

THE STATE OF TEXAS §
§ CONTRACT FOR ELECTION SERVICES
COUNTY OF HIDALGO §

This Contract is entered into by and between the HIDALGO COUNTY ELECTIONS ADMINISTRATOR (“ADMINISTRATOR”), Yvonne Ramón, on behalf of Hidalgo County, a political subdivision of the State of Texas, and the City of Progreso, hereinafter referred to as “THE ENTITY,” pursuant to Texas Election Code Section 31.092.

RECITALS

WHEREAS, THE ENTITY, by appropriate action of its governing body acting in accordance with all applicable laws, has called an election to be held on November 2, 2010.

WHEREAS, pursuant to Section 31.092(a) of the Texas Election Code, the County Election Officer may contract with the governing body of a political subdivision situated wholly or partly in the county served by the officer to perform election services in any one or more elections ordered by an authority of the political subdivision; and

WHEREAS, Section 271.002 (a) of the Texas Election Code authorizes two or more political subdivisions to enter into an agreement to hold elections jointly in the election precincts that can be served by common polling places subject to Section 271.003; and

WHEREAS, pursuant to Section 31.091(1) of the Texas Election Code, the County Election Officer means the Election Administrator for Hidalgo County; and

WHEREAS, THE ENTITY is a political subdivision in Hidalgo County that desires the County to conduct and supervise the November 2, 2010 election of THE ENTITY (the “Election”); and

WHEREAS, the County agrees to perform election services for THE ENTITY; and

WHEREAS, THE ENTITY AND ADMINISTRATOR desire to enter into a contract setting out the respective responsibilities of the parties; and

WHEREAS, THE ADMINISTRATOR has provided costs for election services to be rendered by ADMINISTRATOR’S office pursuant to the terms of this Contract, which costs are set out in Article VI hereof; and

NOW, THEREFORE, the County and THE ENTITY for good and valuable consideration, the adequacy and receipt of which is hereby acknowledge, do hereby agree to hold contract, covenant and agree as follows:

Article I. PURPOSE

Section 1.01 The parties hereto have entered into this Contract for election services described in Article II to be provided to THE ENTITY for its election to be held on November 2, 2010 and any Runoff, if applicable.

Article II. SERVICES

Section 2.01 The COUNTY, through the ADMINISTRATOR, agrees to provide to THE ENTITY the following:

- (A) Procure, provide, prepare, program and distribute Direct Recording Electronic (DREs) voting systems and necessary election equipment, as well as an ADA voting system, and transport equipment to and from the polling locations, including early voting substations and election day, for THE ENTITY;
- (B) Procure, provide, prepare and program an Electronic Poll Book per polling location with the Voter Registration Database. This includes laptop, insurance, and delivery fee, as well as supplies such as, but not limited to, labels and printer. When an Electronic Poll Book is not accessible, the charge of a regular Poll Book will be charged as set by Elections Department;
- (C) Provide and prepare all mail-in ballot supplies, including applications paper ballots, envelopes and postage;
- (D) Provide training for Judges/Clerks;
- (E) Prepare, distribute, and publicize all notices and newspaper advertisements;
- (F) Procure, provide, prepare, and distribute all necessary election supplies, including;
 - 1. Ballots (preparation and distribution only);
 - 2. Election kits; and
 - 3. Ballots boxes and voting booths
- (G) Procure Early Voting polling places and Election Day polling places, as ordered and agreed to by both parties;
- (H) Prepare Writ of Election to election officers and notice of appointment to Presiding and Alternate judges, as required by law;
- (I) Notify the election judges of the date, time and place of the election;
- (J) Procure and pay election judges and clerks for early voting and election day voting;
- (K) Provide the general overall supervision of the Election and provide the advisory services in connection with the decisions to be made and the actions to be taken by THE ENTITY;
- (L) Procure and pay Ballot Board members;
- (M) Provide information for election officers;
- (N) Prepare U.S. Department of Justice pre-clearance for the election;
- (O) Prepare any submission of voting changes to be submitted to the U.S. Department of Justice under the Federal Voting Rights Act of 1965, as amended for the election;
- (P) Provide such incidental related services as may be necessary to effect the election;
- (Q) Serve as the Early Voting Clerk; and
- (R) Establish a Central Counting Station for the purpose of tabulating ballots.

Section 2.02 THE ENTITY shall be responsible for performing the following:

- (A) Payment of all necessary election supplies as required by the County, including but not limited to ballots, election kits, mail-in ballot supplies, laptop rental, labels and combination forms;
- (B) Pay the cost of judges and election workers directly from payment vouchers submitted by the County Elections Administrator at the rate of \$9.00 per hour for Election Judges and \$8.00 per hour for Alternate Judges and Early Voting Clerks for both Early Voting and General Election;
- (C) Reimburse the County for liability insurance coverage for election workers employed for both Early Voting and General Election;
- (D) Tabulate the Election results for canvassing by THE ENTITY'S governing body;
- (E) As stated in Section 31.096 of the Texas Election Code, 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 Title 15; or
 - 3. The authority to serve as custodian of voted ballots or other election records, except that the contract may provide that the County Election Officer will be the custodian of voted ballots. Under this Contract, the Hidalgo County Elections Administrator shall be the custodian of voted ballots.
- (F) The County Elections Administrator shall be the agent of THE ENTITY for the purposes of contracting with third parties with respect to the election expenses within the scope of the County Elections Administrator's duties;
- (G) The County shall file copies of this Contract with the County Treasurer and the County Auditor; and
- (H) In accordance with Section 31.100(b) of the Texas Election Code, only actual expenses directly attributable to this Contract may be paid. The County Elections Administrator shall submit the actual costs for items contracted pursuant to the Contract with THE ENTITY no sooner than ten (10) days after the Election and/or as soon as all invoices from third party vendors are received.

Article III. SCHEDULE FOR PERFORMANCE OF SERVICES

Section 3.01 Specific services to be provided related to the general services identified in Article II shall be performed in accordance with the time requirements set out in the Texas Election Code.

Article IV. SERVICES NOT PROVIDED BY COUNTY

Section 4.01 ADMINISTRATOR shall have no responsibility for insuring the passage of the appropriate Election Order by THE ENTITY, as required by the Texas Election Code Section 3.005, or canvassing election results.

Article V. TERM

Section 5.01 Except as hereinafter set out, the term of this Contract shall be from the time of execution until all items with respect to this Contract and the election held hereunder have been completed.

Article VI. COST OF SERVICE AND BILLING

In consideration for the services provided hereunder by ADMINISTRATOR, THE ENTITY agrees to pay ADMINISTRATOR for the following costs of services:

Section 6.01 iVotronic Machines:

- (A) One Base charge of \$150.00 for Programming iVotronic ballot for voting machines; additional ballots style(s) and request for change of programmed ballot at an additional cost;
- (B) A \$10.00 recording fee for English and Spanish Audio Files for each Contest, or Office, or Proposition questions;
- (C) A \$10.00 recording fee for English and Spanish Audio Files for each Contest, or Office, or Proposition answers;
- (D) Cost of creating election media, such as, but not limited to Personal Electronic Ballot (PEB) cartridges, compact flash cards, labels, bags, keys, etc.;
- (E) The amount of \$150.00 leasing fee for each iVotronic;
- (F) The amount of \$150.00 leasing fee for each ADA iVotronic;
- (G) Delivery and Pick-up Fee charge based on the price of renting commercial truck(s) and fuel cost;
- (H) The above described fees for each machine and programming fee shall be additionally charged for any Runoff Election.

Section 6.02 Electronic Poll Book:

- (A) Database access at \$100.00 per day;
- (B) Laptop rental, insurance and delivery fee of \$150.00 per location; includes bar code scanner and Dymo printer;
- (C) Printer label fee of \$.03 per label (price subject to change);
- (D) Creation of separate Username and Password for each polling location at \$20.00 per location;

Section 6.03 Poll book cost for printing poll book(s) as set by Elections Department.

Section 6.04 Training for Judges and Clerks at \$7.00 per hour per person;

Section 6.05 If optional supplies and/or services are requested by THE ENTITY, fees will be charged in accordance with third party vendors or county fees; such as fee for Early Voting and General Election Combination forms; Election kits (provisional bags, table tops, ballot boxes and custom signs) and 100 sample ballots additional ballots \$.20 per ballot (price subject to change);

Section 6.06 Mail-in ballot supplies, including applications, paper ballots, envelopes and postage at price set by third party vendors at time of election;

Section 6.07 Reimbursement fee for publication of all notices and newspaper advertisements;

Section 6.08 Reimbursement rental fees incurred for early voting polling places and Election Day polling places, as ordered;

Section 6.09 Cost of judges and election workers directly from payment vouchers submitted by

the County Elections Administrator. THE ENTITY shall pay the election workers at \$9.00 per hour for Election Judge, \$8.00 per hour for Alternate Judge and Deputy Early Voting Clerk(s) and \$8.00 per hour for Clerks;

Section 6.10 Pay for the cost of the Ballot Board judge at \$9.00 per hour and Ballot Board clerks at \$8.00 per hour;

Section 6.11 Canvass Reports – tabulation of the election results for canvassing by THE ENTITY’s governing body.

Section 6.12 Reimbursement to the County for liability insurance coverage as set by the County for all election workers employed for the elections;

Section 6.13 Reimbursement to the County for the use of wireless cell phones at polling locations with the rate set by the wireless vendor at the time of usage;

Section 6.14 Billing:

- (A) The form of the invoice to be used in the billing by the County, including a good faith estimate of costs, is attached hereto as Exhibit A. THE ENTITY shall submit to the County, an administrative fee of ten percent (10%) of the entire estimated cost of the Election, as shown in Exhibit A referenced above. This fee shall be submitted to the County with this signed contract. The parties agree that time is of the essence on this payment obligation. The ten percent (10%) administrative fee is prescribed by Section 31.100(d) of the Election Code.
- (B) The Administrator shall, as soon as practicable after the Election, prepare and send an itemized invoice with the actual costs of the Election to THE ENTITY.
- (C) Full payment of the remaining balance, if any, shall be made by THE ENTITY within thirty (30) days of receipt of the invoice.
- (D) Payment shall be made by check payable to the Hidalgo County Elections Administrator.

Notice: Except as may be otherwise specifically provided in this contract, all notices, demands, requests or communication required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

Yvonne Ramón
Hidalgo County Elections Administrator
PO Box 659
Edinburg, Texas 78540

Alfredo Espinoza, City Administrator
P.O. Box 699
Progreso, TX 78579

Section 6.15 Any balances, if any remain after the payment of all costs of election bills, shall be the property of the THE ENTITY and returned to it.

Article VII. LIABILITY

Section 7.01 IF ANY OF THE ELECTION EQUIPMENT IS LOST, STOLEN, DESTROYED, OR DAMAGED, THE CITY, SCHOOL DISTRICT OR ENTITY WHO LEASED THE EQUIPMENT IS LIABLE FOR THE DAMAGE AND AGREES TO PAY THE ADMINISTRATOR THE COST OF THE REPLACEMENT OR REPAIR OF THE ELECTION EQUIPMENT SO LOST, STOLEN, DESTROYED OR DAMAGED.

Article VIII. GENERAL PROVISIONS

Section 8.01 This Contract shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hidalgo County, Texas.

Section 8.02 In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision thereof, and this Contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

Section 8.03 This Contract constitutes the sole and only agreement of the parties hereto and supersedes any prior understanding or written or oral agreement between the parties respecting the written subject matter.

Section 8.04 No amendment, modification, or alteration of the term hereof shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

SIGNED this _____ day of _____, 2010

APPROVAL COUNTY OF HIDALGO:

BY: _____
RENE RAMIREZ
COUNTY JUDGE

ATTEST BY:

ARTURO GUAJARDO, JR.
COUNTY CLERK

ELECTION ADMINISTRATOR

BY: _____
YVONNE RAMÓN

**APPROVED AS TO LEGAL FORM:
ATLAS & HALL L. L. P.,**

BY: _____
STEPHEN L. CRAIN

BY: City of Progreso
ENTITY NAME

BY: Alfredo Espinoza

PRINT: Alfredo Espinoza

TITLE: City Administrator

ATTEST
BY: [Signature]

PRINT: Frank Valenzuela

TITLE: City Secretary