and Reports.** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Galveston County or the Texas Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to Galveston County or the Texas Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) **Sanctions for Noncompliance.** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, Galveston County shall impose such contract sanctions as it or the Texas Department of Transportation may determine to be appropriate, including, but not limited to:

- (a) withholding of payments to the contractor under the contract until the contractor complies, and/or
- (b) cancellation, termination, or suspension of the contract, in whole or in part.

(6) **Incorporation of Provisions.** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as Galveston County or the Texas Department of Transportation may direct as a means of enforcing such provisions including

sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request Galveston County to enter into such litigation to protect the interests of Galveston County, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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Executed this _____ day of _____, 20____.

Contracting Officer:

Dwight D. Sullivan

Contracting Authority:

Name: _____
 City Manager Mayor
 Superintendent President
 Chair County Executive Committee
 City Secretary Other

Received and Filed:

Galveston County

Hon. Mark Henry
County Judge
Attest:

Dwight D. Sullivan
County Clerk

Date: _____

Date Copy of Agreement Furnished
to County Treasurer: _____

Date Copy of Agreement Furnished
to County Auditor: _____