

*Notice of Meeting and Agenda*  
*August 02, 2022*

**Special, 8/2/2022 10:30:00 AM**

BE IT REMEMBERED that on August 02, 2022, there was begun and holden a SPECIAL session of the Commissioners Court of Jefferson County, Texas, with the following members and officers present and participating except those absent as indicated:

Honorable Jeff Branick, County Judge

Commissioner Vernon Pierce, Commissioner Pct. No. 1

Commissioner Darrell Bush, Commissioner Pct. No. 2

Commissioner Michael Sinegal, Commissioner Pct. No. 3

Commissioner Everette D. Alfred, Commissioner Pct. No. 4

Honorable Zena Stephens, Sheriff

Honorable Laurie Leister, County Clerk (ABSENT)

Becky Bertrand, County Clerk Court Administrator

When the following proceedings were had and orders made, to-wit:

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Jeff R. Branick, County Judge  
Vernon Pierce, Commissioner, Precinct One  
Darrell Bush, Commissioner, Precinct Two  
Michael S. Sinegal, Commissioner, Precinct Three  
Everette "Bo" Alfred, Commissioner, Precinct Four



**NOTICE OF MEETING AND AGENDA  
OF COMMISSIONERS' COURT  
OF JEFFERSON COUNTY, TEXAS  
August 02, 2022**

Notice is hereby given that the Commissioners' Court of Jefferson County, Texas, will meet at **10:30 AM**, on the **02nd** day of **August 2022** at its regular meeting place in the Commissioners' Courtroom, 4th Floor, Jefferson County Courthouse, 1149 Pearl Street, Beaumont, Texas.

Said meeting will be a **Special** meeting for the purpose of transacting the routine business of the County. Persons with disabilities requiring auxiliary aids for services who wish to attend this meeting should contact the County Judge's Office to arrange for assistance.

In addition to the routine business of the County, the subject of said meeting will be the following:

**9:45 A.M.- Announcement of an executive (closed) session pursuant to Texas Government Code Section 551.0725 to deliberate business and financial issues relating to a contract being negotiated, that deliberation in an open meeting, would have a detrimental effect on the Commissioners' Court in negotiations with a third person.**

**Jefferson County has taken steps to minimize the exposure of COVID-19 by implementing the following steps to allow the public to view the Commissioner's Court meeting.**

**The following options are available:**

**View live with audio from the County Webpage:**

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[https://co.jefferson.tx.us/comm\\_crt/commlink.htm](https://co.jefferson.tx.us/comm_crt/commlink.htm)

**Listen to audio by calling 346-248-7799 Meeting ID: 917 160 6532#**  
**Participant ID: #**

**The court will also have a question and answer session at the end of the meeting. If you would like to ask any questions of the Court, please be on the phone call. The Court will give a question and answer session at the end of the meeting as time allows. You will be called upon by your last 4 digits of your phone number. If you do not have any questions, you can pass.**

**Please be mindful that the audio portion of this meeting will be of better quality from the website.**

**INVOCATION: Vernon Pierce, Commissioner, Precinct One**

**PLEDGE OF ALLEGIANCE: Darrell Bush, Commissioner, Precinct Two**

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**PURCHASING:**

- (a). Consider and approve, execute, receive and file Contract Amendment No. 1 (RFQ 21-005/JW), Professional Engineering Services for Mesquite Point Public Boat Ramp Project for Jefferson County with Freese and Nichols, Inc. for an increase of \$20,439.00, bringing the contract total from \$191,662.00 up to \$212,101.00 for additional professional design services for addition of sheet-pile replacement of extended segments of existing bulkhead north and south ramps being replaced, with an addition of (21) calendar days for completion; pursuant to Chapter 262, Texas Local Government Code, the County Purchasing Act and 2 CFR Sections 200.318 – 326. This project is funded by a grant from the Texas Parks and Wildlife Department (TPWD) (Contract No. CA-0000997) and Capital Project Funds.

SEE ATTACHMENTS ON PAGES 13 - 17

**Motion by: Alfred**

**Second by: Pierce**

**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**

**Action: APPROVED**

- (b). Consider and approve award, and execute, receive and file Acceptance of Offer for (IFB 22-033/MR), Term Contract for Asphalt Products for Jefferson County with Martin Asphalt Company as shown on Attachment A.

SEE ATTACHMENTS ON PAGES 18 - 20

**Motion by: Alfred**

**Second by: Pierce**

**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**

**Action: APPROVED**

- (c). Consider and approve award, and execute, receive and file Acceptance of Offer for (IFB 22-034/MR) Term Contract for Disaster and Emergency Repair, Service and Installation of Electrical Services for Jefferson County with Gulf Coast Electric Co. Inc. as shown on Attachment A.

SEE ATTACHMENTS ON PAGES 21 - 24

**Motion by: Alfred**

**Second by: Pierce**

**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**

**Action: APPROVED**



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- (d). Consider and approve, execute, receive and file a contract extension for (IFB 17-016/YS) Term Contract for Fire Sprinkler, Fire Pump, Kitchen Hood Suppression and Halon 1301 Fire Suppression Inspection for Jefferson County with Advantage Interests Inc. for an additional 52 days to expire on September 30, 2022.

SEE ATTACHMENTS ON PAGES 25 - 25

**Motion by: Alfred**

**Second by: Pierce**

**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**

**Action: APPROVED**

- (e). Consider and approve, execute, receive and file a contract extension for (RFP 19-022/YS) Emergency Disaster Assistance Recovery for Jefferson County with DRC Emergency Services, LLC for an additional 58 days to expire on December 1, 2022.

SEE ATTACHMENTS ON PAGES 26 - 26

**Motion by: Alfred**

**Second by: Pierce**

**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**

**Action: APPROVED**

- (f). Re-award item 7 of (IFB 19-030/YS) Term Contract for Inmate Clothing and Supplies for Jefferson County for \$17.90/each to Charm-Tex from July 12, 2022 to July 11, 2023.

SEE ATTACHMENTS ON PAGES 27 - 28

**Motion by: Alfred**

**Second by: Pierce**

**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**

**Action: APPROVED**

- (g). Consider and approve a price increase for (IFB 18-036/YS) Term Contract for Indigent Burial Plots for Jefferson County for open & close grave, concrete grave liner and granite grave marker as shown in Attachment A. This is a 5 year contract that expires October 6, 2023.

SEE ATTACHMENTS ON PAGES 29 - 29

**Action: TABLED**

- (h). Consider and approve, execute, receive and file renewal of (IFB 19-034/YS) Term Contract for Herbicides for Jack Brooks Regional Airport for a third (1) year renewal with Morning Star Industries from August 18, 2022 to August 17, 2023.

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SEE ATTACHMENTS ON PAGES 30 - 31

**Motion by: Alfred**  
**Second by: Pierce**  
**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**  
**Action: APPROVED**

- (i).Execute, receive and file renewal of (IFB 19-030/YS) Term Contract for Inmate Clothing and Supplies for Jefferson County for a third (1) year renewal with Charm-Tex and Green Mountain Knitting from July 12, 2022 to July 11, 2023 with proposed price increases, as shown in Attachment A and Attachment B. These price increases are due to an increase in cost of manufacturing.

SEE ATTACHMENTS ON PAGES 32 - 39

**Motion by: Alfred**  
**Second by: Pierce**  
**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**  
**Action: APPROVED**

- (j).Execute, receive and file renewal of (IFB 19-040/YS) Term Contract for Road Building Material for Jefferson County for a second (1) year renewal with Martin Marietta Material, Inc. from September 8, 2021 to September 7, 2022 with proposed price increases, as shown in Attachment A. These price increases are due to CPI increases

SEE ATTACHMENTS ON PAGES 40 - 49

**Motion by: Alfred**  
**Second by: Pierce**  
**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**  
**Action: APPROVED**

- (k).Execute, receive and file renewal of (IFB 19-056/YS) Term Contract for Gray Limestone (Commonly Referred to as 610 Base) for Jefferson County for a second (1) year renewal with Gulf Coast, a CRH Company and Knife River from November 16, 2021 to November 15, 2022 with proposed price increases, as shown in Attachment A and Attachment B. These price increases are due to CPI increases.

SEE ATTACHMENTS ON PAGES 50 - 55

**Motion by: Alfred**  
**Second by: Pierce**  
**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**  
**Action: APPROVED**

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**COUNTY AUDITOR:**

- (a). Consider and approve budget amendment – 279th District Court – additional cost for indigent defense.

SEE ATTACHMENTS ON PAGES 56 - 56

110-2027-412-5055	PETIT JURORS		\$50,000.00
120-2038-412-5079	JUVENILE ATTORNEY FEES	\$50,000.00	

**Motion by: Bush**  
**Second by: Sinegal**  
**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**  
**Action: APPROVED**

- (b). Consider and approve budget transfer– JP Pct1, Pl 1 – additional cost for travel.

SEE ATTACHMENTS ON PAGES 57 - 57

120-2041-412-3017	CLOTHING		\$500.00
120-2041-412-5062	TRAVEL EXPENSE	\$500.00	

**Motion by: Bush**  
**Second by: Sinegal**  
**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**  
**Action: APPROVED**

- (c). Consider and approve budget transfer – Crime Lab – additional cost for lab assessment fees.

SEE ATTACHMENTS ON PAGES 58 - 58

120-3060-421-3084	MINOR EQUIPMENT		\$2,300.00
120-3060-421-5021	DUES/SUBSCRIPTIONS	\$2,300.00	

**Motion by: Bush**  
**Second by: Sinegal**  
**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**  
**Action: APPROVED**

- (d). Consider and approve budget amendment– Service Center – additional cost for fuel.

SEE ATTACHMENTS ON PAGES 59 - 59

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120-6083-416-4054	TELEPHONE		\$35,000.00
120-9999-415-9999	CONTINGENCY APPROPRIATION		\$62,697.00
120-8095-417-3037	GASOLINE	\$97,697.00	

**Motion by: Bush**

**Second by: Sinegal**

**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**

**Action: APPROVED**

- (e). Consider and approve electronic disbursement for \$1,249.64 to Texas Department of Criminal Justice for August insurance reimbursement.

NO ATTACHMENTS

**Motion by: Bush**

**Second by: Sinegal**

**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**

**Action: APPROVED**

- (f). Consider and approve budget transfer – Jail – additional cost for utilities.

SEE ATTACHMENTS ON PAGES 60 - 60

120-3062-423-2003	EMPLOYEES' INSURANCE		\$164,000.00
120-3062-423-4053	GAS- NATURAL AND BUTANE	\$14,000.00	
120-3062-423-4056	ELECTRICITY	\$110,000.00	
120-3062-423-4057	WATER AND SEWER	\$40,000.00	

**Motion by: Bush**

**Second by: Sinegal**

**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**

**Action: APPROVED**

- (g). Consider and approve budget amendment for CDBG-DR grant to cover the cost of the Letter of Re-Evaluation for the Taylor's Bayou Drainage Improvement Project (new bridge option), in the amount of \$5,500. Funds will be allocated from the Construction category to the Environmental Category.

SEE ATTACHMENTS ON PAGES 61 - 62

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**Motion by: Bush**  
**Second by: Sinegal**  
**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**  
**Action: APPROVED**

(h).Regular County Bills – check #497382 through check #497557.

SEE ATTACHMENTS ON PAGES 63 - 70

**Motion by: Bush**  
**Second by: Sinegal**  
**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**  
**Action: APPROVED**

**COUNTY CLERK:**

(a).Consider and possibly approve, execute, receive and file a Joint Election Agreement and Election Services Contract between Jefferson County and the City of Port Neches for the election to be held on November 8, 2022.

SEE ATTACHMENTS ON PAGES 71 - 80

**Motion by: Pierce**  
**Second by: Bush**  
**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**  
**Action: APPROVED**

(b).Consider and possibly approve, execute, receive and file a Joint Election Agreement and election Services Contract between Jefferson County and Port Neches-Groves ISD for the election to be held on November 8, 2022.

SEE ATTACHMENTS ON PAGES 81 - 90

**Motion by: Pierce**  
**Second by: Bush**  
**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**  
**Action: APPROVED**

(c).Consider and possibly approve, execute, receive and file a Joint Election Agreement and Election Services Contract between Jefferson County and the City of Groves for the election to be held on November 8, 2022.

SEE ATTACHMENTS ON PAGES 91 - 100

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**Motion by: Pierce**  
**Second by: Bush**  
**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**  
**Action: APPROVED**

- (d). Consider and possibly approve, execute, receive and file a Joint Election Agreement and Election Services Contract between Jefferson County and Hampshire-Fannette ISD for the election to be held on November 8, 2022.

SEE ATTACHMENTS ON PAGES 101 - 110

**Motion by: Pierce**  
**Second by: Bush**  
**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**  
**Action:**

- (e). Consider and possibly approve, execute, receive and file Order call for a General Election to be held on November 8, 2022 for the purpose of electing county and precinct officers. The Order includes the adoption of countywide vote centers for this election.

SEE ATTACHMENTS ON PAGES 197-200

**Motion by: Pierce**  
**Second by: Bush**  
**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**  
**Action: APPROVED**

- (f). Consider and possibly approve, execute, receive and file a contract with ES&S for election equipment to be used in early voting and regular voting on election day for all county elections and paid for with funds from the Reimbursement for Auditable Voting Machines (RAVM) grant.

SEE ATTACHMENTS ON PAGES 201-248

**Motion by: Pierce**  
**Second by: Bush**  
**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**  
**Action: APPROVED**

**COUNTY COMMISSIONERS:**

- (a). Consider, possibly approve, authorize the County Judge to execute, receive and file the application of Jefferson County to participate in the 2023 Feral Hog Grant Program sponsored by the U.S. Department of Agriculture (USDA.)

SEE ATTACHMENTS ON PAGES 111 - 111

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**Motion by: Sinegal**  
**Second by: Bush**  
**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**  
**Action: APPROVED**

- (b).Receive and file executed tax abatement agreements between Jefferson County and OCI Clean Ammonia LLC for Phase 1 and Phase 2, and OCI Clean Fuels USA, Inc. for Phase1 and Phase 2 in the OCI 2022 Reinvestment Zone.

SEE ATTACHMENTS ON PAGES 112 - 192

**Motion by: Sinegal**  
**Second by: Bush**  
**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**  
**Action: APPROVED**

**SHERIFF'S DEPARTMENT:**

- (a).Please consider and possibly approve, authorizing the Jefferson County Judge to execute an Inter-local agreement between Jefferson County and the Cities of Beaumont and Pt. Arthur on asset sharing of the 2022 Byrne Justice Assistance Grant Program award. Jefferson County's allocation is \$20,025 and is budgeted for computer equipment for the Sheriff's Office.

SEE ATTACHMENTS ON PAGES 193 - 196

**Motion by: Alfred**  
**Second by: Sinegal**  
**In Favor: Branick, Pierce, Bush, Sinegal, Alfred**  
**Action: APPROVED**

**OTHER BUSINESS:**

**\*\*\*DISCUSSION ON ANY OTHER ITEM NOT ON AGENDA WITHOUT TAKING ACTION.**

**Receive reports from Elected Officials and staff on matters of community interest without taking action.**

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**Jeff R. Branick**  
**County Judge**

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**Special, August 02, 2022**

There being no further business to come before the Court at this time, same is now here adjourned on this date, August 02, 2022.



PO# 004420



PROFESSIONAL SERVICES AGREEMENT  
AMENDMENT #1

CLIENT NAME Jefferson County  
1149 Pearl Street 1<sup>st</sup> Floor  
Beaumont, TX 77701

FNI PROJECT NO. JFF21789  
CLIENT CONTRACT REFERENCE RFQ 21-005/JW  
DATE: 07/18/2022

**Project Name:** Mesquite Point Public Boat Ramp

**Description of Services:** Addition of design for sheetpile replacement of extended segments of existing bulkhead north and south of ramps being replaced. See Attachment A.

**Amended Deliverables:** Additional bulkhead structural sheets, detail, and revised civil plan view drawings showing sheetpile bulkhead replacement. See Attachment A for details.

**Amended Schedule:** 3 additional weeks

**Compensation shall be amended as follows:** A lump sum amount of twenty thousand, four-hundred and thirty-nine dollars. See Attachment B for details.

<b>Current Contract Amount:</b>	\$191,662
<b>Amount of this Amendment:</b>	\$20,439
<b>Revised Total Amount Authorized:</b>	\$212,101

*The above described services shall proceed upon execution of this amendment. All other provisions, terms and conditions of the Professional Services Agreement which are not expressly amended shall remain in full force and effect.*

FREESE AND NICHOLS, INC.

JEFFERSON COUNTY, TEXAS

BY: 

BY: 

Anthony J. Risko, P.E.

Jeff R. Branick

Print Name

Print Name

Associate,

Jefferson County Judge

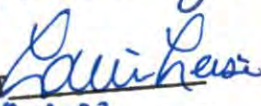
TITLE: Coastal & Navigation Practice Leader

TITLE: Jefferson County Judge

DATE: July 21, 2022

DATE: ~~July 20, 2022~~

August 2, 2022 gn

ATTEST   
DATE 8-2-22



## ATTACHMENT A

### CHANGE ORDER SCOPE OF WORK

#### BACKGROUND

As part of the design for the boat ramp replacement, FNI reviewed previous ramp and bulkhead replacement plans provided by the County (Schaumburg and Polk [S&P], Inc. 2006), and performed another site visit June 1, 2022 to ascertain the nature of the existing bulkhead around the south ramps being replaced. The S&P plans provided construction design for reconstruction of damaged bulkheads and sidewalk south of the South ramps, rehabilitating the fishing pier, and replacing the North boat ramps. Based on the S&P plans and Google Earth historical aerial imagery, it is apparent that the South ramps were replaced in 2011 during the TxDOT rebuild of SH82, and the work pursuant to the S&P plans before that, circa 2009. FNI requested construction or as-built plans from TxDOT via phone and email, but has not received a response yet. The S&P plans provided for replacement of 2,500 feet of bulkhead terminating directly adjacent to the South ramps. For externally visible features, the plans detailed hand railing and the presence of vinyl sheet pile retaining wall, but our June 1 site visit and online drone footage indicated that system stopped approximately 70 feet short of the southmost ramp.

The S&P plans provided for rebuilding the tieback system by installing a new tieback beam, and/or replacing cabling and fasteners with more robust components. Based on the site visit, review of the original 1994 ramp plans, and existing structure information on the North ramps from the S&P plans, FNI believes the existing bulkhead system directly adjacent to the South ramps is the original timber bulkhead system. This system appears to consist of round creosoted timber piles, timber sheet pile, and horizontal walers topped by a concrete cap/sidewalk. The extent of this existing timber bulkhead is shown in red in **Figure 1** and **Figure 2**. Our original intent was to tie into the existing system by replacing only the directly adjacent existing bulkhead with what was installed under the S&P plans.

However, based on our recent conversation with the County Engineer during the General Land Office's (GLO) Region 1A meeting for the Texas Coastal Resiliency Master Plan (TCRMP), our June 24, 2022 project call, and the County submission of Project 9242, Walter Umphrey Park Bulkhead Repair and Resiliency Upgrade for the TCRMP, the existing tieback system upgrade from the circa 2009 rebuild is failing. Therefore, a different system is desired. Some of the deteriorating conditions of the existing timber bulkhead are shown in **Figure 3**, with deflecting lumber sheet pile and extruded bolts in a. and sheet pile decay shown in b. Because of the age and condition of the existing timber bulkhead, we cannot predict the stability of it once a small section is removed for the ramp replacement. FNI proposes to replace the extent of the existing bulkhead shown in red in **Figure 2** with steel sheet pile, a system with greater expected longevity than timber. This will avoid having to demolish a temporary tie-in to the existing timber bulkhead and would be independent of replacements from the rest of bulkhead during work under Project 9242.

#### SCOPE OF SERVICES

The following is the proposed scope of services for this Change Order

- Design steel sheetpile bulkhead replacements and associated sidewalk concrete cap for the extended segments south and north of the South Ramps being designed for replacement under current contract, shown in **Figure 2**.

- Revise Opinion of Probable Construction Cost (OPCC) to include new sheetpile sections
- Perform necessary nationwide permit information review and coordination to include the extended sheetpile segments.
- Deliverables
  - Design & specification of steel sheetpile replacement of segments shown in red in **Figure 2**.
  - Structural drawings for steel sheetpile in cross section, plan view and details
  - Revisions to existing civil drawings and structural drawings to detail sidewalk.
  - Revised OPCC

### ASSUMPTIONS

Existing project topographical and bathymetric survey covers the extended segments. Existing project geotechnical borings and data are sufficient to design the extended sheetpile sections.

**Figure 1: Existing Boat Ramp with Timber Bulkhead Extent Shown with Red Arrows**



**Figure 2: Existing Boat Ramp Plan View with Timber Bulkhead Extent Shown in Red**

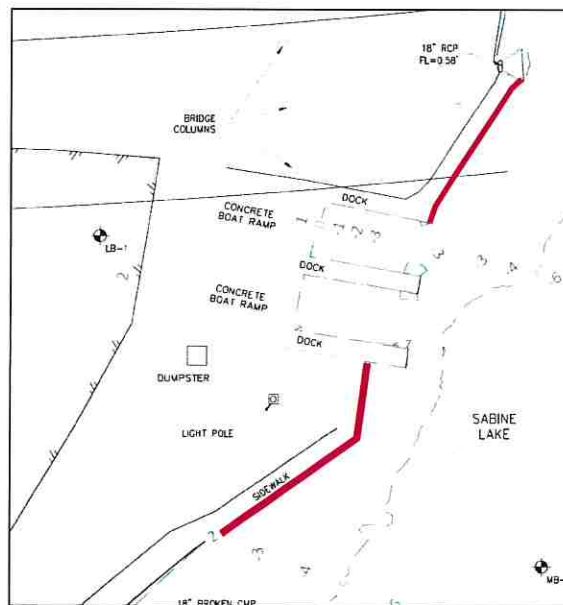




Figure 3: Signs of Decay and Bowing in Existing Timber Bulkhead



July 18, 2022  
 Jefferson County, Texas  
 Mesquite Point Boat Ramp & Jetties  
 CHANGE ORDER 1 COST PROPOSAL  
**PRIME PROVIDER NAME:**  
 Freese & Nichols, Inc.  
**PROJECT NAME:**  
 Sheetpile Extension Design, July 14, 2022

TASK DESCRIPTION		Project Manager	Senior Civil Engineer	Civil Engineer	EIT	Structural Engineer	Structural SA/QA	CAD Technician	SA/QA	Project Administrator	Envr Scientist	Cost Estimator	TOTAL (Labor Hours)	TOTAL (Labor Costs)
ESPM	PM	3								2			5	\$ 998
ED02	Sheetpile Extension Civil Design	1	12	4	14								31	\$ 4,948
ED02	Sheetpile Extension Structural Design	1				38		20					59	\$ 9,227
ED02	Sheetpile Extension QAQC	1					4		3				8	\$ 1,996
ES01	Environmental	3			4						4		11	\$ 1,912
ED02	OPCC Update	1			3							4	8	\$ 1,358
HOURS TOTALS		10	12	4	21	38	4	20	3	2	4	4	122	
CONTRACT RATE PER HOUR		\$ 230.52	\$ 224.94	\$ 130.80	\$ 106.77	\$ 161.16	\$ 213.63	\$ 143.61	\$ 303.75	\$ 153.21	\$ 198.36	\$ 201.84		
TOTAL LABOR COSTS		\$ 2,305	\$ 2,699	\$ 523	\$ 2,242	\$ 6,124	\$ 855	\$ 2,872	\$ 911	\$ 306	\$ 793	\$ 807		\$ 20,439

**OFFER AND ACCEPTANCE FORM  
OFFER TO CONTRACT**

To Jefferson County:

We hereby offer and agree to furnish the materials or service in compliance with all terms, conditions, specifications, and amendments in the Invitation for Bid and any written exceptions in the offer.

We understand that the items in this Invitation for Bid, including, but not limited to, all required certificates are fully incorporated herein as a material and necessary part of the contract.

The undersigned hereby states, under penalty of perjury, that all information provided is true, accurate, and complete, and states that he/she has the authority to submit this bid, which will result in a binding contract if accepted by Jefferson County.

We acknowledge receipt of the following amendment(s): \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

I certify, under penalty of perjury, that I have the legal authorization to bind the firm hereunder:

Martin Asphalt Company  
Company Name

For clarification of this offer, contact:

3 Riverway Suite 400  
Address

Victoria Espino, Sales Rep  
Name & Title

Houston TX 77056  
City State Zip

713 350-6852 713 350 2801  
Phone Fax

[Signature]  
Signature of Person Authorized to Sign

Victoria.espino@martinmlp.com  
E-mail

Victoria Espino  
Printed Name

Sales Rep  
Title

**REQUIRED FORM**  
**Bidder: Please complete this form**  
**and include with bid submission.**

**ACCEPTANCE OF OFFER**

The Offer is hereby accepted for the following items: Term Contract for Asphalt Products for Jefferson County. Contract Term: One (1) year from date of award with an option to renew for four (4) additional years.

The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the Invitation for Bid, including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by Jefferson County.

This contract shall henceforth be referred to as Contract No. IFB 22-033/MR, Term Contract for Asphalt Products for Jefferson County. The Contractor has not been authorized to commence any billable work or to provide any material or service under this contract until Contractor receives a purchase order and/or a notice to proceed from the Jefferson County Purchasing Agent.

**COUNTERSIGNED:**

\_\_\_\_\_  
Jeff R. Branick  
Jefferson County Judge

August 2, 2022  
\_\_\_\_\_  
Date

**ATTEST:**

\_\_\_\_\_  
Laurie Leister  
Jefferson County Clerk



**Preliminary Tabulation****IFB 22-033/MR****Term Contract for Asphalt Products for Jefferson County****Opening Date: Wednesday, July 13, 2022**

<b>I. Asphalt Products – Direct Pick Up at Vendor’s Asphalt Storage/Production Facility</b>		
	1. Grade CRS-2 Emulsion	\$2.80 Per gallon
	2. Grade SS-1	\$ 2.80 Per gallon
	3. Grade AE-P	\$3.25 Per Gallon
	Vendor’s Shipping Point Address:	100112 East Pt. Neches, Pt. Neches, TX 77651
	Hours of Hopper Operation:	7:00 am – 4:00 pm

<b>II. Asphalt Products – Delivery to Precinct 3 Storage Tank, Port Arthur Service Center</b>		
	1. Grade CRS-2 Emulsion	\$2.98 Per gallon
	2. Grade AE-P	\$3.43 Per Gallon
	Vendor’s Shipping Point Address:	300 Christy Place South, Houston, TX 77587
	Hours of Hopper Operation:	24 hours a day / 7 days a week
	Delivery and Return Charge for Tanker:	Delivery \$901 / Return \$450

<b>III. Asphalt Products – Delivery to Project Location (Location will vary)</b>		
	1. Grade CRS-2 Emulsion	\$2.98 Per gallon
	2. Grade SS-1	\$2.98 Per gallon
	3. Grade AE-P	\$3.43 Per Gallon
	Vendor’s Shipping Point Address:	300 Christy Place South, Houston, TX 77587
	Hours of Hopper Operation:	24 hours a day / 7 days a week
	Delivery and Return Charge for Tanker:	Delivery \$901 / Return \$450
	Additional Mileage Cost	None

Martin Asphalt Company  
3 Riverway #400  
Houston TX 77056  
attn: Victoria Espino  
[victoria.espino@martinmlp.com](mailto:victoria.espino@martinmlp.com)  
ph: 713-350-6852  
fx: 713-350-2801



OFFER AND ACCEPTANCE FORM  
OFFER TO CONTRACT

To Jefferson County:

We hereby offer and agree to furnish the materials or service in compliance with all terms, conditions, specifications, and amendments in the Invitation for Bid and any written exceptions in the offer.

We understand that the items in this Invitation for Bid, including, but not limited to, all required certificates are fully incorporated herein as a material and necessary part of the contract.

The undersigned hereby states, under penalty of perjury, that all information provided is true, accurate, and complete, and states that he/she has the authority to submit this bid, which will result in a binding contract if accepted by Jefferson County.

We acknowledge receipt of the following amendment(s): \_\_\_\_\_.

I certify, under penalty of perjury, that I have the legal authorization to bind the firm hereunder:

Gulf & Coast Electric Co Inc

Company Name

For clarification of this offer, contact:

2005 Pecos Street

Address

Kevin J Picard VP

Name & Title

Beaumont TX 77701

City State Zip

409 658 5246

Phone Fax

[Signature]

Signature of Person Authorized to Sign

KevinJPicard@yahoo.com

E-mail

Kevin J Picard

Printed Name

VP

Title

**REQUIRED FORM**  
**Bidder: Please complete this form**  
**and include with bid submission.**

**ACCEPTANCE OF OFFER**

---

The Offer is hereby accepted for the following items: Term Contract for Asphalt Products for Jefferson County. Contract Term: One (1) year from date of award with an option to renew for four (4) additional years.

The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the Invitation for Bid, including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by Jefferson County.

This contract shall henceforth be referred to as Contract No. IFB 22-033/MR, Term Contract for Asphalt Products for Jefferson County. The Contractor has not been authorized to commence any billable work or to provide any material or service under this contract until Contractor receives a purchase order and/or a notice to proceed from the Jefferson County Purchasing Agent.

**COUNTERSIGNED:**



\_\_\_\_\_  
Jeff R. Branick  
Jefferson County Judge

August 2, 2022  
\_\_\_\_\_  
Date

**ATTEST:**



\_\_\_\_\_  
Laurie Leister  
Jefferson County Clerk



## Preliminary Tabulation

IFB 22-034/MR

Term Contract for Disaster and Emergency Repair, Service, and Installation of Electrical Services for Jefferson County

Opening Date: July 13, 2022

Jefferson Electric  
Company  
4730 Mercantile  
Beaumont, TX 77705  
Tyler Ancelet  
Phone: 409-842-9696  
Fax: 409-842-4401  
email je@jefferson-  
electric.com

Gulf Coast Electric  
Company  
2005 Pecos St.  
Beaumont, TX 77701  
Kevin Picard  
Phone: 409-658-5246  
409-659-6110  
email:  
kevinjpichard@yahoo.co  
m

Item	Description	Labor Charge per Hour	Labor Charge per Hour
1	Electrician during working hours (Monday-Friday, 7:30 am to 5:00 pm)	\$85.00/hour	\$75.00/hour
2	Apprentice Electrician accompanying Electrician during working hours (Monday-Friday, 7:30 am to 5:00 pm)	\$65.00/hour	\$50.00/hour
3	Electrician for emergency service on weekdays and Saturdays (Monday-Friday, 5:00 pm to 7:30 am, and all day Saturday)	\$128.00/hour	\$105.00/hour
4	Apprentice Electrician accompanying Electrician for emergency service on weekdays and Saturdays (Monday-Friday, 5:00 pm to 7:30 am, and all day Saturday)	\$98.00/hour	\$70.00/hour
5	Electrician for emergency service on Sundays and Holidays	\$170.00/hour	\$120.00/hour
6	Apprentice Electrician accompanying Electrician for emergency service on Sundays and Holidays	\$130.00/hour	\$85.00/hour
7	Electrician for disaster relief service during mandatory/voluntary County evacuation (Monday-Friday, 7:30 am to 5:00 pm)	\$200.00/hour	\$105.00/hour
8	Apprentice Electrician accompanying Electrician for disaster relief service during mandatory/voluntary County evacuation (Monday-Friday, 7:30 am to 5:00pm)	\$150.00/hour	\$70.00/hour
9	Electrician for emergency disaster relief service on weekdays and Saturdays during mandatory/voluntary County evacuation (Monday-Friday 5:00 pm to 7:30 am, and all day Saturday)	\$200.00/hour	\$105.00/hour

Item	Description	Labor Charge per Hour	Labor Charge per Hour
10	Apprentice Electrician accompanying Electrician for emergency disaster relief service on weekdays and Saturdays during mandatory/voluntary County evacuation (Monday–Friday 5:00 pm to 7:30 am, and all day Saturday)	\$150.00/hour	\$70.00/hour
11	Electrician for emergency disaster service relief during mandatory/voluntary County evacuation (Sundays and Holidays)	\$200.00/hour	\$120.00/hour
12	Apprentice Electrician accompanying Electrician for emergency disaster service during mandatory/ voluntary county evacuation (Sundays and Holidays)	\$150.00/hour	\$85.00/hour
13	Hourly rates for hydraulic lifts	Cost + 10 %	\$50.00/hour
14	Hourly rates for winch trucks	Cost + 10 %	\$50.00/hour
15	Hourly rates for pole line trucks	Cost + 10 %	\$50.00/hour
16	Materials, supplies, and/or equipment furnished by contractor shall be billed at _____% markup. Jefferson County reserves the right to request copies of invoices made to contractor from supplier including freight charges.	20%	20%
17	Rental equipment furnished by contractor, with prior approval of the County, to be billed at _____% markup.	10%	20%
18	Contract fee for permitting \$ _____ per \$100.00 value	\$10.00	\$5.00

Jefferson County makes no claim that this bid tabulation represents anything other than the information read aloud at the public opening. The County has not checked the bids for errors, or made any determinations that the solicitations meet all requirements. In the case of a discrepancy between information on this tabulation and the original hard-copy document, the original hard copy shall prevail.



**JEFFERSON COUNTY PURCHASING DEPARTMENT**  
*Deborah L. Clark, Purchasing Agent*

1149 Pearl Street, First Floor, Beaumont, TX 77701 409-835-8593 Fax 409-835-8456

**CONTRACT EXTENSION REQUEST**

July 21, 2022

Advantage Interests, Inc.  
7840 W Little York  
Houston, TX 77040  
Attention: Mr. Joe Sanchez

Re: (IFB 17-016/YS), Term Contract for Fire Sprinkler, Fire Pump, Kitchen Hood Suppression and Halon 1301 Fire Suppression Inspection for Jefferson County

Dear Mr. Sanchez:

Please be advised the above-referenced contract for Jefferson County will expire on **August 9, 2022**. It is requested that your company extend your current contract for an additional 52 days, to expire September 30, 2022.

Please sign the acknowledgment below to indicate your agreement and return to our office by Thursday, July 28, 2022. Jefferson County appreciates your cooperation with this extension.

Best regards,

Sincerely,

Deborah L. Clark  
Purchasing Agent  
Jefferson County, Texas

DC: mr

Price Extension Received and Accepted: 7/21/2022 Date

Project Number: IFB 17-016/YS

Contractor: Advantage Interests, Inc.

Signature: Joe Sanchez

Print Name and Title: Joe Sanchez General Sales Manager



**Laurie Leister, County Clerk**

**JEFFERSON COUNTY, TEXAS**

**Jeff R. Branick, County Judge**





JEFFERSON COUNTY PURCHASING DEPARTMENT
Deborah L. Clark, Purchasing Agent

1149 Pearl Street, First Floor, Beaumont, TX 77701 409-835-8593 Fax 409-835-8456

CONTRACT EXTENSION REQUEST

June 16, 2022

DRC Emergency Services, LLC
111 Veterans Boulevard, Suite 401
Metairie, LA 70005
Attention: Mrs. Kristy Fuentes

Re: (RFP 19-02/YS), Emergency Disaster Assistance Recovery for Jefferson County

Dear Mrs. Fuentes:

Please be advised the above-referenced contract for Jefferson County will expire on October 4, 2022. It is requested that your company extend your current contract for an additional 58 days, to expire December 1, 2022.

Please sign the acknowledgment below to indicate your agreement and return to our office by Wednesday, July 27, 2022. Jefferson County appreciates your cooperation with this extension.

Best regards,

Sincerely,

Deborah Clark (handwritten signature)

Deborah L. Clark
Purchasing Agent
Jefferson County, Texas

DC: mr

Price Extension Received and Accepted: 7/26/2022 Date

Project Number: RFP 19-022/YS

Contractor: DRC Emergency Services, LLC

Signature: Kristy Fuentes (handwritten signature)

Print Name and Title: Kristy Fuentes Vice President, Secretary, Treasurer



Laurie Leister (handwritten signature)

Laurie Leister, County Clerk

JEFFERSON COUNTY, TEXAS

Jeff R. Branick, County Judge



July 27, 2022

Jefferson County  
Purchasing Department  
1149 Pearl Street, 1<sup>st</sup> Floor  
Beaumont, TX 77701

RE: Mattress Cover Pricing

Good afternoon,

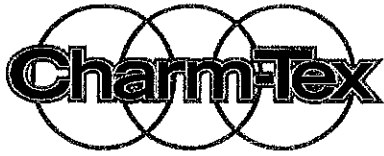
Please be advised, that for the mattress cover, we can honor the pricing of \$17.90 from 07/12/2022 until 07/11/2023.

Thank you,

A handwritten signature in black ink, appearing to read "K. Kellner". The signature is written in a cursive, flowing style.

Kayla Kellner  
Contract Supervisor

1618 Coney Island Ave, Brooklyn NY 11230  
1.800.221.3147  
[www.Charm-Tex.com](http://www.Charm-Tex.com)



CHARM-TEX, INC.  
 1618 CONEY ISLAND AVE.  
 BROOKLYN, NY 11230  
 TEL.: (718)252-8100 \* FAX: (718)258-8303  
 WEB: WWW.CHARM-TEX.COM

# QUOTE

QUOTE NO.: 0303362  
 QUOTE DATE: 7/5/2022

CUSTOMER NO.: 00-JEFFC

SALESPERSON: Estelle Ashenberg  
 estelle@charm-tex.com  
 800-221-3147 x115

VALID TILL: 07/13/2022

**SOLD TO:**  
 JEFFERSON COUNTY PURCHASING DE  
 1149 PEARL STREET  
 BEAUMONT, TX 77701  
**CONFIRM TO:** NANCY BENFORD

**SHIP TO:**  
 JEFFERSON COUNTY JAIL  
 5030 HIGHWAY 69 SOUTH  
 BEAUMONT, TX 777051258  
**ATTN TO:** MISTY REEVES

CUSTOMER PO	SHIP VIA	FOB DELIVERED	TERMS NET 30 DAYS			
ITEM CODE	DESCRIPTION	ORDERED	UOM	PRICE	AMOUNT	
MC/30754VINYL	MATTRESS COVERS, VINYL SEWN, GREEN, SIZE 30" X 75" X 4	1.00	EACH	17.90	17.90	

Quoted as all or none. If there is any change to the above quantity when placing your order, please contact your sales rep, for the prices may change.

**ORDER TOTAL:** 17.90





# CLAYBAR

US Hwy 90 West, Beaumont, Texas 77713 • 409-892-3456

Haven of Rest Cemetery

July 26, 2022

Jefferson County Purchasing Department  
Mistey Reeves  
1149 Pearl St  
Beaumont, TX 77701

Dear Mistey,

Claybar Haven of Rest Cemetery is requesting a price re-determination for the cost of indigent burials that we currently provide the county. We are requesting an increase in the following items.

Description	Current Cost	Proposed Cost
Open & Close Grave	\$545.00	605.00
Concrete Grave Liner	\$375.00	475.00
Granite Grave Marker	\$120.00	160.00
<b>TOTAL</b>	<b>\$1,040.00</b>	<b>1,240.00</b>

This increase is necessary due to increase labor costs, wholesale supplier cost increases, as well as increase in fuel costs.

We the opportunity to be the provider for indigent burials for Jefferson County and to assist these persons and families who do not have the financial ability to take care of their loved ones burial arrangements.

Sincerely,

John Woods  
Claybar Haven of Rest

**CONTRACT RENEWAL FOR IFB 19-034/YS  
TERM CONTRACT FOR HERBICIDES FOR JACK BROOKS  
REGIONAL AIRPORT**

The County entered into a contract with Morning Star Industries for one (1) year, from August 19, 2019 to August 18, 2020, with an option to renew the contract for up to a five (5) year period.


Pursuant to the contract, Jefferson County hereby exercises its third one-year option to renew the contract for one (1) additional year from August 18, 2022 to August 17, 2023.

ATTEST:

  
\_\_\_\_\_  
Laurie Leister, County Clerk

JEFFERSON COUNTY, TEXAS  
  
\_\_\_\_\_  
Jeff Branick, County Judge



CONTRACTOR:  
Morning Star Industries  
  
\_\_\_\_\_  
(Name)

**CURRENT PRICING****IFB 19-034/YS****Term Contract for Herbicides for Jack Brooks Regional Airport****Awarded: August 19, 2019****Renewal 1: 8/18/2020 – 8/17/2021****Renewal 2: 8/17/2021 – 8/18/2022****updated: 6/28/2022**

Item	Description	Container Size	Brand bid	Price per Container	Vendor
1A	POLARIS or equivalent	2.5 gal.	Polaris	<del>\$122.90</del> \$187.50	Red River Specialties
1B	POLARIS or equivalent	5 gal. cube		NO BID	
2	Tordon 101 or equivalent	2.5 gal		NO BID	
3A	Roundup or equivalent	2.5 gal	Ranger Pro	<del>\$34.90</del> \$93.75	Red River Specialties
3A	Roundup or equivalent	5 gal. cube		NO BID	
4	Opensight	1.25 lbs	Opensight	<del>\$105.00</del> \$111.75	Red River Specialties
5a	Esplanade 200 SC	Quart	Esplanade 200SC	<del>\$325.25</del> \$348.80	Red River Specialties
5b	Espanade 200 SC	Gallon	Esplanade 200SC	<del>\$2924.80</del> \$3,168.00	Red River Specialties
6	Oust Extra or equivalent	4 lb.	Oust Extra	\$119.80	Red River Specialties
7	Sunset Sufactant or equivalent	2.5 gal.	RRSI NIS 90-10 Surfactant	<del>\$23.63</del> \$31.40	Red River Specialties
8A	Plateau or equivalent	2.5 gal	Plateau (1-gal container)	<del>\$118.16</del> \$125.24	Red River Specialties
8B	Plateau or equivalent	5 gal. cube	Plateau	<del>\$584.75</del> \$619.83	Red River Specialties
9A	24-D or equivalent	2.5 gal	Weedar 64	<del>\$33.88</del> \$68.75	Red River Specialties
9B	24-D or equivalent	5 gal. cube		NO BID	
10A	Garlon 4 or equivalent	2.5 gal	Element 4	<del>\$130.00</del> \$179.00	Morning Star Industries
10B	Garlon 4 or equivalent	5 gal. cube		NO BID	

Morning Star Industries  
 PO Box 1266  
 Jensen Beach FL 34958  
 attn: Steve Cook  
[steve@morningstarusa.com](mailto:steve@morningstarusa.com)  
 ph: 800-440-6050  
 fx: 772-334-7999

Red River Specialties  
 1324 North Hearne Avenue, Suite 120  
 Shreveport LA 71107  
 attn: Chad Chambliss  
[chad.chambliss@rrsi.com](mailto:chad.chambliss@rrsi.com)  
 ph: 318-226-2604  
 fx: 318-227-3032

**CONTRACT RENEWAL FOR IFB 19-030/YS  
TERM CONTRACT FOR INMATE CLOTHING AND SUPPLIES FOR  
JEFFERSON COUNTY**

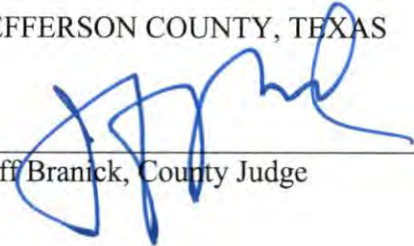
The County entered into a contract with Charm-Tex for one (1) year, from July 15, 2019 to July 14, 2020, with an option to renew the contract for up to a five (5) year period.

Pursuant to the contract, Jefferson County hereby exercises its third one-year option to renew the contract for one (1) additional year from July 12, 2022 to July 11, 2023.

ATTEST:

  
\_\_\_\_\_  
Laurie Leister, County Clerk

JEFFERSON COUNTY, TEXAS

  
\_\_\_\_\_  
Jeff Branick, County Judge



CONTRACTOR:

Charm-Tex

  
\_\_\_\_\_  
(Name)



July 26, 2022

Jefferson County  
Purchasing Department  
1149 Pearl Street, 1<sup>st</sup> Floor  
Beaumont, TX 77701

RE: IFB 19-030/YS Term contract for Inmate Clothing & Supplies

Good afternoon,

Please be advised, due to unprecedented increased costs in manufacturing as well as ocean freight, we need to increase our contracted prices on the shoes and laundry bags.

We apologize for any inconvenience.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Kellner".

Kaily Kellner

Contract Supervisor

1618 Coney Island Ave, Brooklyn NY 11230  
1.800.221.3147  
[www.Charm-Tex.com](http://www.Charm-Tex.com)

## ATTACHMENT A

## IFB 19-030/YS

## Term Contract for Inmate Clothing and Supplies for Jefferson County

Awarded: July 15, 2019

Renewal 1: 7/14/2020 – 7/13/2021

Renewal 2: 7/13/2021 – 7/12/2022

Updated: September 28, 2021

					Vendor
Item	Unit	Description	Size	Unit Price	
1	Each	Inmate Coveralls (yellow, navy blue, orange, red)	X-Sm	\$12.48	<b>Bob Barker Company</b>
			Small	\$12.48	<b>Bob Barker Company</b>
			Med	\$12.48	<b>Bob Barker Company</b>
			Large	\$12.48	<b>Bob Barker Company</b>
			X-L	\$12.48	<b>Bob Barker Company</b>
			1X-L	\$12.48	<b>Bob Barker Company</b>
			2X-L	\$12.48	<b>Bob Barker Company</b>
			3X-L	\$12.48	<b>Bob Barker Company</b>
			4X-L	\$13.39	<b>Bob Barker Company</b>
			5X-L	\$13.39	<b>Bob Barker Company</b>
			6X-L	\$13.39	<b>Bob Barker Company</b>
			7X-L	\$15.49	<b>Bob Barker Company</b>
			8X-L	\$15.49	<b>Bob Barker Company</b>
			9X-L	\$15.49	<b>Bob Barker Company</b>
			10X-L	\$15.49	<b>Bob Barker Company</b>
11X-L	\$18.64	<b>Bob Barker Company</b>			
12X-L	\$18.64	<b>Bob Barker Company</b>			
13X-L	\$18.64	<b>Bob Barker Company</b>			
14X-L	\$19.85	<b>Bob Barker Company</b>			
15X-L	\$21.00	<b>Bob Barker Company</b>			
Item	Unit	Description	Size	Unit Price	
2	Each	Inmate Jackets (unlined)	X-Sm	\$11.50	<b>Green Mountain Knitting</b>
			Small	\$11.50	<b>Green Mountain Knitting</b>
			Med	\$11.50	<b>Green Mountain Knitting</b>
			Large	\$11.50	<b>Green Mountain Knitting</b>
			X-L	\$11.50	<b>Green Mountain Knitting</b>
			1X-L	\$11.50	<b>Green Mountain Knitting</b>
			2X-L	\$11.50	<b>Green Mountain Knitting</b>
			3X-L	\$12.50	<b>Green Mountain Knitting</b>

			4X-L	\$12.50	Green Mountain Knitting
			5X-L	\$12.50	Green Mountain Knitting
			6X-L	\$12.50	Green Mountain Knitting
Item	Unit	Description	Size	Unit Price	
3	Each	Inmate Jackets (lined)	X-Sm	\$13.00	Green Mounting Knitting
			Small	\$13.00	Green Mounting Knitting
			Med	\$13.00	Green Mounting Knitting
			Large	\$13.00	Green Mounting Knitting
			X-L	\$13.00	Green Mounting Knitting
			1X-L	\$13.00	Green Mounting Knitting
			2X-L	\$13.00	Green Mounting Knitting
			3X-L	<del>\$16.03</del> \$18.44	Victory Supply, Inc.
			4X-L	<del>\$16.03</del> \$18.44	Victory Supply, Inc.
			5X-L	<del>\$16.03</del> \$18.44	Victory Supply, Inc.
6X-L	<del>\$16.03</del> \$18.44	Victory Supply, Inc.			
Item	Unit	Description	Color	Unit Price	
4	Pair	Deck Shoe w/toe cap, sizes 5 - 15	Navy Blue	<del>\$4.72</del> \$6.90	Charm Tex
			Navy Blue	<del>\$4.72</del> \$6.90	Charm Tex
			Navy Blue	<del>\$4.72</del> \$6.90	Charm Tex
			Navy Blue	<del>\$4.72</del> \$6.90	Charm Tex
			Navy Blue	<del>\$4.72</del> \$6.90	Charm Tex
			Navy Blue	<del>\$4.72</del> \$6.90	Charm Tex
			Navy Blue	<del>\$4.72</del> \$6.90	Charm Tex
			Navy Blue	<del>\$4.72</del> \$6.90	Charm Tex
			Navy Blue	<del>\$4.72</del> \$6.90	Charm Tex
			Navy Blue	<del>\$4.72</del> \$6.90	Charm Tex
Item	Unit	Description	Size	Unit Price	
5	Each	Night Shirt – Female. No Color Specified. (Average Annual Order: 100)	Small	\$5.09	Carolina Textiles
			Medium	\$5.09	Carolina Textiles
			Large	\$5.09	Carolina Textiles
			1X	\$5.09	Carolina Textiles
			2X	\$5.79	Carolina Textiles
			3X	\$5.79	Carolina Textiles
			4X	\$5.79	Carolina Textiles
			5X	\$5.79	Carolina Textiles

Item	Unit	Description	Size	Unit Price	Supplier
			6X	\$5.79	<b>Carolina Textiles</b>
6	Each	Mattress	30"x75"x4"	\$37.78	<b>Bob Barker Company</b>
7	Each	Mattress Cover (Average Annual Order: 300-500)	30"x75"x4"	\$9.83	<b>ICS Jail Supplies, Inc.</b>
8	Each	Mattress Cover Heavy Weight Twill, off-white	30"x75"x6"	\$5.56 \$6.97	<b>Victory Supply, Inc.</b>
9	Each	Inmate Blanket  (Average Annual Order: 500-1000)	66"x90"	\$4.95	<b>Acme Supply Co. Ltd.</b>
10	Doz.	Inmate Bath Towel, white (Average Annual Order: 100-200 doz.)	30"x40"	\$9.62	<b>Acme Supply Co. Ltd.</b>
11	Each	Laundry Bag, white (Average Annual Order: 500)	18"x30"	\$1.97 \$2.54	<b>Charm-Tex</b>
12	Each	Laundry Bag (mesh), white	18"x24"	\$1.62	<b>Bob Barker Company, Inc.</b>

**Acme Supply Co., LTD**  
 10 Cedar Swamp Road, Suite #7  
 Glen Cove NY 11542  
 attn: Zaheer Sheik  
[bn@acmesupply.us](mailto:bn@acmesupply.us)  
 ph: 800-567-8025  
 fx: 800-567-8026

**Carolina Textiles**  
 PO Box 11211  
 Charlotte NC 28220  
 attn: Bob Jones  
[carolinatextiles@netzero.com](mailto:carolinatextiles@netzero.com)  
 ph: 704-525-1272  
 fx: 704-525-0607

**Bob Barker Company, Inc.**  
 7925 Purfoy Road  
 Fuquay Varina NC 27526  
 attn: Melody Ballard  
[melodyballard@BobBarker.com](mailto:melodyballard@BobBarker.com)  
 ph: 800-334-9880  
 fx: 800-322-7537

**Charm-Tex**  
 1618 Coney Island Avenue  
 Brooklyn NY 11230  
 attn: Stan Danzger  
[stan@charm-tex.com](mailto:stan@charm-tex.com)  
 ph: 718-252-8100  
 fx: 718-258-8303



**Green Mountain Knitting**

28 Industrial Drive  
Milton VT 05468  
attn: Danny Morel  
[dmorel@calkogroup.com](mailto:dmorel@calkogroup.com)  
ph: 800-361-1190  
fx: 514-495-1629

**Victory Supply LLC**

7025 Industrial Park Road  
Mount Pleasant TN 38474  
attn: Lisa Fiore  
[ldecastro@victorysupplyinc.com](mailto:ldecastro@victorysupplyinc.com)  
ph: 888-376-1205 ext 716  
fx: 931-325-5521

**ICS Jail Supplies, Inc.**

PO Box 21056  
Waco TX 76702  
attn: Lacy Key  
[bids@icswaco.com](mailto:bids@icswaco.com)  
ph: 800-524-5427  
fx: 254-751-0299

**CONTRACT RENEWAL FOR IFB 19-030/YS  
TERM CONTRACT FOR INMATE CLOTHING AND SUPPLIES FOR  
JEFFERSON COUNTY**

The County entered into a contract with Green Mountain Knitting for one (1) year, from July 15, 2019 to July 14, 2020, with an option to renew the contract for up to a five (5) year period.

Pursuant to the contract, Jefferson County hereby exercises its third one-year option to renew the contract for one (1) additional year from July 12, 2022 to July 11, 2023.

ATTEST:

  
\_\_\_\_\_  
Laurie Leister, County Clerk

JEFFERSON COUNTY, TEXAS

  
\_\_\_\_\_  
Jeff Branick, County Judge



CONTRACTOR:  
Green Mountain Knitting

VANDA BARBOUR  
(Name)





1450 Louvain W. Montreal, Quebec H4N 1G5  
28 Industrial Dr. Milton VT 05468  
T: 800-361-1190 · 514-495-1531 F: 514-495-1629  
info@calkogroup.com www.calkogroup.com

July 20<sup>th</sup>, 2022

To the attention of:

Jefferson County Purchasing Department

Mistey Reeves

Subject: Price Increase

Dear Valued Customer,

Calko Group will be adjusting prices on selected products effective immediately. This action affects the following products that we have quoted you previously. Please see below for updated pricing.

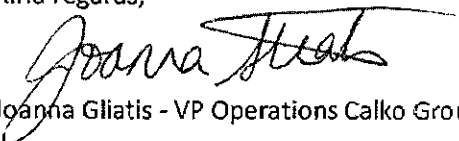
**Part# PRJKTNL – Unlined Jacket Size XS- 2XL. New price: \$ 12.90 USD per unit**

**Part # PRJKNL- Unlined Jacket Size 3XL– 6XL New price \$ 14.06 USD per unit**

**Part # PRJKWL- Lined Jacket Size XS- 2XL New price \$ 18.23 USD per unit**

Calko Group understands the impact price adjustments have on customers. Unfortunately, we have no choice but to implement these increases. The above price actions taken are a result of cost increases incurred by us in multiple facets of manufacturing and supply chain including raw materials, labor, transportation, and overhead. Thank you for choosing Calko Group products and services. Your business is greatly appreciated.

Kind regards,

  
Joanna Gliatis - VP Operations Calko Group

**CONTRACT RENEWAL FOR IFB 19-040/YS  
TERM CONTRACT FOR ROAD BUILDING MATERIAL FOR  
JEFFERSON COUNTY**

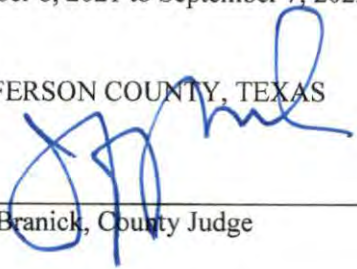
The County entered into a contract with Martin Marietta Materials, Inc. for one (1) year, from September 9, 2019 to September 8, 2020, with an option to renew the contract for up to a five (5) year period.

Pursuant to the contract, Jefferson County hereby exercises its second one-year option to renew the contract for one (1) additional year from September 8, 2021 to September 7, 2022.

ATTEST:

  
\_\_\_\_\_  
Laurie Leister, County Clerk

JEFFERSON COUNTY, TEXAS

  
\_\_\_\_\_  
Jeff Branick, County Judge



CONTRACTOR:  
Martin Marietta Materials, Inc.

  
\_\_\_\_\_  
(Name)



Southwest Division  
East Texas Ready Mix District

April 18, 2022

Dear Valued Customer:

Please accept our appreciation for your business and continued support. All Martin Marietta team members are invested in providing you with the highest levels of service and quality.

Effective July 1, 2022 Martin Marietta will be implementing a price increase for the following areas:

East Texas, Beaumont, Port Arthur, & Orange, TX markets

For projects bidding after July 1, 2022, we will begin quoting with the increased prices. As with all quotes, prices will expire 30 days beyond the date of issue unless awarded by issued Purchase Order, or signed and accepted quote.

Any orders that are shipped on a "Various Project", or everyday pricing, may have protection for a maximum of 45 days, or until August 15th, at which time all customary pricing will increase.

I realize the increases already seen in 2022 have been extraordinary, but with the continued surging cost of raw materials, tires, replacement parts, and labor, the increases are necessary to simply maintain current margins. Fuel is a big driver, but we are managing that by way of the variable per load surcharge, so that isn't a consideration in this increase. Surcharge table attached for your reference.

Your sales representative will be in touch with you personally over the next 30-45 days to answer any questions that you may have. Additionally, please feel free to contact me at 903-824-1438 to discuss any issues or concerns you may have.

Sincerely,

Darryl Youngblood  
General Manager

Average Diesel Price		Surcharge Per Load
\$ 3.76	to \$ 4.00	\$ 20.00
\$ 4.01	to \$ 4.25	\$ 25.00
\$ 4.26	to \$ 4.50	\$ 30.00
\$ 4.51	to \$ 4.75	\$ 35.00
\$ 4.76	to \$ 5.00	\$ 40.00
\$ 5.01	to \$ 5.25	\$ 45.00
\$ 5.26	to \$ 5.50	\$ 50.00
\$ 5.51	to \$ 5.75	\$ 55.00
\$ 5.76	to \$ 6.00	\$ 60.00
\$ 6.01	to \$ 6.25	\$ 65.00
\$ 6.26	to \$ 6.50	\$ 70.00
\$ 6.51	to \$ 6.75	\$ 75.00
\$ 6.76	to \$ 7.00	\$ 80.00

\*When fuel prices recede below \$3.75 per gallon we will remove the additional Fuel Surcharge.

The Surcharge will be reviewed weekly and adjusted each Tuesday based on the pricing index produced by the Department of Energy, Gulf Coast Region. You can also review this table at the link below as it is updated each week on Monday afternoon.

[www.eia.gov/petroleum/gasdiesel/](http://www.eia.gov/petroleum/gasdiesel/)

IFB 19-040/YS  
 Term Contract for Road Building Materials for Jefferson County  
 Awarded: September 9, 2019

Updated 2/27/2020

**CURRENT PRICING**

**1A. Rock Asphalt - Truck Delivery**  
 (Price per ton, FOB, delivered Jefferson County  
 Precinct Service Centers with Freight Prepaid and  
 Allowed)

Vulcan Construction Materials LLC				
A. Natural Limestone Rock Asphalt Aggregated for Surface Treatments		China Rd	Viterbo Rd	Boyt Rd
1	Item 302 Type PB Gr 3	84.90	85.22	85.06
2	Item 302 Type PB Gr 4	84.90	85.22	85.06
3	Item 302 Type PB Gr 4S	84.90	85.22	85.06
*minimum 24 ton delivery				

**1B. Rock Asphalt - Truck Delivery**  
 (Price per ton, FOB delivered Jefferson County  
 Precinct Service Centers with Freight Prepaid  
 and Allowed)

Vulcan Construction Materials LLC					
A. Natural Limestone Rock Asphalt Aggregates for Surface Treatments		Rosedale	LaBelle	Hamshire	Hebert
1	Item 302 Type PB Gr 3	84.42	82.02	84.74	84.42
2	Item 302 Type PB Gr 4	84.42	82.02	84.74	84.42
3	Item 302 Type PB Gr 4S	84.42	82.02	84.74	84.42
*minimum 24 ton delivery					

**1C. Rock Asphalt - Railroad Delivery**  
 (Price per ton, FOB Delivered Jefferson County  
 Precinct Service Centers with Freight Prepaid and  
 Allowed)

Vulcan Construction Materials LLC				
A. Natural Limestone Rock Asphalt Aggregated for Surface Treatments		China Rd.	Viterbo Rd.	Boyt Rd.
1	Item 302 Type PB Gr 3	66.34	66.34	66.34
2	Item 302 Type PB Gr 4	66.34	66.34	66.34
3	Item 302 Type PB Gr 4S	66.34	66.34	66.34
*minimum 4000 ton delivery				

1D. Rock Asphalt - Railroad Delivery  
 (Price per ton, FOB Delivered Jefferson County  
 Precinct Service Centers with Freight Prepaid and  
 Allowed)

Vulcan Construction Materials LLC					
A. Natural Limestone Rock Asphalt Aggregates for Surface Treatments		Rosedale	LaBelle	Hamshire	Hebert
1	Item 302 Type PB Gr 3	66.34	66.34	66.34	66.34
2	Item 302 Type PB Gr 4	66.34	66.34	66.34	66.34
3	Item 302 Type PB Gr 4S	66.34	66.34	66.34	66.34
*minimum 4000 ton delivery					

2. Flexible Base, Item 247, Ty A, Gr 1 CLA (Minimum P.I. 4 - Maximum P.I. 10)

A. Truck Delivery - Prices FOB Delivered with Freight Prepaid and Allowed by Type of Equipment Indicated. Flexible Base - Price per ton delivered from Vendor's hopper to job site. Bidder shall supply material from location closest to the County project site.	Vulcan Construction Materials LLC		
	Price per ton, tandem dump	Price per ton, trailer	
	1. 1 -10 miles	28.00	28.00
	2. 11 - 20 miles	29.00	29.00
	3. 21- 30 miles	30.50	30.50
4. 31 + miles	36.00	36.00	
*minimum 24 ton delivery			

B. Hopper Pick-Up		Vulcan Construction Materials LLC	
Location	Address	Price per ton FOB truck shipping point	
1. Beaumont	1399 Carroll Street	22.50	
2. Port Neches		No Bid	
3. Port Arthur		No Bid	
4. Other		No Bid	
5. Other		No Bid	
Hours of Hopper Operation:		7 am - 5 pm *minimum 24 ton delivery	



3. CMD-9000-002 Asphaltic Concrete Patching Material (Stockpile Storage)

A. Truck Delivery-Prices FOB Delivered with Freight Prepaid and Allowed by Type of Equipment Indicated. Patching Material-Price per ton delivered from Vendor's hopper to job site. Bidder shall apply material from location closest to the County project site.	<b>Gulf Coast</b>	
	Price per ton, tandem dump	Price per ton, trailer
	1. 1 - 10 miles	95.00      95.00
	2. 11 - 20 miles	97.70      97.70
	3. 21 - 30 miles	100.85      100.85
4. 31+ miles	103.20      103.20	

B. Hopper Pick-Up	<b>Gulf Coast</b>	
	Address	Price per ton FOB truck shipping point
	1. Beaumont	860 Pine Street 90.00
	2. Port Neches	No Bid
	3. Port Arthur	No Bid
	4. Other	No Bid
	5. Other	No Bid
Hours of Hopper Operation:	Mon-Fri, 7am-4pm	

4A. Cement Stabilized Base - Truck Delivery (price per ton, FOB delivered Jefferson County Precinct Service Center with freight prepaid and allowed)

A-1. Item 276, Plant Mix, Crushed Stone, 1-1/2 sack/ton	Martin Marietta Materials, Inc.			\$59.00 All locations	
	China Rd	Viterbo Rd	Boyt Rd		
	45.00	44.00	44.50		
A-2. Item 276, Plant Mix, Crushed Stone, 1-1/2 sack/ton	Martin Marietta Materials, Inc.				
	Hebert	Rosedale	LaBelle	Hamshire	Hebert
	No Bid	45.00	44.50	45.00	44.50
B-1. Item 276, Plant Mix, Crushed Stone, 2 sack/ton	Martin Marietta Materials, Inc.			\$62.00 All locations	
	China Rd	Viterbo Rd	Boyt Rd		
	48.00	47.00	47.50		
B-2. Item 276, Plant Mix, Crushed Stone, 2 sack/ton	Martin Marietta Materials, Inc.				
	Hebert	Rosedale	LaBelle	Hamshire	Hebert
	No Bid	48.00	47.50	48.00	47.50
C-1. Item 276, Plant Mix, Crushed Stone, 3 sack/ton	Martin Marietta Materials, Inc.			\$70.00 All Locations	
	China Rd	Viterbo Rd	Boyt Rd		
	54.00	53.00	53.50		
C-2. Item 276, Plant Mix, Crushed Stone, 3 sack/ton	Martin Marietta Materials, Inc.				
	Hebert	Rosedale	LaBelle	Hamshire	Hebert
	No Bid	54.00	53.50	54.00	53.50

D-1. Item 276, Plant Mix, Crushed Stone, 4 sack/ton	Martin Marietta Materials, Inc.			\$78.00 All Locations	
	China Rd	Viterbo Rd	Boyt Rd		
	60.00	59.00	59.50		
D-2. Item 276, Plant Mix, Crushed Stone, 4 sack/ton	Martin Marietta Materials, Inc.				
	Hebert	Rosedale	LaBelle	Hamshire	Hebert
	No Bid	60.00	59.50	60.00	59.50
E-1. Item 401, Flowable Backfill, 1-1/2 sack/ton	Martin Marietta Materials, Inc.			\$112.00 All Locations	
	China Rd	Viterbo Rd	Boyt Rd		
	92.00/cy	92.00/cy	92.00/cy		
E-2. Item 401, Flowable Backfill, 1-1/2 sack/ton	Martin Marietta Materials, Inc.				
	Hebert	Rosedale	LaBelle	Hamshire	Hebert
	No Bid	92.00/cy	92.00/cy	92.00/cy	92.00/cy
F-1. Item 401, Flowable Backfill, 2 sack/ton	Martin Marietta Materials, Inc.			\$116.00 All Locations	
	China Rd	Viterbo Rd	Boyt Rd		
	95.00/cy	95.00/cy	95.00/cy		
F-2. Item 401, Flowable Backfill, 2 sack/ton	Martin Marietta Materials, Inc.				
	Hebert	Rosedale	LaBelle	Hamshire	Hebert
	No Bid	95.00/cy	95.00/cy	95.00/cy	95.00/cy

4A. Cement Stabilized Base - Truck Delivery (continued) (price per ton, FOB delivered Jefferson County Precinct Service Center with freight prepaid and allowed)

G-1. Item 401, Flowable Backfill, 3 sack/ton	Martin Marietta Materials, Inc.			\$124.00 All Locations	
	China Rd	Viterbo Rd	Boyt Rd		
	101.00/cy	101.00/cy	101.00/cy		
G-2. Item 401, Flowable Backfill, 3 sack/ton	Martin Marietta Materials, Inc.				
	Hebert	Rosedale	LaBelle	Hamshire	Hebert
	No Bid	101.00/cy	101.00/cy	101.00/cy	101.00/cy
H-1. Item 401, Flowable Backfill, 4 sack/ton	Martin Marietta Materials, Inc.			\$132.00 All Locations	
	China Rd	Viterbo Rd	Boyt Rd		
	107.00/cy	107.00/cy	107.00/cy		
H-2. Item 401, Flowable Backfill, 4 sack/ton	Martin Marietta Materials, Inc.				
	Hebert	Rosedale	LaBelle	Hamshire	Hebert
	No Bid	107.00/cy	107.00/cy	107.00/cy	107.00/cy

4B. Cement Stabilized Base - Hopper Pick Up

Martin Marietta Materials, Inc.		
A. Item 276, Plant Mix, Crushed Stone, 1-1/2 sack/ton	Address	Price per ton FOB truck shipping point
	1. Beaumont	2525 Dollinger 39.00 \$49.00
	2. Port Neches	No Bid
	3. Port Arthur	No Bid

	4. Other		No Bid
	5. Other		No Bid
<b>Martin Marietta Materials, Inc.</b>			
<b>B. Item 276, Plant Mix, Crushed Stone, 2 sack/ton</b>	<b>Address</b>	<b>Price per ton FOB truck shipping point</b>	
1. Beaumont	2525 Dollinger	42.00	\$52.00
2. Port Neches		No Bid	
3. Port Arthur		No Bid	
4. Other		No Bid	
5. Other		No Bid	
<b>Martin Marietta Materials, Inc.</b>			
<b>C. Item 401, Flowable Backfill, 1-1/2 sack/ton</b>	<b>Address</b>	<b>Price per ton FOB truck shipping point</b>	
1. Beaumont	2525 Dollinger	88.00/cy	\$108.00
2. Port Neches		No Bid	
3. Port Arthur		No Bid	
4. Other		No Bid	
5. Other		No Bid	

## 4B. Cement Stabilized Base - Hopper Pick Up (continued)

<b>Martin Marietta Materials, Inc.</b>			
<b>D. Item 401, Flowable Backfill, 2 sack/ton</b>	<b>Address</b>	<b>Price per ton FOB truck shipping point</b>	
1. Beaumont		91.00/cy	\$112.00
2. Port Neches		No Bid	
3. Port Arthur		No Bid	
4. Other		No Bid	
5. Other		No Bid	
<b>Martin Marietta Materials, Inc.</b>			
<b>E. Item 401, Flowable Backfill, 3 sack/ton</b>	<b>Address</b>	<b>Price per ton FOB truck shipping point</b>	
1. Beaumont		97.00/cy	\$120.00
2. Port Neches		No Bid	
3. Port Arthur		No Bid	
4. Other		No Bid	
5. Other		No Bid	

### 5. Hot Mix Asphaltic Concrete Pavement - Hopper Pick-Up

A. Item 340 TY D		Gulf Coast		LD Construction	
Location	Address	Price per ton FOB truck shipping point	Address	Price per ton FOB truck shipping point	
1. Beaumont	860 Pine Street	63.50	2360 Dollinger	58.75	
2. Port Neches		No Bid		No Bid	
3. Port Arthur		No Bid		No Bid	
4. Other		No Bid		No Bid	
5. Other		No Bid		No Bid	
Hours of Hopper Operation:		Mon-Fri, 7 am - 4 pm			

B. Item 340 TY D - Anti Stripping Agent shall be added if required by design mix		Gulf Coast		LD Construction	
Location	Address	Price per ton FOB truck shipping point	Address	Price per ton FOB truck shipping point	
1. Beaumont	860 Pine Street	63.50	2360 Dollinger	58.75	
2. Port Neches		No Bid		No Bid	
3. Port Arthur		No Bid		No Bid	
4. Other		No Bid		No Bid	
5. Other		No Bid		No Bid	
Hours of Hopper Operation:		Mon-Fri, 7 am - 4 pm			

### 6. Hot Mix Cold Laid Asphaltic Concrete Pavement - Hopper Pick-Up

A. Item 334, Type D		Gulf Coast	
Location	Address	Price per ton FOB truck shipping point	
1. Beaumont	860 Pine Street	73.50	
2. Port Neches		No Bid	
3. Port Arthur		No Bid	
4. Other		No Bid	
5. Other		No Bid	
Hours of Hopper Operation:		Mon-Fri, 7 am - 4 pm	

### 7. Concrete Structures - Truck Delivery

A. Delivered to Job Site, Jefferson County, price per ton FOB truck shipping point		Martin Marietta Materials, Inc.	
1. Item 421 Class A	98.00/cy		\$141.00
2. Item 421 Class B	94.00/cy		\$137.00
3. Item 421 Class S	102.00/cy		\$147.00

#### Gulf Coast, a CRH Company

PO Box 20779  
 Beaumont TX 77720  
 attn: Rebecca Rutledge  
[Rebecca.Rutledge@gc-texas.com](mailto:Rebecca.Rutledge@gc-texas.com)  
 ph: 409-284-2600 or 409-866-1444  
 fx: 409-866-1032

#### Martin Marietta Materials, Inc.

5675 Fannett Road  
 Beaumont TX 77705  
 attn: Bill Kelley  
[william.kelley@martinmarietta.com](mailto:william.kelley@martinmarietta.com)  
 ph: 658-7791  
 fx: 409-654-3312

**LD Construction**

148 South Dowlen Road, PHB 694

Beaumont TX 77707

attn: Troy Dodson

[troy.ldconstruction@gmail.com](mailto:troy.ldconstruction@gmail.com)

ph: 409-656-4161

fx: 409-866-4447

**Vulcan Construction Materials LLC**

PO Box 791550

San Antonio TX 78279

attn: Jeff Harris

[vulcantxquotes@vmcmail.com](mailto:vulcantxquotes@vmcmail.com)

ph: 210-524-3512

fx: 210-524-3555

**CONTRACT RENEWAL FOR IFB 19-056/YS  
TERM CONTRACT FOR GRAY LIMESTONE (COMMONLY  
REFERRED TO AS 610 BASE) FOR JEFFERSON COUNTY**

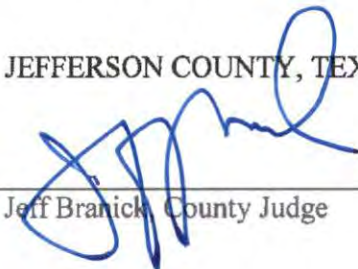
The County entered into a contract with Gulf Coast, a CRH Company for one (1) year, from November 19, 2018 to November 18, 2020, with an option to renew the contract for up to a five (5) year period.

Pursuant to the contract, Jefferson County hereby exercises its second one-year option to renew the contract for one (1) additional year from November 16, 2021 to November 15, 2022.

ATTEST:

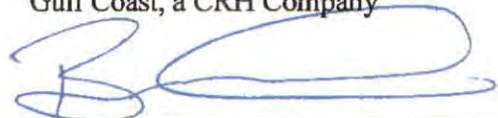
  
Laurie Leister, County Clerk

JEFFERSON COUNTY, TEXAS

  
Jeff Branick, County Judge



CONTRACTOR:  
Gulf Coast, a CRH Company

  
(Name)

With adjusted pricing per attached.



July 20, 2022

Dear Valued Gulf Coast Customer,

Gulf Coast appreciates your continued faith in us to supply the materials necessary to successfully build your projects. We value the partnerships and relationships developed within the industry and look forward to strengthening these relationships.

Gulf Coast is conscience of your efforts to plan for upcoming business opportunities. With continued rising costs associated with aggregate production and transportation costs, we must implement a pricing increase for materials within our Beaumont material yard. This increase will go into effect August 1, 2022, and will enable us to continue supplying quality products, timely, that meet the expectations of our customers.

Gulf Coast is fully committed to delivering the highest quality materials and outstanding customer service that our valued customers expect. We appreciate the business and are dedicated in assisting you to make all your future projects a success.

Brian Miller  
Materials Manager  
Gulf Coast A CRH Company  
409.679.9584

**CURRENT PRICING**

IFB 19-056/YS

Term Contract for Gray Limestone (Commonly Referred to as 610 Base) for Jefferson County

Awarded: November 19, 2019

Renewal 1: 11/18/2020-11/17/2021

updated: 11/17/2020

A. Gray Limestone Base - delivered from vendor's hopper to job site.	Gulf Coast, a CRH Company		Knife River Corporation - South	
	Price per ton, tandem dump	Price per ton, trailer	Price per ton, tandem dump	Price per ton, trailer
1. 1 - 10 miles	<del>\$36.75</del> \$50.00	<del>\$36.75</del> \$50.00		No Bid
2. 11 - 20 miles	<del>\$39.45</del> \$52.00	<del>\$36.75</del> \$52.00		No Bid
3. 21 - 30 miles	<del>\$42.60</del> \$54.00	<del>\$37.75</del> \$54.00		No Bid
4. 31 + miles	<del>\$44.95</del> \$57.00	<del>\$39.75</del> \$57.00		No Bid

B. Hopper Pick Up	Gulf Coast, a CRH Company		Knife River Corporation - South	
	Address	Price per ton	Address	Price per ton
1. Beaumont	860 Pine Street	<del>\$31.75</del> \$42.00		
2. Port Neches				
3. Port Arthur				
4. Other			Bridge City	\$38.00
5. Other				
Hours of Hopper Operation	Mon-Fri, 7am - 4 pm			
Loose weight in lbs/cy	2500 lbs/cy			

Gulf Coast, a CRH Company  
 PO Box 20779  
 Beaumont TX 77720  
 attn: Brian Miller  
 Brian.Miller@gc-texas.com  
 ph: 409-284-2600

Knife River Corporation - South  
 PO Box 20257  
 Beaumont TX 77720  
 attn: Toby C. Burns  
 toby.burns@kniferiver.com  
 ph: 409-842-9393

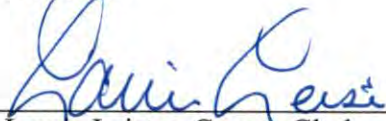


**CONTRACT RENEWAL FOR IFB 19-056/YS  
TERM CONTRACT FOR GRAY LIMESTONE (COMMONLY  
REFERRED TO AS 610 BASE) FOR JEFFERSON COUNTY**

The County entered into a contract with Knife River Corporation - South for one (1) year, from November 19, 2018 to November 18, 2020, with an option to renew the contract for up to a five (5) year period.

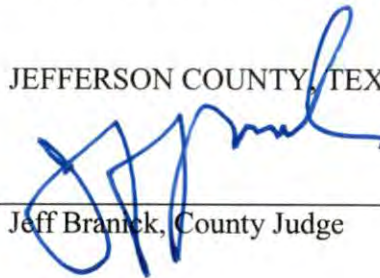
Pursuant to the contract, Jefferson County hereby exercises its second one-year option to renew the contract for one (1) additional year from November 16, 2021 to November 15, 2022.

ATTEST:



Laurie Leister, County Clerk

JEFFERSON COUNTY, TEXAS

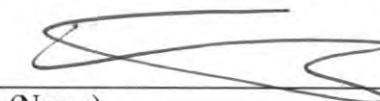


Jeff Branick, County Judge



CONTRACTOR:

Knife River Corporation - South



(Name)

Tom Burns  
G.M. Knife River Corp - South



[www.kniferiver.com](http://www.kniferiver.com)

4825 Romeda  
Beaumont, TX 77705  
Mailing Address:  
P.O. Box 20257  
Beaumont, TX 77720  
(409) 981.7604  
(409) 842.9393 FAX

Jefferson County Purchasing Department,

Due to the influence of many factors, including the continuing increase in prices of aggregate & ready-mix materials along with rising transportation charges during this past year, we find it necessary to implement our price increase.

Greatly Appreciated,

*Jennifer Frederick*

Sales Administrator  
Direct: 409-981-7605

**CURRENT PRICING**

IFB 19-056/YS

Term Contract for Gray Limestone (Commonly Referred to as 610 Base) for Jefferson County

Awarded: November 19, 2019

A. Gray Limestone Base - delivered from vendor's hopper to job site.	Gulf Coast, a CRH Company		Knife River Corporation - South	
	Price per ton, tandem dump	Price per ton, trailer	Price per ton, tandem dump	Price per ton, trailer
1. 1 - 10 miles	\$36.75	\$36.75		No Bid
2. 11 - 20 miles	\$39.45	\$36.75		No Bid
3. 21 - 30 miles	\$42.60	\$37.75		No Bid
4. 31 + miles	\$44.95	\$39.75		No Bid

B. Hopper Pick Up	Gulf Coast, a CRH Company		Knife River Corporation - South	
	Location	Address	Price per ton	Address
1. Beaumont	860 Pine Street	\$31.75		
2. Port Neches				
3. Port Arthur				
4. Other			Bridge City	<del>\$38.00</del> \$45.00 (1)
5. Other				
Hours of Hopper Operation	Mon-Fri, 7am - 4 pm			
Loose weight in lbs/cy	2500 lbs/cy			

Gulf Coast, a CRH Company  
 PO Box 20779  
 Beaumont TX 77720  
 attn: Brian Miller  
 Brian.Miller@gc-texas.com  
 ph: 409-284-2600

Knife River Corporation - South  
 PO Box 20257  
 Beaumont TX 77720  
 attn: Toby C. Burns  
 toby.burns@kniferiver.com  
 ph: 409-842-9393

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**MEMORANDUM**

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**TO:** COMMISSIONERS COURT  
**FROM:** FRAN LEE  
**SUBJECT:** BUDGET TRANSFER  
**DATE:** MAY 9, 2022

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The following budget amendment for the 279<sup>th</sup> District Court is necessary for additional cost for indigent defense:

120-2038-412-5079	Juvenile Attorney Fees	\$50,000
110-2027-412-5055	Petit Jurors	\$50,000



PRECINCT 1, PLACE 1  
(409) 835-8522 PHONE  
(409) 835-8523 FAX

1085 PEARL ST, ROOM 105  
BEAUMONT, TX 77701

**JUDGE NAOMI DOYLE**  
JUSTICE OF THE PEACE

RE: TRANSFER OF FUNDS

Greetings,

I am writing to formally request that \$500 be transferred from my "CLOTHING" (120-2041-412.30-17) These funds totaling \$500 should be transferred into my "TRAVEL EXPENSE" (120-2041-412.50-62).

These funds will be used to for the remaining schooling and conferences scheduled this fiscal year.

Please let me know if you require any further information.

Best Regards,  
Judge Naomi Doyle



## JEFFERSON COUNTY SHERIFF'S OFFICE

*Zena Stephens, Sheriff*

5030 Hwy 69 S.  
Beaumont, TX 77705  
(409) 726-2500

Donta Miller  
Chief of Law Enforcement  
dmiller@co.jefferson.tx.us

John Shaubarger  
Chief of Corrections  
jshaubarger@co.jefferson.tx.us

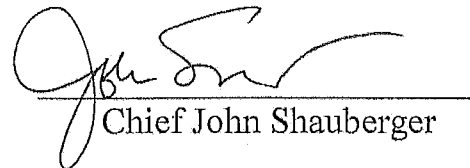
TO: Fran Lee  
Jefferson County Auditing Department

FROM: Chief John Shaubarger  
Jefferson County Sheriff's Office

RE: Transfer Funds

DATE: July 22, 2022

Please transfer \$2300.00 from budget account 120-3060-421-30-84 (Minor Equipment) to 120-3060-421-50-21 (Dues/Subscriptions) for the payment of laboratory assessment fees.



Chief John Shaubarger

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MEMORANDUM

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**TO:** COMMISSIONERS COURT  
**FROM:** FRAN LEE  
**SUBJECT:** BUDGET AMENDMENT  
**DATE:** JULY 27, 2022

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The following budget amendment for Service Center is necessary for additional cost for fuel.

120-8095-417-3037	Gasoline	\$97,697	
120-9999-415-9999	Contingency		\$62,697
120-6083-416-4054	Telephone		\$35,000



## JEFFERSON COUNTY SHERIFF'S OFFICE

*Zena Stephens, Sheriff*

5030 Hwy 69 S.  
Beaumont, TX 77705  
(409) 726-2500

Donta Miller  
Chief of Law Enforcement  
dmiller@co.jefferson.tx.us

John Shauburger  
Chief of Corrections  
jshauburger@co.jefferson.tx.us

TO: Fran Lee  
Jefferson County Auditing Department

FROM: Chief John Shauburger  
Jefferson County Sheriff's Office

RE: Transfer Funds FY 2022

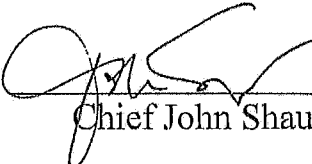
DATE: July 28, 2022

Please transfer \$164,000.00 from budget account 120-3062-423-2003 (Employees Insurance) to the following accounts :

\$14,000.00 to account 120-3062-423-4053 (Natural Gas)

\$110,000.00 to account 120-3062-423-4056 (Electricity)

\$40,000.00 to account 120-3062-423-4057 (Water & Sewer)



Chief John Shauburger



## Fw: Hurricane Harvey Infrastructure Grant Budget Change Request- Environmental

Patrick Swain <Patrick.Swain@jeffcotx.us>

Wed 7/27/2022 1:36 PM

To: Fran Lee <Fran.Lee@jeffcotx.us>

Agenda item.

Consider and approve budget amendment for CDBG-DR grant to cover the cost of the Letter of Re-Evaluation for the Taylor's Bayou Drainage Improvement Project (new bridge option), in the amount of \$5,500. Funds will be allocated from the Construction category to the Environmental Category.

Patrick Swain

Please note new email address:  
patrick.swain@jeffcotx.us

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**From:** Vivian Ballou <vballou@gmjinc.com>

**Sent:** Tuesday, July 26, 2022 2:37 PM

**To:** Patrick Swain <pswain@co.jefferson.tx.us>

**Subject:** Hurricane Harvey Infrastructure Grant Budget Change Request- Environmental

Patrick

In efforts to cover the cost of the Letter of Re-Evaluation for the Taylor's Bayou Drainage Improvement Project (new bridge option), funds in the amount of \$5,500 will need to be moved from construction into the environmental line item. If you are in agreement, please place on the next Court agenda.

Thanks

### Current Budget:

BUDGET TABLE:

Project Title:	Total Benef	LMI Benef	LMI %	CDBG-DR Construction	CDBG-DR Engineering	CDBG-DR Acquisition	CDBG-DR Environmental	CDBG-DR Admin	Total CDBG-DR Request	Other Funds	Activity Total	+
# 1 Taylor's Bayou Drainage Improvements	181	102	56.35%	\$2,912,300.4	\$355,511.88	\$0.00	\$9,000.00	\$174,738.00	\$3,451,550.3	\$0.00	\$3,451,550.3	X
# 2 Ditch No. 110-B Drainage Improvements	3,153	1,986	62.99%	\$776,000.00	\$116,400.00	\$0.00	\$9,000.00	\$46,560.00	\$947,960.00	\$0.00	\$947,960.00	X
# 3 Ditch No. 107	3,153	1,763	55.92%	\$0.00	\$69,599.50	\$0.00	\$9,000.00	\$9,999.73	\$88,599.23	\$0.00	\$88,599.23	X
# 4 Mayhaw Bayou Drainage Study	2,209	707	32.01%	\$0.00	\$214,700.00	\$0.00	\$0.00	\$12,882.00	\$227,582.00	\$0.00	\$227,582.00	X
# 5 Crane Bayou Pump Station Generators	3,790	2,066	54.51%	\$1,000,000.00	\$150,000.00	\$0.00	\$9,000.00	\$60,000.00	\$1,219,000.00	\$0.00	\$1,219,000.00	X
#	0	0	0.00%	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	X
<b>SUMMARY TOTALS:</b>	<b>12,486</b>	<b>6,624</b>	<b>53.05%</b>	<b>\$4,688,300.4</b>	<b>\$906,211.38</b>	<b>\$0.00</b>	<b>\$36,000.00</b>	<b>\$304,179.73</b>	<b>\$5,934,691.6</b>	<b>\$0.00</b>	<b>\$5,934,691.6</b>	

### Revised Budget:

## BUDGET TABLE:

Project Title:	Total Benes	LMI Benes	LMI %	CDBG-DR Construction	CDBG-DR Engineering	CDBG-DR Acquisition	CDBG-DR Environmental	CDBG-DR Admin	Total CDBG-DR Request	Other Funds	Activity Total	+
# 1 Taylor's Bayou Drainage Improvements	181	102	56.35%	\$2,906,800.00	\$355,511.88	\$0.00	\$14,500.00	\$174,738.00	\$3,451,550.3	\$0.00	\$3,451,550.3	X
# 2 Ditch No. 110-B Drainage Improvements	3,153	1,986	62.99%	\$776,000.00	\$116,400.00	\$0.00	\$9,000.00	\$16,560.00	\$917,960.00	\$0.00	\$917,960.00	X
# 3 Ditch No. 107	3,153	1,763	55.92%	\$0.00	\$69,599.50	\$0.00	\$9,000.00	\$9,999.73	\$88,599.23	\$0.00	\$88,599.23	X
# 4 Mayhaw Bayou Drainage Study	2,209	707	32.01%	\$0.00	\$214,700.00	\$0.00	\$0.00	\$12,882.00	\$227,582.00	\$0.00	\$227,582.00	X
# 5 Crane Bayou Pump Station Generators	3,790	2,066	54.51%	\$1,000,000.00	\$150,000.00	\$0.00	\$9,000.00	\$60,000.00	\$1,219,000.00	\$0.00	\$1,219,000.00	X
#	0	0	0.00%	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	X
SUMMARY TOTALS:	12,486	6,624	53.05%	\$4,682,800.4	\$906,211.38	\$0.00	\$41,500.00	\$304,179.73	\$5,934,691.6	\$0.00	\$5,934,691.6	

--  
VIVIAN BALLOU  
GRANTS ADMINISTRATOR  
GRIFFITH, MOSELEY, JOHNSON & ASSOC.  
2901 TURTLE CREEK DR., SUITE 445  
PORT ARTHUR, TEXAS 77642  
409-719-7657 PHONE  
409-291-4259 FAX

NAME	AMOUNT	CHECK NO.	TOTAL
JURY FUND			
DAWN DONUTS	61.50	497512	
CHAPMAN VENDING	169.45	497535	
			230.95**
ROAD & BRIDGE PCT.#1			
M&D SUPPLY	80.90	497412	
AT&T	75.06	497428	
SOUTHERN TIRE MART, LLC	62.45	497437	
VERIZON WIRELESS	76.00	497444	
MARTIN PRODUCT SALES LLC	10,486.80	497470	
ADVANCE AUTO PARTS	110.50	497496	
ASCO	1,816.00	497499	
GULF COAST	1,885.50	497526	
MUNRO'S UNIFORM SERVICES, LLC	28.10	497553	
			14,621.31**
ROAD & BRIDGE PCT.#2			
SPIDLE & SPIDLE	9,174.09	497383	
EASTEX RUBBER & GASKET	278.38	497394	
MID-COUNTY ALTERNATOR	165.00	497414	
SMART'S TRUCK & TRAILER, INC.	72.77	497426	
BUMPER TO BUMPER	13.46	497466	
NEW WAVE WELDING TECHNOLOGY	7.50	497477	
MARTIN MARIETTA MATERIALS	134.00	497511	
MUNRO'S UNIFORM SERVICES, LLC	40.00	497553	
			9,885.20**
ROAD & BRIDGE PCT. # 3			
AUDILET TRACTOR SALES	182.65	497386	
BEAUMONT TRACTOR COMPANY	27.58	497387	
ENTERGY	309.06	497401	
SANITARY SUPPLY, INC.	325.39	497422	
AT&T	83.29	497428	
VERIZON WIRELESS	37.99	497444	
ATTABOY TERMITE & PEST CONTROL	147.00	497482	
WILLIAMS AIR CONDITIONING	294.00	497486	
GULF COAST	731.52	497526	
CHARTER COMMUNICATIONS	142.23	497544	
MUNRO'S UNIFORM SERVICES, LLC	15.00	497553	
			2,295.71**
ROAD & BRIDGE PCT.#4			
SPIDLE & SPIDLE	8,094.00	497383	
CITY OF BEAUMONT - WATER DEPT.	26.56	497390	
M&D SUPPLY	115.50	497412	
PHILPOTT MOTORS, INC.	2,583.06	497417	
SANITARY SUPPLY, INC.	513.43	497422	
SMART'S TRUCK & TRAILER, INC.	132.10	497426	
SOUTHERN TIRE MART, LLC	1,430.88	497437	
JASON'S DELI	2,014.20	497441	
BEAUMONT FREIGHTLINER WESTERN STAR	470.10	497467	
ON TIME TIRE	80.00	497492	
SHOPPA'S FARM SUPPLY	209.00	497506	
O'REILLY AUTO PARTS	614.54	497519	
BEARCOM / KAY ELECTRONICS	329.40	497524	
GULF COAST	264.16	497526	
MUNRO'S UNIFORM SERVICES, LLC	181.56	497553	
			17,058.49**
ENGINEERING FUND			
UNITED STATES POSTAL SERVICE	2.40	497447	
CANON SOLUTIONS AMERICA INC	159.72	497498	
GABRIEL GROSS	941.21	497556	
			1,103.33**
PARKS & RECREATION			
SANITARY SUPPLY, INC.	4,771.27	497422	
			4,771.27**
GENERAL FUND			
TAX OFFICE			

NAME	AMOUNT	CHECK NO.	TOTAL
HERNANDEZ OFFICE SUPPLY, INC.	2,477.30	497403	
ACE IMAGEWEAR	39.42	497424	
UNITED STATES POSTAL SERVICE	660.40	497447	
ROCHESTER ARMORED CAR CO INC	378.40	497487	
ODP BUSINESS SOLUTIONS, LLC	798.20	497550	4,353.72*
COUNTY HUMAN RESOURCES			
CASH ADVANCE ACCOUNT	811.80	497408	
UNITED STATES POSTAL SERVICE	1.96	497447	813.76*
AUDITOR'S OFFICE			
DELL MARKETING L.P.	1,251.45	497393	
UNITED STATES POSTAL SERVICE	13.85	497447	1,265.30*
COUNTY CLERK			
UNITED STATES POSTAL SERVICE	291.70	497447	
FUNCTION4	695.72	497541	987.42*
COUNTY JUDGE			
KIRKSEY'S SPRINT PRINTING	24.95	497410	
GERMER PLLC	500.00	497440	
UNITED STATES POSTAL SERVICE	.49	497447	
THOMSON REUTERS-WEST	129.50	497502	654.94*
RISK MANAGEMENT			
UNITED STATES POSTAL SERVICE	12.28	497447	
ADAN PEREZ JR	114.74	497551	127.02*
COUNTY TREASURER			
UNITED STATES POSTAL SERVICE	223.32	497447	223.32*
PRINTING DEPARTMENT			
CIT TECHNOLOGY FINANCING SERVICE	499.00	497476	
FUNCTION 4 LLC	3,295.00	497514	3,794.00*
PURCHASING DEPARTMENT			
BEAUMONT ENTERPRISE	1,561.10	497395	
CASH ADVANCE ACCOUNT	875.16	497408	
UNITED STATES POSTAL SERVICE	9.44	497447	
ODP BUSINESS SOLUTIONS, LLC	129.14	497550	2,574.84*
GENERAL SERVICES			
CASH ADVANCE ACCOUNT	50.00	497408	
TEXAS WILDLIFE DAMAGE MGMT FUND	2,700.00	497430	
TEXAS WORKFORCE COMMISSION	34,418.45	497431	
ADVANCED STAFFING	58.50	497438	
CROWN CASTLE INTERNATIONAL	1,833.43	497464	
ROCHESTER ARMORED CAR CO INC	6,356.94	497487	
LJA ENGINEERING INC	610.66	497493	
INDUSTRIAL & COMMERCIAL MECHANICAL	407.05	497494	
FIBERLIGHT LLC	1,998.75	497532	
CHARTER COMMUNICATIONS	227.40	497546	
MCGRIFF INSURANCE SERVICES, INC	6,255.25	497552	54,916.43*
DATA PROCESSING			
VERIZON WIRELESS	75.98	497444	
ODP BUSINESS SOLUTIONS, LLC	64.19	497550	140.17*
VOTERS REGISTRATION DEPT			
UNITED STATES POSTAL SERVICE	199.94	497447	199.94*
ELECTIONS DEPARTMENT			

NAME	AMOUNT	CHECK NO.	TOTAL
U-HAUL	273.08	497432	273.08*
DISTRICT ATTORNEY			
PENGAD	141.50	497416	
TDCAA BOOK ORDERS	67.00	497429	
UNITED STATES POSTAL SERVICE	362.84	497447	
THOMSON REUTERS-WEST	4,192.85	497500	
KIM DUCHAMP	113.13	497504	
HIGGINBOTHAM INSURANCE AGENCY INC	71.00	497507	
HIGGINBOTHAM INSURANCE AGENCY INC	71.00	497508	
FUNCTION 4 LLC	3,374.50	497514	
ODP BUSINESS SOLUTIONS, LLC	1,538.25	497550	9,932.07*
DISTRICT CLERK			
CARPENTER'S TIME CENTER INC.	196.00	497389	
UNITED STATES POSTAL SERVICE	396.69	497447	
AERIALINK, LLC	177.82	497533	
ODP BUSINESS SOLUTIONS, LLC	431.06	497550	1,201.57*
CRIMINAL DISTRICT COURT			
TODD W LEBLANC	800.00	497382	
EDWARD B. GRIPON, M.D., P.A.	2,380.00	497400	
WENDELL RADFORD	5,650.00	497420	
LAURIE PEROZZO	800.00	497483	
JASON ROBERT NICKS	900.00	497484	
DUSTIN R. GALMOR	5,812.50	497489	
MARVIN LEWIS JR	600.00	497520	16,942.50*
58TH DISTRICT COURT			
KENT WALSTON	676.50	497451	676.50*
60TH DISTRICT COURT			
UNITED STATES POSTAL SERVICE	3.84	497447	
TONYA JACKSON	149.00	497469	152.84*
136TH DISTRICT COURT			
TERI DAIGLE, CSR, RPR	293.56	497442	
UNITED STATES POSTAL SERVICE	2.46	497447	
THOMSON REUTERS-WEST	48.54	497500	344.56*
252ND DISTRICT COURT			
UNITED STATES POSTAL SERVICE	72.31	497447	
SUMMER TANNER	3,244.65	497471	
KIMBERLY R. BROUSSARD	1,052.45	497479	4,369.41*
279TH DISTRICT COURT			
PHILLIP DOWDEN	1,050.00	497385	
ANITA F. PROVO	110.00	497419	
RANDY SHELTON	1,725.66	497423	
TONYA CONNELL TOUPS	3,725.00	497474	
REAUD MORGAN & QUINN LLP	220.00	497480	
THOMSON REUTERS-WEST	57.00	497501	
SHELANDER LAW OFFICE	605.00	497536	
WALDENREYNARD, PLLC	330.00	497539	7,822.66*
317TH DISTRICT COURT			
CASH ADVANCE ACCOUNT	497.50	497408	
ANITA F. PROVO	710.00	497419	
NATHAN REYNOLDS, JR.	300.00	497421	
GLEN M. CROCKER	650.00	497452	
DONEANE E. BECKCOM	300.00	497453	
LANGSTON ADAMS	150.00	497458	
BRITTANIE HOLMES	535.00	497495	3,142.50*
JUSTICE COURT-PCT 1 PL 1			

NAME	AMOUNT	CHECK NO.	TOTAL
CASH ADVANCE ACCOUNT	928.30	497408	
UNITED STATES POSTAL SERVICE	25.77	497447	
THOMSON REUTERS-WEST	129.50	497500	
ODP BUSINESS SOLUTIONS, LLC	26.07	497550	
JUSTICE COURT-PCT 1 PL 2			1,109.64*
UNITED STATES POSTAL SERVICE	19.15	497447	
THOMSON REUTERS-WEST	129.50	497500	
JUSTICE COURT-PCT 6			148.65*
UNITED STATES POSTAL SERVICE	33.62	497447	
JUSTICE COURT-PCT 7			33.62*
AT&T	37.69	497428	
ODP BUSINESS SOLUTIONS, LLC	410.22	497550	
JUSTICE OF PEACE PCT. 8			447.91*
CLASSIC FORMS AND PRODUCTS	257.00	497460	
ODP BUSINESS SOLUTIONS, LLC	124.98	497550	
COUNTY COURT AT LAW NO.1			132.02*
UNITED STATES POSTAL SERVICE	1.92	497447	
SIERRA SPRING WATER CO. - BT	82.86	497448	
COUNTY COURT AT LAW NO. 2			84.78*
DAVID GROVE	300.00	497384	
DONALD BOUDREAUX	550.00	497388	
A. MARK FAGGARD	600.00	497396	
JOHN E MACEY ATTORNEY AT LAW PLLC	600.00	497413	
MARVA PROVO	1,050.00	497418	
NATHAN REYNOLDS, JR.	250.00	497421	
JOHN D WEST	250.00	497443	
UNITED STATES POSTAL SERVICE	10.88	497447	
COUNTY COURT AT LAW NO. 3			3,610.88*
TODD W LEBLANC	1,000.00	497382	
A. MARK FAGGARD	750.00	497396	
MARVA PROVO	500.00	497418	
NATHAN REYNOLDS, JR.	500.00	497421	
JOHN D WEST	950.00	497443	
UNITED STATES POSTAL SERVICE	6.38	497447	
SIERRA SPRING WATER CO. - BT	36.42	497449	
MATUSKA LAW FIRM	250.00	497505	
THE WALKER LAW FIRM	1,100.00	497537	
MEDIATION CENTER			5,092.80*
SOUTHEAST TEXAS WATER	72.85	497427	
UNITED STATES POSTAL SERVICE	2.46	497447	
4IMPRINT, INC.	2,135.64	497454	
KARA HAWTHORN	497.88	497490	
SHERIFF'S DEPARTMENT			2,708.83*
JEFFERSON CTY. SHERIFF'S DEPARTMENT	1,725.00	497405	
JEFFERSON CTY. SHERIFF'S DEPARTMENT	630.00	497406	
UNITED STATES POSTAL SERVICE	738.30	497447	
CRIME LABORATORY			3,093.30*
FISHER SCIENTIFIC	87.80	497398	
JAIL - NO. 2			87.80*
COBURN SUPPLY COMPANY INC	703.61	497392	
KIRKSEY'S SPRINT PRINTING	24.95	497410	

NAME	AMOUNT	CHECK NO.	TOTAL
KOMMERCIAL KITCHENS	35.48	497411	
M&D SUPPLY	81.93	497412	
SHERWIN-WILLIAMS	222.62	497425	
WHOLESALE ELECTRIC SUPPLY CO.	34.42	497434	
CONSTELLATION NEWENERGY - GAS DIVIS	3,446.35	497497	
TRINITY SERVICES GROUP INC	84,340.47	497525	88,889.83*
JUVENILE PROBATION DEPT.			
VERIZON WIRELESS	53.90	497444	
UNITED STATES POSTAL SERVICE	8.14	497447	
SHANNA CITIZEN	52.65	497457	114.69*
JUVENILE DETENTION HOME			
CLEAN HARBORS ENVIRONMENTAL SERVICE	88.20	497459	
CHARMTEX INC.	3,052.30	497461	
BEN E KEITH COMPANY	3,004.20	497465	
FLOWERS BAKING COMPANY OF HOUSTON	41.23	497554	6,185.93*
CONSTABLE PCT 1			
VERIZON WIRELESS	227.94	497444	
UNITED STATES POSTAL SERVICE	59.34	497447	287.28*
CONSTABLE-PCT 2			
CASH ADVANCE ACCOUNT	874.30	497408	
VERIZON WIRELESS	113.97	497444	
ODP BUSINESS SOLUTIONS, LLC	16.70	497550	1,004.97*
CONSTABLE-PCT 4			
VERIZON WIRELESS	113.97	497444	113.97*
CONSTABLE-PCT 6			
VERIZON WIRELESS	113.97	497444	
UNITED STATES POSTAL SERVICE	10.31	497447	124.28*
CONSTABLE PCT. 7			
AT&T	37.37	497428	
VERIZON WIRELESS	113.97	497444	151.34*
CONSTABLE PCT. 8			
VERIZON WIRELESS	113.97	497444	
LAKE COUNTRY CHEVROLET, INC.	34,151.00	497518	34,264.97*
HEALTH AND WELFARE NO. 1			
CLAYBAR HAVEN OF REST	3,120.00	497445	
UNITED STATES POSTAL SERVICE	76.68	497447	
RACHEL DRAGULSKI	41.25	497456	
PROCTOR'S MORTUARY INC	3,000.00	497485	
ODP BUSINESS SOLUTIONS, LLC	770.76	497550	7,008.69*
HEALTH AND WELFARE NO. 2			
ENTERGY	210.00	497402	
AT&T	37.69	497428	
CLEAN HARBORS ENVIRONMENTAL SERVICE	44.10	497459	
ODP BUSINESS SOLUTIONS, LLC	28.49	497550	320.28*
INDIGENT MEDICAL SERVICES			
VERIZON WIRELESS	40.25	497444	
TDS OPERATING INC	412.48	497517	
SHAMECA MALBROUGH	10.00	497528	462.73*
MAINTENANCE-BEAUMONT			

NAME	AMOUNT	CHECK NO.	TOTAL
CITY OF BEAUMONT - WATER DEPT.	13,377.75	497390	
W.W. GRAINGER, INC.	204.78	497399	
ENTERGY	46,622.67	497401	
HYDRO-CLEAN SERVICES, INC.	482.50	497404	
M&D SUPPLY	56.28	497412	
SANITARY SUPPLY, INC.	1,874.50	497422	
ACE IMAGEWEAR	208.40	497424	
AT&T	4,924.52	497428	
BAKER DISTRIBUTING COMPANY	167.29	497462	
OTIS ELEVATOR COMPANY	8,214.55	497463	
ATTABOY TERMITE & PEST CONTROL	174.10	497482	
CARRIER ENTERPRISE LLC	115.46	497503	
FRED MILLER'S OUTDOOR EQUIPMENT LLC	127.90	497509	
VISUAL EDGE IT	1,248.96	497557	
			77,799.66*
MAINTENANCE-PORT ARTHUR			
CITY OF PORT ARTHUR - WATER DEPT.	691.74	497391	
FAST SIGNS, INC.	45.00	497397	
NOACK LOCKSMITH	12.00	497415	
AT&T	1,527.73	497428	
SOLAR	76.26	497450	
LOWE'S HOME CENTERS, INC.	213.08	497455	
OTIS ELEVATOR COMPANY	52,006.68	497463	
CHARTER COMMUNICATIONS	106.78	497545	
CHARTER COMMUNICATIONS	460.18	497548	
RALPH'S INDUSTRIAL ELECTRONICS SUPP	55.82	497555	
			55,195.27*
MAINTENANCE-MID COUNTY			
SANITARY SUPPLY, INC.	93.66	497422	
ACE IMAGEWEAR	74.44	497424	
BUBBA'S AIR CONDITIONING	417.50	497436	
AI FILTER SERVICE COMPANY	99.50	497491	
FRED MILLER'S OUTDOOR EQUIPMENT LLC	17.85	497509	
BOSCO INDUSTRIES	250.00	497513	
			952.95*
SERVICE CENTER			
THIRD COAST TINT	170.00	497475	
			170.00*
VETERANS SERVICE			
UNITED STATES POSTAL SERVICE	2.64	497447	
			2.64*
			404,508.26**
MOSQUITO CONTROL FUND			
FISHER SCIENTIFIC	9.05	497398	
JACK BROOKS REGIONAL AIRPORT	2,603.81	497407	
M&D SUPPLY	44.85	497412	
SANITARY SUPPLY, INC.	5.38	497422	
UNITED PARCEL SERVICE	22.38	497433	
ALLIED ELECTRICAL SYSTEMS&SOLUTIONS	1,331.51	497481	
NUTRIEN AG SOLUTIONS, INC	11,602.80	497522	
ES OPCO USA LLC	2,878.20	497530	
ODP BUSINESS SOLUTIONS, LLC	57.40	497550	
MUNRO'S UNIFORM SERVICES, LLC	75.19	497553	
			18,630.57**
J.C. FAMILY TREATMENT			
KELLY WEBSTER	63.92	497472	
			63.92**
ENVIRONMENTAL GRANTS/H2O			
CASH ADVANCE ACCOUNT	745.06	497408	
			745.06**
JUVENILE PROB & DET. FUND			
VERIZON WIRELESS	70.93	497444	
			70.93**
GRANT A STATE AID			



NAME	AMOUNT	CHECK NO.	TOTAL
CASH ADVANCE ACCOUNT	1,169.20	497408	
YOUTH ADVOCATE PROGRAMS INC	3,806.25	497473	
COMMUNITY SUPERVISION FND			4,975.45**
TEXAS WORKFORCE COMMISSION	26,360.93	497431	
VERIZON WIRELESS	32.96	497444	
UNITED STATES POSTAL SERVICE	101.64	497447	
JCCSC	300.00	497488	
CHARTER COMMUNICATIONS	166.72	497547	
LAW OFFICER TRAINING GRT			26,962.25**
CDW COMPUTER CENTERS, INC.	113.38	497439	
SCAAP GRANT			113.38**
SHIFTBOARD, INC	26,500.00	497542	
COUNTY RECORDS MANAGEMENT			26,500.00**
GMO GLOBAL SIGN INC	1,810.00	497510	
TAX OFFICE AUTO DEALER			1,810.00**
DELL MARKETING L.P.	2,436.70	497393	
J.P. COURTROOM TECH. FUND			2,436.70**
VERIZON WIRELESS	227.94	497444	
HOTEL OCCUPANCY TAX FUND			227.94**
ENTERGY	2,025.06	497401	
JOHNSON CONTROLS, INC.	2,054.00	497409	
M&D SUPPLY	16.75	497412	
TEXAS WORKFORCE COMMISSION	36.00	497431	
ALPHAGRAPHICS US809	1,165.12	497534	
CHARTER COMMUNICATIONS	130.63	497543	
MUNRO'S UNIFORM SERVICES, LLC	170.91	497553	
CAPITAL PROJECTS FUND			5,526.47**
TERRACON CONSULTANTS INC	14,000.00	497515	
COLLINS ENGINEERS, INC	1,112.50	497540	
AIRPORT FUND			15,112.50**
SPIDLE & SPIDLE	2,270.75	497383	
W.W. GRAINGER, INC.	95.60	497399	
WORTH HYDROCHEM OF THE GULF COAST	180.00	497435	
BUBBA'S AIR CONDITIONING	205.00	497436	
VERIZON WIRELESS	37.99	497444	
LOWE'S HOME CENTERS, INC.	87.45	497455	
MONUMENT CONSTRUCTORS	330.00	497468	
ATTABOY TERMITE & PEST CONTROL	503.25	497482	
TITAN AVIATION FUELS	93,828.01	497521	
ODP BUSINESS SOLUTIONS, LLC	140.80	497550	
AIRPORT IMPROVE. GRANTS			97,678.85**
KSA ENGINEERS INC	32,147.25	497531	
SE TX EMP. BENEFIT POOL			32,147.25**
EXPRESS SCRIPTS INC	147,299.12	497516	
UNITED HEALTHCARE SERVICES INC	113,463.87	497527	
GLO DISASTER RECOVERY			260,762.99**
FREESE AND NICHOLS, INC	8,306.53	497538	
CNTY & DIST COURT TECH FD			8,306.53**

NAME	AMOUNT	CHECK NO.	TOTAL
VERIZON WIRELESS	227.94	497444	227.94**
MARINE DIVISION			
SPECIAL TACTICAL SERVICES LLC	2,270.00	497478	
ATTABOY TERMITE & PEST CONTROL	56.67	497482	
STEVEN DAVIS	300.25	497523	
WEST MARINE PRO	909.39	497529	3,536.31**
SHERIFF - COMMISSARY			
TRINITY SERVICES GROUP INC	2,877.75	497525	2,877.75**
			963,187.31***



JOINT ELECTION AGREEMENT AND  
ELECTION SERVICES CONTRACT  
BETWEEN JEFFERSON COUNTY  
AND **City of Port Neches**

This agreement made and entered into, by and between Jefferson County, hereinafter referred to as "County", acting herein by and through its County Judge and Commissioner's Court, joined herein by the **County Election Officer, Laurie Leister, County Clerk**, and **City of Port Neches** hereinafter referred to as "Political Subdivision", acting herein by and through its Executive Board.

**WHEREAS**, Political Subdivision is required to conduct an election on **November 8, 2022**;

**THIS JOINT ELECTION AGREEMENT AND ELECTION SERVICES CONTRACT** is made this 21<sup>st</sup> day of July, 2022, by and between the Political Subdivision of **City of Port Neches**, hereinafter called "Political Subdivision" and Jefferson County, Texas, by its County Judge and joined herein by its County Elections Officer, **Laurie Leister**, hereinafter called "Contracting Officer," pursuant to Texas Election Code Section 31.092. The parties agree to enter into a Joint Election Agreement and an election services contract with each other in accordance with Chapter 271 of the Texas Election Code and this Agreement. This Agreement is entered into in consideration of the mutual covenants and promises hereinafter set out:

1. **RECITALS.** Contracting Officer is the County Clerk of Jefferson County, Texas, and is the County Officer in charge of election duties. Political Subdivision is a political entity situated wholly or partially within Jefferson County, Texas. Political Subdivision and Contracting Officer have determined that it is in the public interest of Jefferson County voters that the following contract be made and entered into for the purpose of having Contracting Officer furnish to Political Subdivision certain election services and equipment needed by Political Subdivision in connection with the holding of its **November 8, 2022**, Election. Jefferson County's voting equipment is to be used in this Political Subdivision Election.
2. **DUTIES AND SERVICES OF CONTRACTING OFFICER.** Contracting Officer shall be responsible for performing the following duties and shall furnish the following services and equipment:

(a) Notify and coordinate presiding election judges, alternate judges, and all other election officials appointed by Commissioner's Court to conduct county elections required to administer this Election. Jefferson County will make emergency appointments of election officials if necessary. Compensate all election workers for time worked at the approved hourly rate by Commissioners' Court.

- (b) Arrange for poll worker training through a third party or conduct necessary training. Notify all early voting and Election Day officials of the date, time and place thereof.
- (c) Arrange for the use of early voting locations and Election Day polling locations. If emergency replacement polling locations are needed, Contracting Officer shall make necessary alternate arrangements to locate another public place (or if unavailable, a private building), and shall notify Political Subdivision as soon as possible.
- (d) Procure election kits and supplies and distribute to the precinct judges and early voting deputies. Obtain from the Tax -Assessor /Voter Registrar lists of registered voters to be used in conducting the election in conformity with the boundaries of Political Subdivision and the election precincts established for the election. The Election Day list of registered voters shall be arranged in alphabetical order.
- (e) Prepare and test all electronic voting equipment, format ballot styles, secure audio, oversee all equipment and voter registration database programming, assure compliance with equipment security requirements. Arrange for transport of equipment to and from polling locations.
- (f) Serve as Early Voting Clerk for this Joint Election and process, print, mail, and tabulate ballots for any eligible voter, who applies for a ballot by mail including all eligible FPCA applicants. Supervise the conduct of early voting in person and appoint sufficient personnel to serve as deputy early voting clerks. Provide lists of early voters as provided by law if requested by Political Subdivision.
- (g) Publish legal notice of the date, time and place of the public logic and accuracy test. Prepare test materials and conduct internal election testing, public logic and accuracy test, and tests of tabulation equipment.
- (h) Arrange for the early ballot board, signature verification committee, tabulation personnel, and all equipment and supplies needed at central counting station. Tabulate early voting, election night, paper mail ballots and provisional ballots. Tabulate unofficial returns and assist in preparing the tabulation for the official canvass. Provide Political Subdivision its voter history report following the election if requested.
- (i) Serve as Custodian of Records for election records in Contracting Officer's custody and provide for the retention of said election records as provided by law.
- (j) Provide information services for voters and election officers.
- (k) Maintain accurate records of all expenses incurred in connection with the responsibilities under this Agreement and provide Political Subdivision a final invoice after the conduct of the election. Provide any detailed backup to such invoice, if requested, reflecting the charges or components of the costs set forth on the invoice submitted to Political Subdivision.
- (l) The Contracting Office is responsible for collecting the compensations sheets for the election

judges, clerks, and early voting ballot board. The Contracting Officer will also pay the aforementioned for their services and time in accordance with their rate of pay policy.

(m) Contracting Officer shall conduct a manual count as prescribed by Section 127.201 of the Texas Election Code, unless waived by the Secretary of State. A written report shall be submitted to the Secretary of State as required by Section 127.201(E) of the aforementioned Election Code. If requested, Contracting Officer shall provide a written report to Political Subdivision in a timely manner.

(n) The Contracting Officer shall place the funds paid by Political Subdivision hereunder in a "contract fund" as prescribed by Section 31.100 of the Texas Election Code.

**3. DUTIES AND SERVICES OF POLITICAL SUBDIVISION.** Political Subdivision shall be responsible for performing the following duties:

(a) Prepare all election orders, resolutions, notices, and other pertinent documents for adoption and execution by the appropriate Political Subdivision officer or body. Take all actions necessary for calling the Political Subdivision Election which are required by the Texas Election Code and/or the Political Subdivision's governing body, charter, ordinances, or other applicable laws. Execute an Election Services Contract Agreement with Jefferson County Clerk for the purpose of election administration. Serve as Custodian of Records for all election records in its possession as provided by law.

(b) Political Subdivision shall be responsible for the legal sufficiency of any order calling their election. Political Subdivision shall be responsible for all substantive and procedural legal issues governing the conduct of their election. Political Subdivision understands and agrees that Contracting Officer provides no legal advice to Political Subdivision.

(c) Adopt the county voting precincts for this election. Political Subdivision shall adopt the early voting locations used by the county located in the Political Subdivision's jurisdictional boundaries with the stipulation to add additional locations and adopt all early voting dates, and hours recommended by the Contracting Officer in accordance with the Texas Election Code. Political Subdivision shall adopt the Election Day Vote Center polling locations for each county voting precinct that is within its jurisdictional boundaries. Political Subdivision shall confirm the accuracy of its jurisdictional boundaries and precincts.

(d) Prepare, post and publish all required election notices for Political Subdivision except for the Public Test Notice that Contracting Officer shall publish. In addition, if this election's polling locations are different than Political Subdivision's previous election, Political Subdivision shall post notice at the entrance to any previous polling places in its jurisdiction stating that the location has changed and provide the polling location and address for those voters for this election, pursuant to Texas Election Code Section 43.062, unless County has posted the notice of the change for their election. Educate the voters in Political Subdivision on early voting times and places and Election Day polling locations.

(e) Political Subdivision shall confirm with Tax-Assessor/Voter Registrar its boundaries, county

voting precincts and street details within those boundaries. Political Subdivision will validate all boundaries are defined properly within Jefferson County voter registration database, maps and street lists with block ranges and odd/even/both indicators before the coding and programming of the ballot begins. If changes are necessary after programming has begun, the Political Subdivision responsible will incur the cost of re-programming for all entities involved. Political Subdivision must proof and approve all programming work done for the jurisdiction according to the Election Day Calendar published by the Secretary of State of Texas for the **November 8, 2022** General Election, known as the SOS Election Day Calendar for **November 8, 2022**.

(f) Deliver to Contracting Officer, according to the above mentioned Election Day Calendar, ballot language with Spanish translations, candidate names or measures, the order in which they are to be printed on the ballot with the exact form and spelling. Provide pronunciation for difficult names or words to use on the audio recording. Timely review and sign off on ballot proofs.

(g) Any requests for early voting ballots to be voted by mail received by Political Subdivision must be hand delivered or faxed to Contracting Officer on the day of receipt. If the application is faxed, the original application must be mailed to Contracting Officer. Contracting Officer will process applications, mail appropriate ballots, and tabulate.

(h) If requested, assist Contracting Officer in recruiting bilingual poll workers. Provide documentation on Political Subdivision's efforts to recruit bilingual poll workers if requested by the U. S. Department of Justice.

(i) Pay prorated additional costs incurred by Contracting Officer if a recount for said election is required, the election is contested in any manner, or a runoff is required.

(j) Canvass the returns and declare the election results for Political Subdivision. Political Subdivision is responsible for filing any precinct reports required by the Secretary of State.

(k) The deposit will be waived for this Election Agreement for all Political Subdivisions. All costs will be assessed and a detailed billed will be rendered within a reasonable time after the canvassing of the election or the receipt of all invoices needed to validate the billing. Any discrepancies in billing should be addressed immediately.

(l) Political Subdivision agrees to enter into a Joint Election Agreement with any other political subdivision in Jefferson County which enters into an Election Services Contract with Contracting Officer and which holds an election on **November 8, 2022**.

4. **COST OF SERVICES.** Political Subdivision shall share some expenses for the above services, supplies and equipment. Additional elections may lower costs for each entity, and election cancellations may raise costs for each entity. It is understood that other political entities may wish to participate in the use of the County's electronic voting equipment and polling locations, and it is agreed that Contracting Officer may enter into other contracts with entities for those purposes on terms and conditions generally similar to those set forth in this Agreement. Only the actual expenses directly attributable to this

Agreement and any prorated shared expenses may be charged to Political Subdivision, plus a 10% administrative fee.

(a.) Costs for early voting, election day, equipment delivery, supplies, mail ballots, payroll, equipment leasing, programming, and other costs will be shared proportionally between all political subdivisions which enter into a joint election agreement with County.

## **5. GENERAL CONDITIONS.**

(a) The parties agree that the timing is critical on all duties in this Agreement. Lack of adherence to any deadline in the Election Day Calendar without prior agreement of Contracting Officer may result in cancellation of Contracting Officer's duties and obligations to conduct Political Subdivision's election under this Agreement or, at the discretion of Contracting Officer, a late penalty surcharge in an amount not to exceed 10% of the final election cost. Adherence to the Secretary of State of Texas' Election Day Calendar is critical because of Jefferson County's obligation to complete all programming and testing and to process, print and mail military and overseas ballots by state/federal deadlines and our duty to conduct federal, state, county elections and/or other contracted elections.

(b) In accordance with Section 31.098 of the Texas Election Code, Contracting Officer is authorized to contract with third persons for election services and supplies and is authorized to hire necessary temporary personnel to perform contracted duties. Part-time personnel will be compensated at the hourly rate set by Jefferson County.

(c) Political Subdivision acknowledges that electronic voting equipment is highly technical and it is conceivable that, despite the best effort of the parties and technical assistance, it might fail during the election. Contracting Officer will do whatever is possible to remedy the situation, but Political Subdivision agrees that should such equipment fail, it will not make any claim for damages of any kind.

(d) Any qualified voter in the Joint Election may vote early by personal appearance at any of the joint early voting locations or at any Vote Center/Polling Location on Election Day.

(e) Jefferson County Elections Department may contract with numerous political entities for the Joint Election, and the parties agree that all ballot styles will be programmed into one voting system. Each voter will receive one ballot which contains all races and issues in the Joint Election for which the voter is eligible at the address and in the precinct in which the voter is currently registered. One joint voter sign in process consisting of a common list of registered voters and common signature rosters shall be used in precincts in which the county polling locations are used.

(f) The Contracting Officer shall file copies of this Agreement with the Auditor and Treasurer of Jefferson County not later than the 10<sup>th</sup> day from receipt of the fully executed contract by Contracting Officer.

(g) Jefferson County is self-insured for personal liability issues. Should Political Subdivision

desire insurance for injuries during this election or other liabilities, entity shall make such arrangements separate from this Agreement.

(h) In the event that the performance by Contracting Officer of any of its obligations hereunder shall be interrupted or delayed by any occurrence not occasioned by its own conduct, whether such occurrence be an act of God or the result of war, riot, civil commotion, sovereign conduct, or the act or condition of any persons not a party thereof, then it shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof.

(i) The parties to this Agreement agree that Political Subdivision may cancel this Agreement in the event that it has no need to conduct an election by 60<sup>th</sup> day before Election Day. If Political Subdivision's election is cancelled after deadline, a \$200 contract preparation and processing fee will be due in addition to any costs incurred by Contracting Officer on behalf of Political Subdivision prior to said cancellation.

(j) The Political Subdivision has the option of extending the terms of this Agreement through its runoff election, if applicable. Political Subdivision may reduce the number of the adopted early voting locations and/or Election Day voting locations in which precincts are not involved in a runoff election. In the event of a runoff which Political Subdivision wants Contracting Officer to conduct, Political Subdivision agrees to attempt to coordinate the date with other entities participating in this Joint Election. If Political Subdivision elects to have Contracting Officer conduct a runoff election, the cost will be determined by the number of entities participating and the actual costs plus administrative fees. Political Subdivision will be responsible for all orders, notices, and publications required for their runoff except the publication of the public logic and accuracy test which Contracting Officer will publish.

## **6. DISPUTE RESOLUTION PROCEDURE**

The parties agree to use dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve all disputes arising under this Agreement. Either party must give written notice to the other party of a claim for breach of this Agreement not later than the 180<sup>th</sup> day after the date of the event, giving rise to the claim. By their execution of their Agreement, the parties acknowledge and knowingly and voluntarily agree that neither the execution of this Agreement; nor the conduct, act or inaction by any person in the execution, administration, or performance of this Agreement constitutes or is intended to constitute a waiver of the party's immunity from suit with respect to claims of third parties.

## **7. ENTIRE AGREEMENT/AMENDMENT**

This Agreement constitutes the entire agreement between **City of Port Neches** and Contracting Officer. This Agreement may be amended only in writing and signed by the parties.

## **8. NOTICES**

Except as otherwise provided in this section, all notices, consents, approvals, demands, request, or other communications provided for or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have duly given or served when



delivered by hand delivery or when deposited in the U.S. mail by registered or certified mail, return receipt requested, postage prepaid, and addressed as set forth below or to such other person or address as may be given in writing by either party to the other in accordance with this section:

**CITY OF PORT NECHES:** Andre Wimer  
City Manager, City of Port Neches  
P.O. Box 758  
1005 Merriman  
Port Neches, Texas 77651

**JEFFERSON COUNTY:** Laurie Leister, County Clerk  
P. O. Box 1151  
Beaumont, TX 77704

**IN WITNESS WHEREOF**, each of the parties agrees to the terms of this Agreement and has caused this Agreement to be executed on the 21<sup>st</sup> day of July, 2022.

**City of Port Neches**

By: [Signature]  
Name: Andre' Wimer

Attest: [Signature: Holly Alexander]  
Name: Holly Alexander

**IN WITNESS WHEREOF**, each of the parties agrees to the terms of this Agreement and has caused this Agreement to be executed on the 2nd day of August, 2022.

**Jefferson County, Texas**

By: [Signature]  
Name: Jeff Branick  
Title: County Judge



By: [Signature: Laurie Leister]  
Name: Laurie Leister  
Title: County Clerk

Attest: [Signature: Laurie Leister]  
8-2-22

**EARLY VOTING**  
**October 24, 2022 – November 4, 2022**

**November General Election – Countywide Polling – All precincts may vote at any Vote Center.**

*(Elecciones generales de noviembre – Lugares de votacion en todo el condado – Todos los precinctos pueden votar en cualquier centro de votacion.)*

<b>Election Day Polling Places</b> <i>Localizaciones</i>	<b>Address</b> <i>Direccion</i>	<b>City, State, Zip Code</b> <i>Cuidad, Estado,Codigo postal</i>
Precinct 1 Service Center (Front Conference Room)	20205 W. Hwy 90	China, TX 77613
Rogers Park Community Center	6540 Gladys Ave	Beaumont, TX 77706
Hebert Library (Community Room)	2025 Merriman St	Port Neches, TX 77651
Ray Chesson Office Building (Courtroom)	19217 FM 365	Beaumont, TX 77705
Marion & Ed Hughes Public Library (Meeting Room)	2712 Nederland Ave	Nederland, TX 77627
Groves Activity Building (Lounge)	6150 39 <sup>th</sup> Street	Groves, TX 77619
Jefferson County Sub-Courthouse (Foyer)	525 Lakeshore Dr	Port Arthur, TX 77640
Port Arthur Library (Lucy Stiefel Gallery)	4615 9 <sup>th</sup> Avenue	Port Arthur, TX 77642
Jefferson County Courthouse (Lobby)	1085 Pearl St	Beaumont, TX 77701
John Paul Davis Community Center	3580 E. Lucas Dr	Beaumont, TX 77703
Theodore Johns Library (Meeting Room)	4255 Fannett Rd	Beaumont, TX 77705

**DATES AND HOURS FOR ALL ABOVE LOCATIONS:**

(Fechas y Horas para todas las localizaciones anteriores):

October 24 – 28, 2022 (Octubre 24 – 28, 2022)	Monday - Friday (Lunes -Viernes)	8:00 a.m. - 5:00 p.m.
October 29, 2022 (Octubre 29, 2022)	Saturday (Sábado)	7:00 a.m. - 7:00 p.m.
October 30, 2022 (Octubre 30, 2022)	Sunday (Domingo)	12:00 p.m. - 6:00 p.m.
October 31 – November 4, 2022 (Octubre 31 – Noviembre 4, 2022)	Monday – Friday (Lunes – Viernes)	7:00 a.m. – 7:00 p.m.

## ELECTION DAY November 8, 2022

### **November General Election – Countywide Polling – All precincts may vote at any Vote Center.**

*(Elecciones generales de noviembre – Lugares de votacion en todo el condado – Todos los precinctos pueden votar en cualquier centro de votacion.)*

<b>Election Day Polling Places</b>	<b>Address</b>	<b>City, State, Zip Code</b>
<i>Localizaciones</i>	<i>Direccion</i>	<i>Cuidad, Estado,Codigo postal</i>
Amelia Elementary School (Gymnasium)	565 S. Major Dr	Beaumont, TX 77707
West Brook High School (Mary Nixon Room – Library)	8750 Phelan Blvd	Beaumont, TX 77706
Bevil Oaks City Hall	13560 River Oaks Blvd	Bevil Oaks, TX 77713
BISD Adminisration Building (Boardroom)	3395 Harrison Ave	Beaumont, TX 77706
Dishman Elementary (Gymnasium)	3475 Champions Dr	Beaumont, TX 77707
O.C. Mike Taylor Career Center (First Floor Old Library)	2330 North St.	Beaumont, TX 77702
Precinct 1 Service Center (Front Conference Room)	20205 W. Hwy 90	China, TX 77613
Rogers Park Community Center	6540 Gladys Ave	Beaumont, TX 77706
Roy Guess Elementary (Hallway near Gymnasium)	8055 Voth Rd.	Beaumont, TX 77708
Hebert Library (Community Room)	2025 Merriman St	Port Neches, TX 77651
Jefferson County WCID 10 Fire Station (Front Lobby)	2024 Spurlock Rd.	Nederland, TX 77627
Groves Public Library (Front Meeting Room)	5600 West Washington	Groves, TX 77619
Nederland City Hall	207 N. 12 <sup>th</sup> Street	Nederland, TX 77627
Jerry Ware Airport Terminal (Conference Room off Main Lobby)	5000 Jerry Ware Dr	Beaumont, TX 77705
Ray Chesson Office Building (Courtroom)	19217 FM 365	Beaumont, TX 77705
Jefferson County ESD #4 (Main Meeting Room)	12880 FM 365	Beaumont, TX 77705
Marion & Ed Hughes Public Library (Meeting Room)	2712 Nederland Ave	Nederland, TX 77627
Port Neches City Hall (Council Chambers – Room 104)	1005 Merriman	Port Neches, TX 77651
Groves Activity Building (Lounge)	6150 39 <sup>th</sup> Street	Groves, TX 77619
DeQueen Elementary (Fifth Grade Hall)	740 DeQueen Blvd	Port Arthur, TX 77640
Zion Hill Baptist Church (Education Building)	5848 Roosevelt Ave	Port Arthur, TX 77640
Jefferson County Sub-Courthouse (Foyer)	525 Lakeshore Dr	Port Arthur, TX 77640
Former Dowling Elementary (Library)	6301 Pat Ave	Port Arthur, TX 77640
O.W. Collins Retirement Center (Social Service Room)	4440 Gulfway Dr	Port Arthur, TX 77642
Port Arthur Library (Lucy Stiefel Gallery)	4615 9 <sup>th</sup> Avenue	Port Arthur, TX 77642
Queen of Vietnam Catholic Church (St. Joseph Hall)	801 9 <sup>th</sup> Avenue	Port Arthur, TX 77642
R.L. Gabby Eldridge Center	5262 S. Gulfway Dr	Sabine Pass, TX 77655
Travis Elementary (Library)	1115 Lakeview Ave	Port Arthur, TX 77642
Willie Ryman Community Center	3248 39 <sup>th</sup> Street	Port Arthur, TX 77642
Alice Keith Park Recreation Center	4075 Highland Ave	Beaumont, TX 77705
Charlton-Pollard Elementary (Gymnasium)	825 Jackson St	Beaumont, TX 77701
Lamar University Montagne Center (Cardinal Club Room)	4401 S. MLK Pkwy	Beaumont, TX 77705
Hamshire VFD and Community Center	12318 2 <sup>nd</sup> St	Hamshire, TX 77622
Jefferson County Courthouse (Lobby)Main Polling location	1085 Pearl St	Beaumont, TX 77701
MLK Middle School (Gymnasium)	1400 Avenue A	Beaumont, TX 77701
John Paul Davis Community Center	3580 E. Lucas Dr	Beaumont, TX 77703
Precinct 4 Service Center (Conference Room)	7780 Boyt Rd	Beaumont, TX 77713
Sterling Pruitt Center (Multi-purpose Room)	2930 Gulf St	Beaumont, TX 77703
Theodore Johns Library (Meeting Room)	4255 Fannett Rd	Beaumont, TX 77705

## CONTRACT COSTS

Voting Equipment	
Judge's Booth Controller	\$330.00
eSlate	\$330.00
Disable Access Unit (DAU)	\$396.00
Privacy Booth	\$20.00
Ballot Box	\$5.00
Communication Devices	
EA Tablet + WIFI	\$125.00
Cell Phone	\$35.00
Mandatory Signs	
Large A-Frame (ID Required )	\$15.00
Large A-Frame (Notices )	\$15.00
PROGRAMMING	COUNTY COST
1 - 5 RACES	\$1,125.00
6 - 10 RACES	\$1,898.00
11-20 RACES	\$2,475.00
21-40 RACES	\$3,135.00
41-75 RACES	\$3,960.00
76-100 RACES	\$4,704.00
BALLOT PRINTING	COUNTY COST
8.5 X 11	\$0.25
8.5 X 14	\$0.27
8.5 X 17	\$0.30
Sample Ballots	\$0.06
SUPPLIES	
ELECTION KITS / w Seals EV & ED	\$45.00
Mail Ballots (Per Set)	\$2.30
Supply Bag Consumables (per location)	\$25.00



JOINT ELECTION AGREEMENT AND  
ELECTION SERVICES CONTRACT  
BETWEEN JEFFERSON COUNTY  
AND **Port Neches-Groves ISD**

This agreement made and entered into, by and between Jefferson County, hereinafter referred to as “County”, acting herein by and through its County Judge and Commissioner’s Court, joined herein by the **County Election Officer, Laurie Leister, County Clerk**, and **Port Neches-Groves ISD** hereinafter referred to as “Political Subdivision”, acting herein by and through its Executive Board.

**WHEREAS**, Political Subdivision is required to conduct an election on **November 8, 2022**;

**THIS JOINT ELECTION AGREEMENT AND ELECTION SERVICES CONTRACT** is made this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between the Political Subdivision of **Port Neches-Groves ISD**, hereinafter called “Political Subdivision” and Jefferson County, Texas, by its County Judge and joined herein by its County Elections Officer, **Laurie Leister**, hereinafter called “Contracting Officer,” pursuant to Texas Election Code Section 31.092. The parties agree to enter into a Joint Election Agreement and an election services contract with each other in accordance with Chapter 271 of the Texas Election Code and this Agreement. This Agreement is entered into in consideration of the mutual covenants and promises hereinafter set out:

1. **RECITALS.** Contracting Officer is the County Clerk of Jefferson County, Texas, and is the County Officer in charge of election duties. Political Subdivision is a political entity situated wholly or partially within Jefferson County, Texas. Political Subdivision and Contracting Officer have determined that it is in the public interest of Jefferson County voters that the following contract be made and entered into for the purpose of having Contracting Officer furnish to Political Subdivision certain election services and equipment needed by Political Subdivision in connection with the holding of its **November 8, 2022**, Election. Jefferson County’s voting equipment is to be used in this Political Subdivision Election.
2. **DUTIES AND SERVICES OF CONTRACTING OFFICER.** Contracting Officer shall be responsible for performing the following duties and shall furnish the following services and equipment:

(a) Notify and coordinate presiding election judges, alternate judges, and all other election officials appointed by Commissioner’s Court to conduct county elections required to administer this Election. Jefferson County will make emergency appointments of election officials if necessary. Compensate all election workers for time worked at the approved hourly rate by Commissioners’

Court.

(b) Arrange for poll worker training through a third party or conduct necessary training. Notify all early voting and Election Day officials of the date, time and place thereof.

(c) Arrange for the use of early voting locations and Election Day polling locations. If emergency replacement polling locations are needed, Contracting Officer shall make necessary alternate arrangements to locate another public place (or if unavailable, a private building), and shall notify Political Subdivision as soon as possible.

(d) Procure election kits and supplies and distribute to the precinct judges and early voting deputies. Obtain from the Tax -Assessor /Voter Registrar lists of registered voters to be used in conducting the election in conformity with the boundaries of Political Subdivision and the election precincts established for the election. The Election Day list of registered voters shall be arranged in alphabetical order.

(e) Prepare and test all electronic voting equipment, format ballot styles, secure audio, oversee all equipment and voter registration database programming, assure compliance with equipment security requirements. Arrange for transport of equipment to and from polling locations.

(f) Serve as Early Voting Clerk for this Joint Election and process, print, mail, and tabulate ballots for any eligible voter, who applies for a ballot by mail including all eligible FPCA applicants. Supervise the conduct of early voting in person and appoint sufficient personnel to serve as deputy early voting clerks. Provide lists of early voters as provided by law if requested by Political Subdivision.

(g) Publish legal notice of the date, time and place of the public logic and accuracy test. Prepare test materials and conduct internal election testing, public logic and accuracy test, and tests of tabulation equipment.

(h) Arrange for the early ballot board, signature verification committee, tabulation personnel, and all equipment and supplies needed at central counting station. Tabulate early voting, election night, paper mail ballots and provisional ballots. Tabulate unofficial returns and assist in preparing the tabulation for the official canvass. Provide Political Subdivision its voter history report following the election if requested.

(i) Serve as Custodian of Records for election records in Contracting Officer's custody and provide for the retention of said election records as provided by law.

(j) Provide information services for voters and election officers.

(k) Maintain accurate records of all expenses incurred in connection with the responsibilities under this Agreement and provide Political Subdivision a final invoice after the conduct of the election. Provide any detailed backup to such invoice, if requested, reflecting the charges or components of the costs set forth on the invoice submitted to Political Subdivision.

(l) The Contracting Office is responsible for collecting the compensations sheets for the election judges, clerks, and early voting ballot board. The Contracting Officer will also pay the aforementioned for their services and time in accordance with their rate of pay policy.

(m) Contracting Officer shall conduct a manual count as prescribed by Section 127.201 of the Texas Election Code, unless waived by the Secretary of State. A written report shall be submitted to the Secretary of State as required by Section 127.201(E) of the aforementioned Election Code. If requested, Contracting Officer shall provide a written report to Political Subdivision in a timely manner.

(n) The Contracting Officer shall place the funds paid by Political Subdivision hereunder in a "contract fund" as prescribed by Section 31.100 of the Texas Election Code.

**3. DUTIES AND SERVICES OF POLITICAL SUBDIVISION.** Political Subdivision shall be responsible for performing the following duties:

(a) Prepare all election orders, resolutions, notices, and other pertinent documents for adoption and execution by the appropriate Political Subdivision officer or body. Take all actions necessary for calling the Political Subdivision Election which are required by the Texas Election Code and/or the Political Subdivision's governing body, charter, ordinances, or other applicable laws. Execute an Election Services Contract Agreement with Jefferson County Clerk for the purpose of election administration. Serve as Custodian of Records for all election records in its possession as provided by law.

(b) Political Subdivision shall be responsible for the legal sufficiency of any order calling their election. Political Subdivision shall be responsible for all substantive and procedural legal issues governing the conduct of their election. Political Subdivision understands and agrees that Contracting Officer provides no legal advice to Political Subdivision.

(c) Adopt the county voting precincts for this election. Political Subdivision shall adopt the early voting locations used by the county located in the Political Subdivision's jurisdictional boundaries with the stipulation to add additional locations and adopt all early voting dates, and hours recommended by the Contracting Officer in accordance with the Texas Election Code. Political Subdivision shall adopt the Election Day Vote Center polling locations for each county voting precinct that is within its jurisdictional boundaries. Political Subdivision shall confirm the accuracy of its jurisdictional boundaries and precincts.

(d) Prepare, post and publish all required election notices for Political Subdivision except for the Public Test Notice that Contracting Officer shall publish. In addition, if this election's polling locations are different than Political Subdivision's previous election, Political Subdivision shall post notice at the entrance to any previous polling places in its jurisdiction stating that the location has changed and provide the polling location and address for those voters for this election, pursuant to Texas Election Code Section 43.062, unless County has posted the notice of the change for their election. Educate the voters in Political Subdivision on early voting times and places and Election Day polling locations.

(e) Political Subdivision shall confirm with Tax-Assessor/Voter Registrar its boundaries, county voting precincts and street details within those boundaries. Political Subdivision will validate all boundaries are defined properly within Jefferson County voter registration database, maps and street lists with block ranges and odd/even/both indicators before the coding and programming of the ballot begins. If changes are necessary after programming has begun, the Political Subdivision responsible will incur the cost of re-programming for all entities involved. Political Subdivision must proof and approve all programming work done for the jurisdiction according to the Election Day Calendar published by the Secretary of State of Texas for the **November 8, 2022** General Election, known as the SOS Election Day Calendar for **November 8, 2022**.

(f) Deliver to Contracting Officer, according to the above mentioned Election Day Calendar, ballot language with Spanish translations, candidate names or measures, the order in which they are to be printed on the ballot with the exact form and spelling. Provide pronunciation for difficult names or words to use on the audio recording. Timely review and sign off on ballot proofs.

(g) Any requests for early voting ballots to be voted by mail received by Political Subdivision must be hand delivered or faxed to Contracting Officer on the day of receipt. If the application is faxed, the original application must be mailed to Contracting Officer. Contracting Officer will process applications, mail appropriate ballots, and tabulate.

(h) If requested, assist Contracting Officer in recruiting bilingual poll workers. Provide documentation on Political Subdivision's efforts to recruit bilingual poll workers if requested by the U. S. Department of Justice.

(i) Pay prorated additional costs incurred by Contracting Officer if a recount for said election is required, the election is contested in any manner, or a runoff is required.

(j) Canvass the returns and declare the election results for Political Subdivision. Political Subdivision is responsible for filing any precinct reports required by the Secretary of State.

(k) The deposit will be waived for this Election Agreement for all Political Subdivisions. All costs will be assessed and a detailed billed will be rendered within a reasonable time after the canvassing of the election or the receipt of all invoices needed to validate the billing. Any discrepancies in billing should be addressed immediately.

(l) Political Subdivision agrees to enter into a Joint Election Agreement with any other political subdivision in Jefferson County which enters into an Election Services Contract with Contracting Officer and which holds an election on **November 8, 2022**.

4. **COST OF SERVICES.** Political Subdivision shall share some expenses for the above services, supplies and equipment. Additional elections may lower costs for each entity, and election cancellations may raise costs for each entity. It is understood that other political entities may wish to participate in the use of the County's electronic voting equipment and polling locations, and it is agreed that Contracting Officer may enter into other contracts with entities for those purposes on terms and conditions generally similar



to those set forth in this Agreement. Only the actual expenses directly attributable to this Agreement and any prorated shared expenses may be charged to Political Subdivision, plus a 10% administrative fee.

- (a) Costs for early voting, election day, equipment delivery, supplies, mail ballots, payroll, equipment leasing, programming, and additional costs will be shared proportionally between all political subdivisions which enter into a joint election agreement with County.

#### **5. GENERAL CONDITIONS.**

(a) The parties agree that the timing is critical on all duties in this Agreement. Lack of adherence to any deadline in the Election Day Calendar without prior agreement of Contracting Officer may result in cancellation of Contracting Officer's duties and obligations to conduct Political Subdivision's election under this Agreement or, at the discretion of Contracting Officer, a late penalty surcharge in an amount not to exceed 10% of the final election cost. Adherence to the Secretary of State of Texas' Election Day Calendar is critical because of Jefferson County's obligation to complete all programming and testing and to process, print and mail military and overseas ballots by state/federal deadlines and our duty to conduct federal, state, county elections and/or other contracted elections.

(b) In accordance with Section 31.098 of the Texas Election Code, Contracting Officer is authorized to contract with third persons for election services and supplies and is authorized to hire necessary temporary personnel to perform contracted duties. Part-time personnel will be compensated at the hourly rate set by Jefferson County.

(c) Political Subdivision acknowledges that electronic voting equipment is highly technical and it is conceivable that, despite the best effort of the parties and technical assistance, it might fail during the election. Contracting Officer will do whatever is possible to remedy the situation, but Political Subdivision agrees that should such equipment fail, it will not make any claim for damages of any kind.

(d) Any qualified voter in the Joint Election may vote early by personal appearance at any of the joint early voting locations or at any Vote Center/Polling Location on Election Day.

(e) Jefferson County Elections Department may contract with numerous political entities for the Joint Election, and the parties agree that all ballot styles will be programmed into one voting system. Each voter will receive one ballot which contains all races and issues in the Joint Election for which the voter is eligible at the address and in the precinct in which the voter is currently registered. One joint voter sign in process consisting of a common list of registered voters and common signature rosters shall be used in precincts in which the county polling locations are used.

(f) The Contracting Officer shall file copies of this Agreement with the Auditor and Treasurer of Jefferson County not later than the 10<sup>th</sup> day from receipt of the fully executed contract by Contracting Officer.

(g) Jefferson County is self-insured for personal liability issues. Should Political Subdivision

desire insurance for injuries during this election or other liabilities, entity shall make such arrangements separate from this Agreement.

(h) In the event that the performance by Contracting Officer of any of its obligations hereunder shall be interrupted or delayed by any occurrence not occasioned by its own conduct, whether such occurrence be an act of God or the result of war, riot, civil commotion, sovereign conduct, or the act or condition of any persons not a party thereof, then it shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof.

(i) The parties to this Agreement agree that Political Subdivision may cancel this Agreement in the event that it has no need to conduct an election by 60<sup>th</sup> day before Election Day. If Political Subdivision's election is cancelled after deadline, a \$200 contract preparation and processing fee will be due in addition to any costs incurred by Contracting Officer on behalf of Political Subdivision prior to said cancellation.

(j) The Political Subdivision has the option of extending the terms of this Agreement through its runoff election, if applicable. Political Subdivision may reduce the number of the adopted early voting locations and/or Election Day voting locations in which precincts are not involved in a runoff election. In the event of a runoff which Political Subdivision wants Contracting Officer to conduct, Political Subdivision agrees to attempt to coordinate the date with other entities participating in this Joint Election. If Political Subdivision elects to have Contracting Officer conduct a runoff election, the cost will be determined by the number of entities participating and the actual costs plus administrative fees. Political Subdivision will be responsible for all orders, notices, and publications required for their runoff except the publication of the public logic and accuracy test which Contracting Officer will publish.

## **6. DISPUTE RESOLUTION PROCEDURE**

The parties agree to use dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve all disputes arising under this Agreement. Either party must give written notice to the other party of a claim for breach of this Agreement not later than the 180<sup>th</sup> day after the date of the event, giving rise to the claim. By their execution of their Agreement, the parties acknowledge and knowingly and voluntarily agree that neither the execution of this Agreement; nor the conduct, act or inaction by any person in the execution, administration, or performance of this Agreement constitutes or is intended to constitute a waiver of the party's immunity from suit with respect to claims of third parties.

## **7. ENTIRE AGREEMENT/AMENDMENT**

This Agreement constitutes the entire agreement between **Port Neches-Groves ISD** and Contracting Officer. This Agreement may be amended only in writing and signed by the parties.

## **8. NOTICES**

Except as otherwise provided in this section, all notices, consents, approvals, demands, request, or other communications provided for or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have duly given or served when

delivered by hand delivery or when deposited in the U.S. mail by registered or certified mail, return receipt requested, postage prepaid, and addressed as set forth below or to such other person or address as may be given in writing by either party to the other in accordance with this section:

**PORT NECHES-GROVES ISD** Sherri Drawhorn, Business Manager  
Port Neches-Groves ISD  
776 Magnolia  
Port Neches, Texas 77651

**JEFFERSON COUNTY:** Laurie Leister, County Clerk  
P. O. Box 1151  
Beaumont, TX 77704

**IN WITNESS WHEREOF**, each of the parties agrees to the terms of this Agreement and has caused this Agreement to be executed on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**Port Neches-Groves ISD**

By: \_\_\_\_\_ Attest: \_\_\_\_\_  
Name:

**IN WITNESS WHEREOF**, each of the parties agrees to the terms of this Agreement and has caused this Agreement to be executed on the 2nd day of August, 2022.

**Jefferson County, Texas**

By: [Signature]  
Name: Jeff Branick  
Title: County Judge



By: [Signature]  
Name: Laurie Leister  
Title: County Clerk

Attest: [Signature]  
8-2-22

**EARLY VOTING**  
**October 24, 2022 – November 4, 2022**

**November General Election – Countywide Polling – All precincts may vote at any Vote Center.**

*(Elecciones generales de noviembre – Lugares de votacion en todo el condado – Todos los precinctos pueden votar en cualquier centro de votacion.)*

<b>Election Day Polling Places</b>	<b>Address</b>	<b>City, State, Zip Code</b>
<i>Localizaciones</i>	<i>Direccion</i>	<i>Cuidad, Estado,Codigo postal</i>
Precinct 1 Service Center (Front Conference Room)	20205 W. Hwy 90	China, TX 77613
Rogers Park Community Center	6540 Gladys Ave	Beaumont, TX 77706
Hebert Library (Community Room)	2025 Merriman St	Port Neches, TX 77651
Ray Chesson Office Building (Courtroom)	19217 FM 365	Beaumont, TX 77705
Marion & Ed Hughes Public Library (Meeting Room)	2712 Nederland Ave	Nederland, TX 77627
Groves Activity Building (Lounge)	6150 39 <sup>th</sup> Street	Groves, TX 77619
Jefferson County Sub-Courthouse (Foyer)	525 Lakeshore Dr	Port Arthur, TX 77640
Port Arthur Library (Lucy Stiefel Gallery)	4615 9 <sup>th</sup> Avenue	Port Arthur, TX 77642
Jefferson County Courthouse (Lobby)	1085 Pearl St	Beaumont, TX 77701
John Paul Davis Community Center	3580 E. Lucas Dr	Beaumont, TX 77703
Theodore Johns Library (Meeting Room)	4255 Fannett Rd	Beaumont, TX 77705

**DATES AND HOURS FOR ALL ABOVE LOCATIONS:**

(Fechas y Horas para todas las localizaciones anteriores):

October 24 – 28, 2022 (Octubre 24 – 28, 2022)	Monday - Friday (Lunes -Viernes)	8:00 a.m. - 5:00 p.m.
October 29, 2022 (Octubre 29, 2022)	Saturday (Sábado)	7:00 a.m. - 7:00 p.m.
October 30, 2022 (Octubre 30, 2022)	Sunday (Domingo)	12:00 p.m. - 6:00 p.m.
October 31 – November 4, 2022 (Octubre 31 – Noviembre 4, 2022)	Monday – Friday (Lunes – Viernes)	7:00 a.m. – 7:00 p.m.

## ELECTION DAY November 8, 2022

### **November General Election – Countywide Polling – All precincts may vote at any Vote Center.**

*(Elecciones generales de noviembre – Lugares de votacion en todo el condado – Todos los precinctos pueden votar en cualquier centro de votacion.)*

<b>Election Day Polling Places</b> <i>Localizaciones</i>	<b>Address</b> <i>Direccion</i>	<b>City, State, Zip Code</b> <i>Cuidad, Estado,Codigo postal</i>
Amelia Elementary School (Gymnasium)	565 S. Major Dr	Beaumont, TX 77707
West Brook High School (Mary Nixon Room – Library)	8750 Phelan Blvd	Beaumont, TX 77706
Bevil Oaks City Hall	13560 River Oaks Blvd	Bevil Oaks, TX 77713
BISD Adminisration Building (Boardroom)	3395 Harrison Ave	Beaumont, TX 77706
Dishman Elementary (Gymnasium)	3475 Champions Dr	Beaumont, TX 77707
O.C. Mike Taylor Career Center (First Floor Old Library)	2330 North St.	Beaumont, TX 77702
Precinct 1 Service Center (Front Conference Room)	20205 W. Hwy 90	China, TX 77613
Rogers Park Community Center	6540 Gladys Ave	Beaumont, TX 77706
Roy Guess Elementary (Hallway near Gymnasium)	8055 Voth Rd.	Beaumont, TX 77708
Hebert Library (Community Room)	2025 Merriman St	Port Neches, TX 77651
Jefferson County WCID 10 Fire Station (Front Lobby)	2024 Spurlock Rd.	Nederland, TX 77627
Groves Public Library (Front Meeting Room)	5600 West Washington	Groves, TX 77619
Nederland City Hall	207 N. 12 <sup>th</sup> Street	Nederland, TX 77627
Jerry Ware Airport Terminal (Conference Room off Main Lobby)	5000 Jerry Ware Dr	Beaumont, TX 77705
Ray Chesson Office Building (Courtroom)	19217 FM 365	Beaumont, TX 77705
Jefferson County ESD #4 (Main Meeting Room)	12880 FM 365	Beaumont, TX 77705
Marion & Ed Hughes Public Library (Meeting Room)	2712 Nederland Ave	Nederland, TX 77627
Port Neches City Hall (Council Chambers – Room 104)	1005 Merriman	Port Neches, TX 77651
Groves Activity Building (Lounge)	6150 39 <sup>th</sup> Street	Groves, TX 77619
DeQueen Elementary (Fifth Grade Hall)	740 DeQueen Blvd	Port Arthur, TX 77640
Zion Hill Baptist Church (Education Building)	5848 Roosevelt Ave	Port Arthur, TX 77640
Jefferson County Sub-Courthouse (Foyer)	525 Lakeshore Dr	Port Arthur, TX 77640
Former Dowling Elementary (Library)	6301 Pat Ave	Port Arthur, TX 77640
O.W. Collins Retirement Center (Social Service Room)	4440 Gulfway Dr	Port Arthur, TX 77642
Port Arthur Library (Lucy Stiefel Gallery)	4615 9 <sup>th</sup> Avenue	Port Arthur, TX 77642
Queen of Vietnam Catholic Church (St. Joseph Hall)	801 9 <sup>th</sup> Avenue	Port Arthur, TX 77642
R.L. Gabby Eldridge Center	5262 S. Gulfway Dr	Sabine Pass, TX 77655
Travis Elementary (Library)	1115 Lakeview Ave	Port Arthur, TX 77642
Willie Ryman Community Center	3248 39 <sup>th</sup> Street	Port Arthur, TX 77642
Alice Keith Park Recreation Center	4075 Highland Ave	Beaumont, TX 77705
Charlton-Pollard Elementary (Gymnasium)	825 Jackson St	Beaumont, TX 77701
Lamar University Montagne Center (Cardinal Club Room)	4401 S. MLK Pkwy	Beaumont, TX 77705
Hamshire VFD and Community Center	12318 2 <sup>nd</sup> St	Hamshire, TX 77622
Jefferson County Courthouse (Lobby)Main Polling location	1085 Pearl St	Beaumont, TX 77701
MLK Middle School (Gymnasium)	1400 Avenue A	Beaumont, TX 77701
John Paul Davis Community Center	3580 E. Lucas Dr	Beaumont, TX 77703
Precinct 4 Service Center (Conference Room)	7780 Boyt Rd	Beaumont, TX 77713
Sterling Pruitt Center (Multi-purpose Room)	2930 Gulf St	Beaumont, TX 77703
Theodore Johns Library (Meeting Room)	4255 Fannett Rd	Beaumont, TX 77705

## CONTRACT COSTS

Voting Equipment	
Judge's Booth Controller	\$330.00
eSlate	\$330.00
Disable Access Unit (DAU)	\$396.00
Privacy Booth	\$20.00
Ballot Box	\$5.00
Communication Devices	
EA Tablet + WIFI	\$125.00
Cell Phone	\$35.00
Mandatory Signs	
Large A-Frame (ID Required )	\$15.00
Large A-Frame (Notices )	\$15.00
PROGRAMMING	COUNTY COST
1 - 5 RACES	\$1,125.00
6 - 10 RACES	\$1,898.00
11-20 RACES	\$2,475.00
21-40 RACES	\$3,135.00
41-75 RACES	\$3,960.00
76-100 RACES	\$4,704.00
BALLOT PRINTING	COUNTY COST
8.5 X 11	\$0.25
8.5 X 14	\$0.27
8.5 X 17	\$0.30
Sample Ballots	\$0.06
SUPPLIES	
ELECTION KITS / w Seals EV & ED	\$45.00
Mail Ballots (Per Set)	\$2.30
Supply Bag Consumables (per location)	\$25.00



JOINT ELECTION AGREEMENT AND  
ELECTION SERVICES CONTRACT  
BETWEEN JEFFERSON COUNTY  
AND **City of Groves**

This agreement made and entered into, by and between Jefferson County, hereinafter referred to as “County”, acting herein by and through its County Judge and Commissioner’s Court, joined herein by the **County Election Officer, Laurie Leister, County Clerk**, and **City of Groves** hereinafter referred to as “Political Subdivision”, acting herein by and through its Executive Board.

**WHEREAS**, Political Subdivision is required to conduct an election on **November 8, 2022**;

**THIS JOINT ELECTION AGREEMENT AND ELECTION SERVICES CONTRACT** is made this 18<sup>th</sup> day of July, 2022, by and between the Political Subdivision of **City of Groves**, hereinafter called “Political Subdivision” and Jefferson County, Texas, by its County Judge and joined herein by its County Elections Officer, **Laurie Leister**, hereinafter called “Contracting Officer,” pursuant to Texas Election Code Section 31.092. The parties agree to enter into a Joint Election Agreement and an election services contract with each other in accordance with Chapter 271 of the Texas Election Code and this Agreement. This Agreement is entered into in consideration of the mutual covenants and promises hereinafter set out:

1. **RECITALS.** Contracting Officer is the County Clerk of Jefferson County, Texas, and is the County Officer in charge of election duties. Political Subdivision is a political entity situated wholly or partially within Jefferson County, Texas. Political Subdivision and Contracting Officer have determined that it is in the public interest of Jefferson County voters that the following contract be made and entered into for the purpose of having Contracting Officer furnish to Political Subdivision certain election services and equipment needed by Political Subdivision in connection with the holding of its **November 8, 2022**, Election. Jefferson County’s voting equipment is to be used in this Political Subdivision Election.
2. **DUTIES AND SERVICES OF CONTRACTING OFFICER.** Contracting Officer shall be responsible for performing the following duties and shall furnish the following services and equipment:

(a) Notify and coordinate presiding election judges, alternate judges, and all other election officials appointed by Commissioner’s Court to conduct county elections required to administer this Election. Jefferson County will make emergency appointments of election officials if necessary. Compensate all election workers for time worked at the approved hourly rate by Commissioners’ Court.



- (b) Arrange for poll worker training through a third party or conduct necessary training. Notify all early voting and Election Day officials of the date, time and place thereof.
- (c) Arrange for the use of early voting locations and Election Day polling locations. If emergency replacement polling locations are needed, Contracting Officer shall make necessary alternate arrangements to locate another public place (or if unavailable, a private building), and shall notify Political Subdivision as soon as possible.
- (d) Procure election kits and supplies and distribute to the precinct judges and early voting deputies. Obtain from the Tax -Assessor /Voter Registrar lists of registered voters to be used in conducting the election in conformity with the boundaries of Political Subdivision and the election precincts established for the election. The Election Day list of registered voters shall be arranged in alphabetical order.
- (e) Prepare and test all electronic voting equipment, format ballot styles, secure audio, oversee all equipment and voter registration database programming, assure compliance with equipment security requirements. Arrange for transport of equipment to and from polling locations.
- (f) Serve as Early Voting Clerk for this Joint Election and process, print, mail, and tabulate ballots for any eligible voter, who applies for a ballot by mail including all eligible FPCA applicants. Supervise the conduct of early voting in person and appoint sufficient personnel to serve as deputy early voting clerks. Provide lists of early voters as provided by law if requested by Political Subdivision.
- (g) Publish legal notice of the date, time and place of the public logic and accuracy test. Prepare test materials and conduct internal election testing, public logic and accuracy test, and tests of tabulation equipment.
- (h) Arrange for the early ballot board, signature verification committee, tabulation personnel, and all equipment and supplies needed at central counting station. Tabulate early voting, election night, paper mail ballots and provisional ballots. Tabulate unofficial returns and assist in preparing the tabulation for the official canvass. Provide Political Subdivision its voter history report following the election if requested.
- (i) Serve as Custodian of Records for election records in Contracting Officer's custody and provide for the retention of said election records as provided by law.
- (j) Provide information services for voters and election officers.
- (k) Maintain accurate records of all expenses incurred in connection with the responsibilities under this Agreement and provide Political Subdivision a final invoice after the conduct of the election. Provide any detailed backup to such invoice, if requested, reflecting the charges or components of the costs set forth on the invoice submitted to Political Subdivision.
- (l) The Contracting Office is responsible for collecting the compensations sheets for the election



judges, clerks, and early voting ballot board. The Contracting Officer will also pay the aforementioned for their services and time in accordance with their rate of pay policy.

(m) Contracting Officer shall conduct a manual count as prescribed by Section 127.201 of the Texas Election Code, unless waived by the Secretary of State. A written report shall be submitted to the Secretary of State as required by Section 127.201(E) of the aforementioned Election Code. If requested, Contracting Officer shall provide a written report to Political Subdivision in a timely manner.

(n) The Contracting Officer shall place the funds paid by Political Subdivision hereunder in a "contract fund" as prescribed by Section 31.100 of the Texas Election Code.

**3. DUTIES AND SERVICES OF POLITICAL SUBDIVISION.** Political Subdivision shall be responsible for performing the following duties:

(a) Prepare all election orders, resolutions, notices, and other pertinent documents for adoption and execution by the appropriate Political Subdivision officer or body. Take all actions necessary for calling the Political Subdivision Election which are required by the Texas Election Code and/or the Political Subdivision's governing body, charter, ordinances, or other applicable laws. Execute an Election Services Contract Agreement with Jefferson County Clerk for the purpose of election administration. Serve as Custodian of Records for all election records in its possession as provided by law.

(b) Political Subdivision shall be responsible for the legal sufficiency of any order calling their election. Political Subdivision shall be responsible for all substantive and procedural legal issues governing the conduct of their election. Political Subdivision understands and agrees that Contracting Officer provides no legal advice to Political Subdivision.

(c) Adopt the county voting precincts for this election. Political Subdivision shall adopt the early voting locations used by the county located in the Political Subdivision's jurisdictional boundaries with the stipulation to add additional locations and adopt all early voting dates, and hours recommended by the Contracting Officer in accordance with the Texas Election Code. Political Subdivision shall adopt the Election Day Vote Center polling locations for each county voting precinct that is within its jurisdictional boundaries. Political Subdivision shall confirm the accuracy of its jurisdictional boundaries and precincts.

(d) Prepare, post and publish all required election notices for Political Subdivision except for the Public Test Notice that Contracting Officer shall publish. In addition, if this election's polling locations are different than Political Subdivision's previous election, Political Subdivision shall post notice at the entrance to any previous polling places in its jurisdiction stating that the location has changed and provide the polling location and address for those voters for this election, pursuant to Texas Election Code Section 43.062, unless County has posted the notice of the change for their election. Educate the voters in Political Subdivision on early voting times and places and Election Day polling locations.

(e) Political Subdivision shall confirm with Tax-Assessor/Voter Registrar its boundaries, county

voting precincts and street details within those boundaries. Political Subdivision will validate all boundaries are defined properly within Jefferson County voter registration database, maps and street lists with block ranges and odd/even/both indicators before the coding and programming of the ballot begins. If changes are necessary after programming has begun, the Political Subdivision responsible will incur the cost of re-programming for all entities involved. Political Subdivision must proof and approve all programming work done for the jurisdiction according to the Election Day Calendar published by the Secretary of State of Texas for the November 8, 2022 General Election, known as the SOS Election Day Calendar for November 8, 2022.

(f) Deliver to Contracting Officer, according to the above mentioned Election Day Calendar, ballot language with Spanish translations, candidate names or measures, the order in which they are to be printed on the ballot with the exact form and spelling. Provide pronunciation for difficult names or words to use on the audio recording. Timely review and sign off on ballot proofs.

(g) Any requests for early voting ballots to be voted by mail received by Political Subdivision must be hand delivered or faxed to Contracting Officer on the day of receipt. If the application is faxed, the original application must be mailed to Contracting Officer. Contracting Officer will process applications, mail appropriate ballots, and tabulate.

(h) If requested, assist Contracting Officer in recruiting bilingual poll workers. Provide documentation on Political Subdivision's efforts to recruit bilingual poll workers if requested by the U. S. Department of Justice.

(i) Pay prorated additional costs incurred by Contracting Officer if a recount for said election is required, the election is contested in any manner, or a runoff is required.

(j) Canvass the returns and declare the election results for Political Subdivision. Political Subdivision is responsible for filing any precinct reports required by the Secretary of State.

(k) The deposit will be waived for this Election Agreement for all Political Subdivisions. All costs will be assessed and a detailed billed will be rendered within a reasonable time after the canvassing of the election or the receipt of all invoices needed to validate the billing. Any discrepancies in billing should be addressed immediately.

(l) Political Subdivision agrees to enter into a Joint Election Agreement with any other political subdivision in Jefferson County which enters into an Election Services Contract with Contracting Officer and which holds an election on **November 8, 2022.**

4. **COST OF SERVICES.** Political Subdivision shall share some expenses for the above services, supplies and equipment. Additional elections may lower costs for each entity, and election cancellations may raise costs for each entity. It is understood that other political entities may wish to participate in the use of the County's electronic voting equipment and polling locations, and it is agreed that Contracting Officer may enter into other contracts with entities for those purposes on terms and conditions generally similar to those set forth in this Agreement. Only the actual expenses directly attributable to this

Agreement and any prorated shared expenses may be charged to Political Subdivision, plus a 10% administrative fee.

(a.) Costs for early voting, election day, equipment delivery, supplies, mail ballots, payroll, equipment leasing, programming, and other costs will be shared proportionally between all political subdivisions which enter into a joint election agreement with County.

**(b.) GENERAL CONDITIONS.**

(a) The parties agree that the timing is critical on all duties in this Agreement. Lack of adherence to any deadline in the Election Day Calendar without prior agreement of Contracting Officer may result in cancellation of Contracting Officer's duties and obligations to conduct Political Subdivision's election under this Agreement or, at the discretion of Contracting Officer, a late penalty surcharge in an amount not to exceed 10% of the final election cost. Adherence to the Secretary of State of Texas' Election Day Calendar is critical because of Jefferson County's obligation to complete all programming and testing and to process, print and mail military and overseas ballots by state/federal deadlines and our duty to conduct federal, state, county elections and/or other contracted elections.

(b) In accordance with Section 31.098 of the Texas Election Code, Contracting Officer is authorized to contract with third persons for election services and supplies and is authorized to hire necessary temporary personnel to perform contracted duties. Part-time personnel will be compensated at the hourly rate set by Jefferson County.

(c) Political Subdivision acknowledges that electronic voting equipment is highly technical and it is conceivable that, despite the best effort of the parties and technical assistance, it might fail during the election. Contracting Officer will do whatever is possible to remedy the situation, but Political Subdivision agrees that should such equipment fail, it will not make any claim for damages of any kind.

(d) Any qualified voter in the Joint Election may vote early by personal appearance at any of the joint early voting locations or at any Vote Center/Polling Location on Election Day.

(e) Jefferson County Elections Department may contract with numerous political entities for the Joint Election, and the parties agree that all ballot styles will be programmed into one voting system. Each voter will receive one ballot which contains all races and issues in the Joint Election for which the voter is eligible at the address and in the precinct in which the voter is currently registered. One joint voter sign in process consisting of a common list of registered voters and common signature rosters shall be used in precincts in which the county polling locations are used.

(f) The Contracting Officer shall file copies of this Agreement with the Auditor and Treasurer of Jefferson County not later than the 10<sup>th</sup> day from receipt of the fully executed contract by Contracting Officer.

(g) Jefferson County is self-insured for personal liability issues. Should Political Subdivision desire insurance for injuries during this election or other liabilities, entity shall make such

arrangements separate from this Agreement.

(h) In the event that the performance by Contracting Officer of any of its obligations hereunder shall be interrupted or delayed by any occurrence not occasioned by its own conduct, whether such occurrence be an act of God or the result of war, riot, civil commotion, sovereign conduct, or the act or condition of any persons not a party thereof, then it shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof.

(i) The parties to this Agreement agree that Political Subdivision may cancel this Agreement in the event that it has no need to conduct an election by 60<sup>th</sup> day before Election Day. If Political Subdivision's election is cancelled after deadline, a \$200 contract preparation and processing fee will be due in addition to any costs incurred by Contracting Officer on behalf of Political Subdivision prior to said cancellation.

(j) The Political Subdivision has the option of extending the terms of this Agreement through its runoff election, if applicable. Political Subdivision may reduce the number of the adopted early voting locations and/or Election Day voting locations in which precincts are not involved in a runoff election. In the event of a runoff which Political Subdivision wants Contracting Officer to conduct, Political Subdivision agrees to attempt to coordinate the date with other entities participating in this Joint Election. If Political Subdivision elects to have Contracting Officer conduct a runoff election, the cost will be determined by the number of entities participating and the actual costs plus administrative fees. Political Subdivision will be responsible for all orders, notices, and publications required for their runoff except the publication of the public logic and accuracy test which Contracting Officer will publish.

**(C.) DISPUTE RESOLUTION PROCEDURE**

The parties agree to use dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve all disputes arising under this Agreement. Either party must give written notice to the other party of a claim for breach of this Agreement not later than the 180<sup>th</sup> day after the date of the event, giving rise to the claim. By their execution of their Agreement, the parties acknowledge and knowingly and voluntarily agree that neither the execution of this Agreement; nor the conduct, act or inaction by any person in the execution, administration, or performance of this Agreement constitutes or is intended to constitute a waiver of the party's immunity from suit with respect to claims of third parties.

**(D.) ENTIRE AGREEMENT/AMENDMENT**

This Agreement constitutes the entire agreement between **City of Groves** and Contracting Officer. This Agreement may be amended only in writing and signed by the parties.

**(E.) NOTICES**

Except as otherwise provided in this section, all notices, consents, approvals, demands, request, or other communications provided for or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have duly given or served when delivered by hand delivery or when deposited in the U.S. mail by registered or certified mail,

return receipt requested, postage prepaid, and addressed as set forth below or to such other person or address as may be given in writing by either party to the other in accordance with this section:

**CITY OF GROVES:** D. E. Sosa, City Manager  
City of Groves  
3947 Lincoln Avenue  
Groves, Texas 77619

**JEFFERSON COUNTY:** Laurie Leister, County Clerk  
P. O. Box 1151  
Beaumont, TX 77704

**IN WITNESS WHEREOF**, each of the parties agrees to the terms of this Agreement and has caused this Agreement to be executed on the 18<sup>th</sup> day of July, 2022.

**City of Groves**

By: [Signature]  
Name:

Attest: [Signature]

**IN WITNESS WHEREOF**, each of the parties agrees to the terms of this Agreement and has caused this Agreement to be executed on the 2nd day of August, 2022.

**Jefferson County, Texas**  
By: [Signature]  
Name: Jeff Branick  
Title: County Judge



By: [Signature]  
Name: Laurie Leister  
Title: County Clerk

Attest: [Signature]  
8-2-22

**EARLY VOTING**  
**October 24, 2022 – November 4, 2022**

**November General Election – Countywide Polling – All precincts may vote at any Vote Center.**

*(Elecciones generales de noviembre – Lugares de votacion en todo el condado – Todos los precinctos pueden votar en cualquier centro de votacion.)*

<b>Election Day Polling Places</b>	<b>Address</b>	<b>City, State, Zip Code</b>
<i>Localizaciones</i>	<i>Direccion</i>	<i>Cuidad, Estado,Codigo postal</i>
Precinct 1 Service Center (Front Conference Room)	20205 W. Hwy 90	China, TX 77613
Rogers Park Community Center	6540 Gladys Ave	Beaumont, TX 77706
Hebert Library (Community Room)	2025 Merriman St	Port Neches, TX 77651
Ray Chesson Office Building (Courtroom)	19217 FM 365	Beaumont, TX 77705
Marion & Ed Hughes Public Library (Meeting Room)	2712 Nederland Ave	Nederland, TX 77627
Groves Activity Building (Lounge)	6150 39 <sup>th</sup> Street	Groves, TX 77619
Jefferson County Sub-Courthouse (Foyer)	525 Lakeshore Dr	Port Arthur, TX 77640
Port Arthur Library (Lucy Stiefel Gallery)	4615 9 <sup>th</sup> Avenue	Port Arthur, TX 77642
Jefferson County Courthouse (Lobby)	1085 Pearl St	Beaumont, TX 77701
John Paul Davis Community Center	3580 E. Lucas Dr	Beaumont, TX 77703
Theodore Johns Library (Meeting Room)	4255 Fannett Rd	Beaumont, TX 77705

**DATES AND HOURS FOR ALL ABOVE LOCATIONS:**

(Fechas y Horas para todas las localizaciones anteriores):

October 24 – 28, 2022 (Octubre 24 – 28, 2022)	Monday - Friday (Lunes -Viernes)	8:00 a.m. - 5:00 p.m.
October 29, 2022 (Octubre 29, 2022)	Saturday (Sábado)	7:00 a.m. - 7:00 p.m.
October 30, 2022 (Octubre 30, 2022)	Sunday (Domingo)	12:00 p.m. - 6:00 p.m.
October 31 – November 4, 2022 (Octubre 31 – Noviembre 4, 2022)	Monday – Friday (Lunes – Viernes)	7:00 a.m. – 7:00 p.m.

## ELECTION DAY November 8, 2022

### **November General Election – Countywide Polling – All precincts may vote at any Vote Center.**

*(Elecciones generales de noviembre – Lugares de votacion en todo el condado – Todos los precinctos pueden votar en cualquier centro de votacion.)*

<b>Election Day Polling Places</b>	<b>Address</b>	<b>City, State, Zip Code</b>
<i>Localizaciones</i>	<i>Direccion</i>	<i>Cuidad, Estado,Codigo postal</i>
Amelia Elementary School (Gymnasium)	565 S. Major Dr	Beaumont, TX 77707
West Brook High School (Mary Nixon Room – Library)	8750 Phelan Blvd	Beaumont, TX 77706
Bevil Oaks City Hall	13560 River Oaks Blvd	Bevil Oaks, TX 77713
BISD Adminisration Building (Boardroom)	3395 Harrison Ave	Beaumont, TX 77706
Dishman Elementary (Gymnasium)	3475 Champions Dr	Beaumont, TX 77707
O.C. Mike Taylor Career Center (First Floor Old Library)	2330 North St.	Beaumont, TX 77702
Precinct 1 Service Center (Front Conference Room)	20205 W. Hwy 90	China, TX 77613
Rogers Park Community Center	6540 Gladys Ave	Beaumont, TX 77706
Roy Guess Elementary (Hallway near Gymnasium)	8055 Voth Rd.	Beaumont, TX 77708
Hebert Library (Community Room)	2025 Merriman St	Port Neches, TX 77651
Jefferson County WCID 10 Fire Station (Front Lobby)	2024 Spurlock Rd.	Nederland, TX 77627
Groves Public Library (Front Meeting Room)	5600 West Washington	Groves, TX 77619
Nederland City Hall	207 N. 12 <sup>th</sup> Street	Nederland, TX 77627
Jerry Ware Airport Terminal (Conference Room off Main Lobby)	5000 Jerry Ware Dr	Beaumont, TX 77705
Ray Chesson Office Building (Courtroom)	19217 FM 365	Beaumont, TX 77705
Jefferson County ESD #4 (Main Meeting Room)	12880 FM 365	Beaumont, TX 77705
Marion & Ed Hughes Public Library (Meeting Room)	2712 Nederland Ave	Nederland, TX 77627
Port Neches City Hall (Council Chambers – Room 104)	1005 Merriman	Port Neches, TX 77651
Groves Activity Building (Lounge)	6150 39 <sup>th</sup> Street	Groves, TX 77619
DeQueen Elementary (Fifth Grade Hall)	740 DeQueen Blvd	Port Arthur, TX 77640
Zion Hill Baptist Church (Education Building)	5848 Roosevelt Ave	Port Arthur, TX 77640
Jefferson County Sub-Courthouse (Foyer)	525 Lakeshore Dr	Port Arthur, TX 77640
Former Dowling Elementary (Library)	6301 Pat Ave	Port Arthur, TX 77640
O.W. Collins Retirement Center (Social Service Room)	4440 Gulfway Dr	Port Arthur, TX 77642
Port Arthur Library (Lucy Stiefel Gallery)	4615 9 <sup>th</sup> Avenue	Port Arthur, TX 77642
Queen of Vietnam Catholic Church (St. Joseph Hall)	801 9 <sup>th</sup> Avenue	Port Arthur, TX 77642
R.L. Gabby Eldridge Center	5262 S. Gulfway Dr	Sabine Pass, TX 77655
Travis Elementary (Library)	1115 Lakeview Ave	Port Arthur, TX 77642
Willie Ryman Community Center	3248 39 <sup>th</sup> Street	Port Arthur, TX 77642
Alice Keith Park Recreation Center	4075 Highland Ave	Beaumont, TX 77705
Charlton-Pollard Elementary (Gymnasium)	825 Jackson St	Beaumont, TX 77701
Lamar University Montagne Center (Cardinal Club Room)	4401 S. MLK Pkwy	Beaumont, TX 77705
Hamshire VFD and Community Center	12318 2 <sup>nd</sup> St	Hamshire, TX 77622
Jefferson County Courthouse (Lobby)Main Polling location	1085 Pearl St	Beaumont, TX 77701
MLK Middle School (Gymnasium)	1400 Avenue A	Beaumont, TX 77701
John Paul Davis Community Center	3580 E. Lucas Dr	Beaumont, TX 77703
Precinct 4 Service Center (Conference Room)	7780 Boyt Rd	Beaumont, TX 77713
Sterling Pruitt Center (Multi-purpose Room)	2930 Gulf St	Beaumont, TX 77703
Theodore Johns Library (Meeting Room)	4255 Fannett Rd	Beaumont, TX 77705

## CONTRACT COSTS

Voting Equipment	
Judge's Booth Controller	\$330.00
eSlate	\$330.00
Disable Access Unit (DAU)	\$396.00
Privacy Booth	\$20.00
Ballot Box	\$5.00
Communication Devices	
EA Tablet + WIFI	\$125.00
Cell Phone	\$35.00
Mandatory Signs	
Large A-Frame (ID Required )	\$15.00
Large A-Frame (Notices )	\$15.00
PROGRAMMING	COUNTY COST
1 - 5 RACES	\$1,125.00
6 - 10 RACES	\$1,898.00
11-20 RACES	\$2,475.00
21-40 RACES	\$3,135.00
41-75 RACES	\$3,960.00
76-100 RACES	\$4,704.00
BALLOT PRINTING	COUNTY COST
8.5 X 11	\$0.25
8.5 X 14	\$0.27
8.5 X 17	\$0.30
Sample Ballots	\$0.06
SUPPLIES	
ELECTION KITS / w Seals EV & ED	\$45.00
Mail Ballots (Per Set)	\$2.30
Supply Bag Consumables (per location)	\$25.00





JOINT ELECTION AGREEMENT AND  
ELECTION SERVICES CONTRACT  
BETWEEN JEFFERSON COUNTY  
AND **Hamshire-Fannette ISD**

This agreement made and entered into, by and between Jefferson County, hereinafter referred to as “County”, acting herein by and through its County Judge and Commissioner’s Court, joined herein by the **County Election Officer, Laurie Leister, County Clerk**, and **Hamshire-Fannett ISD** hereinafter referred to as “Political Subdivision”, acting herein by and through its Executive Board.

**WHEREAS**, Political Subdivision is required to conduct an election on **November 8, 2022**;

**THIS JOINT ELECTION AGREEMENT AND ELECTION SERVICES CONTRACT** is made this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between the Political Subdivision of **City of Groves**, hereinafter called “Political Subdivision” and Jefferson County, Texas, by its County Judge and joined herein by its County Elections Officer, **Laurie Leister**, hereinafter called “Contracting Officer,” pursuant to Texas Election Code Section 31.092. The parties agree to enter into a Joint Election Agreement and an election services contract with each other in accordance with Chapter 271 of the Texas Election Code and this Agreement. This Agreement is entered into in consideration of the mutual covenants and promises hereinafter set out:

1. **RECITALS.** Contracting Officer is the County Clerk of Jefferson County, Texas, and is the County Officer in charge of election duties. Political Subdivision is a political entity situated wholly or partially within Jefferson County, Texas. Political Subdivision and Contracting Officer have determined that it is in the public interest of Jefferson County voters that the following contract be made and entered into for the purpose of having Contracting Officer furnish to Political Subdivision certain election services and equipment needed by Political Subdivision in connection with the holding of its **November 8, 2022**, Election. Jefferson County’s voting equipment is to be used in this Political Subdivision Election.
2. **DUTIES AND SERVICES OF CONTRACTING OFFICER.** Contracting Officer shall be responsible for performing the following duties and shall furnish the following services and equipment:

(a) Notify and coordinate presiding election judges, alternate judges, and all other election officials appointed by Commissioner’s Court to conduct county elections required to administer this Election. Jefferson County will make emergency appointments of election officials if necessary. Compensate all election workers for time worked at the approved hourly rate by Commissioners’

Court.

(b) Arrange for poll worker training through a third party or conduct necessary training. Notify all early voting and Election Day officials of the date, time and place thereof.

(c) Arrange for the use of early voting locations and Election Day polling locations. If emergency replacement polling locations are needed, Contracting Officer shall make necessary alternate arrangements to locate another public place (or if unavailable, a private building), and shall notify Political Subdivision as soon as possible.

(d) Procure election kits and supplies and distribute to the precinct judges and early voting deputies. Obtain from the Tax -Assessor /Voter Registrar lists of registered voters to be used in conducting the election in conformity with the boundaries of Political Subdivision and the election precincts established for the election. The Election Day list of registered voters shall be arranged in alphabetical order.

(e) Prepare and test all electronic voting equipment, format ballot styles, secure audio, oversee all equipment and voter registration database programming, assure compliance with equipment security requirements. Arrange for transport of equipment to and from polling locations.

(f) Serve as Early Voting Clerk for this Joint Election and process, print, mail, and tabulate ballots for any eligible voter, who applies for a ballot by mail including all eligible FPCA applicants. Supervise the conduct of early voting in person and appoint sufficient personnel to serve as deputy early voting clerks. Provide lists of early voters as provided by law if requested by Political Subdivision.

(g) Publish legal notice of the date, time and place of the public logic and accuracy test. Prepare test materials and conduct internal election testing, public logic and accuracy test, and tests of tabulation equipment.

(h) Arrange for the early ballot board, signature verification committee, tabulation personnel, and all equipment and supplies needed at central counting station. Tabulate early voting, election night, paper mail ballots and provisional ballots. Tabulate unofficial returns and assist in preparing the tabulation for the official canvass. Provide Political Subdivision its voter history report following the election if requested.

(i) Serve as Custodian of Records for election records in Contracting Officer's custody and provide for the retention of said election records as provided by law.

(j) Provide information services for voters and election officers.

(k) Maintain accurate records of all expenses incurred in connection with the responsibilities under this Agreement and provide Political Subdivision a final invoice after the conduct of the election. Provide any detailed backup to such invoice, if requested, reflecting the charges or components of the costs set forth on the invoice submitted to Political Subdivision.

(l) The Contracting Office is responsible for collecting the compensations sheets for the election judges, clerks, and early voting ballot board. The Contracting Officer will also pay the aforementioned for their services and time in accordance with their rate of pay policy.

(m) Contracting Officer shall conduct a manual count as prescribed by Section 127.201 of the Texas Election Code, unless waived by the Secretary of State. A written report shall be submitted to the Secretary of State as required by Section 127.201(E) of the aforementioned Election Code. If requested, Contracting Officer shall provide a written report to Political Subdivision in a timely manner.

(n) The Contracting Officer shall place the funds paid by Political Subdivision hereunder in a "contract fund" as prescribed by Section 31.100 of the Texas Election Code.

**3. DUTIES AND SERVICES OF POLITICAL SUBDIVISION.** Political Subdivision shall be responsible for performing the following duties:

(a) Prepare all election orders, resolutions, notices, and other pertinent documents for adoption and execution by the appropriate Political Subdivision officer or body. Take all actions necessary for calling the Political Subdivision Election which are required by the Texas Election Code and/or the Political Subdivision's governing body, charter, ordinances, or other applicable laws. Execute an Election Services Contract Agreement with Jefferson County Clerk for the purpose of election administration. Serve as Custodian of Records for all election records in its possession as provided by law.

(b) Political Subdivision shall be responsible for the legal sufficiency of any order calling their election. Political Subdivision shall be responsible for all substantive and procedural legal issues governing the conduct of their election. Political Subdivision understands and agrees that Contracting Officer provides no legal advice to Political Subdivision.

(c) Adopt the county voting precincts for this election. Political Subdivision shall adopt the early voting locations used by the county located in the Political Subdivision's jurisdictional boundaries with the stipulation to add additional locations and adopt all early voting dates, and hours recommended by the Contracting Officer in accordance with the Texas Election Code. Political Subdivision shall adopt the Election Day Vote Center polling locations for each county voting precinct that is within its jurisdictional boundaries. Political Subdivision shall confirm the accuracy of its jurisdictional boundaries and precincts.

(d) Prepare, post and publish all required election notices for Political Subdivision except for the Public Test Notice that Contracting Officer shall publish. In addition, if this election's polling locations are different than Political Subdivision's previous election, Political Subdivision shall post notice at the entrance to any previous polling places in its jurisdiction stating that the location has changed and provide the polling location and address for those voters for this election, pursuant to Texas Election Code Section 43.062, unless County has posted the notice of the change for their election. Educate the voters in Political Subdivision on early voting times and places and Election Day polling locations.

(e) Political Subdivision shall confirm with Tax-Assessor/Voter Registrar its boundaries, county voting precincts and street details within those boundaries. Political Subdivision will validate all boundaries are defined properly within Jefferson County voter registration database, maps and street lists with block ranges and odd/even/both indicators before the coding and programming of the ballot begins. If changes are necessary after programming has begun, the Political Subdivision responsible will incur the cost of re-programming for all entities involved. Political Subdivision must proof and approve all programming work done for the jurisdiction according to the Election Day Calendar published by the Secretary of State of Texas for the **November 8, 2022 General Election**, known as the SOS Election Day Calendar for **November 8, 2022**.

(f) Deliver to Contracting Officer, according to the above mentioned Election Day Calendar, ballot language with Spanish translations, candidate names or measures, the order in which they are to be printed on the ballot with the exact form and spelling. Provide pronunciation for difficult names or words to use on the audio recording. Timely review and sign off on ballot proofs.

(g) Any requests for early voting ballots to be voted by mail received by Political Subdivision must be hand delivered or faxed to Contracting Officer on the day of receipt. If the application is faxed, the original application must be mailed to Contracting Officer. Contracting Officer will process applications, mail appropriate ballots, and tabulate.

(h) If requested, assist Contracting Officer in recruiting bilingual poll workers. Provide documentation on Political Subdivision's efforts to recruit bilingual poll workers if requested by the U. S. Department of Justice.

(i) Pay prorated additional costs incurred by Contracting Officer if a recount for said election is required, the election is contested in any manner, or a runoff is required.

(j) Canvass the returns and declare the election results for Political Subdivision. Political Subdivision is responsible for filing any precinct reports required by the Secretary of State.

(k) The deposit will be waived for this Election Agreement for all Political Subdivisions. All costs will be assessed and a detailed billed will be rendered within a reasonable time after the canvassing of the election or the receipt of all invoices needed to validate the billing. Any discrepancies in billing should be addressed immediately.

(l) Political Subdivision agrees to enter into a Joint Election Agreement with any other political subdivision in Jefferson County which enters into an Election Services Contract with Contracting Officer and which holds an election on **November 8, 2022**.

4. **COST OF SERVICES.** Political Subdivision shall share some expenses for the above services, supplies and equipment. Additional elections may lower costs for each entity, and election cancellations may raise costs for each entity. It is understood that other political entities may wish to participate in the use of the County's electronic voting equipment and polling locations, and it is agreed that Contracting Officer may enter into other contracts with entities for those purposes on terms and conditions generally similar

to those set forth in this Agreement. Only the actual expenses directly attributable to this Agreement and any prorated shared expenses may be charged to Political Subdivision, plus a 10% administrative fee.

(a.) Costs for early voting, election day, equipment delivery, supplies, mail ballots, payroll, equipment leasing, programming, and other costs will be shared proportionally between all political subdivisions which enter into a joint election agreement with County.

**(b.) GENERAL CONDITIONS.**

(a) The parties agree that the timing is critical on all duties in this Agreement. Lack of adherence to any deadline in the Election Day Calendar without prior agreement of Contracting Officer may result in cancellation of Contracting Officer's duties and obligations to conduct Political Subdivision's election under this Agreement or, at the discretion of Contracting Officer, a late penalty surcharge in an amount not to exceed 10% of the final election cost. Adherence to the Secretary of State of Texas' Election Day Calendar is critical because of Jefferson County's obligation to complete all programming and testing and to process, print and mail military and overseas ballots by state/federal deadlines and our duty to conduct federal, state, county elections and/or other contracted elections.

(b) In accordance with Section 31.098 of the Texas Election Code, Contracting Officer is authorized to contract with third persons for election services and supplies and is authorized to hire necessary temporary personnel to perform contracted duties. Part-time personnel will be compensated at the hourly rate set by Jefferson County.

(c) Political Subdivision acknowledges that electronic voting equipment is highly technical and it is conceivable that, despite the best effort of the parties and technical assistance, it might fail during the election. Contracting Officer will do whatever is possible to remedy the situation, but Political Subdivision agrees that should such equipment fail, it will not make any claim for damages of any kind.

(d) Any qualified voter in the Joint Election may vote early by personal appearance at any of the joint early voting locations or at any Vote Center/Polling Location on Election Day.

(e) Jefferson County Elections Department may contract with numerous political entities for the Joint Election, and the parties agree that all ballot styles will be programmed into one voting system. Each voter will receive one ballot which contains all races and issues in the Joint Election for which the voter is eligible at the address and in the precinct in which the voter is currently registered. One joint voter sign in process consisting of a common list of registered voters and common signature rosters shall be used in precincts in which the county polling locations are used.

(f) The Contracting Officer shall file copies of this Agreement with the Auditor and Treasurer of Jefferson County not later than the 10<sup>th</sup> day from receipt of the fully executed contract by Contracting Officer.

(g) Jefferson County is self-insured for personal liability issues. Should Political Subdivision desire insurance for injuries during this election or other liabilities, entity shall make such arrangements separate from this Agreement.

(h) In the event that the performance by Contracting Officer of any of its obligations hereunder shall be interrupted or delayed by any occurrence not occasioned by its own conduct, whether such occurrence be an act of God or the result of war, riot, civil commotion, sovereign conduct, or the act or condition of any persons not a party thereof, then it shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof.

(i) The parties to this Agreement agree that Political Subdivision may cancel this Agreement in the event that it has no need to conduct an election by 60<sup>th</sup> day before Election Day. If Political Subdivision's election is cancelled after deadline, a \$200 contract preparation and processing fee will be due in addition to any costs incurred by Contracting Officer on behalf of Political Subdivision prior to said cancellation.

(j) The Political Subdivision has the option of extending the terms of this Agreement through its runoff election, if applicable. Political Subdivision may reduce the number of the adopted early voting locations and/or Election Day voting locations in which precincts are not involved in a runoff election. In the event of a runoff which Political Subdivision wants Contracting Officer to conduct, Political Subdivision agrees to attempt to coordinate the date with other entities participating in this Joint Election. If Political Subdivision elects to have Contracting Officer conduct a runoff election, the cost will be determined by the number of entities participating and the actual costs plus administrative fees. Political Subdivision will be responsible for all orders, notices, and publications required for their runoff except the publication of the public logic and accuracy test which Contracting Officer will publish.

#### **(C.) DISPUTE RESOLUTION PROCEDURE**

The parties agree to use dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve all disputes arising under this Agreement. Either party must give written notice to the other party of a claim for breach of this Agreement not later than the 180<sup>th</sup> day after the date of the event, giving rise to the claim. By their execution of their Agreement, the parties acknowledge and knowingly and voluntarily agree that neither the execution of this Agreement; nor the conduct, act or inaction by any person in the execution, administration, or performance of this Agreement constitutes or is intended to constitute a waiver of the party's immunity from suit with respect to claims of third parties.

#### **(D.) ENTIRE AGREEMENT/AMENDMENT**

This Agreement constitutes the entire agreement between **Hamshire-Fannett ISD** and Contracting Officer. This Agreement may be amended only in writing and signed by the parties.

#### **(E.) NOTICES**

Except as otherwise provided in this section, all notices, consents, approvals, demands, request, or other communications provided for or permitted to be given under any of the provisions of

this Agreement shall be in writing and shall be deemed to have duly given or served when delivered by hand delivery or when deposited in the U.S. mail by registered or certified mail, return receipt requested, postage prepaid, and addressed as set forth below or to such other person or address as may be given in writing by either party to the other in accordance with this section:

**HAMSHIRE-FANNETTE:** Dwaine Augustine  
Superintendent  
Hamshire-Fannette ISD  
12702 2<sup>nd</sup> Street  
Hamshire, Texas 77622

**JEFFERSON COUNTY:** Laurie Leister, County Clerk  
P. O. Box 1151  
Beaumont, TX 77704

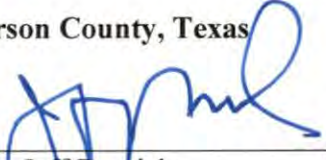
**IN WITNESS WHEREOF**, each of the parties agrees to the terms of this Agreement and has caused this Agreement to be executed on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**Hamshire-Fannette ISD**

By: \_\_\_\_\_ Attest: \_\_\_\_\_  
Name:

**IN WITNESS WHEREOF**, each of the parties agrees to the terms of this Agreement and has caused this Agreement to be executed on the 2nd day of August, 2022.

**Jefferson County, Texas**

By:   
Name: Jeff Branick  
Title: County Judge



Attest:   
County Clerk - 8-2-22

By:   
Name: Laurie Leister  
Title: County Clerk

**EARLY VOTING**  
**October 24, 2022 – November 4, 2022**

**November General Election – Countywide Polling – All precincts may vote at any Vote Center.**

*(Elecciones generales de noviembre – Lugares de votacion en todo el condado – Todos los precinctos pueden votar en cualquier centro de votacion.)*

<b>Election Day Polling Places</b>	<b>Address</b>	<b>City, State, Zip Code</b>
<i>Localizaciones</i>	<i>Direccion</i>	<i>Cuidad, Estado,Codigo postal</i>
Precinct 1 Service Center (Front Conference Room)	20205 W. Hwy 90	China, TX 77613
Rogers Park Community Center	6540 Gladys Ave	Beaumont, TX 77706
Hebert Library (Community Room)	2025 Merriman St	Port Neches, TX 77651
Ray Chesson Office Building (Courtroom)	19217 FM 365	Beaumont, TX 77705
Marion & Ed Hughes Public Library (Meeting Room)	2712 Nederland Ave	Nederland, TX 77627
Groves Activity Building (Lounge)	6150 39 <sup>th</sup> Street	Groves, TX 77619
Jefferson County Sub-Courthouse (Foyer)	525 Lakeshore Dr	Port Arthur, TX 77640
Port Arthur Library (Lucy Stiefel Gallery)	4615 9 <sup>th</sup> Avenue	Port Arthur, TX 77642
Jefferson County Courthouse (Lobby)	1085 Pearl St	Beaumont, TX 77701
John Paul Davis Community Center	3580 E. Lucas Dr	Beaumont, TX 77703
Theodore Johns Library (Meeting Room)	4255 Fannett Rd	Beaumont, TX 77705

**DATES AND HOURS FOR ALL ABOVE LOCATIONS:**

(Fechas y Horas para todas las localizaciones anteriores):

October 24 – 28, 2022 (Octubre 24 – 28, 2022)	Monday - Friday (Lunes -Viernes)	8:00 a.m. - 5:00 p.m.
October 29, 2022 (Octubre 29, 2022)	Saturday (Sábado)	7:00 a.m. - 7:00 p.m.
October 30, 2022 (Octubre 30, 2022)	Sunday (Domingo)	12:00 p.m. - 6:00 p.m.
October 31 – November 4, 2022 (Octubre 31 – Noviembre 4, 2022)	Monday – Friday (Lunes – Viernes)	7:00 a.m. – 7:00 p.m.



## ELECTION DAY November 8, 2022

### **November General Election – Countywide Polling – All precincts may vote at any Vote Center.**

*(Elecciones generales de noviembre – Lugares de votacion en todo el condado – Todos los precinctos pueden votar en cualquier centro de votacion.)*

<b>Election Day Polling Places</b>	<b>Address</b>	<b>City, State, Zip Code</b>
<i>Localizaciones</i>	<i>Direccion</i>	<i>Cuidad, Estado,Codigo postal</i>
Amelia Elementary School (Gymnasium)	565 S. Major Dr	Beaumont, TX 77707
West Brook High School (Mary Nixon Room – Library)	8750 Phelan Blvd	Beaumont, TX 77706
Bevil Oaks City Hall	13560 River Oaks Blvd	Bevil Oaks, TX 77713
BISD Adminisration Building (Boardroom)	3395 Harrison Ave	Beaumont, TX 77706
Dishman Elementary (Gymnasium)	3475 Champions Dr	Beaumont, TX 77707
O.C. Mike Taylor Career Center (First Floor Old Library)	2330 North St.	Beaumont, TX 77702
Precinct 1 Service Center (Front Conference Room)	20205 W. Hwy 90	China, TX 77613
Rogers Park Community Center	6540 Gladys Ave	Beaumont, TX 77706
Roy Guess Elementary (Hallway near Gymnasium)	8055 Voth Rd.	Beaumont, TX 77708
Hebert Library (Community Room)	2025 Merriman St	Port Neches, TX 77651
Jefferson County WCID 10 Fire Station (Front Lobby)	2024 Spurlock Rd.	Nederland, TX 77627
Groves Public Library (Front Meeting Room)	5600 West Washington	Groves, TX 77619
Nederland City Hall	207 N. 12 <sup>th</sup> Street	Nederland, TX 77627
Jerry Ware Airport Terminal (Conference Room off Main Lobby)	5000 Jerry Ware Dr	Beaumont, TX 77705
Ray Chesson Office Building (Courtroom)	19217 FM 365	Beaumont, TX 77705
Jefferson County ESD #4 (Main Meeting Room)	12880 FM 365	Beaumont, TX 77705
Marion & Ed Hughes Public Library (Meeting Room)	2712 Nederland Ave	Nederland, TX 77627
Port Neches City Hall (Council Chambers – Room 104)	1005 Merriman	Port Neches, TX 77651
Groves Activity Building (Lounge)	6150 39 <sup>th</sup> Street	Groves, TX 77619
DeQueen Elementary (Fifth Grade Hall)	740 DeQueen Blvd	Port Arthur, TX 77640
Zion Hill Baptist Church (Education Building)	5848 Roosevelt Ave	Port Arthur, TX 77640
Jefferson County Sub-Courthouse (Foyer)	525 Lakeshore Dr	Port Arthur, TX 77640
Former Dowling Elementary (Library)	6301 Pat Ave	Port Arthur, TX 77640
O.W. Collins Retirement Center (Social Service Room)	4440 Gulfway Dr	Port Arthur, TX 77642
Port Arthur Library (Lucy Stiefel Gallery)	4615 9 <sup>th</sup> Avenue	Port Arthur, TX 77642
Queen of Vietnam Catholic Church (St. Joseph Hall)	801 9 <sup>th</sup> Avenue	Port Arthur, TX 77642
R.L. Gabby Eldridge Center	5262 S. Gulfway Dr	Sabine Pass, TX 77655
Travis Elementary (Library)	1115 Lakeview Ave	Port Arthur, TX 77642
Willie Ryman Community Center	3248 39 <sup>th</sup> Street	Port Arthur, TX 77642
Alice Keith Park Recreation Center	4075 Highland Ave	Beaumont, TX 77705
Charlton-Pollard Elementary (Gymnasium)	825 Jackson St	Beaumont, TX 77701
Lamar University Montagne Center (Cardinal Club Room)	4401 S. MLK Pkwy	Beaumont, TX 77705
Hamshire VFD and Community Center	12318 2 <sup>nd</sup> St	Hamshire, TX 77622
Jefferson County Courthouse (Lobby) <b>Main Polling Location</b>	1085 Pearl St	Beaumont, TX 77701
MLK Middle School (Gymnasium)	1400 Avenue A	Beaumont, TX 77701
John Paul Davis Community Center	3580 E. Lucas Dr	Beaumont, TX 77703
Precinct 4 Service Center (Conference Room)	7780 Boyt Rd	Beaumont, TX 77713
Sterling Pruitt Center (Multi-purpose Room)	2930 Gulf St	Beaumont, TX 77703
Theodore Johns Library (Meeting Room)	4255 Fannett Rd	Beaumont, TX 77705

## CONTRACT COSTS

Voting Equipment	
Judge's Booth Controller	\$330.00
eSlate	\$330.00
Disable Access Unit (DAU)	\$396.00
Privacy Booth	\$20.00
Ballot Box	\$5.00
Communication Devices	
EA Tablet + WIFI	\$125.00
Cell Phone	\$35.00
Mandatory Signs	
Large A-Frame (ID Required )	\$15.00
Large A-Frame (Notices )	\$15.00
PROGRAMMING	COUNTY COST
1 - 5 RACES	\$1,125.00
6 - 10 RACES	\$1,898.00
11-20 RACES	\$2,475.00
21-40 RACES	\$3,135.00
41-75 RACES	\$3,960.00
76-100 RACES	\$4,704.00
BALLOT PRINTING	COUNTY COST
8.5 X 11	\$0.25
8.5 X 14	\$0.27
8.5 X 17	\$0.30
Sample Ballots	\$0.06
SUPPLIES	
ELECTION KITS / w Seals EV & ED	\$45.00
Mail Ballots (Per Set)	\$2.30
Supply Bag Consumables (per location)	\$25.00





# Resolution

STATE OF TEXAS § COMMISSIONERS' COURT  
COUNTY OF JEFFERSON § OF JEFFERSON COUNTY, TEXAS

BE IT REMEMBERED at a meeting of Commissioners' Court of Jefferson County, Texas, held on the 2nd day of August, 2022, on motion made by Michael Sinegal, Commissioner of Precinct No. 3, and seconded by Darrell Bush, Commissioner of Precinct No. 2, the following Resolution was adopted:

### RESOLUTION AUTHORIZING APPLICATION

A RESOLUTION OF JEFFERSON, TEXAS (the "Applicant"), DESIGNATING THE COUNTY JUDGE AS BEING RESPONSIBLE FOR THE APPLICATION TO THE TEXAS DEPARTMENT OF AGRICULTURE("TDA"), FOR THE PURPOSE OF PARTICIPATING IN TDA's HOG OUT COUNTY GRANTS PROGRAM (the "Program") AND CERTIFYING THAT THE APPLICANT IS ELIGIBLE TO RECEIVE PROGRAM ASSISTANCE.

**WHEREAS**, the Applicant is a Texas county and is fully eligible to receive assistance under the Program; and

**WHEREAS**, the Applicant acknowledges the Hog Out County Grants Program is designed to encourage counties across the state to make a concentrated and coordinated effort during the three-month period of September 1, 2022 through August 31, 2023 to reduce the feral hog population in Texas; and

**WHEREAS**, the Applicant acknowledges that if the county is awarded funds, such funds must be used for the sole purpose of continuing feral hog abatement activities within the county; and

**WHEREAS**, the Applicant wishes to authorize an official to represent the Applicant in dealing with TDA concerning the Program;

### BE IT RESOLVED BY THE APPLICANT:

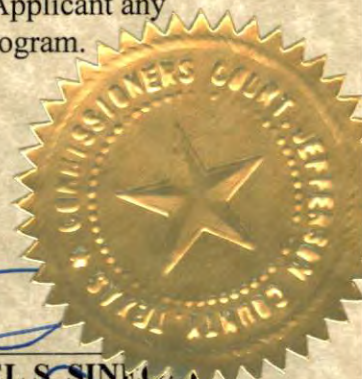
**Section 1:** That the Applicant hereby certifies that it is eligible to receive assistance under the Program.

**SECTION 2:** The Applicant hereby authorizes and directs the County Judge to act for the applicant in dealing with TDA for the purpose of the Program, and Jeff R. Branick, County Judge, is officially designated as the representative of the Applicant in this regard.

**SECTION 3:** The Applicant hereby specifically authorizes the above-named official to do all acts necessary to apply for and receive assistance from the Program related to feral hog abatement activities that will take place in Jefferson County during September 1, 2022 through August 31, 2023 and thereafter. Jeff R. Branick, County Judge, is authorized to execute on behalf of the Applicant any licenses or other documents required by TDA for Applicant's participation in the Program.

SIGNED this 2nd day of August, 2022

JUDGE JEFF R. BRANICK  
County Judge



COMMISSIONER VERNON PIERCE  
Precinct No. 1

COMMISSIONER MICHAEL S. SINEGAL  
Precinct No. 3

COMMISSIONER DARRELL BUSH  
Precinct No. 2

COMMISSIONER EVERETTE D. ALFRED  
Precinct No. 4



**AGENDA ITEM****August 02, 2022**

Receive and file executed tax abatement agreements between Jefferson County and OCI Clean Ammonia LLC for Phase 1 and Phase 2, and OCI Clean Fuels USA, Inc. for Phase 1 and Phase 2 in the OCI 2022 Reinvestment Zone.



STATE OF TEXAS                   §  
   §  
 COUNTY OF JEFFERSON       §

**ABATEMENT AGREEMENT WITH OCI CLEAN AMMONIA, LLC (PHASE I)  
 FOR PROPERTY LOCATED IN THE OCI 2022 REINVESTMENT ZONE**

Pursuant to Section 312.402 of the Texas Tax Code, this Tax Abatement Agreement (hereinafter referred to as the "AGREEMENT") is made and entered into by and between Jefferson County (hereinafter sometimes referred to as "the COUNTY"), and OCI Clean Ammonia, LLC, (hereinafter sometimes referred to as "OCI" or "OWNER").

**1. RECITALS**

WHEREAS, OWNER possesses interests in taxable real property located within the OCI 2022 Reinvestment Zone, the designation of which was implemented by the COUNTY by an Order dated July 19, 2022 (hereinafter referred to as the "REINVESTMENT ZONE"); and,

WHEREAS, this AGREEMENT is limited to the project to be constructed by OWNER, on various parcels of land located within the Reinvestment Zone, which is described with particularity in Exhibit "A" attached hereto and which will involve construction of a new 3,000 metric ton per day ammonia manufacturing facility, including a syngas compressor, cooling, and separation system and ammonia refrigeration unit and related improvements (hereinafter referred to collectively as the "PROJECT" or "Phase I"); and

WHEREAS the COUNTY wishes to encourage OWNER to select Jefferson County as the site for the PROJECT; and,

WHEREAS, the REINVESTMENT ZONE is an area within Jefferson County, Texas, which has been designated by Order of this Court, the legal description for which is attached hereto as Exhibit "C." It is understood and agreed that the REINVESTMENT ZONE boundary is subject to revision based on the final construction plan of the PROJECT, and the COUNTY agrees to take the steps necessary to amend the

Reinvestment Zone boundary, consistent with such final PROJECT, upon request of OWNER; and

WHEREAS, the COUNTY finds that the terms of this AGREEMENT and the property subject to the AGREEMENT meet the applicable requirements of the COUNTY's guidelines and criteria for granting tax abatements, attached hereto as Exhibit E, and that the PROJECT is an Eligible Facility as defined therein.

NOW, THEREFORE, for the mutual consideration set forth below, the Parties hereto agree as follows:

## 2. AUTHORIZATION

**THIS AGREEMENT IS AUTHORIZED BY THE TEXAS PROPERTY REDEVELOPMENT AND TAX ABATEMENT ACT, TEX. TAX CODE CHAPTER 312, AS AMENDED, AND BY ORDER OF THE JEFFERSON COUNTY COMMISSIONERS COURT ESTABLISHING AND ADOPTING THE OCI 2022 REINVESTMENT ZONE.**

## 3. DEFINITIONS

For purposes of this AGREEMENT, the following terms shall have the meanings set forth below:

"Abatement" means the full or partial exemption from ad valorem taxes of the value of certain property located in the REINVESTMENT ZONE designated for economic development purposes.

"Affiliate" of any specified person or entity means any other person or entity which, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with such specified person or entity. For purposes of this definition, the term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person or entity, whether through the ownership of voting securities, by contract or otherwise.

"Base Year Value" means the taxable value of all industrial realty improvements owned by the property owner and/or its Affiliates within Jefferson County on January 1 preceding the execution of the abatement agreement. OWNER will, in consultation with the Jefferson County Appraisal District, provide the COUNTY with a list of the Jefferson County Appraisal District account numbers identifying the industrial realty improvements owned by the property owner and/or its Affiliates and the taxable value thereof on January 1 preceding the execution of the abatement agreement for use in preparing the schedule to be attached as an exhibit to the abatement agreement before execution specifying the Base Year Value for all purposes of the abatement agreement.



“Base year”, for the parties to this agreement, is defined as the calendar year in which this abatement contract is executed (signed) by all parties hereto.

“Ineligible Property” is fully taxable and ineligible for tax abatement and includes land, supplies, inventory, housing, vehicles, improvements for the generation or transmission of electrical energy not wholly consumed by a new facility or expansion; any improvements, including those to produce, store or distribute natural gas, fluids or gasses, which are not integral to the operation of the facility; deferred maintenance, property to be rented or leased, property which has a productive life of less than ten years, or any other property for which abatement is not allowed by state law.

“Eligible Property” means the realty improvements, the on-site buildings, structures, fixed machinery and equipment, storage tanks, process units (including all integral components necessary for operations), site improvements, and infrastructure and the permanent office space and related fixed improvements, as defined by the Tax Code but does not include personal tangible property.

“New Eligible Property” means Eligible Property, the construction of which commences subsequent to the effective date of this AGREEMENT. During the construction phase of the New Eligible Property, the OWNER may make such change orders to the New Eligible Property as are reasonably necessary to accomplish its intended use. It is expressly understood that, notwithstanding anything to the contrary written herein, energy, electricity, manufacturing supplies (e.g. foreign manufactured catalysts), feedstocks, freight, and direct materials that physically become a part of the end product manufactured by the PROJECT) are not subject to the terms of this AGREEMENT.

“Taxable Value” for each taxing entity executing an abatement agreement is determined by deducting from the Market Value of all industrial realty improvements of a property owner and/or its affiliates the amount of any applicable exemptions and abatements granted for that Tax Year.

“Completion” as used herein, shall mean, the successful commissioning of the PROJECT and the attainment of reliable operations. OWNER shall certify in writing to the COUNTY when such Completion is attained.

“Full-time job”, as used herein, shall mean a permanent full-time position that: requires at least 1,600 hours or work per year, is not transferred from another area of the state, is not created to replace a previous employee, and is covered by a group health benefit plan, and pays at least 110% of the county average weekly wage for manufacturing jobs in Jefferson County.

“Payment in Lieu of Taxes”. If, during the period of this abatement, any Federal or State law provides an additional tax exemption for the property that is already the subject of this agreement, Applicant agrees to decline that tax exemption during the period of this abatement. If Applicant is unable to decline that tax exemption, Applicant agrees to pay



the taxes, or payment in lieu of taxes, on the reduction of property tax revenue to the COUNTY during the Abatement Term that is the result of said exemption. Any payment in lieu of taxes shall be due on or before November 15 of the year in which payment for taxes are otherwise due.

#### 4. TERM OF ABATEMENT

This AGREEMENT shall be effective and enforceable upon execution by both Parties (which date is herein referred to as the "Effective Date"). The term of the Abatement pursuant to this AGREEMENT (the "Abatement Term") shall begin January 1, 2028 and shall terminate at the end of the 10<sup>th</sup> tax year after the Abatement Term begins, unless sooner terminated pursuant to other provisions of this AGREEMENT.

COUNTY will request that the Jefferson Central Appraisal District establish discrete account numbers to facilitate efficient administration of this AGREEMENT.

Should OWNER not begin construction on the PROJECT by the last day of December 2025, this AGREEMENT shall be null and void.

#### 5. OWNER REPRESENTATIONS/OBLIGATIONS

In order to receive a tax Abatement with respect to a tax year listed on EXHIBIT: "Tax Abatement Schedule," OWNER shall comply with the following:

- a. As a result of the PROJECT, and upon its Completion, maintain a level of not less than 20 new Full-Time Jobs (consisting of both permanent direct employee jobs and permanent contractor jobs), using the number of Full-Time Jobs as of January 1, 2022 as the baseline for determining the number of new Full-Time Jobs, relating to the PROJECT during the Abatement Term; provided, however that OWNER may reduce employment levels due to improved efficiencies or changing economic conditions during the term of this AGREEMENT as long as such employment levels do not fall below 20 Full-Time Jobs for total on site employment by OWNER during said term. In the event that such employment falls below 20 Full-Time Jobs for total on site employment, Abatement shall be reduced proportionate to such employment decline beginning with the tax year in which the decline occurs and each tax year thereafter where the number of Full-Time Jobs during the tax year remains below 20 per the example calculation cited below where:

A1 = initial Abatement percentage  
 A2 = revised Abatement percentage  
 E1 = 20 Full-Time Jobs  
 E2 = actual Full-Time Jobs for the tax year  
 $A2 = A1 \times (E2/E1)$

- b. Report and certify the requisite job levels to the COUNTY, annually during each tax year under this AGREEMENT;



- c. Construct the PROJECT with an estimated investment in excess of \$175 million;
- d. Make available to the COUNTY information concerning the details of contractor bids, every quarter, during the construction phase of the PROJECT under the express understanding that COMPANY is providing the COUNTY such contractor bid information on a strictly confidential basis so as to maintain the integrity of the competitive bid process;
- e. Report and certify to the COUNTY the requisite cost of the PROJECT within 120 days after the completion of the PROJECT (or 120 days after the Effective Date, whichever is later);
- f. Ensure that qualified local labor, vendors, suppliers, and sub-contractors are given a timely opportunity to bid on contracts for the provision of supplies, goods and services (including engineering and construction services, *e.g.*, piping, electrical, civil, fabrication) in connection with construction of the PROJECT and any turnaround project which is undertaken as part of or in connection with the PROJECT during the Abatement Term. Such consideration shall be made in good faith without discrimination. For purposes of the foregoing:
  - i. "Local labor" is defined as those qualified laborers or craftsmen who are residents and domiciliaries of the nine county regions comprised of Jefferson, Orange, Hardin, Jasper, Newton, Liberty, Tyler and Chambers Counties, as well as the Bolivar Peninsula area of Galveston County. "Local vendors" and "local suppliers" shall include only those located or having a principal office in Jefferson County. "Local subcontractors" shall include only those located or having a principal office in Jefferson County.
  - ii. OWNER agrees to give preference and priority to local manufacturers, suppliers, vendors, contractors and labor, except where not reasonably possible to do so without significant added expense, substantial inconvenience, or sacrifice in operating efficiency. For any such exception in cases involving purchases over \$1 million, a justification for such purchase shall be included in OWNER'S annual letter of compliance and such purchase shall not constitute a breach of this AGREEMENT. OWNER further acknowledges that it is a contractual obligation, under this AGREEMENT, of persons receiving property tax abatements to favor local manufacturers, suppliers, contractors, and labor, all other factors being equal. In the event of a breach of this "buy local" provision, OWNER agrees that the percentage of Abatement shall be proportionately reduced in an amount equal to the amount the disqualified contract bears to the total construction cost for the PROJECT.



- iii. OWNER agrees that it will provide sufficient notice and information regarding the PROJECT to qualified local contractors to enable them to submit bids for materials in the initial procurement processes, including but not limited PROJECT information provided in job fairs to be conducted by OWNER.
- g. Report and certify to the COUNTY, quarterly the total number of dollars spent on local labor, local subcontractors and local vendors/suppliers, as total and percentage compared to total dollars spent in connection with the PROJECT;
- h. OWNER will invoice purchases locally to ensure that sales taxes credited to the benefit of Jefferson County, Texas. As further clarification OWNER will enter into a Separated Contract as defined in 34 Texas Administrative Code 3.291 (a) (13) with an EPC contractor ("EPC") for the construction of the PROJECT to be located in the Reinvestment Zone of OWNER in Jefferson County Texas.

OWNER will apply for a Texas Direct Payment Permit ("DPP") from the Texas Comptroller of Public Accounts, and if granted, will issue a DPP exemption certificate in lieu of sales tax to EPC. OWNER will remit use taxes on taxable purchases made for use in the PROJECT directly to the state of Texas on its monthly Texas Direct Payment Return for both state and county taxes at the applicable rates. The State of Texas collects Limited, Sales, Excise and Use Taxes for both the state and local tax jurisdictions. The state is responsible for distributing the local taxes it collected to the applicable local jurisdiction.

- i. Not in any way discriminate against or treat disparately union contractors who choose to participate in the competitive bid process relating to work on the PROJECT, nor discriminate against or treat disparately union members who seek employment on the PROJECT; and
- j. Encourage and promote the utilization of Historically Underutilized Businesses (HUBs) (also known as Disadvantaged Business Enterprises, or DBEs) by the general contractor engaged by OWNER to construct the PROJECT and any turnaround project which is undertaken as part of or in connection with the PROJECT during the Abatement Term by ensuring qualified HUB/DBE vendors and contractors are given a timely opportunity to bid on contracts for supplies and services. For purposes of the foregoing:
  - i. A HUB/DBE is a business owned or controlled by Socially and Economically Disadvantaged Individuals as defined by all applicable federal or state laws and local policies, including Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian Indian Americans, women, and individuals with disabilities.



- ii. A HUB/DBE is one that is at least 51 percent owned or controlled by one or more women or Socially and Economically Disadvantaged Individuals or, in the case of a publicly-owned business, one that at least 51 percent of the stock of which is controlled by one or more women or Socially and Economically Disadvantaged Individuals.
- iii. A business that has been certified as a HUB/DBE by an agency of the federal government or the State of Texas is presumed to be a HUB/DBE for purposes of Agreement.
- iv. Only a HUB/DBE with its principal office in the State of Texas will be recognized as a HUB/DBE for purposes of this AGREEMENT. A list of HUB/DBE vendors/suppliers is maintained in the COUNTY office and a list of same is attached hereto as Exhibit D. As to the use of qualified local and HUB/DBE vendors, suppliers and sub-contractors, OWNER will, at a minimum:
  - k. Consult with chambers of commerce, minority business associations, trade associations and other regional economic development organizations to identify local and HUB/DBE vendors, suppliers and sub-contractors;
  - l. Notify qualified local and HUB/DBE vendors, suppliers and sub-contractors, allowing sufficient time for effective preparation of bids for the planned work to be sub-contracted or materials, supplies or equipment to be purchased;
  - m. Provide qualified local and HUB/DBE vendors, suppliers and sub-contractors who are interested in bidding on a subcontract or contract for materials, supplies, equipment, or the provision of engineering and construction services and labor adequate information regarding the PROJECT as early as is practicable in the bidding process in order to allow the HUB/DBE vendors, suppliers and sub-contractors sufficient time to prepare a bid (*i.e.*, plans, specifications, scope of work, bonding and insurance requirements, and a point of contact within the general/prime contractor);
  - n. Negotiate in good faith with interested qualified local and HUB/DBE vendors, suppliers or sub-contractors, and award sub-contracts or contracts for materials, supplies equipment, or the provision of engineering and construction services and labor to local or HUB/DBE vendors, suppliers or sub-contractors when they are the lowest qualified responsive bidder who meets all of the applicable bid specifications; and
  - o. Include a provision in OWNER'S contract with the general/prime contractor on the PROJECT which requires the general/prime contractor to read and comply with the terms of this AGREEMENT.

- p. Provide access to and authorize the inspection of the Eligible Property by the COUNTY's personnel to ensure that the improvements or repairs thereto are made according to the specifications and conditions of this AGREEMENT.

## 6. VALUE OF ABATEMENT

For each year of the Abatement Term, COUNTY agrees to abate the percentage of property taxes imposed on the value of New Eligible Property of the PROJECT as set forth in Exhibit [ ]: "Tax Abatement Schedule" for such year, subject to the adjustment referenced in Section 9 relating to the Base Year Value.

## 7. QUARTERLY MONITORING MEETINGS

With respect to the quarterly monitoring meetings referenced in Section 5(d) above, the County Judge, County Commissioners, or their designee(s) shall be allowed to attend such quarterly monitoring meetings, on the express condition that they execute a confidentiality agreement prepared by OWNER so as to protect confidential information which may be disclosed to them during or as a result of such monitoring meetings. OWNER agrees to reimburse the COUNTY in an amount not to exceed to \$4,000.00 annually for the costs or expenses actually incurred by the COUNTY in monitoring the status of the bidding process every quarter during the construction phase of the PROJECT. OWNER will provide the COUNTY with quarterly reports which detail procurement of services, equipment and labor utilized in construction.

## 8. TAXABILITY

During the period that this AGREEMENT is effective, taxes shall be payable as follows:

- a. The value of Ineligible Property shall be taxable as provided by law;
- b. The Taxable Value of existing Eligible Property as determined each shall be taxable as provided by law; and
- c. Property taxes attributable to the value of New Eligible Property shall be abated as set forth in Section 6, hereinabove.

## 9. ADJUSTMENTS TO ABATEMENT FOR BASE YEAR VALUE DECLINE

The Jefferson County Central Appraisal District will establish the certified values of Eligible Property as of January 1, 2022 (year abatement executed) as set forth on attached Exhibit "B," and such values shall be the values used to calculate the Base Year Value as herein defined. If on January 1<sup>st</sup> of any tax year listed on the "Tax Abatement Schedule" the Taxable Value is less than the Base Year Value, then the amount of property taxes abated under Section 6 shall be reduced by the amount of property taxes that would be imposed on the amount by which the Base Year Value exceeds the Taxable Value using the applicable COUNTY tax rate for such year. In making this adjustment, no reduction



to Taxable Value of OWNER's or its Affiliates' Eligible Property resulting from a Force Majeure event shall be taken into account.

In the event OWNER reduces its ad valorem taxes on personal property otherwise payable to the COUNTY by participating in a foreign trade zone, then the amount of property taxes abated shall be reduced by one dollar for each dollar of property tax reduction attributable to special treatment from trade zone participation. The parties hereto stipulate and agree that they have received certified appraisal value for this property, as calculated by the Jefferson County Central Appraisal District.

It is specifically understood and agreed by OWNER that, if at any time during the effective dates of this agreement relating to abatement, OWNER files or prosecutes an action in district court to contest the appraised value of any property of OWNER or OWNER's affiliates within Jefferson County for unequal appraisal or revision thereof pursuant to Sec. 42.26, Texas Tax Code, any and all abatements granted by the COUNTY to OWNER or its affiliates shall become null and void and cancelled.

#### **10. POLLUTION CONTROL EXEMPTION**

The COUNTY understands that OWNER plans (i) to request from the Texas Commission on Environmental Quality ("TCEQ") a determination under Section 11.31 of the Texas Tax Code that certain property included in the New Eligible Property is pollution control property, and (ii) to apply for an exemption from ad valorem taxes under Section 11.31 of the Texas Tax Code with respect to all or a portion of such property determined by the TCEQ to be pollution control property. The maximum dollar value for equipment that OWNER intends to claim to the TCEQ as exempt from taxation under Section 11.31 is fifteen percent (15%) of the PROJECT cost ("Intended Maximum"), though that number could change as current estimated PROJECT costs are refined. It is understood that the COUNTY would not have agreed to this abatement percentages if it were known that the actual exempt property claimed by OWNER would exceed the Intended Maximum. In the event OWNER ultimately obtains a Section 11.31 exemption on the value of pollution control equipment in excess of the Intended Maximum in any year of the Abatement Term (such amount the "Exempt Property Excess"), the percentage of abatement described in the "Abatement Schedule" shall be reduced pro rata so as to reimburse the COUNTY for the total decrease in COUNTY tax revenue during the abatement period beginning on January 1 of the year following the year during which construction was completed, which is expected to result from the Exempt Property Excess. It is understood and agreed that OWNER will not seek a tax exemption for any equipment or portion of the facility which merely reduces the pollution characteristics of the finished product produced by the facility and that an exemption will only be sought for equipment and technology utilized to reduce pollution at or around the facility.

#### **11. EVENT OF DEFAULT**

If either party should default in performing any obligation under this AGREEMENT, the other party shall provide such defaulting party written notice of default and provide the



defaulting party with a minimum period of thirty (30) days to cure such default prior to instituting an action for breach or pursuing any other remedy for default, provided however, that, if the default is of such a nature that it cannot, with the exercise of reasonable diligence, be cured within thirty (30) days, then such party shall not be in default so long as such party has commenced such cure within thirty (30) days after receiving written notice of such default and is diligently prosecuting such cure to completion. Subject to providing such notice of default and the aforesaid opportunity to cure same, the party aggrieved by default shall have the right to terminate this AGREEMENT and to pursue any remedy available at law or in equity, for breach hereof. In addition, if a party (the "Affected Party") shall become unable to timely perform any of its obligations under this AGREEMENT, other than any obligation to pay money, as a consequence of a Force Majeure Event, the Affected Party shall be relieved of such obligation (and such failure to timely perform such obligation shall not constitute a default) to the extent that and for so long as (but only to the extent that and only for so long as) it is unable to timely perform such obligation as a consequence of such Force Majeure Event. A "Force Majeure Event" means any of the following: (a) acts of God, earthquakes, tidal waves, lightning, floods, and storms; (b) explosions and fires; (c) strikes and lockouts; (d) wars, riots, acts of the public enemy, civil disturbances, hostilities, sabotage, blockades, insurrections, terrorism, and epidemics; (e) acts of expropriation, confiscation, nationalization, requisitioning, or other taking; and (f) any other event, condition, or circumstance beyond the reasonable control of the party claiming relief as a consequence thereof; provided, however, that "Force Majeure Event" does not include the inability to make payment or financial distress.

## 12. RECAPTURE OF TAXES

In the event the COUNTY terminates this AGREEMENT pursuant to the provisions of Section 11 as a result of any event of default by OWNER under such Section 11, including, for the avoidance of doubt, if OWNER fails to construct the Eligible Property as provided by this AGREEMENT, the COUNTY shall be entitled to recapture and be paid all taxes previously abated by virtue of this AGREEMENT within thirty (30) days of the termination, together with all penalties and interest required by the Texas Property Tax Code.

## 13. TERMINATION

OWNER shall have the right to terminate this AGREEMENT at any time upon thirty (30) days' written notice to the COUNTY and COUNTY shall have the right of recapture under section 12.

## 14. ASSIGNMENT

OWNER may assign this AGREEMENT, in whole or in part, to a new owner or lessee of the same PROJECT, or a portion thereof, or to an Affiliate of OWNER upon written approval by resolution of the COMMISSIONERS COURT of such assignment, and approval shall not be unreasonably withheld or delayed. It shall not be unreasonable for the COURT to withhold approval if OWNER or the proposed assignee is liable to the COUNTY for outstanding taxes or other obligations.

### 15. ENTIRE AGREEMENT

The Parties agree that this AGREEMENT contains all of the terms and conditions of the understanding of the Parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence and preliminary understandings between the parties and others relating hereto are superseded by the AGREEMENT. The COUNTY agrees that this AGREEMENT complies with the guidelines and criteria for tax abatement, and to the extent of any conflict, the guidelines and criteria shall be interpreted to be consistent with this AGREEMENT.

### 16. SUCCESSORS AND ASSIGNS

This AGREEMENT shall be binding on and inure to the benefit of the parties, their respective successors and assigns. OWNER may not assign all or part of its rights and obligations hereunder without the prior written consent of the COUNTY, which shall not be unreasonably withheld or delayed. It shall not be unreasonable to withhold consent to assignment if OWNER or the proposed assignee(s) is/are delinquent in the payment of any ad valorem taxes.

### 16. NOTICE

Any notice and/or statement required and permitted to be delivered shall be deemed delivered by depositing same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses:

<b>OWNER:</b>	Beshoy Guirguis OCI Clean Ammonia, LLC 2800 Post Oak, Suite 3150 Houston, Texas 77056 713-568-7351 832-747-9966
With a copy to:	Legal Department OCI Fuels USA, Inc. 2800 Post Oak, Suite 3150 Houston, Texas 77056
<b>COUNTY:</b>	Hon. Jeff R. Branick, County Judge Jefferson County Texas P.O. Box 4025 Beaumont, Texas 77704 (409) 835-8466 (409) 839-2311 (facsimile)
With a copy to:	Ms. Kathleen Kennedy, Chief Civil Attorney Criminal District Attorney



1149 Pearl Street, 3<sup>rd</sup> Floor  
 Beaumont, Texas 77701  
 (409) 835-8550  
 (409) 835-8573 (facsimile)

Mr. Fred L. Jackson,  
 First Assistant: Staff Attorney  
 Jefferson County Courthouse  
 P. O. Box 4025,  
 Beaumont, Texas 77704  
 (409) 835-8466  
 (409) 839-2311 (facsimile)

#### 17. MERGER

The Parties agree that this AGREEMENT contains all of the terms and conditions of the understanding of the parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence and preliminary understandings between the parties and others relating hereto are superseded by this AGREEMENT.

#### 18. INTERPRETATION

The Parties acknowledge that both have been represented by counsel of their choosing in the negotiation and preparation of the AGREEMENT. Regardless of which party prepared the initial draft of this AGREEMENT, this AGREEMENT shall, in the event of any dispute over its meaning or application, be interpreted without reference to the principle of construction favoring the party who did not draft the AGREEMENT under construction.

#### 19. APPLICABLE LAW AND VENUE

This AGREEMENT is made, and shall be construed and interpreted under the laws of the State of Texas and venue shall lie in Jefferson County, Texas.

#### 20. SEVERABILITY

In the event any provision of this AGREEMENT is illegal, invalid, or unenforceable under present or future laws, then, and in that event, it is the intention of the Parties hereto that the remainder of this AGREEMENT shall not be affected thereby, and it is also the intention of the Parties to this AGREEMENT that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable, a provision be added to this AGREEMENT which is legal, valid, and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

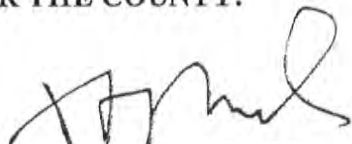


## 21. SEQUENCE OF PROJECTS

OWNER currently plans to construct a second ammonia manufacturing facility and related facilities after completion of PROJECT ("Phase II"). Phase II is the subject of a separate tax abatement agreement with COUNTY. OWNER may elect to construct one or more of the facilities in Phase II as part of the PROJECT, or OWNER may elect to construct Phase II before the PROJECT, and in either case COUNTY agrees to amend this AGREEMENT and the agreement related to Phase II to reflect the change in sequencing, construction commencement dates and investment amounts.

Executed in duplicate this the 19<sup>th</sup> day of July, 2022.

**FOR THE COUNTY:**



\_\_\_\_\_  
Hon. Jeff R. Branick, County Judge  
Jefferson County, Texas

**FOR OWNER:**



\_\_\_\_\_  
Beshoy Guirguis

**EXHIBIT A “Description of PROJECT”**

OWNER has proposed two projects, to be referred to as OCI Clean Ammonia LLC, Phase I (referred to in this Exhibit A as “Phase I”) and OCI Clean Ammonia LLC, Phase II (“Phase II”). **This Agreement applies only to Phase I, construction of a 3,000 metric ton per day ammonia manufacturing facility, including a syngas compressor, cooling and separation system and ammonia refrigeration unit, with an investment of \$600 million and creation of 20 permanent jobs.**

Phase II, a second ammonia manufacturing facility and related facilities, will be the subject of a separate agreement. The total Phase I and Phase II investment is anticipated to be \$2.4-\$2.8 billion and will employ up to 2,000 peak construction workers during construction and up to 120 permanent employees.

New property that will serve the entire project: Site development, utilities and offsite systems, electrical equipment, interconnecting piping with natural gas, hydrogen, carbon dioxide and nitrogen, process and final storage tanks and loading infrastructure for finished product, process control buildings, warehouse buildings, maintenance buildings, natural gas and oxygen units.

**“Tax Abatement Schedule”**

As provided in Paragraph 4, above, the Term of the AGREEMENT, the Abatement Term”) shall begin January 1, 2028.

OCI CLEAN AMMONIA PHASE I TAX ABATEMENT SCHEDULE	
2028	100%
2029	100%
2030	100%
2031	100%
2032	100%
2033	100%
2034	100%
2035	100%
2036	100%
2037	100%

**EXHIBIT B "Base Year Property"**

The base year Taxable Value as certified will be attached, by consent of the parties, when same is calculated and adopted by the Jefferson County Appraisal District.

**EXHIBIT C – “Reinvestment Zone Order”**

**EXHIBIT D – “List of HUB/ DBE Companies”**

**OWNER may acknowledge the County has previously provided this.**

**Exhibit "E"**

**Jefferson County Abatement Policy**

**It is understood and agreed that the AGREEMENT conforms to this abatement policy and to the Texas Tax Code.**

**EXHIBIT "F" - AFFILIATES OF OWNER**

OCI Beaumont, LLC





STATE OF TEXAS                   §  
    §  
 COUNTY OF JEFFERSON         §

**ABATEMENT AGREEMENT WITH OCI CLEAN AMMONIA, LLC (PHASE II)  
 FOR PROPERTY LOCATED IN THE OCI 2022 REINVESTMENT ZONE**

Pursuant to Section 312.402 of the Texas Tax Code, this Tax Abatement Agreement (hereinafter referred to as the "AGREEMENT") is made and entered into by and between Jefferson County (hereinafter sometimes referred to as "the COUNTY"), and OCI Clean Ammonia, LLC, (hereinafter sometimes referred to as "OCI" or "OWNER").

**1. RECITALS**

WHEREAS, OWNER possesses interests in taxable real property located within the OCI 2022 Reinvestment Zone, the designation of which was implemented by the COUNTY by an Order dated July 19, 2022 (hereinafter referred to as the "REINVESTMENT ZONE"; and,

WHEREAS, this AGREEMENT is limited to the project to be constructed by OWNER, on various parcels of land located within the Reinvestment Zone, which is described with particularity in Exhibit "A" attached hereto and which will involve construction of a new clean ammonia manufacturing facility and related improvements as more fully described in Exhibit "A" (hereinafter referred to collectively as the "PROJECT" or "Phase II"); and

WHEREAS the COUNTY wishes to encourage OWNER to select Jefferson County as the site for the PROJECT; and

WHEREAS, the REINVESTMENT ZONE is an area within Jefferson County, Texas, which has been designated by Order of this Court, the legal description for which is attached hereto as Exhibit "C." It is understood and agreed that the REINVESTMENT ZONE boundary is subject to revision based on the final construction plan of the PROJECT, and the COUNTY agrees to take the steps necessary to amend the

Reinvestment Zone boundary, consistent with such final PROJECT, upon request of OWNER; and

WHEREAS, the COUNTY finds that the terms of this AGREEMENT and the property subject to the AGREEMENT meet the applicable requirements of the COUNTY's guidelines and criteria for granting tax abatements, attached hereto as Exhibit E, and that the PROJECT is an Eligible Facility as defined therein.

NOW, THEREFORE, for the mutual consideration set forth below, the Parties hereto agree as follows:

## 2. AUTHORIZATION

**THIS AGREEMENT IS AUTHORIZED BY THE TEXAS PROPERTY REDEVELOPMENT AND TAX ABATEMENT ACT, TEX. TAX CODE CHAPTER 312, AS AMENDED, AND BY ORDER OF THE JEFFERSON COUNTY COMMISSIONERS COURT ESTABLISHING AND ADOPTING THE OCI 2022 REINVESTMENT ZONE.**

## 3. DEFINITIONS

For purposes of this AGREEMENT, the following terms shall have the meanings set forth below:

"Abatement" means the full or partial exemption from ad valorem taxes of the value of certain property located in the REINVESTMENT ZONE designated for economic development purposes.

"Affiliate" of any specified person or entity means any other person or entity which, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with such specified person or entity. For purposes of this definition, the term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person or entity, whether through the ownership of voting securities, by contract or otherwise.

"Base Year Value" means the taxable value of all industrial realty improvements owned by the property owner and/or its Affiliates within Jefferson County on January 1 preceding the execution of the abatement agreement. OWNER will, in consultation with the Jefferson County Appraisal District, provide the COUNTY with a list of the Jefferson County Appraisal District account numbers identifying the industrial realty improvements owned by the property owner and/or its Affiliates and the taxable value thereof on January 1 preceding the execution of the abatement agreement for use in preparing the schedule to be attached as an exhibit to the abatement agreement before execution specifying the Base Year Value for all purposes of the abatement agreement.



“Base year”, for the parties to this agreement, is defined as the calendar year in which this abatement contract is executed (signed) by all parties hereto.

“Ineligible Property” is fully taxable and ineligible for tax abatement and includes land, supplies, inventory, housing, vehicles, improvements for the generation or transmission of electrical energy not wholly consumed by a new facility or expansion; any improvements, including those to produce, store or distribute natural gas, fluids or gasses, which are not integral to the operation of the facility; deferred maintenance, property to be rented or leased, property which has a productive life of less than ten years, or any other property for which abatement is not allowed by state law.

“Eligible Property” means the realty improvements, the on-site buildings, structures, fixed machinery and equipment, storage tanks, process units (including all integral components necessary for operations), site improvements, and infrastructure and the permanent office space and related fixed improvements, as defined by the Tax Code but does not include personal tangible property.

“New Eligible Property” means Eligible Property, the construction of which commences subsequent to the effective date of this AGREEMENT. During the construction phase of the New Eligible Property, the OWNER may make such change orders to the New Eligible Property as are reasonably necessary to accomplish its intended use. It is expressly understood that, notwithstanding anything to the contrary written herein, energy, electricity, manufacturing supplies (e.g. foreign manufactured catalysts), feedstocks, freight, and direct materials that physically become a part of the end product manufactured by the PROJECT) are not subject to the terms of this AGREEMENT.

“Taxable Value” for each taxing entity executing an abatement agreement is determined by deducting from the Market Value of all industrial realty improvements of a property owner and/or its affiliates the amount of any applicable exemptions and abatements granted for that Tax Year.

“Completion” as used herein, shall mean, the successful commissioning of the PROJECT and the attainment of reliable operations. OWNER shall certify in writing to the COUNTY when such Completion is attained.

“Full-time job”, as used herein, shall mean a permanent full-time position that: requires at least 1,600 hours or work per year, is not a transferred from another area of the state, is not created to replace a previous employee, and is covered by a group health benefit plan, and pays at least 110% of the county average weekly wage for manufacturing jobs in Jefferson County.

“Payment in Lieu of Taxes”. If, during the period of this abatement, any Federal or State law provides an additional tax exemption for the property that is already the subject of this agreement, Applicant agrees to decline that tax exemption during the period of this abatement. If Applicant is unable to decline that tax exemption, Applicant agrees to pay



the taxes, or payment in lieu of taxes, on the reduction of property tax revenue to the COUNTY that is the result of said exemption. Any payment in lieu of taxes shall be due on or before November 15 of the year in which payment is due.

#### 4. TERM OF ABATEMENT

This AGREEMENT shall be effective and enforceable upon execution by both Parties (which date is herein referred to as the "Effective Date"). The term of the Abatement pursuant to this AGREEMENT (the "Abatement Term") shall begin January 1, 2030 and shall terminate at the end of the 10<sup>th</sup> tax year after the Abatement Term begins, unless sooner terminated pursuant to other provisions of this AGREEMENT.

COUNTY will request that the Jefferson Central Appraisal District establish discrete account numbers to facilitate efficient administration of this AGREEMENT.

Should OWNER not begin construction on the PROJECT by the last day of December 2028, this AGREEMENT shall be null and void.

#### 5. OWNER REPRESENTATIONS/OBLIGATIONS

In order to receive a tax Abatement with respect to a tax year listed on EXHIBIT: "Tax Abatement Schedule," OWNER shall comply with the following:

- a. As a result of the PROJECT, and upon its Completion, maintain a level of not less than 20 new Full-Time Jobs (consisting of both permanent direct employee jobs and permanent contractor jobs), using the number of Full-Time Jobs as of January 1, 2022 as the baseline for determining the number of new Full-Time Jobs, relating to the PROJECT during the Abatement Term; provided, however that OWNER may reduce employment levels due to improved efficiencies or changing economic conditions during the term of this AGREEMENT as long as such employment levels do not fall below 20 Full-Time Jobs for total on site employment by OWNER during said term. In the event that such employment falls below 20 Full-Time Jobs for total on site employment, Abatement shall be reduced proportionate to such employment decline beginning with the tax year in which the decline occurs and each tax year thereafter where the number of Full-Time Jobs during the tax year remains below twenty per the example calculation cited below where:

A1 = initial Abatement percentage  
 A2 = revised Abatement percentage  
 E1 = 20 Full-Time Jobs  
 E2 = actual Full-Time Jobs for the tax year  
 $A2 = A1 \times (E2/E1)$

- b. Report and certify the requisite job levels to the COUNTY, annually during each tax year under this AGREEMENT;

- c. Construct the PROJECT with an estimated investment in excess of \$1.8 billion;
- d. Make available to the COUNTY information concerning the details of contractor bids, every quarter, during the construction phase of the PROJECT under the express understanding that COMPANY is providing the COUNTY such contractor bid information on a strictly confidential basis so as to maintain the integrity of the competitive bid process;
- e. Report and certify to the COUNTY the requisite cost of the PROJECT within 120 days after the completion of the PROJECT (or 120 days after the Effective Date, whichever is later);
- f. Ensure that qualified local labor, vendors, suppliers, and sub-contractors are given a timely opportunity to bid on contracts for the provision of supplies, goods and services (including engineering and construction services, *e.g.*, piping, electrical, civil, fabrication) in connection with construction of the PROJECT and any turnaround project which is undertaken as part of or in connection with the PROJECT during the Abatement Term. Such consideration shall be made in good faith without discrimination. For purposes of the foregoing:
  - i. "Local labor" is defined as those qualified laborers or craftsmen who are residents and domiciliaries of the nine county regions comprised of Jefferson, Orange, Hardin, Jasper, Newton, Liberty, Tyler and Chambers Counties, as well as the Bolivar Peninsula area of Galveston County. "Local vendors" and "local suppliers" shall include only those located or having a principal office in Jefferson County. "Local subcontractors" shall include only those located or having a principal office in Jefferson County.
  - ii. OWNER agrees to give preference and priority to local manufacturers, suppliers, vendors, contractors and labor, except where not reasonably possible to do so without significant added expense, substantial inconvenience, or sacrifice in operating efficiency. For any such exception in cases involving purchases over \$1 million, a justification for such purchase shall be included in OWNER'S annual letter of compliance and such purchase shall not constitute a breach of this AGREEMENT. OWNER further acknowledges that it is a contractual obligation, under this AGREEMENT, of persons receiving property tax abatements to favor local manufacturers, suppliers, contractors, and labor, all other factors being equal. In the event of a breach of this "buy local" provision, OWNER agrees that the percentage of Abatement shall be proportionately reduced in an amount equal to the amount the disqualified contract bears to the total construction cost for the PROJECT.
  - iii. OWNER agrees that it will provide sufficient notice and information regarding the PROJECT to qualified local contractors to enable them to



submit bids for materials in the initial procurement processes, including but not limited PROJECT information provided in job fairs to be conducted by OWNER.

- g. Report and certify to the COUNTY, quarterly the total number of dollars spent on local labor, local subcontractors and local vendors/suppliers, as total and percentage compared to total dollars spent in connection with the PROJECT;
- h. OWNER will invoice purchases locally to ensure that sales taxes credited to the benefit of Jefferson County, Texas. As further clarification OWNER will enter into a Separated Contract as defined in 34 Texas Administrative Code 3.291 (a) (13) with an EPC contractor ("EPC") for the construction of the PROJECT to be located in the Reinvestment Zone of OWNER in Jefferson County Texas.

OWNER will apply for a Texas Direct Payment Permit ("DPP") from the Texas Comptroller of Public Accounts, and if granted, will issue a DPP exemption certificate in lieu of sales tax to EPC. OWNER will remit use taxes on taxable purchases made for use in the PROJECT directly to the state of Texas on its monthly Texas Direct Payment Return for both state and county taxes at the applicable rates. The State of Texas collects Limited, Sales, Excise and Use Taxes for both the state and local tax jurisdictions. The state is responsible for distributing the local taxes it collected to the applicable local jurisdiction.

- i. Not in any way discriminate against or treat disparately union contractors who choose to participate in the competitive bid process relating to work on the PROJECT, nor discriminate against or treat disparately union members who seek employment on the PROJECT; and
- j. Encourage and promote the utilization of Historically Underutilized Businesses (HUBs) (also known as Disadvantaged Business Enterprises, or DBEs) by the general contractor engaged by OWNER to construct the PROJECT and any turnaround project which is undertaken as part of or in connection with the PROJECT during the Abatement Term by ensuring qualified HUB/DBE vendors and contractors are given a timely opportunity to bid on contracts for supplies and services. For purposes of the foregoing:
  - i. A HUB/DBE is a business owned or controlled by Socially and Economically Disadvantaged Individuals as defined by all applicable federal or state laws and local policies, including Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian Indian Americans, women, and individuals with disabilities.
  - ii. A HUB/DBE is one that is at least 51 percent owned or controlled by one or more women or Socially and Economically Disadvantaged Individuals or, in the case of a publicly-owned business, one that at least 51 percent of

the stock of which is controlled by one or more women or Socially and Economically Disadvantaged Individuals.

- iii. A business that has been certified as a HUB/DBE by an agency of the federal government or the State of Texas is presumed to be a HUB/DBE for purposes of Agreement.
- iv. Only a HUB/DBE with its principal office in the State of Texas will be recognized as a HUB/DBE for purposes of this AGREEMENT. A list of HUB/DBE vendors/suppliers is maintained in the COUNTY office and a list of same is attached hereto as Exhibit D. As to the use of qualified local and HUB/DBE vendors, suppliers and sub-contractors, OWNER will, at a minimum:
  - k. Consult with chambers of commerce, minority business associations, trade associations and other regional economic development organizations to identify local and HUB/DBE vendors, suppliers and sub-contractors;
  - l. Notify qualified local and HUB/DBE vendors, suppliers and sub-contractors, allowing sufficient time for effective preparation of bids for the planned work to be sub-contracted or materials, supplies or equipment to be purchased;
  - m. Provide qualified local and HUB/DBE vendors, suppliers and sub-contractors who are interested in bidding on a subcontract or contract for materials, supplies, equipment, or the provision of engineering and construction services and labor adequate information regarding the PROJECT as early as is practicable in the bidding process in order to allow the HUB/DBE vendors, suppliers and sub-contractors sufficient time to prepare a bid (*i.e.*, plans, specifications, scope of work, bonding and insurance requirements, and a point of contact within the general/prime contractor);
  - n. Negotiate in good faith with interested qualified local and HUB/DBE vendors, suppliers or sub-contractors, and award sub-contracts or contracts for materials, supplies equipment, or the provision of engineering and construction services and labor to local or HUB/DBE vendors, suppliers or sub-contractors when they are the lowest qualified responsive bidder who meets all of the applicable bid specifications; and
  - o. Include a provision in OWNER'S contract with the general/prime contractor on the PROJECT which requires the general/prime contractor to read and comply with the terms of this AGREEMENT.
  - p. Provide access to and authorize the inspection of the Eligible Property by the COUNTY's personnel to ensure that the improvements or repairs thereto are made according to the specifications and conditions of this AGREEMENT.



## 6. VALUE OF ABATEMENT

For each year of the Abatement Term, COUNTY agrees to abate the percentage of property taxes imposed on the value of New Eligible Property of the PROJECT as set forth in Exhibit [ ]: "Tax Abatement Schedule" for such year, subject to the adjustment referenced in Section 9 relating to the Base Year Value.

## 7. QUARTERLY MONITORING MEETINGS

With respect to the quarterly monitoring meetings referenced in Section 5(d) above, the County Judge, County Commissioners, or their designee(s) shall be allowed to attend such quarterly monitoring meetings, on the express condition that they execute a confidentiality agreement prepared by OWNER so as to protect confidential information which may be disclosed to them during or as a result of such monitoring meetings. OWNER agrees to reimburse the COUNTY in an amount not to exceed to \$4,000.00 annually for the costs or expenses actually incurred by the COUNTY in monitoring the status of the bidding process every quarter during the construction phase of the PROJECT. OWNER will provide the COUNTY with quarterly reports which detail procurement of services, equipment and labor utilized in construction.

## 8. TAXABILITY

During the period that this AGREEMENT is effective, taxes shall be payable as follows:

- a. The value of Ineligible Property shall be taxable as provided by law;
- b. The Taxable Value of existing Eligible Property as determined each shall be taxable as provided by law; and
- c. Property taxes attributable to the value of New Eligible Property shall be abated as set forth in Section 6, hereinabove.

## 9. ADJUSTMENTS TO ABATEMENT FOR BASE YEAR VALUE DECLINE

The Jefferson County Central Appraisal District will establish the certified values of Eligible Property as of January 1, 2022 (year abatement executed) as set forth on attached Exhibit "B," and such values shall be the values used to calculate the Base Year Value as herein defined. If on January 1<sup>st</sup> of any tax year listed on the "Tax Abatement Schedule" the Taxable Value is less than the Base Year Value, then the amount of property taxes abated under Section 6 shall be reduced by the amount of property taxes that would be imposed on the amount by which the Base Year Value exceeds the Taxable Value using the applicable COUNTY tax rate for such year. In making this adjustment, no reduction to Taxable Value of OWNER's or its Affiliates' Eligible Property resulting from a Force Majeure event shall be taken into account.



In the event OWNER reduces its ad valorem taxes on personal property otherwise payable to the COUNTY by participating in a foreign trade zone, then the amount of property taxes abated shall be reduced by one dollar for each dollar of property tax reduction attributable to special treatment from trade zone participation. The parties hereto stipulate and agree that they have received certified appraisal value for this property, as calculated by the Jefferson County Central Appraisal District.

It is specifically understood and agreed by OWNER that, if at any time during the effective dates of this agreement relating to abatement, OWNER files or prosecutes an action in district court to contest the appraised value of any property of OWNER or OWNER's affiliates within Jefferson County for unequal appraisal or revision thereof pursuant to Sec. 42.26, Texas Tax Code, any and all abatements granted by the COUNTY to OWNER or its affiliates shall become null and void and cancelled.

#### 10. POLLUTION CONTROL EXEMPTION

The COUNTY understands that OWNER plans (i) to request from the Texas Commission on Environmental Quality ("TCEQ") a determination under Section 11.31 of the Texas Tax Code that certain property included in the New Eligible Property is pollution control property, and (ii) to apply for an exemption from ad valorem taxes under Section 11.31 of the Texas Tax Code with respect to all or a portion of such property determined by the TCEQ to be pollution control property. The maximum dollar value for equipment that OWNER intends to claim to the TCEQ as exempt from taxation under Section 11.31 is fifteen percent (15%) of the PROJECT cost ("Intended Maximum"), though that number could change as current estimated PROJECT costs are refined. It is understood that the COUNTY would not have agreed to this abatement percentages if it were known that the actual exempt property claimed by OWNER would exceed the Intended Maximum. In the event OWNER ultimately obtains a Section 11.31 exemption on the value of pollution control equipment in excess of the Intended Maximum in any year of the Abatement Term (such amount the "Exempt Property Excess"), the percentage of abatement described in the "Abatement Schedule" shall be reduced pro rata so as to reimburse the COUNTY for the total decrease in COUNTY tax revenue during the abatement period beginning on January 1 of the year following the year during which construction was completed, which is expected to result from the Exempt Property Excess. It is understood and agreed that OWNER will not seek a tax exemption for any equipment or portion of the facility which merely reduces the pollution characteristics of the finished product produced by the facility and that an exemption will only be sought for equipment and technology utilized to reduce pollution at or around the facility.

#### 11. EVENT OF DEFAULT

If either party should default in performing any obligation under this AGREEMENT, the other party shall provide such defaulting party written notice of default and provide the defaulting party with a minimum period of thirty (30) days to cure such default prior to instituting an action for breach or pursuing any other remedy for default, provided however, that, if the default is of such a nature that it cannot, with the exercise of reasonable



diligence, be cured within thirty (30) days, then such party shall not be in default so long as such party has commenced such cure within thirty (30) days after receiving written notice of such default and is diligently prosecuting such cure to completion. Subject to providing such notice of default and the aforesaid opportunity to cure same, the party aggrieved by default shall have the right to terminate this AGREEMENT and to pursue any remedy available at law or in equity, for breach hereof. In addition, if a party (the "Affected Party") shall become unable to timely perform any of its obligations under this AGREEMENT, other than any obligation to pay money, as a consequence of a Force Majeure Event, the Affected Party shall be relieved of such obligation (and such failure to timely perform such obligation shall not constitute a default) to the extent that and for so long as (but only to the extent that and only for so long as) it is unable to timely perform such obligation as a consequence of such Force Majeure Event. A "Force Majeure Event" means any of the following: (a) acts of God, earthquakes, tidal waves, lightning, floods, and storms; (b) explosions and fires; (c) strikes and lockouts; (d) wars, riots, acts of the public enemy, civil disturbances, hostilities, sabotage, blockades, insurrections, terrorism, and epidemics; (e) acts of expropriation, confiscation, nationalization, requisitioning, or other taking; and (f) any other event, condition, or circumstance beyond the reasonable control of the party claiming relief as a consequence thereof; provided, however, that "Force Majeure Event" does not include the inability to make payment or financial distress.

## 12. RECAPTURE OF TAXES

In the event the COUNTY terminates this AGREEMENT pursuant to the provisions of Section 11 as a result of any event of default by OWNER under such Section 11, including, for the avoidance of doubt, if OWNER fails to construct the Eligible Property as provided by this AGREEMENT, the COUNTY shall be entitled to recapture and be paid all taxes previously abated by virtue of this AGREEMENT within thirty (30) days of the termination, together with all penalties and interest required by the Texas Property Tax Code.

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OWNER shall have the right to terminate this AGREEMENT at any time upon thirty (30) days' written notice to the COUNTY and COUNTY shall have the right of recapture under section 12.

## 14. ASSIGNMENT

OWNER may assign this AGREEMENT, in whole or in part, to a new owner or lessee of the same PROJECT, or a portion thereof, or to an Affiliate of OWNER upon written approval by resolution of the COMMISSIONERS COURT of such assignment, and approval shall not be unreasonably withheld or delayed. It shall not be unreasonable for the COURT to withhold approval if OWNER or the proposed assignee is liable to the COUNTY for outstanding taxes or other obligations.

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## 16. SUCCESSORS AND ASSIGNS

This AGREEMENT shall be binding on and inure to the benefit of the parties, their respective successors and assigns. OWNER may not assign all or part of its rights and obligations hereunder without the prior written consent of the COUNTY, which shall not be unreasonably withheld or delayed. It shall not be unreasonable to withhold consent to assignment if OWNER or the proposed assignee(s) is/are delinquent in the payment of any ad valorem taxes.

## 16. NOTICE

Any notice and/or statement required and permitted to be delivered shall be deemed delivered by depositing same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses:

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With a copy to: Legal Department  
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**COUNTY:** Hon. Jeff R. Branick, County Judge  
 Jefferson County Texas  
 P.O. Box 4025  
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 (409) 835-8466  
 (409) 839-2311 (facsimile)

With a copy to: Ms. Kathleen Kennedy, Chief Civil Attorney  
 Criminal District Attorney



1149 Pearl Street, 3<sup>rd</sup> Floor  
 Beaumont, Texas 77701  
 (409) 835-8550  
 (409) 835-8573 (facsimile)

Mr. Fred L. Jackson,  
 First Assistant: Staff Attorney  
 Jefferson County Courthouse  
 P. O. Box 4025,  
 Beaumont, Texas 77704  
 (409) 835-8466  
 (409) 839-2311 (facsimile)

#### **17. MERGER**

The Parties agree that this AGREEMENT contains all of the terms and conditions of the understanding of the parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence and preliminary understandings between the parties and others relating hereto are superseded by this AGREEMENT.

#### **18. INTERPRETATION**

The Parties acknowledge that both have been represented by counsel of their choosing in the negotiation and preparation of the AGREEMENT. Regardless of which party prepared the initial draft of this AGREEMENT, this AGREEMENT shall, in the event of any dispute over its meaning or application, be interpreted without reference to the principle of construction favoring the party who did not draft the AGREEMENT under construction.

#### **19. APPLICABLE LAW AND VENUE**

This AGREEMENT is made, and shall be construed and interpreted under the laws of the State of Texas and venue shall lie in Jefferson County, Texas.

#### **20. SEVERABILITY**

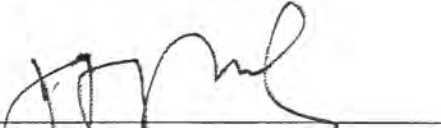
In the event any provision of this AGREEMENT is illegal, invalid, or unenforceable under present or future laws, then, and in that event, it is the intention of the Parties hereto that the remainder of this AGREEMENT shall not be affected thereby, and it is also the intention of the Parties to this AGREEMENT that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable, a provision be added to this AGREEMENT which is legal, valid, and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

**21. SEQUENCE OF PROJECTS**

OWNER currently plans to construct a 3,000 metric ton per day ammonia manufacturing facility, including a syngas compressor, cooling and separation system and ammonia refrigeration unit ("Phase I"). Phase I is the subject of a separate tax abatement agreement with COUNTY. OWNER may elect to construct one or more of the facilities in Phase I as part of the PROJECT, or OWNER may elect to construct the PROJECT before Phase I, and in either case, COUNTY agrees to amend this AGREEMENT and the agreement related to Phase I to reflect the change in sequencing, construction commencement dates and investment amounts.

Executed in duplicate this the 19<sup>th</sup> day of July, 20 22

**FOR THE COUNTY:**



Hon. Jeff R. Branick, County Judge  
Jefferson County, Texas

**FOR OWNER:**



Beshoy Guirguis

## EXHIBIT A "Description of PROJECT"

OWNER has proposed two projects, to be referred to as Phase I and Phase II. **This Agreement applies only to Phase II, construction of a separate ammonia manufacturing facility**, with an investment of \$1.8 billion and creation of at least 20 permanent jobs.

Phase I, construction of a 3,000 metric ton per day ammonia manufacturing facility, including a syngas compressor, cooling, and separation system and ammonia refrigeration unit, will be the subject of a separate agreement. The total Phase I and Phase II investment is anticipated to be \$2.4-\$2.8 billion and will employ up to 2,000 peak construction workers during construction and up to 120 permanent employees.

New property that will serve the entire project: Site development, utilities and offsite systems, electrical equipment, interconnecting piping with natural gas, hydrogen, carbon dioxide and nitrogen, wastewater de-oiling system, storage tanks and loading infrastructure for ammonia and urea products, process control buildings, warehouse buildings and maintenance buildings.

**“Tax Abatement Schedule”**

As provided in Paragraph 4, above, the Term of the AGREEMENT, the Abatement Term”) shall begin January 1, 2030.

OCI CLEAN AMMONIA PHASE II TAX ABATEMENT SCHEDULE	
2030	100%
2031	100%
2033	100%
2034	100%
2035	100%
2036	100%
2037	100%
2038	100%
2039	100%
2040	100%

**EXHIBIT B "Base Year Property"**

The base year Taxable Value as certified will be attached, by consent of the parties, when same is calculated and adopted by the Jefferson County Appraisal District.



**EXHIBIT C – “Reinvestment Zone Order”**

**EXHIBIT D – “List of HUB/ DBE Companies”**

**OWNER may acknowledge the County has previously provided this.**

**Exhibit "E"**

**Jefferson County Abatement Policy**

**It is understood and agreed that the AGREEMENT conforms to this abatement policy and to the Texas Tax Code.**

**EXHIBIT "F" - AFFILIATES OF OWNER**

OCI Beaumont, LLC



STATE OF TEXAS

§

COUNTY OF JEFFERSON

§

§

**ABATEMENT AGREEMENT WITH OCI FUELS, INC. (PHASE I) FOR  
PROPERTY LOCATED IN THE OCI 2022 REINVESTMENT ZONE**

Pursuant to Section 312.402 of the Texas Tax Code, this Tax Abatement Agreement (hereinafter referred to as the "AGREEMENT") is made and entered into by and between Jefferson County (hereinafter sometimes referred to as "the COUNTY"), and OCI Fuels USA, Inc., (hereinafter sometimes referred to as "OCI" or "OWNER").

**1. RECITALS**

WHEREAS, OWNER possesses interests in taxable real property located within the OCI 2022 Reinvestment Zone, the designation of which was implemented by the COUNTY by an Order dated July 19, 2022 (hereinafter referred to as the "REINVESTMENT ZONE"; and,

WHEREAS, this AGREEMENT is limited to the project to be constructed by OWNER, on various parcels of land located within the Reinvestment Zone, which is described with particularity in Exhibit "A" attached hereto and which will involve construction of a new methanol to gasoline manufacturing facility and related improvements, as more fully described in Exhibit "A" (hereinafter referred to as the "PROJECT" or "Phase I"); and

WHEREAS the COUNTY wishes to encourage OWNER to select Jefferson County as the site for the PROJECT; and

WHEREAS, the REINVESTMENT ZONE is an area within Jefferson County, Texas, which has been designated by Order of this Court, the legal description for which is attached hereto as Exhibit "C." It is understood and agreed that the REINVESTMENT ZONE boundary is subject to revision based on the final construction plan of the PROJECT, and the COUNTY agrees to take the steps necessary to amend the

Reinvestment Zone boundary, consistent with such final PROJECT, upon request of OWNER; and

WHEREAS, the COUNTY finds that the terms of this AGREEMENT and the property subject to the AGREEMENT meet the applicable requirements of the COUNTY's guidelines and criteria for granting tax abatements, attached hereto as Exhibit E, and that the PROJECT is an Eligible Facility as defined therein.

NOW, THEREFORE, for the mutual consideration set forth below, the Parties hereto agree as follows:

## 2. AUTHORIZATION

**THIS AGREEMENT IS AUTHORIZED BY THE TEXAS PROPERTY REDEVELOPMENT AND TAX ABATEMENT ACT, TEX. TAX CODE CHAPTER 312, AS AMENDED, AND BY ORDER OF THE JEFFERSON COUNTY COMMISSIONERS COURT ESTABLISHING AND ADOPTING THE OCI 2022 REINVESTMENT ZONE.**

## 3. DEFINITIONS

For purposes of this AGREEMENT, the following terms shall have the meanings set forth below:

"Abatement" means the full or partial exemption from ad valorem taxes of the value of certain property located in the REINVESTMENT ZONE designated for economic development purposes.

"Affiliate" of any specified person or entity means any other person or entity which, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with such specified person or entity. For purposes of this definition, the term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person or entity, whether through the ownership of voting securities, by contract or otherwise.

"Base Year Value" means the taxable value of all industrial realty improvements owned by the property owner and/or its Affiliates within Jefferson County on January 1 preceding the execution of the abatement agreement. OWNER will, in consultation with the Jefferson County Appraisal District, provide the COUNTY with a list of the Jefferson County Appraisal District account numbers identifying the industrial realty improvements owned by the property owner and/or its Affiliates and the taxable value thereof on January 1 preceding the execution of the abatement agreement for use in preparing the schedule to be attached as an exhibit to the abatement agreement before execution specifying the Base Year Value for all purposes of the abatement agreement.



“Base year”, for the parties to this agreement, is defined as the calendar year in which this abatement contract is executed (signed) by all parties hereto.

“Ineligible Property” is fully taxable and ineligible for tax abatement and includes land, supplies, inventory, housing, vehicles, improvements for the generation or transmission of electrical energy not wholly consumed by a new facility or expansion; any improvements, including those to produce, store or distribute natural gas, fluids or gasses, which are not integral to the operation of the facility; deferred maintenance, property to be rented or leased, property which has a productive life of less than ten years, or any other property for which abatement is not allowed by state law.

“Eligible Property” means the realty improvements, the on-site buildings, structures, fixed machinery and equipment, storage tanks, process units (including all integral components necessary for operations), site improvements, and infrastructure and the permanent office space and related fixed improvements, as defined by the Tax Code but does not include personal tangible property.

“New Eligible Property” means Eligible Property, the construction of which commences subsequent to the effective date of this AGREEMENT. During the construction phase of the New Eligible Property, the OWNER may make such change orders to the New Eligible Property as are reasonably necessary to accomplish its intended use. It is expressly understood that, notwithstanding anything to the contrary written herein, energy, electricity, manufacturing supplies (e.g. foreign manufactured catalysts), feedstocks, freight, and direct materials that physically become a part of the end product manufactured by the PROJECT) are not subject to the terms of this AGREEMENT.

“Taxable Value” for each taxing entity executing an abatement agreement is determined by deducting from the Market Value of all industrial realty improvements of a property owner and/or its affiliates the amount of any applicable exemptions and abatements granted for that Tax Year.

“Completion” as used herein, shall mean, the successful commissioning of the PROJECT and the attainment of reliable operations. OWNER shall certify in writing to the COUNTY when such Completion is attained.

“Full-time job”, as used herein, shall mean a permanent full-time position that: requires at least 1,600 hours or work per year, is not a transferred from another area of the state, is not created to replace a previous employee, and is covered by a group health benefit plan, and pays at least 110% of the county average weekly wage for manufacturing jobs in Jefferson County.

“Payment in Lieu of Taxes”. If, during the period of this abatement, any Federal or State law provides an additional tax exemption for the property that is already the subject of this agreement, Applicant agrees to decline that tax exemption during the period of this abatement. If Applicant is unable to decline that tax exemption, Applicant agrees to pay



the taxes, or payment in lieu of taxes, on the reduction of property tax revenue to the COUNTY that is the result of said exemption. Any payment in lieu of taxes shall be due on or before November 15 of the year in which payment is due.

#### 4. TERM OF ABATEMENT

This AGREEMENT shall be effective and enforceable upon execution by both Parties (which date is herein referred to as the "Effective Date"). The term of the Abatement pursuant to this AGREEMENT (the "Abatement Term") shall begin January 1, 2028 and shall terminate at the end of the 10<sup>th</sup> tax year after the Abatement Term begins, unless sooner terminated pursuant to other provisions of this AGREEMENT.

COUNTY will request that the Jefferson Central Appraisal District establish discrete account numbers to facilitate efficient administration of this AGREEMENT.

Should OWNER not begin construction on the PROJECT by the last day of December 2025, this AGREEMENT shall be null and void.

#### 5. OWNER REPRESENTATIONS/OBLIGATIONS

In order to receive a tax Abatement with respect to a tax year listed on EXHIBIT: "Tax Abatement Schedule," OWNER shall comply with the following:

- a. As a result of the PROJECT, and upon its Completion, maintain a level of not less than 20 new Full-Time Jobs (consisting of both permanent direct employee jobs and permanent contractor jobs), using the number of Full-Time Jobs as of January 1, 2022 as the baseline for determining the number of new Full-Time Jobs, relating to the PROJECT during the Abatement Term; provided, however that OWNER may reduce employment levels due to improved efficiencies or changing economic conditions during the term of this AGREEMENT as long as such employment levels do not fall below 20 Full-Time Jobs for total on site employment by OWNER during said term. In the event that such employment falls below 20 Full-Time Jobs for total on site employment, Abatement shall be reduced proportionate to such employment decline beginning with the tax year in which the decline occurs and each tax year thereafter where the number of Full-Time Jobs during the tax year remains below twenty per the example calculation cited below where:

A1 = initial Abatement percentage  
 A2 = revised Abatement percentage  
 E1 = 20 Full-Time Jobs  
 E2 = actual Full-Time Jobs for the tax year  
 $A2 = A1 \times (E2/E1)$

- b. Report and certify the requisite job levels to the COUNTY, annually during each tax year under this AGREEMENT;

- c. Construct the PROJECT with an estimated investment in excess of \$175 million;
- d. Make available to the COUNTY information concerning the details of contractor bids, every quarter, during the construction phase of the PROJECT under the express understanding that COMPANY is providing the COUNTY such contractor bid information on a strictly confidential basis so as to maintain the integrity of the competitive bid process;
- e. Report and certify to the COUNTY the requisite cost of the PROJECT within 120 days after the completion of the PROJECT (or 120 days after the Effective Date, whichever is later);
- f. Ensure that qualified local labor, vendors, suppliers, and sub-contractors are given a timely opportunity to bid on contracts for the provision of supplies, goods and services (including engineering and construction services, *e.g.*, piping, electrical, civil, fabrication) in connection with construction of the PROJECT and any turnaround project which is undertaken as part of or in connection with the PROJECT during the Abatement Term. Such consideration shall be made in good faith without discrimination. For purposes of the foregoing:
  - i. "Local labor" is defined as those qualified laborers or craftsmen who are residents and domiciliaries of the nine county regions comprised of Jefferson, Orange, Hardin, Jasper, Newton, Liberty, Tyler and Chambers Counties, as well as the Bolivar Peninsula area of Galveston County. "Local vendors" and "local suppliers" shall include only those located or having a principal office in Jefferson County. "Local subcontractors" shall include only those located or having a principal office in Jefferson County.
  - ii. OWNER agrees to give preference and priority to local manufacturers, suppliers, vendors, contractors and labor, except where not reasonably possible to do so without significant added expense, substantial inconvenience, or sacrifice in operating efficiency. For any such exception in cases involving purchases over \$1 million, a justification for such purchase shall be included in OWNER'S annual letter of compliance and such purchase shall not constitute a breach of this AGREEMENT. OWNER further acknowledges that it is a contractual obligation, under this AGREEMENT, of persons receiving property tax abatements to favor local manufacturers, suppliers, contractors, and labor, all other factors being equal. In the event that COUNTY of a breach of this "buy local" provision, OWNER agrees that the percentage of Abatement shall be proportionately reduced in an amount equal to the amount the disqualified contract bears to the total construction cost for the PROJECT.
  - iii. OWNER agrees that it will provide sufficient notice and information regarding the PROJECT to qualified local contractors to enable them to



submit bids for materials in the initial procurement processes, including but not limited PROJECT information provided in job fairs to be conducted by OWNER.

- g. Report and certify to the COUNTY, quarterly the total number of dollars spent on local labor, local subcontractors and local vendors/suppliers, as total and percentage compared to total dollars spent in connection with the PROJECT;
- h. OWNER will invoice purchases locally to ensure that sales taxes credited to the benefit of Jefferson County, Texas. As further clarification OWNER will enter into a Separated Contract as defined in 34 Texas Administrative Code 3.291 (a) (13) with an EPC contractor ("EPC") for the construction of the PROJECT to be located in the Reinvestment Zone of OWNER in Jefferson County Texas.

OWNER will apply for a Texas Direct Payment Permit ("DPP") from the Texas Comptroller of Public Accounts, and if granted, will issue a DPP exemption certificate in lieu of sales tax to EPC. OWNER will remit use taxes on taxable purchases made for use in the PROJECT directly to the state of Texas on its monthly Texas Direct Payment Return for both state and county taxes at the applicable rates. The State of Texas collects Limited, Sales, Excise and Use Taxes for both the state and local tax jurisdictions. The state is responsible for distributing the local taxes it collected to the applicable local jurisdiction.

- i. Not in any way discriminate against or treat disparately union contractors who choose to participate in the competitive bid process relating to work on the PROJECT, nor discriminate against or treat disparately union members who seek employment on the PROJECT; and
- j. Encourage and promote the utilization of Historically Underutilized Businesses (HUBs) (also known as Disadvantaged Business Enterprises, or DBEs) by the general contractor engaged by OWNER to construct the PROJECT and any turnaround project which is undertaken as part of or in connection with the PROJECT during the Abatement Term by ensuring qualified HUB/DBE vendors and contractors are given a timely opportunity to bid on contracts for supplies and services. For purposes of the foregoing:
  - i. A HUB/DBE is a business owned or controlled by Socially and Economically Disadvantaged Individuals as defined by all applicable federal or state laws and local policies, including Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian Indian Americans, women, and individuals with disabilities.
  - ii. A HUB/DBE is one that is at least 51 percent owned or controlled by one or more women or Socially and Economically Disadvantaged Individuals or, in the case of a publicly-owned business, one that at least 51 percent of

the stock of which is controlled by one or more women or Socially and Economically Disadvantaged Individuals.

- iii. A business that has been certified as a HUB/DBE by an agency of the federal government or the State of Texas is presumed to be a HUB/DBE for purposes of Agreement.
- iv. Only a HUB/DBE with its principal office in the State of Texas will be recognized as a HUB/DBE for purposes of this AGREEMENT. A list of HUB/DBE vendors/suppliers is maintained in the COUNTY office and a list of same is attached hereto as Exhibit D. As to the use of qualified local and HUB/DBE vendors, suppliers and sub-contractors, OWNER will, at a minimum:
  - k. Consult with chambers of commerce, minority business associations, trade associations and other regional economic development organizations to identify local and HUB/DBE vendors, suppliers and sub-contractors;
  - l. Notify qualified local and HUB/DBE vendors, suppliers and sub-contractors, allowing sufficient time for effective preparation of bids for the planned work to be sub-contracted or materials, supplies or equipment to be purchased;
  - m. Provide qualified local and HUB/DBE vendors, suppliers and sub-contractors who are interested in bidding on a subcontract or contract for materials, supplies, equipment, or the provision of engineering and construction services and labor adequate information regarding the PROJECT as early as is practicable in the bidding process in order to allow the HUB/DBE vendors, suppliers and sub-contractors sufficient time to prepare a bid (*i.e.*, plans, specifications, scope of work, bonding and insurance requirements, and a point of contact within the general/prime contractor);
  - n. Negotiate in good faith with interested qualified local and HUB/DBE vendors, suppliers or sub-contractors, and award sub-contracts or contracts for materials, supplies equipment, or the provision of engineering and construction services and labor to local or HUB/DBE vendors, suppliers or sub-contractors when they are the lowest qualified responsive bidder who meets all of the applicable bid specifications; and
  - o. Include a provision in OWNER'S contract with the general/prime contractor on the PROJECT which requires the general/prime contractor to read and comply with the terms of this AGREEMENT.
  - p. Provide access to and authorize the inspection of the Eligible Property by the COUNTY's personnel to ensure that the improvements or repairs thereto are made according to the specifications and conditions of this AGREEMENT.



## 6. VALUE OF ABATEMENT

For each year of the Abatement Term, COUNTY agrees to abate the percentage of property taxes imposed on the value of New Eligible Property of the PROJECT as set forth in Exhibit [ ]: "Tax Abatement Schedule" for such year, subject to the adjustment referenced in Section 9 relating to the Base Year Value.

## 7. QUARTERLY MONITORING MEETINGS

With respect to the quarterly monitoring meetings referenced in Section 5(d) above, the County Judge, County Commissioners, or their designee(s) shall be allowed to attend such quarterly monitoring meetings, on the express condition that they execute a confidentiality agreement prepared by OWNER so as to protect confidential information which may be disclosed to them during or as a result of such monitoring meetings. OWNER agrees to reimburse the COUNTY in an amount not to exceed to \$4,000.00 annually for the costs or expenses actually incurred by the COUNTY in monitoring the status of the bidding process every quarter during the construction phase of the PROJECT. OWNER will provide the COUNTY with quarterly reports which detail procurement of services, equipment and labor utilized in construction.

## 8. TAXABILITY

During the period that this AGREEMENT is effective, taxes shall be payable as follows:

- a. The value of Ineligible Property shall be taxable as provided by law;
- b. The Taxable Value of existing Eligible Property as determined each shall be taxable as provided by law; and
- c. Property taxes attributable to the value of New Eligible Property shall be abated as set forth in Section 6, hereinabove.

## 9. ADJUSTMENTS TO ABATEMENT FOR BASE YEAR VALUE DECLINE

The Jefferson County Central Appraisal District will establish the certified values of Eligible Property as of January 1, 2022 (year abatement executed) as set forth on attached Exhibit "B," and such values shall be the values used to calculate the Base Year Value as herein defined. If on January 1<sup>st</sup> of any tax year listed on the "Tax Abatement Schedule" the Taxable Value is less than the Base Year Value, then the amount of property taxes abated under Section 6 shall be reduced by the amount of property taxes that would be imposed on the amount by which the Base Year Value exceeds the Taxable Value using the applicable COUNTY tax rate for such year. In making this adjustment, no reduction to Taxable Value of OWNER's or its Affiliates' Eligible Property resulting from a Force Majeure event shall be taken into account.



In the event OWNER reduces its ad valorem taxes on personal property otherwise payable to the COUNTY by participating in a foreign trade zone, then the amount of property taxes abated shall be reduced by one dollar for each dollar of property tax reduction attributable to special treatment from trade zone participation. The parties hereto stipulate and agree that they have received certified appraisal value for this property, as calculated by the Jefferson County Central Appraisal District.

It is specifically understood and agreed by OWNER that, if at any time during the effective dates of this agreement relating to abatement, OWNER files or prosecutes an action in district court to contest the appraised value of any property of OWNER or OWNER's affiliates within Jefferson County for unequal appraisal or revision thereof pursuant to Sec. 42.26, Texas Tax Code, any and all abatements granted by the COUNTY to OWNER or its affiliates shall become null and void and cancelled.

#### **10. POLLUTION CONTROL EXEMPTION**

The COUNTY understands that OWNER plans (i) to request from the Texas Commission on Environmental Quality ("TCEQ") a determination under Section 11.31 of the Texas Tax Code that certain property included in the New Eligible Property is pollution control property, and (ii) to apply for an exemption from ad valorem taxes under Section 11.31 of the Texas Tax Code with respect to all or a portion of such property determined by the TCEQ to be pollution control property. The maximum dollar value for equipment that OWNER intends to claim to the TCEQ as exempt from taxation under Section 11.31 is fifteen percent (15%) of the PROJECT cost ("Intended Maximum"), though that number could change as current estimated PROJECT costs are refined. It is understood that the COUNTY would not have agreed to this abatement percentages if it were known that the actual exempt property claimed by OWNER would exceed the Intended Maximum. In the event OWNER ultimately obtains a Section 11.31 exemption on the value of pollution control equipment in excess of the Intended Maximum in any year of the Abatement Term (such amount the "Exempt Property Excess"), the percentage of abatement described in the "Abatement Schedule" shall be reduced pro rata so as to reimburse the COUNTY for the total decrease in County tax revenue during the abatement period beginning on January 1 of the year following the year during which construction was completed, which is expected to result from the Exempt Property Excess. It is understood and agreed that OWNER will not seek a tax exemption for any equipment or portion of the facility which merely reduces the pollution characteristics of the finished product produced by the facility and that an exemption will only be sought for equipment and technology utilized to reduce pollution at or around the facility.

#### **11. EVENT OF DEFAULT**

If either party should default in performing any obligation under this AGREEMENT, the other party shall provide such defaulting party written notice of default and provide the defaulting party with a minimum period of thirty (30) days to cure such default prior to instituting an action for breach or pursuing any other remedy for default, provided however, that, if the default is of such a nature that it cannot, with the exercise of reasonable



diligence, be cured within thirty (30) days, then such party shall not be in default so long as such party has commenced such cure within thirty (30) days after receiving written notice of such default and is diligently prosecuting such cure to completion. Subject to providing such notice of default and the aforesaid opportunity to cure same, the party aggrieved by default shall have the right to terminate this AGREEMENT and to pursue any remedy available at law or in equity, for breach hereof. In addition, if a party (the "Affected Party") shall become unable to timely perform any of its obligations under this AGREEMENT, other than any obligation to pay money, as a consequence of a Force Majeure Event, the Affected Party shall be relieved of such obligation (and such failure to timely perform such obligation shall not constitute a default) to the extent that and for so long as (but only to the extent that and only for so long as) it is unable to timely perform such obligation as a consequence of such Force Majeure Event. A "Force Majeure Event" means any of the following: (a) acts of God, earthquakes, tidal waves, lightning, floods, and storms; (b) explosions and fires; (c) strikes and lockouts; (d) wars, riots, acts of the public enemy, civil disturbances, hostilities, sabotage, blockades, insurrections, terrorism, and epidemics; (e) acts of expropriation, confiscation, nationalization, requisitioning, or other taking; and (f) any other event, condition, or circumstance beyond the reasonable control of the party claiming relief as a consequence thereof; provided, however, that "Force Majeure Event" does not include the inability to make payment or financial distress.

## 12. RECAPTURE OF TAXES

In the event the COUNTY terminates this AGREEMENT pursuant to the provisions of Section 11 as a result of any event of default by OWNER under such Section 11, including, for the avoidance of doubt, if OWNER fails to construct the Eligible Property as provided by this AGREEMENT, the COUNTY shall be entitled to recapture and be paid all taxes previously abated by virtue of this AGREEMENT within thirty (30) days of the termination, together with all penalties and interest required by the Texas Property Tax Code.

## 13. TERMINATION

OWNER shall have the right to terminate this AGREEMENT at any time upon thirty (30) days' written notice to the COUNTY and COUNTY shall have the right of recapture under section 12.

## 14. ASSIGNMENT

OWNER may assign this AGREEMENT, in whole or in part, to a new owner or lessee of the same PROJECT, or a portion thereof, or to an Affiliate of OWNER upon written approval by resolution of the COMMISSIONERS COURT of such assignment, and approval shall not be unreasonably withheld or delayed. It shall not be unreasonable for the COURT to withhold approval if OWNER or the proposed assignee is liable to the COUNTY for outstanding taxes or other obligations.

### 15. ENTIRE AGREEMENT

The Parties agree that this AGREEMENT contains all of the terms and conditions of the understanding of the Parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence and preliminary understandings between the parties and others relating hereto are superseded by the AGREEMENT. The COUNTY agrees that this AGREEMENT complies with the guidelines and criteria for tax abatement, and to the extent of any conflict, the guidelines and criteria shall be interpreted to be consistent with this AGREEMENT.

### 16. SUCCESSORS AND ASSIGNS

This AGREEMENT shall be binding on and inure to the benefit of the parties, their respective successors and assigns. OWNER may not assign all or part of its rights and obligations hereunder without the prior written consent of the COUNTY, which shall not be unreasonably withheld or delayed. It shall not be unreasonable to withhold consent to assignment if OWNER or the proposed assignee(s) is/are delinquent in the payment of any ad valorem taxes.

### 16. NOTICE

Any notice and/or statement required and permitted to be delivered shall be deemed delivered by depositing same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses:

**OWNER:** Beshoy Guirguis  
OCI Fuels USA, Inc.  
2800 Post Oak, Suite 3150  
Houston, Texas 77056  
713-568-7351  
832-747-9966

With a copy to: Legal Department  
OCI Fuels USA, Inc.  
2800 Post Oak, Suite 3150  
Houston, Texas 77056

**COUNTY:** Hon. Jeff R. Branick, County Judge  
Jefferson County Texas  
P.O. Box 4025  
Beaumont, Texas 77704  
(409) 835-8466  
(409) 839-2311 (facsimile)

With a copy to: Ms. Kathleen Kennedy, Chief Civil Attorney  
Criminal District Attorney



1149 Pearl Street, 3<sup>rd</sup> Floor  
Beaumont, Texas 77701  
(409) 835-8550  
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Mr. Fred L. Jackson,  
First Assistant: Staff Attorney  
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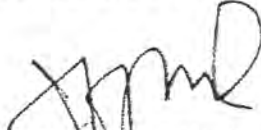
In the event any provision of this AGREEMENT is illegal, invalid, or unenforceable under present or future laws, then, and in that event, it is the intention of the Parties hereto that the remainder of this AGREEMENT shall not be affected thereby, and it is also the intention of the Parties to this AGREEMENT that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable, a provision be added to this AGREEMENT which is legal, valid, and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

**21. SEQUENCE OF PROJECTS**

OWNER currently plans to construct related renewable syngas manufacturing and methanol synthesis facilities after completion of PROJECT ("Phase II"). Phase II is the subject of a separate tax abatement agreement with COUNTY. OWNER may elect to construct one or more of the facilities in Phase II as part of the PROJECT, or OWNER may elect to construct Phase II before the PROJECT, and in either case, COUNTY agrees to amend this AGREEMENT and the agreement related to Phase II to reflect the change in sequencing, construction commencement dates and investment amounts.

Executed in duplicate this the 19<sup>th</sup> day of July, 2022.

**FOR THE COUNTY:**



\_\_\_\_\_  
Hon. Jeff R. Branick, County Judge  
Jefferson County, Texas

**FOR OWNER:**



\_\_\_\_\_  
Beshoy Guirguis



### EXHIBIT A "Description of PROJECT"

OWNER has proposed two projects, to be referred to as Phase I and Phase II. **This Agreement applies only to Phase I, construction of a methanol to gasoline manufacturing facility**, with an investment of \$175 million and creation of at least 20 permanent jobs.

Phase II, a renewable syngas manufacturing facility and methanol synthesis facilities, will be the subject of a separate agreement. The total Phase I and Phase II investment is anticipated to be \$1.7 to \$2.1 billion and will employ up to 1,800 peak construction workers during construction and up to 120 permanent employees.

New property that will serve the entire project: Site development, utilities and offsite systems, electrical equipment, interconnecting piping with natural gas, hydrogen, carbon dioxide and nitrogen, process and final storage tanks and loading infrastructure for finished product, process control buildings, warehouse buildings, maintenance buildings, natural gas and oxygen units.

**“Tax Abatement Schedule”**

As provided in Paragraph 4, above, the Term of the AGREEMENT, the Abatement Term”) shall begin January 1, 2028.

OCI FUELS USA PHASE I TAX ABATEMENT SCHEDULE	
2028	100%
2029	100%
2030	100%
2031	100%
2032	100%
2033	100%
2034	100%
2035	100%
2036	100%
2037	100%

**EXHIBIT B "Base Year Property"**

The base year Taxable Value as certified will be attached, by consent of the parties, when same is calculated and adopted by the Jefferson County Appraisal District.

**EXHIBIT C – “Reinvestment Zone Order”**

**EXHIBIT D – “List of HUB/ DBE Companies”**

**OWNER may acknowledge the County has previously provided this.**



**Exhibit "E"**

**Jefferson County Abatement Policy**

It is understood and agreed that the AGREEMENT conforms to this abatement policy and to the Texas Tax Code.

**EXHIBIT "F" - AFFILIATES OF OWNER**

OCI Beaumont, LLC



STATE OF TEXAS                   §  
  §  
COUNTY OF JEFFERSON       §

**ABATEMENT AGREEMENT WITH OCI FUELS USA, INC. (PHASE II) FOR  
PROPERTY LOCATED IN THE OCI 2022 REINVESTMENT ZONE**

Pursuant to Section 312.402 of the Texas Tax Code, this Tax Abatement Agreement (hereinafter referred to as the "AGREEMENT") is made and entered into by and between Jefferson County (hereinafter sometimes referred to as "the COUNTY"), and OCI Fuels USA, Inc., (hereinafter sometimes referred to as "OCI" or "OWNER").

**1. RECITALS**

WHEREAS, OWNER possesses interests in taxable real property located within the OCI 2022 Reinvestment Zone, the designation of which was implemented by the COUNTY by an Order dated July 19, 2022 (hereinafter referred to as the "REINVESTMENT ZONE"; and,

WHEREAS, this AGREEMENT is limited to the project to be constructed by OWNER, on various parcels of land located within the Reinvestment Zone, which is described with particularity in Exhibit "A" attached hereto and which will involve construction of a new renewable syngas manufacturing facility, methanol synthesis facility and related facilities, and related improvements, as more fully described in Exhibit "A" (hereinafter referred to as the "PROJECT" or "Phase II); and

WHEREAS the COUNTY wishes to encourage OWNER to select Jefferson County as the site for the PROJECT; and,

WHEREAS, the REINVESTMENT ZONE is an area within Jefferson County, Texas, which has been designated by Order of this Court, the legal description for which is attached hereto as Exhibit "C." It is understood and agreed that the REINVESTMENT ZONE boundary is subject to revision based on the final construction plan of the PROJECT, and the COUNTY agrees to take the steps necessary to amend the

Reinvestment Zone boundary, consistent with such final PROJECT, upon request of OWNER; and

WHEREAS, the COUNTY finds that the terms of this AGREEMENT and the property subject to the AGREEMENT meet the applicable requirements of the COUNTY's guidelines and criteria for granting tax abatements, attached hereto as Exhibit E, and that the PROJECT is an Eligible Facility as defined therein.

NOW, THEREFORE, for the mutual consideration set forth below, the Parties hereto agree as follows:

## 2. AUTHORIZATION

**THIS AGREEMENT IS AUTHORIZED BY THE TEXAS PROPERTY REDEVELOPMENT AND TAX ABATEMENT ACT, TEX. TAX CODE CHAPTER 312, AS AMENDED, AND BY ORDER OF THE JEFFERSON COUNTY COMMISSIONERS COURT ESTABLISHING AND ADOPTING THE OCI 2022 REINVESTMENT ZONE.**

## 3. DEFINITIONS

For purposes of this AGREEMENT, the following terms shall have the meanings set forth below:

"Abatement" means the full or partial exemption from ad valorem taxes of the value of certain property located in the REINVESTMENT ZONE designated for economic development purposes.

"Affiliate" of any specified person or entity means any other person or entity which, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with such specified person or entity. For purposes of this definition, the term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person or entity, whether through the ownership of voting securities, by contract or otherwise.

"Base Year Value" means the taxable value of all industrial realty improvements owned by the property owner and/or its Affiliates within Jefferson County on January 1 preceding the execution of the abatement agreement. OWNER will, in consultation with the Jefferson County Appraisal District, provide the COUNTY with a list of the Jefferson County Appraisal District account numbers identifying the industrial realty improvements owned by the property owner and/or its Affiliates and the taxable value thereof on January 1 preceding the execution of the abatement agreement for use in preparing the schedule to be attached as an exhibit to the abatement agreement before execution specifying the Base Year Value for all purposes of the abatement agreement.



"Base year", for the parties to this agreement, is defined as the calendar year in which this abatement contract is executed (signed) by all parties hereto.

"Ineligible Property" is fully taxable and ineligible for tax abatement and includes land, supplies, inventory, housing, vehicles, improvements for the generation or transmission of electrical energy not wholly consumed by a new facility or expansion; any improvements, including those to produce, store or distribute natural gas, fluids or gasses, which are not integral to the operation of the facility; deferred maintenance, property to be rented or leased, property which has a productive life of less than ten years, or any other property for which abatement is not allowed by state law.

"Eligible Property" means the realty improvements, the on-site buildings, structures, fixed machinery and equipment, storage tanks, process units (including all integral components necessary for operations), site improvements, and infrastructure and the permanent office space and related fixed improvements, as defined by the Tax Code but does not include personal tangible property.

"New Eligible Property" means Eligible Property, the construction of which commences subsequent to the effective date of this AGREEMENT. During the construction phase of the New Eligible Property, the OWNER may make such change orders to the New Eligible Property as are reasonably necessary to accomplish its intended use. It is expressly understood that, notwithstanding anything to the contrary written herein, energy, electricity, manufacturing supplies (e.g. foreign manufactured catalysts), feedstocks, freight, and direct materials that physically become a part of the end product manufactured by the PROJECT) are not subject to the terms of this AGREEMENT.

"Taxable Value" for each taxing entity executing an abatement agreement is determined by deducting from the Market Value of all industrial realty improvements of a property owner and/or its affiliates the amount of any applicable exemptions and abatements granted for that Tax Year.

"Completion" as used herein, shall mean, the successful commissioning of the PROJECT and the attainment of reliable operations. OWNER shall certify in writing to the COUNTY when such Completion is attained.

"Full-time job", as used herein, shall mean a permanent full-time position that: requires at least 1,600 hours or work per year, is not a transferred from another area of the state, is not created to replace a previous employee, and is covered by a group health benefit plan, and pays at least 110% of the county average weekly wage for manufacturing jobs in Jefferson County.

"Payment in Lieu of Taxes". If, during the period of this abatement, any Federal or State law provides an additional tax exemption for the property that is already the subject of this agreement, Applicant agrees to decline that tax exemption during the period of this abatement. If Applicant is unable to decline that tax exemption, Applicant agrees to pay



the taxes, or payment in lieu of taxes, on the reduction of property tax revenue to the COUNTY during the abatement term that is the result of said exemption. Any payment in lieu of taxes shall be due on or before November 15 of the year in which payment for taxes are otherwise due.

#### 4. TERM OF ABATEMENT

This AGREEMENT shall be effective and enforceable upon execution by both Parties (which date is herein referred to as the "Effective Date"). The term of the Abatement pursuant to this AGREEMENT (the "Abatement Term") shall begin January 1, 2030, and shall terminate at the end of the 10<sup>th</sup> tax year after the Abatement Term begins, unless sooner terminated pursuant to other provisions of this AGREEMENT.

COUNTY will request that the Jefferson Central Appraisal District establish discrete account numbers to facilitate efficient administration of this AGREEMENT.

Should OWNER not begin construction on the PROJECT by the last day of December 2028, this AGREEMENT shall be null and void.

#### 5. OWNER REPRESENTATIONS/OBLIGATIONS

In order to receive a tax Abatement with respect to a tax year listed on EXHIBIT: "Tax Abatement Schedule," OWNER shall comply with the following:

- a. As a result of the PROJECT, and upon its Completion, maintain a level of not less than 20 new Full-Time Jobs (consisting of both permanent direct employee jobs and permanent contractor jobs), using the number of Full-Time Jobs as of January 1, 2022 as the baseline for determining the number of new Full-Time Jobs, relating to the PROJECT during the Abatement Term; provided, however that OWNER may reduce employment levels due to improved efficiencies or changing economic conditions during the term of this AGREEMENT as long as such employment levels do not fall below 20 Full-Time Jobs for total on site employment by OWNER during said term. In the event that such employment falls below 20 Full-Time Jobs for total on site employment, Abatement shall be reduced proportionate to such employment decline beginning with the tax year in which the decline occurs and each tax year thereafter where the number of Full-Time Jobs during the tax year remains below twenty per the example calculation cited below where:

A1 = initial Abatement percentage  
 A2 = revised Abatement percentage  
 E1 = 20 Full-Time Jobs  
 E2 = actual Full-Time Jobs for the tax year  
 $A2 = A1 \times (E2/E1)$

- b. Report and certify the requisite job levels to the COUNTY, annually during each tax year under this AGREEMENT;

- c. Construct the PROJECT with an estimated investment in excess of \$1.5 billion;
- d. Make available to the COUNTY information concerning the details of contractor bids, every quarter, during the construction phase of the PROJECT under the express understanding that COMPANY is providing the COUNTY such contractor bid information on a strictly confidential basis so as to maintain the integrity of the competitive bid process;
- e. Report and certify to the COUNTY the requisite cost of the PROJECT within 120 days after the completion of the PROJECT (or 120 days after the Effective Date, whichever is later);
- f. Ensure that qualified local labor, vendors, suppliers, and sub-contractors are given a timely opportunity to bid on contracts for the provision of supplies, goods and services (including engineering and construction services, *e.g.*, piping, electrical, civil, fabrication) in connection with construction of the PROJECT and any turnaround project which is undertaken as part of or in connection with the PROJECT during the Abatement Term. Such consideration shall be made in good faith without discrimination. For purposes of the foregoing:
  - i. "Local labor" is defined as those qualified laborers or craftsmen who are residents and domiciliaries of the nine county regions comprised of Jefferson, Orange, Hardin, Jasper, Newton, Liberty, Tyler and Chambers Counties, as well as the Bolivar Peninsula area of Galveston County. "Local vendors" and "local suppliers" shall include only those located or having a principal office in Jefferson County. "Local subcontractors" shall include only those located or having a principal office in Jefferson County.
  - ii. OWNER agrees to give preference and priority to local manufacturers, suppliers, vendors, contractors and labor, except where not reasonably possible to do so without significant added expense, substantial inconvenience, or sacrifice in operating efficiency. For any such exception in cases involving purchases over \$1 million, a justification for such purchase shall be included in OWNER'S annual letter of compliance and such purchase shall not constitute a breach of this AGREEMENT. OWNER further acknowledges that it is a contractual obligation, under this AGREEMENT, of persons receiving property tax abatements to favor local manufacturers, suppliers, contractors, and labor, all other factors being equal. In the event of a breach of this "buy local" provision, OWNER agrees that the percentage of Abatement shall be proportionately reduced in an amount equal to the amount the disqualified contract bears to the total construction cost for the PROJECT.



- iii. OWNER agrees that it will provide sufficient notice and information regarding the PROJECT to qualified local contractors to enable them to submit bids for materials in the initial procurement processes, including but not limited PROJECT information provided in job fairs to be conducted by OWNER.
- g. Report and certify to the COUNTY, quarterly the total number of dollars spent on local labor, local subcontractors and local vendors/suppliers, as total and percentage compared to total dollars spent in connection with the PROJECT;
- h. OWNER will invoice purchases locally to ensure that sales taxes credited to the benefit of Jefferson County, Texas. As further clarification OWNER will enter into a Separated Contract as defined in 34 Texas Administrative Code 3.291 (a) (13) with an EPC contractor ("EPC") for the construction of the PROJECT to be located in the Reinvestment Zone of OWNER in Jefferson County Texas.

OWNER will apply for a Texas Direct Payment Permit ("DPP") from the Texas Comptroller of Public Accounts, and if granted, will issue a DPP exemption certificate in lieu of sales tax to EPC. OWNER will remit use taxes on taxable purchases made for use in the PROJECT directly to the state of Texas on its monthly Texas Direct Payment Return for both state and county taxes at the applicable rates. The State of Texas collects Limited, Sales, Excise and Use Taxes for both the state and local tax jurisdictions. The state is responsible for distributing the local taxes it collected to the applicable local jurisdiction.

- i. Not in any way discriminate against or treat disparately union contractors who choose to participate in the competitive bid process relating to work on the PROJECT, nor discriminate against or treat disparately union members who seek employment on the PROJECT; and
- j. Encourage and promote the utilization of Historically Underutilized Businesses (HUBs) (also known as Disadvantaged Business Enterprises, or DBEs) by the general contractor engaged by OWNER to construct the PROJECT and any turnaround project which is undertaken as part of or in connection with the PROJECT during the Abatement Term by ensuring qualified HUB/DBE vendors and contractors are given a timely opportunity to bid on contracts for supplies and services. For purposes of the foregoing:
  - i. A HUB/DBE is a business owned or controlled by Socially and Economically Disadvantaged Individuals as defined by all applicable federal or state laws and local policies, including Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian Indian Americans, women, and individuals with disabilities.

- ii. A HUB/DBE is one that is at least 51 percent owned or controlled by one or more women or Socially and Economically Disadvantaged Individuals or, in the case of a publicly-owned business, one that at least 51 percent of the stock of which is controlled by one or more women or Socially and Economically Disadvantaged Individuals.
- iii. A business that has been certified as a HUB/DBE by an agency of the federal government or the State of Texas is presumed to be a HUB/DBE for purposes of Agreement.
- iv. Only a HUB/DBE with its principal office in the State of Texas will be recognized as a HUB/DBE for purposes of this AGREEMENT. A list of HUB/DBE vendors/suppliers is maintained in the COUNTY office and a list of same is attached hereto as Exhibit D. As to the use of qualified local and HUB/DBE vendors, suppliers and sub-contractors, OWNER will, at a minimum:
  - k. Consult with chambers of commerce, minority business associations, trade associations and other regional economic development organizations to identify local and HUB/DBE vendors, suppliers and sub-contractors;
  - l. Notify qualified local and HUB/DBE vendors, suppliers and sub-contractors, allowing sufficient time for effective preparation of bids for the planned work to be sub-contracted or materials, supplies or equipment to be purchased;
  - m. Provide qualified local and HUB/DBE vendors, suppliers and sub-contractors who are interested in bidding on a subcontract or contract for materials, supplies, equipment, or the provision of engineering and construction services and labor adequate information regarding the PROJECT as early as is practicable in the bidding process in order to allow the HUB/DBE vendors, suppliers and sub-contractors sufficient time to prepare a bid (*i.e.*, plans, specifications, scope of work, bonding and insurance requirements, and a point of contact within the general/prime contractor);
  - n. Negotiate in good faith with interested qualified local and HUB/DBE vendors, suppliers or sub-contractors, and award sub-contracts or contracts for materials, supplies equipment, or the provision of engineering and construction services and labor to local or HUB/DBE vendors, suppliers or sub-contractors when they are the lowest qualified responsive bidder who meets all of the applicable bid specifications; and
  - o. Include a provision in OWNER'S contract with the general/prime contractor on the PROJECT which requires the general/prime contractor to read and comply with the terms of this AGREEMENT.



- p. Provide access to and authorize the inspection of the Eligible Property by the COUNTY's personnel to ensure that the improvements or repairs thereto are made according to the specifications and conditions of this AGREEMENT.

#### 6. VALUE OF ABATEMENT

For each year of the Abatement Term, COUNTY agrees to abate the percentage of property taxes imposed on the value of New Eligible Property of the PROJECT as set forth in Exhibit [ ]: "Tax Abatement Schedule" for such year, subject to the adjustment referenced in Section 9 relating to the Base Year Value.

#### 7. QUARTERLY MONITORING MEETINGS

With respect to the quarterly monitoring meetings referenced in Section 5(d) above, the County Judge, County Commissioners, or their designee(s) shall be allowed to attend such quarterly monitoring meetings, on the express condition that they execute a confidentiality agreement prepared by OWNER so as to protect confidential information which may be disclosed to them during or as a result of such monitoring meetings. OWNER agrees to reimburse the COUNTY in an amount not to exceed to \$4,000.00 annually for the costs or expenses actually incurred by the COUNTY in monitoring the status of the bidding process every quarter during the construction phase of the PROJECT. OWNER will provide the COUNTY with quarterly reports which detail procurement of services, equipment and labor utilized in construction.

#### 8. TAXABILITY

During the period that this AGREEMENT is effective, taxes shall be payable as follows:

- a. The value of Ineligible Property shall be taxable as provided by law;
- b. The Taxable Value of existing Eligible Property as determined each shall be taxable as provided by law; and
- c. Property taxes attributable to the value of New Eligible Property shall be abated as set forth in Section 6, hereinabove.

#### 9. ADJUSTMENTS TO ABATEMENT FOR BASE YEAR VALUE DECLINE

The Jefferson County Central Appraisal District will establish the certified values of Eligible Property as of January 1, 2022 (year abatement executed) as set forth on attached Exhibit "B," and such values shall be the values used to calculate the Base Year Value as herein defined. If on January 1<sup>st</sup> of any tax year listed on the "Tax Abatement Schedule" the Taxable Value is less than the Base Year Value, then the amount of property taxes abated under Section 6 shall be reduced by the amount of property taxes that would be imposed on the amount by which the Base Year Value exceeds the Taxable Value using the applicable COUNTY tax rate for such year. In making this adjustment, no reduction



to Taxable Value of OWNER's or its Affiliates' Eligible Property resulting from a Force Majeure event shall be taken into account.

In the event OWNER reduces its ad valorem taxes on personal property otherwise payable to the COUNTY by participating in a foreign trade zone, then the amount of property taxes abated shall be reduced by one dollar for each dollar of property tax reduction attributable to special treatment from trade zone participation. The parties hereto stipulate and agree that they have received certified appraisal value for this property, as calculated by the Jefferson County Central Appraisal District.

It is specifically understood and agreed by OWNER that, if at any time during the effective dates of this agreement relating to abatement, OWNER files or prosecutes an action in district court to contest the appraised value of any property of OWNER or OWNER's affiliates within Jefferson County for unequal appraisal or revision thereof pursuant to Sec. 42.26, Texas Tax Code, any and all abatements granted by the COUNTY to OWNER or its affiliates shall become null and void and cancelled.

#### 10. POLLUTION CONTROL EXEMPTION

The COUNTY understands that OWNER plans (i) to request from the Texas Commission on Environmental Quality ("TCEQ") a determination under Section 11.31 of the Texas Tax Code that certain property included in the New Eligible Property is pollution control property, and (ii) to apply for an exemption from ad valorem taxes under Section 11.31 of the Texas Tax Code with respect to all or a portion of such property determined by the TCEQ to be pollution control property. The maximum dollar value for equipment that OWNER intends to claim to the TCEQ as exempt from taxation under Section 11.31 is fifteen percent (15%) of the PROJECT cost ("Intended Maximum"), though that number could change as current estimated PROJECT costs are refined. It is understood that the COUNTY would not have agreed to this abatement percentages if it were known that the actual exempt property claimed by OWNER would exceed the Intended Maximum. In the event OWNER ultimately obtains a Section 11.31 exemption on the value of pollution control equipment in excess of the Intended Maximum in any year of the Abatement Term (such amount the "Exempt Property Excess"), the percentage of abatement described in the "Abatement Schedule" shall be reduced pro rata so as to reimburse the COUNTY for the total decrease in COUNTY tax revenue during the abatement period beginning on January 1 of the year following the year during which construction was completed, which is expected to result from the Exempt Property Excess. It is understood and agreed that OWNER will not seek a tax exemption for any equipment or portion of the facility which merely reduces the pollution characteristics of the finished product produced by the facility and that an exemption will only be sought for equipment and technology utilized to reduce pollution at or around the facility.

#### 11. EVENT OF DEFAULT

If either party should default in performing any obligation under this AGREEMENT, the other party shall provide such defaulting party written notice of default and provide the



defaulting party with a minimum period of thirty (30) days to cure such default prior to instituting an action for breach or pursuing any other remedy for default, provided however, that, if the default is of such a nature that it cannot, with the exercise of reasonable diligence, be cured within thirty (30) days, then such party shall not be in default so long as such party has commenced such cure within thirty (30) days after receiving written notice of such default and is diligently prosecuting such cure to completion. Subject to providing such notice of default and the aforesaid opportunity to cure same, the party aggrieved by default shall have the right to terminate this AGREEMENT and to pursue any remedy available at law or in equity, for breach hereof. In addition, if a party (the "Affected Party") shall become unable to timely perform any of its obligations under this AGREEMENT, other than any obligation to pay money, as a consequence of a Force Majeure Event, the Affected Party shall be relieved of such obligation (and such failure to timely perform such obligation shall not constitute a default) to the extent that and for so long as (but only to the extent that and only for so long as) it is unable to timely perform such obligation as a consequence of such Force Majeure Event. A "Force Majeure Event" means any of the following: (a) acts of God, earthquakes, tidal waves, lightning, floods, and storms; (b) explosions and fires; (c) strikes and lockouts; (d) wars, riots, acts of the public enemy, civil disturbances, hostilities, sabotage, blockades, insurrections, terrorism, and epidemics; (e) acts of expropriation, confiscation, nationalization, requisitioning, or other taking; and (f) any other event, condition, or circumstance beyond the reasonable control of the party claiming relief as a consequence thereof; provided, however, that "Force Majeure Event" does not include the inability to make payment or financial distress.

## 12. RECAPTURE OF TAXES

In the event the COUNTY terminates this AGREEMENT pursuant to the provisions of Section 11 as a result of any event of default by OWNER under such Section 11, including, for the avoidance of doubt, if OWNER fails to construct the Eligible Property as provided by this AGREEMENT, the COUNTY shall be entitled to recapture and be paid all taxes previously abated by virtue of this AGREEMENT within thirty (30) days of the termination, together with all penalties and interest required by the Texas Property Tax Code.

## 13. TERMINATION

OWNER shall have the right to terminate this AGREEMENT at any time upon thirty (30) days' written notice to the COUNTY and COUNTY shall have the right of recapture under section 12.

## 14. ASSIGNMENT

OWNER may assign this AGREEMENT, in whole or in part, to a new owner or lessee of the same PROJECT, or a portion thereof, or to an Affiliate of OWNER upon written approval by resolution of the COMMISSIONERS COURT of such assignment, and approval shall not be unreasonably withheld or delayed. It shall not be unreasonable for the COURT to withhold approval if OWNER or the proposed assignee is liable to the COUNTY for outstanding taxes or other obligations.

## 15. ENTIRE AGREEMENT

The Parties agree that this AGREEMENT contains all of the terms and conditions of the understanding of the Parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence and preliminary understandings between the parties and others relating hereto are superseded by the AGREEMENT. The COUNTY agrees that this AGREEMENT complies with the guidelines and criteria for tax abatement, and to the extent of any conflict, the guidelines and criteria shall be interpreted to be consistent with this AGREEMENT.

## 16. SUCCESSORS AND ASSIGNS

This AGREEMENT shall be binding on and inure to the benefit of the parties, their respective successors and assigns. OWNER may not assign all or part of its rights and obligations hereunder without the prior written consent of the COUNTY, which shall not be unreasonably withheld or delayed. It shall not be unreasonable to withhold consent to assignment if OWNER or the proposed assignee(s) is/are delinquent in the payment of any ad valorem taxes.

## 16. NOTICE

Any notice and/or statement required and permitted to be delivered shall be deemed delivered by depositing same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses:

**OWNER:** Beshoy Guirguis  
 OCI Fuels USA, Inc.  
 2800 Post Oak, Suite 3150  
 Houston, Texas 77056  
 713-568-7351  
 832-747-9966

With a copy to: Legal Department  
 OCI Fuels USA, Inc.  
 2800 Post Oak, Suite 3150  
 Houston, Texas 77056

**COUNTY:** Hon. Jeff R. Branick, County Judge  
 Jefferson County Texas  
 P.O. Box 4025  
 Beaumont, Texas 77704  
 (409) 835-8466  
 (409) 839-2311 (facsimile)

With a copy to: Ms. Kathleen Kennedy, Chief Civil Attorney  
 Criminal District Attorney



1149 Pearl Street, 3<sup>rd</sup> Floor  
 Beaumont, Texas 77701  
 (409) 835-8550  
 (409) 835-8573 (facsimile)

Mr. Fred L. Jackson,  
 First Assistant: Staff Attorney  
 Jefferson County Courthouse  
 P. O. Box 4025,  
 Beaumont, Texas 77704  
 (409) 835-8466  
 (409) 839-2311 (facsimile)

#### 17. MERGER

The Parties agree that this AGREEMENT contains all of the terms and conditions of the understanding of the parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence and preliminary understandings between the parties and others relating hereto are superseded by this AGREEMENT.

#### 18. INTERPRETATION

The Parties acknowledge that both have been represented by counsel of their choosing in the negotiation and preparation of the AGREEMENT. Regardless of which party prepared the initial draft of this AGREEMENT, this AGREEMENT shall, in the event of any dispute over its meaning or application, be interpreted without reference to the principle of construction favoring the party who did not draft the AGREEMENT under construction.

#### 19. APPLICABLE LAW AND VENUE

This AGREEMENT is made, and shall be construed and interpreted under the laws of the State of Texas and venue shall lie in Jefferson County, Texas.

#### 20. SEVERABILITY

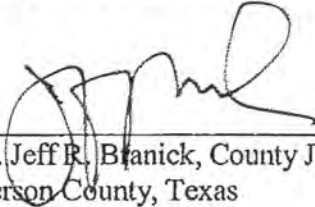
In the event any provision of this AGREEMENT is illegal, invalid, or unenforceable under present or future laws, then, and in that event, it is the intention of the Parties hereto that the remainder of this AGREEMENT shall not be affected thereby, and it is also the intention of the Parties to this AGREEMENT that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable, a provision be added to this AGREEMENT which is legal, valid, and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

**21. SEQUENCE OF PROJECTS**

OWNER currently plans to construct a methanol to gasoline manufacturing facility prior to Completion ("Phase I"). Phase I is the subject of a separate tax abatement agreement with COUNTY. OWNER may elect to construct one or more of the facilities in Phase I as part of the PROJECT, or OWNER may elect to construct the PROJECT before Phase I, and in either case, COUNTY agrees to amend this AGREEMENT and the agreement related to Phase I to reflect the change in sequencing, construction commencement dates and investment amounts.

Executed in duplicate this the 19<sup>th</sup> day of July, 2022.

**FOR THE COUNTY:**



Hon. Jeff R. Branick, County Judge  
Jefferson County, Texas

**FOR OWNER:**



Beshoy Guirguis



### EXHIBIT A "Description of PROJECT"

OWNER has proposed two projects, to be referred to as Phase I and Phase II . **This Agreement applies only to Phase II, construction of a renewable syngas manufacturing facility, methanol synthesis facility and related facilities, with an investment of \$1.5 billion and creation of at least 40 permanent jobs.**

Phase I, a methanol to gasoline manufacturing facility, will be the subject of a separate agreement. The total Phase I and Phase II investment is anticipated to be \$1.7-\$2.1 billion and will employ up to 1,800 peak construction workers during construction and up to 120 permanent employees.

New property that will serve the entire project: Site development, utilities and offsite systems, electrical equipment, interconnecting piping with natural gas, hydrogen, carbon dioxide and nitrogen, process and final storage tanks and loading infrastructure for finished product, process control buildings, warehouse buildings, maintenance buildings, natural gas and oxygen units.

**“Tax Abatement Schedule”**

As provided in Paragraph 4, above, the Term of the AGREEMENT, the Abatement Term”) shall begin January 1, 2030.

OCI FUELS USA PHASE II TAX ABATEMENT SCHEDULE	
2030	100%
2031	100%
2033	100%
2034	100%
2035	100%
2036	100%
2037	100%
2038	100%
2039	100%
2040	100%

**EXHIBIT B "Base Year Property"**

The base year Taxable Value as certified will be attached, by consent of the parties, when same is calculated and adopted by the Jefferson County Appraisal District.

**EXHIBIT C – “Reinvestment Zone Order”**

**EXHIBIT D – “List of HUB/ DBE Companies”**

**OWNER may acknowledge the County has previously provided this.**



**Exhibit "E"**

**Jefferson County Abatement Policy**

**It is understood and agreed that the AGREEMENT conforms to this abatement policy and to the Texas Tax Code.**

**EXHIBIT "F" - AFFILIATES OF OWNER**

OCI Beaumont, LLC

**Resolution No.**

<b>The State of Texas</b>	)	
<b>County of Jefferson</b>	)	
<b>City of Beaumont, Texas</b>	)	<b>Know All by These Present</b>
<b>City of Port Arthur, Texas</b>	)	

**Inter-Local Agreement**

**Between the County of Jefferson, Texas; City of Beaumont, Texas; and City of Port Arthur, Texas  
2022 Edward Byrne Justice Assistance Grant (JAG) Program Award**

**This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2022, by and between The County of Jefferson, Texas acting by and through its governing body, the Commissioners Court; the City of Beaumont, Texas acting by and through its governing body, the City Council; and the City of Port Arthur, Texas acting by and through its governing body, the City Council, witnesseth:**

**WHEREAS**, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party: and

**WHEREAS**, each governing body finds that the performance of this Agreement is in the best interests of all parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement: and

**WHEREAS**, the total funding allocation is \$133,497; and the City of Beaumont, Texas, and the City of Port Arthur, Texas, agree to provide Jefferson County, Texas \$20,025 from the JAG award and the City of Beaumont, Texas, and the City of Port Arthur, Texas agree to allocate the remaining funds as follows:

\$82,731 to the City of Beaumont, Texas, and \$30,741 to the City of Port Arthur, Texas.

**WHEREAS**, Jefferson County, Texas, the City of Beaumont, Texas, and the City of Port Arthur, Texas, believe it to be in their best interests to reallocate the JAG funds.

**NOW THEREFORE, Jefferson County, Texas, the City of Beaumont, Texas, and the City of Port Arthur, Texas agree as follows:**

**Section 1.**

The City of Beaumont, Texas and the City of Port Arthur, Texas agree to provide Jefferson County, Texas \$20,025 from the JAG award; and the City of Beaumont, Texas and the City of Port Arthur, Texas agree to allocate the remaining funds as follows:

\$82,731 to the City of Beaumont, Texas; and \$30,741 to the City of Port Arthur, Texas.

**Section 2.**

Jefferson County, Texas agrees to use the funding for equipment purchases and/or Technology Enhancement until 2025.

The City of Beaumont, Texas agrees to use the funding for equipment purchases and/or Technology Enhancement until 2025.

The City of Port Arthur, Texas agrees to use the funding for equipment purchases and/or Technology Enhancement until 2025.

**Section 3.**

Each party to this agreement will be responsible for its own actions in providing services under this Agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

**Section 4.**

The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

**Section 5.**

By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

**Section 6.**

The City of Beaumont agrees to act as the fiscal agent in applying for, dispersing, monitoring, and reporting for this JAG funding.

City of Beaumont, Texas

\_\_\_\_\_  
CITY MANAGER

City of Port Arthur, Texas

\_\_\_\_\_  
CITY MANAGER

Jefferson County, Texas

\_\_\_\_\_  
COUNTY JUDGE

\*By law, the District Attorney’s Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our view of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval and should seek review and approval by their own respective attorney(s).

# 2022 JAG

2022 JAG BUDGET		BUDGET
Jefferson County Technology Enhancement Computer Hardware / Software		
9 - Desktop Computers w/software		9,784.80
2 - Panasonic Toughbooks w/mount and software w/software		2,700.00
Printer Ink		6,597.23
		600.00
		342.97
Sub - Total	\$	20,025.00
Jefferson County Total Award	\$	20,025.00

7/26/2022



**JEFFERSON COUNTY SHERIFF'S OFFICE*****Zena Stephens, Sheriff***

1001 Pearl Street, Suite 103

Beaumont, TX 77701

(409) 835-8411

**Donta Miller**  
Chief of Law Enforcement  
[dmiller@co.jefferson.tx.us](mailto:dmiller@co.jefferson.tx.us)**John Shaubarger**  
Chief of Corrections  
[jshaubarger@co.jefferson.tx.us](mailto:jshaubarger@co.jefferson.tx.us)

DATE: July 27, 2022

TO: Judge Jeff Branick  
Commissioner Vernon Pierce  
Commissioner Darrell Bush  
Commissioner Michael Sinegal  
Commissioner Everette "Bo" Alfred

FROM: Chief Donta Miller

Please consider and possibly approve, authorizing the Jefferson County Judge to execute an Inter-local agreement between Jefferson County and the Cities of Beaumont and Pt. Arthur on asset sharing of the 2022 Byrne Justice Assistance Grant Program award. Jefferson County's allocation is \$20,025 and is budgeted for computer equipment for the Sheriff's Office.

Donta Miller  
Chief Deputy  
Jefferson County Sheriff's Office

**ORDER OF ELECTION – NOVEMBER GENERAL ELECTION FOR COUNTY OFFICERS  
 (ORDEN DE ELECCIÓN GENERAL POR FUNCIONARIOS DEL CONDADO)**

An election is hereby ordered to be held on 11 / 8 / 2022 in Jefferson County,  
 (date)

Texas for the purpose of electing the following county and precinct officers as required by Article XVI, Section 65 of the Texas Constitution.

*(Por la presente se ordena que se lleve a cabo una elección en la fecha 11 / 8 / 2022 en el Condado de Jefferson, Texas, con el propósito de elegir los siguientes oficiales del condado y del precinto como requerido por el Artículo XVI, Sección 65, de la Constitución de Texas.)*

List Offices/Propositions/Measures on the ballot *(Enumere los puestos/proposiciones/medidas oficiales en la boleta)*

United States Representative District 14, United States Representative District 36, Governor, Lieutenant Governor, Attorney General, Comptroller of Public Accounts, Commissioner of the General Land Office, Commissioner of Agriculture, Railroad Commissioner, Justice, Supreme Court, Place 3, Justice, Supreme Court, Place 5, Justice, Supreme Court, Place 9, Judge, Court of Criminal Appeals, Place 2, Judge, Court of Criminal Appeals, Place 5, Judge, Court of Criminal Appeals, Place 6, Member, State Board of Education, District 7, State Senator, District 3, State Senator, District 4, State Representative, District 21, State Representative, District 22, Justice, 9th Court of Appeals District, Place 2, District Judge, 58th Judicial District, District Judge, 172nd Judicial District, District Judge, 252nd Judicial District, District Judge, 279th Judicial District, District Judge, 317th Judicial District, Criminal District Judge, Criminal District Attorney, County Judge, Judge, County Court-at-Law No 1, Judge, County Court-at-Law No 2, Judge, County Court-at-Law No 3, District Clerk, County Clerk, County Treasurer, County Commissioner, Precinct 2, County Commissioner, Precinct 4, Justice of the Peace, Pct 1, Place 2, Justice of the Peace, Pct. 2, Justice of the Peace, Pct. 4, Justice of the Peace, Pct 6, Justice of the Peace, Pct 7,
--

Justice of the Peace, Pct. 8, unexpired term.

Early voting by personal appearance will be conducted each weekday at:  
*(La votación adelantada en persona se llevará a cabo de lunes a viernes en:)*

The Main Early Voting Location *(sitio principal de votación adelantada)*

Location <i>(sitio)</i>	Hours <i>(horas)</i>
Jefferson County Courthouse	10/24-10/28 8AM - 5 PM, 10/29 7AM - 7PM, 10/30 12 Noon - 6 PM, 10/31- 11/4 7 AM - 7 PM

Branch Early Voting Locations *(sucursal sitios de votación adelantada)*

Location <i>(sitio)</i>	Hours <i>(horas)</i>
Port Arthur Sub-Courthouse	10/24-10/28 8AM - 5PM
Rogers Park Recreation Center	10/29 7AM - 7PM
Port Arthur Library	10/30 12 Noon - 6 PM
Theodore Johns Library	10/31 - 11/4 7AM - 7 PM
John Paul Davis Community Center	
Marion & Ed Hughes Public Library	
Groves Activity Building	
Effie & Wilton Hebert Library	
Ray Chesson Office Building	
Precinct One Service Center	

Early voting by personal appearance will be conducted each weekend at:  
*(La votación adelantada en persona se llevará a cabo en el fin de semana en:)*

The Main Early Voting Location *(sitio principal de votación adelantada)*

Location <i>(sitio)</i>	Hours <i>(horas)</i>
Jefferson County Courthouse	10/24-10/28 8AM - 5 PM, 10/29 7AM - 7PM, 10/30 12 Noon - 6 PM, 10/31-11/4 7 AM - 7 PM

Branch Early Voting Locations *(sucursal sitios de votación adelantada)*

Location (sitio)	Hours (horas)
All Early Voting Branch Locations listed above.	10/29 7 AM - 7 PM, 10/30 12 Noon - 6 PM

Applications for ballot by mail shall be mailed to:  
*(Las solicitudes para boletas que se votarán adelantada por correo deberán enviarse a:)*

Laurie Leister, Jefferson County Clerk  
 Name of Early Voting Clerk  
*(Nombre del Secretario/a de la Votación Adelantada)*

1085 Pearl Street  
 Address *(Dirección)*

Beaumont, Texas 77701  
 City *(Ciudad)*                      Zip Code *(Código Postal)*

409-835-8760  
 Telephone Number *(Número de teléfono)*

countyclerk@co.jefferson.tx.us  
 Email Address *(Dirección de Correo Electrónico)*

www.jeffersonelections.com  
 Early Voting Clerk's Website *(Sitio web del Secretario/a de Votación Adelantada)*

Applications for Ballots by Mail (ABBMs) must be received no later than the close of business on:  
*(Las solicitudes para boletas que se votarán adelantada por correo deberán recibirse no más tardar de las horas de negocio el:)*

10 / 28 / 2022  
 (date)(fecha)

Federal Post Card Applications (FPCAs) must be received no later than the close of business on:  
*(La Tarjeta Federal Postal de Solicitud deberán recibirse no más tardar de las horas de negocio el:)*

10 / 28 / 2022  
 (date)(fecha)

Issued this 2nd day of August, 20 22.  
 (day) (month) (year)

*(Emitada este día* 2nd *de* August *, 20* 22 *.)*  
 (día) (mes) (año)

Signature of County Judge *(Firma del Juez del Condado)*

ATTEST Laurie Leister  
 County Clerk  
 DATE 8-2-22



## ELECTION DAY November 8, 2022

**November General Election – Countywide Polling – All precincts may vote at any Vote Center.**  
(Elecciones generales de noviembre – Lugares de votacion en todo el condado – Todos los precinctos pueden votar en cualquier centro de votacion.)

<b>Election Day Polling Places</b>	<b>Address</b>	<b>City, State, Zip Code</b>
<i>Localizaciones</i>	<i>Direccion</i>	<i>Cuidad, Estado,Codigo postal</i>
Amelia Elementary School (Gymnasium)	565 S. Major Dr	Beaumont, TX 77707
West Brook High School (Mary Nixon Room – Library)	8750 Phelan Blvd	Beaumont, TX 77706
Bevil Oaks City Hall	13560 River Oaks Blvd	Bevil Oaks, TX 77713
BISD Adminisration Building (Boardroom)	3395 Harrison Ave	Beaumont, TX 77706
Dishman Elementary (Gymnasium)	3475 Champions Dr	Beaumont, TX 77707
O.C. Mike Taylor Career Center (First Floor Old Library)	2330 North St.	Beaumont, TX 77702
Precinct 1 Service Center (Front Conference Room)	20205 W. Hwy 90	China, TX 77613
Rogers Park Community Center	6540 Gladys Ave	Beaumont, TX 77706
Roy Guess Elementary (Hallway near Gymnasium)	8055 Voth Rd.	Beaumont, TX 77708
Hebert Library (Community Room)	2025 Merriman St	Port Neches, TX 77651
Jefferson County WCID 10 Fire Station (Front Lobby)	2024 Spurlock Rd.	Nederland, TX 77627
Groves Public Library (Front Meeting Room)	5600 West Washington	Groves, TX 77619
Nederland City Hall	207 N. 12 <sup>th</sup> Street	Nederland, TX 77627
Jerry Ware Airport Terminal (Conference Room off Main Lobby)	5000 Jerry Ware Dr	Beaumont, TX 77705
Ray Chesson Office Building (Courtroom)	19217 FM 365	Beaumont, TX 77705
Jefferson County ESD #4 (Main Meeting Room)	12880 FM 365	Beaumont, TX 77705
Marion & Ed Hughes Public Library (Meeting Room)	2712 Nederland Ave	Nederland, TX 77627
Port Neches City Hall (Council Chambers – Room 104)	1005 Merriman	Port Neches, TX 77651
Groves Activity Building (Lounge)	6150 39 <sup>th</sup> Street	Groves, TX 77619
DeQueen Elementary (Fifth Grade Hall)	740 DeQueen Blvd	Port Arthur, TX 77640
Zion Hill Baptist Church (Education Building)	5848 Roosevelt Ave	Port Arthur, TX 77640
Jefferson County Sub-Courthouse (Foyer)	525 Lakeshore Dr	Port Arthur, TX 77640
Former Dowling Elementary (Library)	6301 Pat Ave	Port Arthur, TX 77640
O.W. Collins Retirement Center (Social Service Room)	4440 Gulfway Dr	Port Arthur, TX 77642
Port Arthur Library (Lucy Stiefel Gallery)	4615 9 <sup>th</sup> Avenue	Port Arthur, TX 77642
Queen of Vietnam Catholic Church (St. Joseph Hall)	801 9 <sup>th</sup> Avenue	Port Arthur, TX 77642
R.L. Gabby Eldridge Center	5262 S. Gulfway Dr	Sabine Pass, TX 77655
Travis Elementary (Library)	1115 Lakeview Ave	Port Arthur, TX 77642
Willie Ryman Community Center	3248 39 <sup>th</sup> Street	Port Arthur, TX 77642
Alice Keith Park Recreation Center	4075 Highland Ave	Beaumont, TX 77705
Charlton-Pollard Elementary (Gymnasium)	825 Jackson St	Beaumont, TX 77701
Lamar University Montagne Center (Cardinal Club Room)	4401 S. MLK Pkwy	Beaumont, TX 77705
Hamshire VFD and Community Center	12318 2 <sup>nd</sup> St	Hamshire, TX 77622
Jefferson County Courthouse (Lobby)	<b>Main Polling Location</b> 1085 Pearl St	Beaumont, TX 77701
MLK Middle School (Gymnasium)	1400 Avenue A	Beaumont, TX 77701
John Paul Davis Community Center	3580 E. Lucas Dr	Beaumont, TX 77703
Precinct 4 Service Center (Conference Room)	7780 Boyt Rd	Beaumont, TX 77713
Sterling Pruitt Center (Multi-purpose Room)	2930 Gulf St	Beaumont, TX 77703
Theodore Johns Library (Meeting Room)	4255 Fannett Rd	Beaumont, TX 77705

**EARLY VOTING**  
**October 24, 2022 – November 4, 2022**

**November General Election – Countywide Polling – All precincts may vote at any Vote Center.**  
*(Elecciones generales de noviembre – Lugares de votacion en todo el condado – Todos los precinctos pueden votar en cualquier centro de votacion.)*

<b>Election Day Polling Places</b> <i>Localizaciones</i>	<b>Address</b> <i>Direccion</i>	<b>City, State, Zip Code</b> <i>Cuidad, Estado,Codigo postal</i>
Precinct 1 Service Center (Front Conference Room)	20205 W. Hwy 90	China, TX 77613
Rogers Park Community Center	6540 Gladys Ave	Beaumont, TX 77706
Hebert Library (Community Room)	2025 Merriman St	Port Neches, TX 77651
Ray Chesson Office Building (Courtroom)	19217 FM 365	Beaumont, TX 77705
Marion & Ed Hughes Public Library (Meeting Room)	2712 Nederland Ave	Nederland, TX 77627
Groves Activity Building (Lounge)	6150 39 <sup>th</sup> Street	Groves, TX 77619
Jefferson County Sub-Courthouse (Foyer)	525 Lakeshore Dr	Port Arthur, TX 77640
Port Arthur Library (Lucy Stiefel Gallery)	4615 9 <sup>th</sup> Avenue	Port Arthur, TX 77642
Jefferson County Courthouse (Lobby)	1085 Pearl St	Beaumont, TX 77701
John Paul Davis Community Center	3580 E. Lucas Dr	Beaumont, TX 77703
Theodore Johns Library (Meeting Room)	4255 Fannett Rd	Beaumont, TX 77705

**DATES AND HOURS FOR ALL ABOVE LOCATIONS:**

(Fechas y Horas para todas las localizaciones anteriores):

October 24 – 28, 2022 (Octubre 24 – 28, 2022)	Monday - Friday (Lunes -Viernes)	8:00 a.m. - 5:00 p.m.
October 29, 2022 (Octubre 29, 2022)	Saturday (Sábado)	7:00 a.m. - 7:00 p.m.
October 30, 2022 (Octubre 30, 2022)	Sunday (Domingo)	12:00 p.m. - 6:00 p.m.
October 31 – November 4, 2022 (Octubre 31 – Noviembre 4, 2022)	Monday – Friday (Lunes – Viernes)	7:00 a.m. – 7:00 p.m.



## The State of Texas



Elections Division  
P.O. Box 12060  
Austin, Texas 78711-2060  
www.sos.state.tx.us

Phone: 512-463-5650  
Fax: 512-475-2811  
TTY: 7-1-1  
(800) 252-VOTE (8683)

John B. Scott  
Secretary of State

July 29, 2022

The Honorable Laurie Leister  
County Clerk  
Jefferson County  
1149 Pearl Street – 7<sup>th</sup> Floor  
Beaumont, Texas 77706

Hello,

We are in receipt of a copy of the proposed contract between Jefferson County and Election Systems & Software (“ES&S”), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S’s EVS 6110 which includes the ExpressVote ballot marking device, the DS200 precinct scanner, and the DS450 central scanner. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

A handwritten signature in blue ink, appearing to read "Keith Ingram".

Keith Ingram  
Director of Elections

Enclosures

KI:CA



11208 JOHN GALT BLVD  
 OMAHA, NE 68137-2364  
 (402) 593-0101

# Consolidated Sales Order Agreement

Sales Quotation #: 11926

1st Election Date: November 8, 2022

Estimated Delivery Date: August 2022

Phone Number: 409-835-8475

Fax Number: N/A

Customer Contact, Title: Laurie Leister - County Clerk

Customer Name: Jefferson County, Texas

Type of Sale:  NEW

Type of Equip:  NEW  REFURBISHED

Bill To: \_\_\_\_\_

Jefferson County, Texas

Laurie Leister - County Clerk

1149 Pearl Street - 7th Floor

Beaumont, Texas 77706

Ship To: \_\_\_\_\_

Jefferson County, Texas

Laurie Leister - County Clerk

7933 Viterbo Road

Beaumont, TX 77705

<u>Item</u>	<u>Description</u>	<u>Qty</u>	<u>Price</u>	<u>Total</u>
1	Attachment 1 Voter Tabulation Sales Order Agreement	1	\$2,434,960.00	\$2,434,960.00
2	Attachment 2 Electronic Pollbook Sales Order Agreement	1	\$121,420.00	\$121,420.00
3	Attachment 3 Ballot on Demand	1	\$73,360.00	\$73,360.00
4	Attachment 4 3rd Party Purchase Order Agreement	1	\$10,249.00	\$10,249.00
<b>Combined Order Total</b>				<b>\$ 2,639,989.00</b>

Matt Kunz  
 Regional Sales Manager

Richard J. Jalko 08/04/2022  
 V.P. of Finance Date

[Signature] 8.3.22  
 Customer Signature Date  
County Judge  
 Title

**Special Note:**  
 Attachments 1, 2, 3, and 4 are specifically incorporated herein by this reference and are a material part of this Consolidated Sales Order Agreement. Customer shall comply with all terms and conditions set forth in this Consolidated Sales Order Agreement and each Attachment.

**Payment Terms**

\$1,319,994.50 of Order Total will be invoiced upon Contract Execution.  
 \$1,319,994.50 of Order Total will be invoiced as Equipment and Software are provided to Customer.  
 Invoices are due net 30 from invoice date.  
 Note 1: Any applicable state and local taxes are not included, and are the responsibility of the Customer.  
 Note 2: In no event shall Customer's payment obligations hereunder, or the due dates for such payments, be contingent or conditional upon Customer's receipt of federal and/or state funds.



11208 JOHN GALT BLVD  
 OMAHA, NE 68137-2364  
 (402) 593-0101

# Attachment 1

## Voter Tabulation

### Sales Order Agreement

Sales Quotation #: 11926

1st Election Date: November 8, 2022

Estimated Delivery Date: August 2022

Customer Contact, Title: Laurie Leister - County Clerk

Phone Number: 409-835-8475

Customer Name: Jefferson County, Texas

Fax Number: N/A

Type of Sale:  **NEW**

Type of Equip:  **NEW**     **REFURBISHED**

Bill To: \_\_\_\_\_

Ship To: \_\_\_\_\_

Jefferson County, Texas

Jefferson County, Texas

Laurie Leister - County Clerk

Laurie Leister - County Clerk

1149 Pearl Street - 7th Floor

7933 Viterbo Road

Beaumont, Texas 77706

Beaumont, TX 77705

Item	Description	Qty	Price	Total
1	<b>DS200 Poll Place Scanner and Tabulator:</b> Model DS200 Scanner with Internal Backup Battery, Plastic Ballot Box with Removable Carrying Case, #2 Ballot Box Lock, Paper Roll, and One (1) Standard 4GB Memory Device - Version EVS 6.1.1.0	65	\$6,210.00	\$403,650.00
2	Tote Bin	130	\$361.00	\$46,930.00
3	Soft-Sided Nylon Case	65	\$135.00	\$8,775.00
4	Paper Roll (Additional)	2,000	\$1.75	\$3,500.00
5	Standard 4GB Memory Device (Additional)	600	\$105.00	\$63,000.00
6	<b>ExpressVote Universal Voting System:</b> ExpressVote BMD Terminal with Internal Backup Battery, ADA Keypad, Headphones, Power Supply with AC Cord, and One (1) Standard 4GB Memory Device - Version EVS 6.1.1.0	360	\$3,325.00	\$1,197,000.00
7	Soft-Sided Carrying Case	50	\$225.00	\$11,250.00
8	ExpressVote Printer	110	\$725.00	\$79,750.00
9	Tabletop ExpressVote Privacy Screens (6 per case)	40	\$120.00	\$4,800.00
10	ExpressVote Blank Ballot Card Stock - 11" (250 per pkg)	400	\$25.00	\$10,000.00
11	ExpressVote Blank Ballot Card Stock - 14" (250 per pkg)	400	\$26.25	\$10,500.00
12	ExpressVote Blank Ballot Card Stock - 17" (250 per pkg)	400	\$28.75	\$11,500.00
13	<b>DS450 High-Throughput Scanner and Tabulator:</b> Model DS450 High Speed Digital Image Scanner with Steel Table, Start-up Kit, Dust Cover, Reports Printer, Battery Backup, Two (2) USB Cables, and Two (2) Standard 8GB Memory Devices - Version EVS 6.1.1.0	2	\$51,450.00	\$102,900.00
14	Standard 8GB Memory Device (Additional)	100	\$210.00	\$21,000.00

15	Software	Electionware Election Management Software EVS 6.1.1.0 PYO Base Package with English Language Synthesized Voice Files	1	\$32,450.00	\$32,450.00
16	Software	Synthesized Audio Capability - Each Additional Language	1	\$1,465.00	\$1,465.00
17	Election Supplies	ExpressVote Quad Cart	65	\$4,095.00	\$266,175.00
18	Election Supplies	Ballot Express Cart	65	\$2,045.00	\$132,925.00
19	Election Supplies	ExpressVote Curbside Cart	50	\$890.00	\$44,500.00
20	Election Supplies	11" BOD Ballot Stock	20,000	\$0.12	\$2,400.00
21	Election Supplies	14" BOD Ballot Stock	20,000	\$0.12	\$2,400.00
22	Election Supplies	17" BOD Ballot Stock	20,000	\$0.12	\$2,400.00
23	Election Supplies	Black BOD Toner	130	\$150.00	\$19,500.00
24	Election Supplies	ExpresVote Card Storage Box	220	\$10.00	\$2,200.00
25	Election Supplies	Canned Air for Cleaning Optical Mark Reader	240	\$15.00	\$3,600.00
26	Election Supplies	Touch Screen Cleaning Kit	260	\$12.00	\$3,120.00
27	Election Supplies	I Voted Today Sticker English - 1,000 per Roll	260	\$4.95	\$1,287.00
28	Election Supplies	Paper Ballot Booth - KoraBooth Carboard No Light	325	\$40.00	\$13,000.00
29	Election Supplies	Power Strip - SL-WABER DS450	130	\$50.00	\$6,500.00
30	Election Supplies	Ballot Transfer Case Cardboard 14"	388	\$3.25	\$1,261.00
31	Election Supplies	Mini Precinct Election Bag - Blue	130	\$17.50	\$2,275.00
32	Election Supplies	Privacy Sleeve - Ballot, Plastic	260	\$8.75	\$2,275.00
33	Election Supplies	TamperProof Seal 1x3-3/8 Red - Barcode - 100pk	30	\$45.00	\$1,350.00
34	Election Supplies	BiC Retractable Gel Pen Black - 12 Count	325	\$6.00	\$1,950.00
35	Election Supplies	BiC Retractable Gel Pen Red -12 Count	195	\$10.00	\$1,950.00
36	Election Supplies	BiC Stic Ball Pen, Black - 60 Count	260	\$8.00	\$2,080.00
37	Election Supplies	Poll Distance Marker Sign	260	\$11.95	\$3,107.00
38	Election Supplies	Polling Place Cone Cap Sign	260	\$16.50	\$4,290.00
39	Election Supplies	Clasp Envelopes 12"x15-1/2" - Box of 100	30	\$66.00	\$1,980.00
40	Election Supplies	Dual-Lock, Collapsible Ballot Bag With Keyless Security Slot	65	\$220.00	\$14,300.00
41	DS200	Equipment Installation	65	\$115.00	\$7,475.00
42	ExpressVote BMD	Equipment Installation	360	\$105.00	\$37,800.00
43	DS450	Equipment Installation	2	\$1,500.00	\$3,000.00
44	Quad Cart	Equipment Installation	65	\$105.00	\$6,825.00
45	Election Services	Project Management Day	5	\$1,795.00	\$8,975.00

46	Election Services	Tabulation Equipment Operations Training Day	43	\$1,795.00	\$77,185.00
47	Election Services	Central Scanner Training Day	1	\$1,795.00	\$1,795.00
48	Election Services	Tabulation Software Training Day	20	\$1,795.00	\$35,900.00
49	Election Services	Election On-Site Support Event	10	\$4,975.00	\$49,750.00
50	Shipping	Shipping & Handling	1	\$52,600.00	\$52,600.00

<b>Freight Billable:</b> yes <input checked="" type="checkbox"/> no <input type="checkbox"/>
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<b>Order Subtotal</b>	<b>\$2,826,600.00</b>
<b>Currently Owned Equipment Disposal Credit and Tabulation Hardware Discount</b>	<b>(\$391,640.00)</b>
<b>Order Total</b>	<b>\$ 2,434,960.00</b>

**Special Note:**  
Should the Customer upgrade to an ES&S VVSG 2.0-compliant tabulation system in calendar year 2027, Customer will be entitled to a 20% trade-in value for the Tabulation Hardware.  
Should the Customer upgrade to an ES&S VVSG 2.0-compliant tabulation system in calendar year 2028, Customer will be entitled to a 15% trade-in value for Tabulation Hardware.  
Should the Customer upgrade to an ES&S VVSG 2.0-compliant tabulation system in calendar year 2029, Customer will be entitled to a 10% trade-in value for Tabulation Hardware.

<b>Payment Terms</b>	See Consolidated Order Agreement for Payment Terms. Customer shall be responsible for the payment of all fees set forth in this Attachment 1.
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<b>Warranty Period (Years):</b>	One (1) Year From Equipment Delivery
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**Hardware Maintenance and Software License, Maintenance and Support Services (Post-Warranty Period)**  
The terms, conditions, and pricing for the Hardware Maintenance and Software License, Maintenance and Support Services (Post-Warranty Period) are set forth in Exhibit A attached hereto.

SEE EQUIPMENT PURCHASE AND SOFTWARE LICENSE TERMS



## EQUIPMENT PURCHASE AND SOFTWARE LICENSE TERMS

1. **Equipment Purchase and Software License Terms.** Subject to the terms and conditions of this Agreement, ES&S agrees to sell and/or license, and Customer agrees to purchase and/or license, the ES&S Equipment, ES&S Software and ES&S Firmware described on the front side of this Agreement. The ES&S Firmware and ES&S Software are collectively referred to hereinafter as the "ES&S Software." The payment terms for the ES&S Equipment and ES&S Software are set forth on the front side of this Agreement. The consideration for ES&S' grant of the license during the Initial Term for the ES&S Firmware is included in the cost of the ES&S Equipment.

a. **Equipment Purchase.** Subject to the terms and conditions of this Agreement, ES&S agrees to sell, and Customer agrees to purchase, the ES&S Equipment. Title to the ES&S Equipment shall pass to Customer when Customer has paid ES&S the total amount set forth on the front side of this Agreement for the ES&S Equipment.

b. **Grant of Licenses.** Subject to the terms and conditions of this Agreement, ES&S hereby grants to Customer nonexclusive, nontransferable licenses for its bona fide full time, part time or temporary employees to use the ES&S Software and any and all written or electronic documentation furnished or generally made available to licensees by ES&S relating to the ES&S Software, including any operating instructions, user manuals or training materials (collectively, the "Documentation") in the Jurisdiction while Customer is using the ES&S Equipment and timely pays the applicable annual ES&S Software License, Maintenance and Support Fees set forth on [Schedule A1](#). The licenses allow such bona fide employees to use and copy the ES&S Software (in object code only) and the Documentation, in the course of operating the ES&S Equipment and solely for the purposes of defining and conducting elections and tabulating and reporting election results in the Jurisdiction.

2. **Prohibited Uses.** Customer shall not take any of the following actions with respect to the ES&S Software or the Documentation:

a. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the ES&S Software;

b. Cause or permit any use, display, loan, publication, transfer of possession, sublicensing or other dissemination of the ES&S Software or Documentation, in whole or in part, to or by any third party without ES&S' prior written consent; or

c. Cause or permit any change to be made to the ES&S Software without ES&S' prior written consent;

d. Cause or permit any review, testing, examination or audit of the ES&S Software without ES&S' prior written consent; or

e. Allow a third party to cause or permit any copying, reproduction or printing of any output generated by the ES&S Software (except finished ballots by ballot printers selected by Customer) in which ES&S owns or claims any proprietary intellectual property rights (e.g., copyright, trademark, patent pending or patent), including, but not limited to, any ballot shells or ballot code stock.

3. **Term of Licenses.** The licenses granted in Section 1(b) shall commence upon the delivery of the ES&S Software described in Section 1(b) and shall continue for a one (1) year period (the "Initial License Term"). Upon expiration of the Initial License Term, the licenses shall automatically renew for an unlimited number of successive one-year periods (each a "License Renewal Term") upon the payment by Customer of the annual software license and software maintenance and support fee as set forth on the front side of this Agreement. ES&S may terminate either license if Customer fails to pay the consideration due for, or breaches Sections 1(b), 2, or 8 with respect to, such license. Upon the termination of either of the licenses granted in Section 1(b) for ES&S Software or upon Customer's discontinuance of the use of any ES&S Software, Customer shall immediately return such ES&S Software and the related Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

4. **Updates.** During the Initial License Term or any License Renewal Term for which Customer has paid the associated renewal fees, ES&S may provide new releases, upgrades or maintenance patches to the ES&S Software, together with appropriate Documentation ("Updates"), on a schedule defined by ES&S. Customer is solely responsible for obtaining and purchasing any upgrades or Third-Party Items required to operate the Updates, as well as the cost of any replacements, retrofits or modifications to the ES&S Equipment which may be necessary in order to operate the Updates. All Updates shall be deemed to be ES&S Software for purposes of this Agreement upon delivery. Updates to the ES&S Equipment Firmware will be incorporated by ES&S into a regularly scheduled preventative maintenance event at no additional charge to Customer. If this foregoing is not acceptable to Customer and subject to Customer's prior execution of a purchase order therefore, ES&S shall charge to install the Updates to the ES&S Equipment Firmware. ES&S shall also charge Customer at its then-current rates to: (i) train Customer on Updates, if such training is requested by Customer and (ii) if applicable, provide maintenance and support on the ES&S Software that is required as a result of Customer's failure to timely or properly install an Update. Notwithstanding the foregoing, Customer shall pay ES&S to install all election management software Updates. If applicable, Customer shall be responsible for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee which is caused by Customer's failure to install the most recent Update provided to it by ES&S. If Customer proposes changes in the ES&S Software to ES&S, such proposals will become ES&S' property. ES&S may, in its sole discretion, elect to make or not to make such changes without reference or compensation to Customer or any third party. ES&S represents to Customer that the Updates will comply with all applicable state law requirements at the time of delivery. Customer shall be responsible to ensure that it has installed and is using only certified versions of ES&S Software in accordance with applicable law. In the event that any Updates are required due to changes in state law, ES&S reserves the right to charge Customer for the following:

- (i) the total cost of any third-party items that are required in order to operate the Updates;
- (ii) the total cost of any replacements, retrofits or modifications to the ES&S Equipment contracted for herein that may be developed and offered by ES&S in order for such ES&S Equipment to remain compliant with applicable laws and regulations; and
- (iii) Customer's pro-rata share of the costs of designing, developing and/or certification by applicable federal and state authorities of such state mandated Updates.

Customer's pro-rata share of the costs included under subsection (iii) above shall be determined at the time by dividing the number of registered voters in Customer's jurisdiction by the total number of registered voters in all counties in Customer's state to which ES&S has sold and/or licensed the Equipment and/or Licensed Software purchased and licensed by Customer under this Agreement. Customer shall pay ES&S the entire costs incurred for design, development and certification of any Update which is required due to a change in local law or is otherwise requested or required by Customer.

5. **Delivery; Risk of Loss.** The Estimated Delivery Dates and First Election Use (if any) set forth on the front side of this Agreement are estimates and may only be established or revised, as applicable, by the parties, in a written amendment to this Agreement, because of delays in executing this Agreement, changes requested by Customer, product availability and other events. ES&S will notify Customer of such revisions as soon as ES&S becomes aware of such revisions. Risk of loss for the ES&S Equipment and ES&S Software shall pass to Customer when such items are delivered to Customer's designated location. Upon transfer of risk of loss to Customer, Customer shall be responsible for obtaining and maintaining sufficient casualty insurance on the ES&S Equipment and ES&S Software and shall name ES&S as an additional insured thereunder and, at ES&S' request, shall deliver written evidence thereof to ES&S until all amounts payable to ES&S under this Agreement have been paid by Customer.

### 6. **Warranty.**

a. **ES&S Equipment/ES&S Software.** ES&S warrants that for a one (1) year period (the "Warranty Period"), it will repair or replace any component of the ES&S Equipment or ES&S Software which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. The Warranty Period will commence upon delivery. The Warranty shall not include the repair or replacement of any ES&S Equipment components that are consumed in the normal course of operating the ES&S Equipment, including, but not limited to, headphones and headphone protective covers, printer cartridges or ribbons, paper, batteries drums, toners, fusers, transfer belts, removable media storage devices, seals, keys, power supplies/cords, PCMCIA, Smart, or CF cards or marking devices (collectively, the "Consumables"). ES&S may modify and make available additional Consumables as they may become available from time to time. ES&S has no obligation under this Agreement to assume the obligations under any existing or expired warranty for a Third Party Item. Any repaired or replaced item of ES&S Equipment or ES&S Software shall be warranted only for the unexpired term of the Warranty Period. All replaced components of the ES&S Equipment or ES&S Software will become the property of ES&S. This warranty is effective provided that (I) Customer notifies ES&S within three (3) business days of the discovery of the failure of performance or defect and is otherwise in compliance with its obligations hereunder, (II) the ES&S Equipment or ES&S Software to be repaired or replaced has not been repaired, changed, modified or altered except as authorized or approved by ES&S, (III) the ES&S Equipment or ES&S Software to be repaired or replaced has been maintained or repaired by an individual other than an ES&S Representative (IV) the ES&S Equipment or ES&S Software to be repaired or replaced has not been used, displayed, disseminated, transferred, loaned, disassembled, dismantled, modified, and/or tampered with by a third party without ES&S prior written consent (V) the ES&S Equipment or ES&S Software to be repaired or replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, use which is not in accordance with instructions or specifications furnished by ES&S or causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, and (VI) Customer has installed and is using the most recent update provided to it by ES&S. This warranty is void for any units of equipment which: (i) have not been stored or operated in a temperature range according their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product. The terms of post-warranty license, maintenance and support are set forth on [Exhibit A](#).

b. **Exclusive Remedies/Disclaimer. IN THE EVENT OF A BREACH OF SUBSECTION 6(a), ES&S' OBLIGATIONS, AS DESCRIBED IN SUCH SUBSECTION, ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES. ES&S EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHICH ARE NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. FURTHER, IN THE EVENT CUSTOMER DECLINES ES&S' INSTALLATION AND ACCEPTANCE TESTING SERVICES OR IN ANY WAY AT ANY TIME ALTERS, MODIFIES OR CHANGES ANY EQUIPMENT, SOFTWARE, THIRD PARTY ITEMS AND/OR NETWORK (COLLECTIVELY "SYSTEM") CONFIGURATIONS WHICH HAVE BEEN PREVIOUSLY INSTALLED BY ES&S OR WHICH ARE OTHERWISE REQUIRED IN ACCORDANCE WITH THE CERTIFIED VOTING SYSTEM CONFIGURATION, ALL WARRANTIES OTHERWISE PROVIDED HEREUNDER WITH RESPECT TO THE SYSTEM PURCHASED, LEASED, RENTED AND/OR LICENSED UNDER THIS AGREEMENT SHALL BE VOID AND OF NO FURTHER FORCE AND EFFECT.**

7. **Limitation Of Liability.** Neither party shall be liable for any indirect, incidental, punitive, exemplary, special or consequential damages of any kind whatsoever arising out of or relating to this Agreement. Neither party shall be liable for the other party's negligent or willful misconduct. ES&S' total liability to Customer arising out of or relating to this Agreement shall not exceed the aggregate amount to be paid to ES&S hereunder. By entering into this Agreement, Customer agrees to accept responsibility for (a) the selection of, use of and results obtained from any equipment, software or services not provided by ES&S and used with the ES&S Equipment or ES&S Software; or (b) user errors, voter errors or problems encountered by any individual in voting that are not otherwise a result of the failure of ES&S to perform. ES&S shall not be liable under this Agreement for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee that is caused by (y) Customer's failure to timely or properly install and use the most recent update provided to it by ES&S or (z) Customer's election not to receive, or to terminate, the Hardware Maintenance Services or the ES&S Software Maintenance and Support.

8. **Proprietary Rights.** Customer acknowledges and agrees as follows:

ES&S owns the ES&S Software, all Documentation and training materials provided by ES&S, the design and configuration of the ES&S Equipment and the format, layout, measurements, design and all other technical information associated with the ballots to be used with the ES&S Equipment. Customer has the right to use the aforementioned items to the extent specified in this Agreement. ES&S also owns all patents, trademarks, copyrights, trade names and other proprietary or intellectual property in, or used in connection with, the aforementioned items. The aforementioned items also contain confidential and proprietary trade secrets of ES&S that are protected by law and are of substantial value to ES&S. Customer shall keep the ES&S Software and related Documentation free and clear of all claims, liens and encumbrances and shall maintain all copyright, trademark, patent or other intellectual or proprietary rights notices that are set forth on the ES&S Equipment, the ES&S Software, the Documentation, training materials and ballots that are provided, and all permitted copies of the foregoing.

9. **Termination.** This Agreement may be terminated, in writing, at any time by either party if the other party breaches any material provision hereof and does not cure such breach within 30 days after it receives written notification thereof from the non-breaching party.

10. **Disputes.**

a. **Payment of Undisputed Amounts.** In the event of a dispute between the parties regarding (1) a product or service for which payment has not yet been made to ES&S, (2) the amount due ES&S for any product or service, or (3) the due date of any payment, Customer shall nevertheless pay to ES&S when due all undisputed amounts. Such payment shall not constitute a waiver by Customer or ES&S of any of its rights and remedies against the other party.

b. **Remedies for Past Due Undisputed Payments.** If any undisputed payment to ES&S is past due more than 30 days, ES&S may suspend performance under this Agreement until such amount is paid. Any disputed or undisputed payment not paid by Customer to ES&S when due shall bear interest from the due date at a rate equal to the lesser of one and one-half percent per month or the maximum amount permitted by applicable law for each month or portion thereof during which it remains unpaid.

11. **Assignment.** Except in the case of a reorganization of the assets or operations of ES&S with one or more affiliates of ES&S or the sale, transfer or assignment of all or substantially all of the assets of ES&S or any business operations thereof to a successor who has asserted its intent to continue the applicable business of ES&S, neither party may assign or transfer this Agreement or assign, subcontract or delegate any of its rights, duties or obligations hereunder without the prior written consent of the other party hereto, such consent not to be unreasonably withheld or conditioned, nor unduly delayed.

12. **Compliance with Laws.** ES&S warrants to Customer that, at the time of delivery, the ES&S Equipment and ES&S Software sold and licensed under this Agreement will comply with all applicable requirements of federal and state election laws and regulations that are mandatory and effective as of the Effective Date and will have been certified by the appropriate state authorities for use in Customer's state. The ES&S Equipment and ES&S Software, including all components will be provided to Customer with a hardened network for the election management software ("EMS"), in accordance with the guidelines of the United States Election Assistance Commission. During the Term of this Agreement, in the event Customer fails to maintain EMS in the hardened network or allows any internal or external access to the hardened network, ES&S shall not be liable for any and all claims, damages, losses, liens, obligations, liabilities, judgments, assessed damages, costs, expenses (including reasonable attorney's fees) and the like arising out of or related to the Customer's breach of its obligations hereunder.

13. **Voting System Reviews.** In the event that the Jurisdiction or the State require any future reviews or examinations ("Reviews") of current or previous versions of state-certified ES&S voting systems or components thereof that are not otherwise required as a result of any changes or modifications voluntarily made by ES&S to the ES&S Software and/or ES&S Equipment licensed and sold hereunder, Customer shall be responsible for:

(i) Customer's pro-rata share of such Review costs;

(ii) Customer's pro-rata share of the costs of designing, developing, manufacturing and/or certification by applicable federal and state authorities of any mandated modifications to the ES&S Equipment and/or ES&S Software that may result from such Reviews; and

(iii) the total cost of any third-party items that are required in order for the ES&S Equipment and/or ES&S Software to satisfy any new requirements resulting from such Reviews in order to remain certified;

Customer's pro-rata share of the costs included under subsections 13(ii) and 13(iii) above shall be determined at the time by dividing the number of registered voters in Customer's jurisdiction by the total number of registered voters in all counties in Customer's state to which ES&S has sold and/or licensed the ES&S Equipment and/or ES&S Software purchased and licensed by Customer under this Agreement.

14. **Certification.** By execution of this Agreement, ES&S represents and warrants that:

a) In accordance with Texas Government Code § 2270, ES&S does not boycott Israel currently and will not boycott Israel during the term of this Agreement; and  
b) In accordance with Texas Government Code § 2252, that, at the time of the execution of this Agreement and for the duration of the term of this Agreement and any renewal terms, ES&S is not entered on the list prepared pursuant to Section 2252.152 of the Texas Government Code by the Texas State Comptroller of companies known to have contracts with or provide supplies or services to a foreign terrorist organization.

15. **Entire Agreement.** This Agreement, including all exhibits hereto, shall be binding upon and inure to the benefit of the parties and their respective representatives, successors and assigns. This Agreement, including all Exhibits hereto, contains the entire agreement of the parties with respect to the subject matter hereof and shall supersede and replace any and all other prior or contemporaneous discussions, negotiations, agreements or understandings between the parties, whether written or oral, regarding the subject matter hereof. Any provision of any purchase order, form or other agreement which conflicts with or is in addition to the provisions of this Agreement shall be of no force or effect. In the event of any conflict between a provision contained in an Exhibit to this Agreement and these General Terms, the provision contained in the Exhibit shall control. No waiver, amendment or modification of any provision of this Agreement shall be effective unless in writing and signed by the party against whom such waiver, amendment or modification is sought to be enforced. No consent by either party to, or waiver of, a breach by either party shall constitute a consent to or waiver of any other different or subsequent breach by either party. This Agreement shall be governed by and construed in accordance with the laws of the State in which the Customer resides, without regard to its conflicts of laws principles. The parties agree that venue for any dispute or cause of action arising out of or related to this Agreement shall be in the state and federal courts of the United States located in the County and State in which the Customer resides. ES&S is providing equipment, software and services to Customer as an independent contractor, and shall not be deemed to be a "state actor" for purposes of 42 U.S.C. § 1983. ES&S may engage subcontractors to provide certain of the equipment, software or services, but shall remain fully responsible for such performance. The provisions of Sections 1-4, 6(b), 7, 8, 10(b), 11-15 these General Terms shall survive the termination of this Agreement, to the extent applicable.

**EXHIBIT A**  
**HARDWARE MAINTENANCE AND SOFTWARE LICENSE, MAINTENANCE AND SUPPORT SERVICES**  
**(POST-WARRANTY PERIOD)**

**ARTICLE I**  
**GENERAL**

1. **Term; Termination.** This Exhibit A for Hardware Maintenance and Software License, Maintenance and Support Services shall be in effect for the coverage period as described in Schedule A1 (the "Initial Term"). Upon expiration of the Initial Term, this Exhibit A shall automatically renew for an unlimited number of successive **One-Year Periods** (each a "Renewal Period") until this Exhibit A is terminated by the first to occur of (a) either party's written election not to renew, which shall be delivered to the other party at least thirty (30) days prior to the end of the Initial Term or any Renewal Period, as applicable, (b) the date which is thirty (30) days after either party notifies the other that it has materially breached this Exhibit A, if the breaching party fails to cure such breach (except for a breach pursuant to subsection (e), which will require no notice), (c) the date which is thirty (30) days after ES&S notifies Customer that it is no longer able to procure replacement parts that may be needed in order to perform the Hardware Maintenance Services contemplated hereunder, (d) the date on which the Equipment or firmware installed thereon is no longer certified by federal and/or state authorities for use in Customer's jurisdiction, or (e) the date which is thirty (30) days after Customer fails to pay any amount due to ES&S under this Exhibit A. The termination of this Exhibit A shall not relieve Customer of its liability to pay any amounts due to ES&S hereunder and shall only entitle Customer to a prorated refund of any fees already paid to ES&S in the event that this is Exhibit A is terminated pursuant to subsection 1(c) or 1(d) above.

2. **Fees.** In consideration for ES&S' agreement to provide Hardware Maintenance and Software License, Maintenance and Support Services under this Exhibit A, Customer shall pay to ES&S the Hardware Maintenance and Software License, Maintenance and Support Fees set forth on Schedule A1 for the Initial Term. The Hardware Maintenance and Software License, Maintenance and Support Fees for the Initial Term are due as set forth on Schedule A1. ES&S may increase the Hardware Maintenance and Software License, Maintenance and Support Fees for a Renewal Period by not more than the annual percentage increase as set forth in the CPI Index for the South Region, subject to a minimum increase of 5.00%. All fees for any Renewal Period shall be due and payable no later than thirty (30) days prior to the beginning of such Renewal Period. The Software License, Maintenance and Support Fee shall be comprised of (i) a fee for the Software License, Maintenance and Support provided for the ES&S Firmware, and (ii) a fee for the Software License, Maintenance and Support provided for all other ES&S Software, and shall be in addition to any fees or charges separately referred to in any Section of this Exhibit A. If Customer elects to receive Software License, Maintenance and Support for an Add-On or New Product during the Initial Term or any Renewal Period thereof, ES&S will charge an incremental Software License, Maintenance and Support Fee for such services.

**ARTICLE II**  
**HARDWARE**

1. **Maintenance Services.** The Hardware Maintenance Services to be provided to Customer under this Agreement for the ES&S equipment set forth on Schedule A1 (the "Products") shall be subject to the following terms and conditions:

a. **Routine Maintenance Services.** An ES&S Representative shall provide such services as may be necessary to keep the Products working in accordance with their Documentation, normal wear and tear excepted ("Normal Working Condition"). The services provided by ES&S pursuant to this Subsection 1(a) are referred to herein as "Routine Maintenance Services". Routine Maintenance Services shall be provided once each **Twelve (12) Months** during the Initial Term for those hardware products identified as "**Gold Coverage**" on Attachment 1 and once each **Twenty-Four (24) Months** during the Initial Term

for those hardware products identified as “**Silver Coverage**” on Attachment 1 during the Initial Term or any Renewal Period thereof. Generally, Routine Maintenance Services shall include cleaning, lubrication, diagnostic check, and calibration services. The Routine Maintenance Services shall not include the repair or replacement of any ES&S Equipment components that are consumed in the normal course of operating the Equipment, including, but not limited to, headphones and headphone protective covers, printer cartridges or ribbons, paper, batteries, drums, toners, fusers, transfer belts, removable media storage devices, seals, keys, power supplies/cords, PCMCIA, Smart, or CF cards or marking devices (collectively, the “Consumables”). ES&S may modify and make available additional Consumables as they may become available from time to time. Customer may request that Routine Maintenance Services be performed more than once during the Initial Term or any Renewal Period. Any such request shall be made at least sixty (60) days before the Routine Maintenance Services are desired. The per-unit fee for such additional Routine Maintenance Services is set forth on Schedule A1 and shall be due within thirty (30) days after invoice date. ES&S will schedule the Routine Maintenance Services with Customer. The Routine Maintenance Services will be provided at Customer’s Designated Location. Customer’s “Designated Location” shall mean Customer’s owned or leased facility at which Customer desires ES&S to perform the Hardware Maintenance Services.

b. **Repair Services.**

i. **Defects Under Normal Use and Service.** If a defect or malfunction occurs in any Product while it is under normal use and service, Customer shall promptly notify ES&S, and ES&S shall use reasonable efforts to restore the item to Normal Working Condition as soon as practicable. The services provided by ES&S pursuant to this Subsection 1(b)(i) are referred to herein as “Repair Services”. ES&S will perform Repair Services in conjunction with a Routine Maintenance Service event at the Customer’s Designated Location.

ii. **Defects Due to Customer Actions or Omissions.** If a defect or malfunction occurs in any Product as a result of (1) repairs, changes, modifications or alterations not authorized or approved by ES&S, (2) use, modification, dismantling, disassembly, or transfer to third party without ES&S’s prior written consent, (3) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S or (4) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, rodent infestation, or if Customer does not notify ES&S within 72 hours after it knows of the defect or malfunction, Customer shall pay ES&S for the Repair Services at ES&S’ then-current rates, as well as for the cost of all parts used in connection with such Repair Services.

iii. **Timing.** The date(s) on which any Repair Services shall be provided shall be mutually agreed upon by ES&S and Customer. If Customer requires ES&S to provide “emergency” Repair Services (which shall be defined as Repair Services that are provided by ES&S within 48 hours after Customer notifies ES&S of the need therefore), and such emergency Repair Services are not needed as a result of an action, error or omission by ES&S, Customer shall pay a surcharge, as set forth on Schedule A1.

iv. **Loaner Unit.** At Customer’s request and if such product is available, ES&S shall use reasonable efforts to promptly make available to Customer a product that is the same as, or substantially similar to, the Product for which Repair Services are being performed (a “Loaner Unit”). If the Repair Services are being performed

pursuant to Subsection 1(b)(ii) above, Customer shall pay ES&S for the use of the Loaner Unit at ES&S' then-current rates including the cost of shipping.

c. **Exclusions.** ES&S has no obligation under this Agreement to (i) assume the obligations under any existing or expired warranty for a Third Party Item; (ii) repair or replace Product components that are consumed in the normal course of operating the Product, including, but not limited to, headphones and headphone protective covers, printer cartridges or ribbons, paper, batteries, drums, toners, fusers, transfer belts, removable media storage devices, seals, keys, power supplies/cords, PCMCIA, Smart, or CF cards or marking devices (collectively, the "Consumables"), or (iii) repair any Product from which the serial number has been removed or altered. In addition, ES&S may, at any time in its discretion, determine that any Product is no longer fit for Hardware Maintenance Services because it is in such poor condition that it cannot practically be restored to Normal Working Condition, or cannot be restored to Normal Working Condition at an expense that is less than the then-current value of the Product. If such a determination is made, ES&S shall no longer be required to provide Hardware Maintenance Services for such Product. ES&S shall also refund to Customer an amount equal to (1) that portion of the most recent fee paid for Hardware Maintenance Services that is attributable to such Product, multiplied by (2) a fraction, the numerator of which is the remaining number of days within the Term for which such fee was paid and the denominator of which is the total number of days within the Term.

d. **Sole Provider; Access.** Customer shall not permit any individual other than an ES&S Representative to provide maintenance or repairs with respect to the Products for so long as the Initial Term or any Renewal Period is in effect. Customer shall provide ES&S Representatives with all information necessary to enable them to provide Hardware Maintenance Services. Customer shall likewise provide full access to the Products and adequate working space for all Hardware Maintenance Services performed at its Designated Location, including sufficient heat, lights, ventilation, electric current and outlets.

e. **Environmental Conditions.** Products should be stored in a clean, dry and secure environment. During the storage and operation of the Products, the temperature and moisture ranges should be maintained in accordance with the Products' Documentation.

f. **Reinstatement of Hardware Maintenance Services; Inspection.** If the Initial Term or any Renewal Period thereof expires without being renewed, Customer may thereafter resume receiving Hardware Maintenance Services upon (a) notification to ES&S and (b) the granting to ES&S of access to the Products. ES&S requires Customer to allow it to inspect such Products before it provides any Hardware Maintenance Services. The purpose of such inspection shall be to determine whether or not the Products are in Normal Working Condition. The cost of such inspection will be at ES&S' then current rates and shall be due from Customer within thirty (30) days of its receipt of ES&S' invoice therefore. If any of the Products is not in Normal Working Condition, ES&S, at the option of Customer, (i) shall provide such repairs and replacements as it deems reasonable and necessary to restore such item to Normal Working Condition, at Customer's expense with respect to the cost of any labor (charged at ES&S' then current rates) and parts used in such repairs or replacements, or (ii) shall not provide any Hardware Maintenance Services with respect to such Product(s).

### **ARTICLE III** **SOFTWARE LICENSE, MAINTENANCE AND SUPPORT SERVICES**

1. **License and Services Provided.** ES&S shall provide license, maintenance and support services ("Software License, Maintenance and Support") for the ES&S Software and ES&S Firmware (collectively, "ES&S Software"), to allow Customer to continue to license and use the software in accordance with the license terms set forth in Sections 2-4 of the General Terms as well as to enable it to perform in accordance with its Documentation in all material respects, and to cure any defect in material



or workmanship. The specific Software License, Maintenance and Support services provided by ES&S and each party's obligations with respect to such services are set forth on Schedule A1.

2. **Updates.** During the Initial Term and any Renewal Period thereof, ES&S may continue to provide Updates in accordance with the terms of Section 4 of the General Terms. Unless otherwise agreed to by the parties, and subject to Customer's prior execution of a purchase order therefor, ES&S shall install ES&S Firmware Updates in accordance with Section 4 of the General Terms. ES&S shall install such ES&S Firmware Updates in conjunction with a scheduled Routine Maintenance Services event provided Customer is subscribing to and has paid for ES&S' hardware maintenance services which include Routine Maintenance Services. Customer shall pay ES&S to install all ES&S Firmware Updates which are requested to be installed outside of a scheduled Routine Maintenance Services event or in the event the Customer has not subscribed to ES&S' hardware maintenance services which include Routine Maintenance Services. Notwithstanding the foregoing, Customer shall pay ES&S to install all election management software Updates.

3. **Conditions.** ES&S shall not provide Software License, Maintenance and Support for any item of ES&S Software if such item requires such services as a result of (a) repairs, changes, modifications or alterations not authorized or approved by ES&S, (b) use, modification, dismantling, or transfer to third party without ES&S's prior written consent, (c) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S, (d) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, (e) Customer's failure to timely and properly install and use the most recent update provided to it by ES&S, or (f) Customer's failure to notify ES&S within three (3) business days after Customer knows of the need for such services. Any such Software License, Maintenance and Support shall be provided at the fees to be agreed upon by the parties if and when the need for such Software License, Maintenance and Support arises. Replacement versions of Software requested by Customer as a result of items set forth in this Section 3 or as a result of Customer's actions or inactions shall be billable to Customer at ES&S' then current rates.

4. **Proprietary Rights.** ES&S shall own the entire right, title and interest in and to all corrections, programs, information and work product conceived, created or developed, alone or with Customer or others, as a result of or related to the performance of this Exhibit A, including all proprietary rights therein or based thereon. Subject to the payment of all Software License, Maintenance and Support Fees, ES&S hereby grants to Customer a non-exclusive license to use that portion of such corrections, programs, information and work product that ES&S actually delivers to Customer pursuant to this Exhibit A. All licensed items shall be deemed to be ES&S Software for purposes of this Exhibit A. Except and to the extent expressly provided herein, ES&S does not grant to Customer any right, license, or other proprietary right, express or implied, in or to any corrections, programs, information, or work product covered by this Exhibit A.

5. **Reinstatement of Software License, Maintenance and Support.** If the Initial Term or any Renewal Period thereof expires without being renewed, Customer may thereafter receive a Software License and resume receiving Software Maintenance and Support upon (a) notification to ES&S, (b) payment of all fees, which would have been due to ES&S had the Initial Term or any Renewal Period not expired, and (c) the granting to ES&S of access to the ES&S Software, so that ES&S may analyze it and perform such maintenance as may be necessary before resuming the Software License, Maintenance and Support services.

**Schedule A1**  
**Pricing Summary**

<b><u>Summary:</u></b>		
<b>Description</b>	<b>Refer To</b>	<b>Amount</b>
ES&S Hardware Maintenance Fees	ES&S Hardware Maintenance Description and Fees Below	\$88,820.00
ES&S Software License, Maintenance and Support Fees	ES&S Software License, Maintenance and Support Description and Fees Below	\$74,610.00
ES&S Firmware License, Maintenance and Support Fees	ES&S Firmware License, Maintenance and Support Description and Fees Below	\$73,530.00
<b>Total Maintenance Fees for the Initial Term being Post Warranty Period Year 1 and Post Warranty Year 2:</b>		<b>\$236,960.00</b>
<b><u>Payment Terms:</u></b>		
ES&S shall Invoice Customer annually for each year of the Initial Term. Payment is due before the start of each period within the Initial Term.		
<b><u>Terms &amp; Conditions:</u></b>		
<b>Note 1:</b> Any applicable state and local taxes are not included, and are the responsibility of Customer.		

**ES&S HARDWARE MAINTENANCE DESCRIPTION AND FEES**

Initial Term: Expiration of the Warranty Period through the **second** anniversary thereof

Qty	Description	Coverage Period	Annual Maintenance Fee Per Unit	Maintenance Fee In Total
65	Model DS200 Scanner (Silver Coverage)	Post Warranty Period Year 1	\$120.00	\$7,800.00
360	ExpressVote BMD (Silver Coverage)	Post Warranty Period Year 1	\$85.00	\$30,600.00
2	Model DS450 Scanner (Gold Coverage)	Post Warranty Period Year 1	\$3,005.00	\$6,010.00
<b>Total Maintenance Fees for Year 1</b>				<b>\$44,410.00</b>
65	Model DS200 Scanner (Silver Coverage)	Post Warranty Period Year 2	\$120.00	\$7,800.00
360	ExpressVote BMD (Silver Coverage)	Post Warranty Period Year 2	\$85.00	\$30,600.00
2	Model DS450 Scanner (Gold Coverage)	Post Warranty Period Year 2	\$3,005.00	\$6,010.00
<b>Total Maintenance Fees for Post Warranty Period Year 2</b>				<b>\$44,410.00</b>
<b>Total Hardware Maintenance Fees for the Initial Term</b>				<b>\$88,820.00</b>

**Note 1: The Per-Unit Fees if Customer requests more than one Routine Maintenance visit in a 12-month period for “Gold” Coverage Items shall be 55% of the then current maintenance fee per unit. The Per-Unit Fees if Customer requests more than one Routine Maintenance visit in a 24-month period for “Silver” Coverage Items shall be 75% of the then current maintenance fee per unit.**

**Note 2: Surcharge for Emergency Repair Services shall be the daily maintenance service rate in effect at the time such service is requested.**

**Note 3: Customer’s Designated Location: Jefferson County, Texas**

**Note 4: The Per Unit Surcharge for performance of Routine Maintenance visit at more than one Customer Designated Location shall be \$25.00 per unit for all units located at second or more locations.**

**Hardware Maintenance Services Provided by ES&S Under this Schedule A1**

1. Telephone Support.
2. Issue Resolution.
3. Technical Bulletins will be available through Customer’s ES&S Web-based portal.
4. Routine Maintenance Services.
  - Onsite scheduled maintenance inspection per Article II, Section 1(a). The Inspection includes:

- Service performed by an ES&S trained and certified technician.
- Performance of factory approved diagnostics on the unit, identifying and making adjustments where necessary as indicated by the testing.
- Replacement of worn or defective parts with new or remanufactured federally and state certified parts.
- Conducting a final test to verify that the unit is working according to manufacturer's specifications.
- Use of a checklist tailored for each piece of ES&S Equipment.

5. Repair Services.

- Customer will receive coverage for interim repair calls.
  - Interim repair calls may be provided during a scheduled Routine Maintenance Services event or scheduled in conjunction with other service work being performed in close proximity to Customer's location if such repairs are not election critical.
  - A Product may be sent to ES&S' Depot location for repairs at a time to be mutually agreed upon by ES&S and Customer.

6. Priority Services.

- Customer has access to the ES&S Help Desk for assistance.
- The customer receives priority on service calls.
- The customer receives priority on response time.
- The customer receives priority on certified ES&S parts inventory.

**Note:** Except for those Hardware Maintenance Services specifically set forth herein, ES&S is under no obligation and shall not provide other Hardware Maintenance Services to the Customer unless previously agreed upon in writing by the parties.

**ES&S SOFTWARE LICENSE, MAINTENANCE AND SUPPORT DESCRIPTION AND FEES  
SOFTWARE**

Initial Term: Expiration of the Warranty Period through the **second** anniversary thereof

Listed below is the Software and Fees for which Software License, Maintenance and Support will be provided:

Qty	Description	Coverage Period	Software License, Maintenance and Support Fee In Total
1	Electionware Election Management Software PYO Base Package with English Language Synthesized Voice Files	Post Warranty Period Year 1	\$35,695.00
1	Synthesized Audio Capability – Each Additional Language	Post Warranty Period Year 1	\$1,610.00
<b>Total License, Maintenance and Support Fees for Post Warranty Period Year 1</b>			<b>\$37,305.00</b>
<hr/>			
1	Electionware Election Management Software PYO Base Package with English Language Synthesized Voice Files	Post Warranty Period Year 2	\$35,695.00
1	Synthesized Audio Capability – Each Additional Language	Post Warranty Period Year 2	\$1,610.00
<b>Total License, Maintenance and Support Fees for Post Warranty Period Year 2</b>			<b>\$37,305.00</b>
<hr/>			
<b>Total Software License, Maintenance and Support Fees for the Initial Term of the Post Warranty Period</b>			<b>\$74,610.00</b>

**ES&S SOFTWARE LICENSE, MAINTENANCE AND SUPPORT DESCRIPTION AND FEES  
FIRMWARE**

Initial Term: Expiration of the Warranty Period through the **second** anniversary thereof

Listed below are the Hardware Products and Fees for which Firmware License, Maintenance and Support will be provided:

Qty	Description	Coverage Period	Annual Firmware License, Maintenance and Support Fee Per Unit	Firmware License, Maintenance and Support Fee In Total
65	Model DS200 Scanner	Post Warranty Period Year 1	\$95.00	\$6,175.00
360	ExpressVote BMD	Post Warranty Period Year 1	\$75.00	\$27,000.00
2	Model DS450 Scanner	Post Warranty Period Year 1	\$1,795.00	\$3,590.00
<b>Total License, Maintenance and Support Fees for Post Warranty Period Year 1</b>				<b>\$36,765.00</b>
<hr/>				
65	Model DS200 Scanner	Post Warranty Period Year 2	\$95.00	\$6,175.00
360	ExpressVote BMD	Post Warranty Period Year 2	\$75.00	\$27,000.00



Qty	Description	Coverage Period	Annual Firmware License, Maintenance and Support Fee Per Unit	Firmware License, Maintenance and Support Fee In Total
2	Model DS450 Scanner	Post Warranty Period Year 2	\$1,795.00	\$3,590.00
<b>Total License, Maintenance and Support Fees for Post Warranty Period Year 2</b>				<b>\$36,765.00</b>
<b>Total Firmware License, Maintenance and Support Fees for the Initial Term of the Post Warranty Period</b>				<b>\$73,530.00</b>

**Software License, Maintenance and Support Services Provided by ES&S under the Agreement**

1. Telephone Support.
2. Issue Resolution.
3. Technical Bulletins will be available through Customer's ES&S Web-based portal.

**Note:** Except for those Software License, Maintenance and Support services specifically set forth herein, ES&S is under no obligation and shall not provide other Software License, Maintenance and Support services to the Customer unless previously agreed upon by the parties.

**Software License, Maintenance and Support and Hardware Maintenance and Support Services – Customer Responsibilities**

1. Customer shall have completed a full software training session for each product selected.
  - Customer shall have completed training at a proficiency level to successfully use the hardware (firmware) and software products.
  - Customer shall have the ability to install firmware and application software and make changes to date and time settings.
  - Customer shall have the ability to change consumable items. Any other changes made by the customer must be pre-approved in writing by ES&S.
2. Customer shall have reviewed a complete set of User Manuals.
3. Customer shall be responsible for the installation and integration of any third-party hardware or software application or system purchased by the Customer, unless otherwise agreed upon, in writing, by the parties.
4. Customer shall be responsible for data extraction from Customer voter registration system.
5. Customer shall be responsible for implementation of any security protocols physical, network or otherwise which are necessary for the proper operation of the ES&S Equipment and ES&S Software.
6. Customer shall be responsible for the acceptance of the Equipment and Software, unless otherwise agreed upon, in writing, by the parties.
7. Customer shall be responsible for the design, layout, set up, administration, maintenance or connectivity of the Customer's network.

8. Customer shall be responsible for the resolution of any errors associated with the Customer's network or other hardware and software not purchased or recommended by ES&S and not otherwise identified in the User Guides as part of ES&S' Equipment and Software.
9. Customer shall be responsible for all costs associated with diagnosing ballot printing problems resulting from the use of non-ES&S Ballot Partner Printers ballots.
10. Customer shall be responsible for the payment of additional or replacement Software CDs or DVDs requested by Customer. The price for such additional or replacement Software CDs or DVDs shall be at ES&S' then current rates.



# Attachment 2

## Jefferson County, Texas

### Purchase Proposal Sales Order Agreement

### Sales Quotation #: 11926

**Purchase Solution Includes:**

Quantity	Item Description	Unit Price	Extended Price
<b>Pollbook Hardware</b>			
110	ExpressPoll System including Tablet, Flip Stand, Mobile Device Management and ExpressPoll Software Application	\$870.00	\$95,700.00
75	Dual Unit Case for Flip Stand Configuration	\$75.00	\$5,625.00
110	Pollbook Universal Printer Soft Case	\$40.00	\$4,400.00
<b>Software</b>			
1	ExpressPoll Connect License and Hosting Fee	\$4,000.00	\$4,000.00
<b>Election Services</b>			
1	Implementation Services	\$1,795.00	\$1,795.00
X	Pollbook Training		
X	Pollbook Acceptance Testing		\$9,900.00
X	1 Year Hardware and Software Warranty		Included
X	Shipping and Handling included in Tabulation Sales Order Agreement		N/A
<b>Total Purchase Solution</b>			<b>\$121,420.00</b>

**Payment Terms**

See Consolidated Order Agreement for Payment Terms. Customer shall be responsible for the payment of all fees set forth in this Attachment 2.

**Annual Post-Warranty License and Maintenance and Support Fees**  
**(Fees are Based Upon a 1-Year Customer Commitment to Subscribe to the Following Services)**

**Annual Post-Warranty Software License and Maintenance and Support Fees:**

110	ExpressPoll Software License and Maintenance and Support Fee	\$140.00	\$15,400.00
1	ExpressPoll Connect License and Hosting Fee	\$4,400.00	\$4,400.00

**Total Annual Post-Warranty License and Maintenance and Support Fees**

**\$19,800.00**

The parties hereby agree that this Sales Order and the ExpressPoll Sales Order Agreement General Terms, attached hereto and fully incorporated herein by this reference, (collectively, the "Agreement") represents a binding agreement between ES&S and Customer for the purchase of ExpressPoll System products and services. Further, the undersigned Customer hereby agrees to purchase such ExpressPoll products and services from ES&S as set forth herein. The undersigned Customer hereby agrees to the ExpressPoll System Sales Order Agreement General Terms and acknowledges that he or she has read the entire Agreement, understands it and fully intends to be bound by it. The undersigned Customer hereby certifies that: 1) sufficient funds are available for any of this purchase that exceeds my allocation of state and/or federal funding; and 2) any amount not funded by state and/or federal funds has been authorized and appropriated for this purchase. As of the date of the signature below, the undersigned Customer has full power and authority to enter into and perform this Agreement, and has been properly authorized to execute and deliver this Agreement on behalf of the Customer as set forth above.

Contact Person	Laurie Leister - County Clerk
Address	1149 Pearl Street - 7th Floor
City	Beaumont
State/Province	TX
Zip	77706
Phone Number	409-835-8475

## ELECTRONIC POLLBOOK GENERAL TERMS

1. **Purchase/License Terms.** Subject to the terms and conditions of this Agreement, ES&S agrees to sell and/or license to Customer and Customer agrees to purchase and/or license from ES&S, the Equipment, ES&S Firmware and ES&S Software described on the attached Electronic Pollbook Sales Order ("Sales Order"). The ES&S Firmware and ES&S Software are collectively referred to hereinafter as the "ES&S Software." The payment terms for the Equipment and ES&S Software are set forth on the attached Sales Order. Title to the Equipment shall pass to Customer when Customer has paid ES&S the total amount set forth on the Sales Order for the Equipment. The consideration for ES&S' grant of the license during the Initial Term for the ES&S Firmware is included in the cost of the Equipment.

2. **Grant of Licenses.** Subject to the terms and conditions of this Agreement, ES&S hereby grants to Customer a nonexclusive, nontransferable license for its bona fide full time, part time and temporary employees to use the ES&S Software described on the Sales Order, and related Documentation in the Jurisdiction while Customer is using the Equipment and ES&S Software during the Initial License Term or any License Renewal Term as defined in Section 4 below. The ES&S Software described in this Section 2 are ES&S proprietary software products. The license allows Customer to use the ES&S Software (in object code only) and the Documentation, in the course of operating the Equipment and solely for the purposes of managing the electronic poll book voter lists and voter registration process at each polling location in Customer's jurisdiction.

3. **Prohibited Uses.** Customer shall not take any of the following actions with respect to the ES&S Software or the Documentation:

a. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the ES&S Software; or

b. Cause or permit any use, display, loan, publication, transfer of possession, sublicensing or other dissemination of the ES&S Software or Documentation, in whole or in part, to or by any third party, including, but not limited to, any transfer of possession to, or use of the ES&S Software or Documentation by any third party to perform any services for Customer without ES&S' prior written consent; or

c. Cause or permit any change to be made to the ES&S Software without ES&S' prior written consent; or

d. Cause or permit any review, testing, examination or audit of the ES&S Software without ES&S' prior written consent; or

e. Cause or permit any copying, reproduction or printing of any output generated by the ES&S Software (except for finished ballot printers selected by Customer) in which ES&S owns or claims any

proprietary intellectual property rights (e.g., copyright, trademark or patent).

4. **Term of License.** The license granted in Section 2 shall commence upon the delivery of the ES&S Software described in Section 2 and shall continue for a one-year period (the "Initial License Term"). Upon expiration of the Initial License Term, the license shall automatically renew for an unlimited number of successive one-year periods (each a "License Renewal Term") upon the payment by Customer of the annual software license and software maintenance and support fee as set forth on the Sales Order. The license terms for any License Renewal Term shall be as set forth on Exhibit A. ES&S may terminate the license if Customer fails to pay the consideration due for, or breaches Sections 2 or 3 with respect to, such license. Upon the termination of the license granted in Section 2 for ES&S Software or upon Customer's discontinuance of the use of any ES&S Software, Customer shall immediately return such ES&S Software and the related Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

5. **Updates.** During the Initial License Term or any License Renewal Term, ES&S may provide new releases, upgrades or maintenance patches to the ES&S Software, together with appropriate Documentation ("Updates"), on a schedule solely defined by ES&S. Customer is responsible for obtaining any upgrades or purchases of third party items required to operate the Updates. All Updates shall be deemed to be ES&S Software for purposes of this Agreement upon delivery. Customer may install the Updates in accordance with ES&S' recommended instructions or may request that ES&S install the Updates. ES&S may charge Customer at its then-current rates to (i) install the Updates; (ii) train Customer on Updates, if such training is requested by Customer; or (iii) provide maintenance and support on the ES&S Software that is required as a result of Customer's failure to timely or properly install an Update. Customer shall pay ES&S for any Update which is specific to Customer or required due to a change in state or local law.

6. **Compliance with Laws.** ES&S warrants to Customer that, at the time of delivery, the Equipment and ES&S Software sold and licensed under this Agreement will comply with all applicable requirements of state election laws and regulations that are mandatory and effective as of the Effective Date set forth on the Sales Order and, if required, will have been certified by the appropriate state authorities for use in the Customer's state. ES&S further warrants that during the Warranty Period and thereafter so long as Customer is subscribing and paying for ES&S Software License, Maintenance and Support Services, the ES&S Software shall be maintained or upgraded by ES&S in such a way as to remain compliant with all applicable state election

laws and regulations. "Maintained or upgraded" shall mean only such changes to individual items of the Software (but not Equipment) as are technologically feasible and commercially reasonable. Customer shall be solely responsible for the cost of any replacements, retrofits or modifications to the Equipment contracted for herein that may be developed and offered by ES&S in order for such Equipment to remain compliant with applicable laws and regulations. Customer shall also be solely responsible for the cost of any third-party items that are required in order for the Equipment and/or Software to remain compliant with applicable laws and regulations.

7. **Delivery; Risk of Loss.** The Estimated Delivery Dates are estimates and may only be established or revised, as applicable, by the parties, in a written amendment to this Agreement because of delays in executing this Agreement, changes requested by Customer, product availability and other events outside of ES&S's control. ES&S will notify Customer of such revisions as soon as ES&S becomes aware of such revisions. Risk of loss for the ES&S Equipment and ES&S Software shall pass to Customer when such items are delivered to Customer's designated location. Upon transfer of risk of loss to Customer, Customer shall be responsible for obtaining and maintaining sufficient casualty insurance on the ES&S Equipment and ES&S Software and shall name ES&S as an additional insured thereunder and, at ES&S' request, shall deliver written evidence thereof to ES&S until all amounts payable to ES&S under this Agreement for ES&S Equipment and Software have been paid by Customer.

8. **Warranty.**

a. **Equipment/ Software.** ES&S warrants that for a 1-year period (the "Warranty Period"), it will repair or replace any component of the Equipment or ES&S Software which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. The Warranty Period will commence upon delivery. Any repaired or replaced item of Equipment or ES&S Software shall be warranted only for the unexpired term of the Warranty Period. All replaced components of the Equipment or ES&S Software will become the property of ES&S. ES&S shall not be responsible for the repair or replacement of (i) consumable parts, such as batteries or protective coatings that are designed to diminish over time, (ii) cosmetic damage, including, but not limited to, screen cracks, scratches, dents and broken plastic or (iii) defects caused by normal wear and tear. All Equipment warranty services shall be provided at ES&S' designated location. This warranty is effective provided that (i) Customer notifies ES&S within three (3) business days of the failure of performance or defect and is otherwise in compliance with its obligations hereunder, (ii) the Equipment or ES&S Software to be repaired or replaced has not been repaired, changed, modified or altered except as authorized or approved by ES&S, (iii) the Equipment or ES&S Software to be repaired or replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, liquid contact or use which is not in accordance with instructions or specifications furnished by ES&S or causes beyond the reasonable control of ES&S or

Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, and (iv) Customer has installed and is using the most recent Update provided to it by ES&S. This warranty is void for any units of equipment which: (i) have not been stored or operated in a temperature range according to their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product. Upon the expiration of the Warranty Period, the Customer shall be entitled to receive the Software Maintenance and Support Services described on Exhibit A, upon the payment of the applicable fees for such service.

b. **System.** ES&S warrants that the Equipment and ES&S Software will operate in conjunction with the third party items during the Warranty Period, provided that (i) Customer is using third party items which have been approved by ES&S in writing for use with the Equipment and ES&S Software, (ii) Customer has installed and is using the most recent Update provided to it by ES&S, and (iii) the third party items are performing in accordance with their own specifications and documentation in all material respects and are not defective in material or workmanship. In the event of a breach of this warranty, ES&S will repair or replace the item of Equipment or ES&S Software that is causing such breach to occur. Customer acknowledges that ES&S has merely purchased the third-party items for resale or rental to Customer, and that the proprietary and intellectual property rights to the third-party items are owned by parties other than ES&S ("Third Parties"). Customer further acknowledges that except for the payment to ES&S for the third-party items, all of its rights and obligations with respect thereto flow from and to the Third Parties.

c. **Exclusive Remedies. IN THE EVENT OF A BREACH OF SUBSECTIONS 8(a) or 8(b), ES&S' OBLIGATIONS, AS DESCRIBED IN SUCH SUBSECTIONS, ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES. ES&S EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHICH ARE NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

9. **Limitation Of Liability.** Neither party shall be liable for any indirect, incidental, punitive, exemplary, special or consequential damages of any kind whatsoever arising out of or relating to this Agreement. Neither party shall be liable for the other party's negligent or willful misconduct. ES&S' total liability to Customer arising out of or relating to this Agreement shall not exceed the aggregate amount to be paid to ES&S hereunder. By entering into this Agreement, Customer agrees to accept responsibility for (a) the selection of, use of and results obtained from any equipment, software or services not provided by ES&S and used with the Equipment or ES&S Software; or (b) user errors, voter errors or



problems encountered by any individual in voting that are not otherwise a result of the failure of ES&S to perform. ES&S shall not be liable under this Agreement for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee that is caused by (y) Customer's failure to timely or properly install and use the most recent Update provided to it by ES&S or (z) Customer's election not to receive, or to terminate, the Software Maintenance and Support Services.

10. **Proprietary Rights.** Customer acknowledges and agrees as follows:

ES&S owns the ES&S Software, all Documentation and training materials provided by ES&S. Customer has the right to use the aforementioned items to the extent specified in this Agreement. ES&S also owns all patents, trademarks, copyrights, trade names and other proprietary or intellectual property in, or used in connection with, the aforementioned items. The aforementioned items also contain confidential and proprietary trade secrets of ES&S that are protected by law and are of substantial value to ES&S. Customer shall not cause or permit the adaptation, conversion, reverse engineering, disassembly or decompilation of any of the ES&S Software. Further, Customer shall keep the ES&S Software and related Documentation free and clear of all claims, liens and encumbrances and shall maintain all copyright, trademark, patent or other intellectual or proprietary rights notices that are set forth on the Equipment, the Software, the Documentation and training materials that are provided, and all permitted copies of the foregoing. Notwithstanding the proceeding, the ES&S understands the Customer must comply with the Texas Public Information Act (PIA). As such, the Customer shall notify ES&S after receiving a public information request for ES&S' Documentation, allowing ES&S an opportunity to respond to such request.

11. **Excusable Nonperformance.** Except for obligations to make payments hereunder, if either party is delayed or prevented from performing its obligations under this Agreement as a result of any cause beyond its reasonable control, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, the delay shall be excused during the continuance of, and to the extent of, such cause, and the period of performance shall be extended to the extent necessary to allow performance after the cause of delay has been removed. ES&S agrees to work with Customer, at Customer's request, to develop mutually agreeable alternatives in order to minimize the negative impact of any such delay

12. **Term; Termination.** This Agreement is made as of the date it is executed by the last of the parties named on the Sales Order (the "Effective Date"). The parties acknowledge and agree that certain of the Exhibits contain separate termination provisions, and that the termination of any Exhibit shall not constitute a termination of any other Exhibit or of the Agreement as a whole. This Agreement may be terminated, in writing, at any time by either party if the other party breaches any material provision hereof and does not

cure such breach within 30 calendar days after it receives written notification thereof from the non-breaching party.

13. **Assignment.** Except in the case of a reorganization of the assets or operation of ES&S with one or more affiliates of ES&S or the sale, transfer or assignment of all or substantially all of the assets of ES&S to a successor who has asserted its intent to continue the business of ES&S, neither party may assign or transfer this Agreement or assign, subcontract or delegate any of its rights, duties or obligations hereunder without the prior written consent of the other party hereto, such consent not to be unreasonably withheld or conditioned, nor unduly delayed.

14. **Notice.** Any notice or other communication required or permitted hereunder shall be in writing, and will be deemed given when (a) delivered personally, (b) sent by confirmed email, (c) sent by confirmed fax, (d) sent by commercial overnight courier (with written verification of receipt) or (e) sent by registered or certified mail, return receipt requested, postage prepaid, when the return receipt is received. All communications shall be sent to the attention of the persons listed on the signature page to this Agreement and at the addresses, email address or fax numbers set forth on such signature page unless other names, addresses or fax numbers are provided by either or both parties in accordance herewith.

15. **Disputes.**

a. **Payment of Undisputed Amounts.** In the event of a dispute between the parties regarding (1) a product or service for which payment has not yet been made to ES&S, (2) the amount due ES&S for any product or service, or (3) the due date of any payment, Customer shall nevertheless pay to ES&S when due all undisputed amounts. Such payment shall not constitute a waiver by Customer or ES&S of any of its rights and remedies against the other party.

b. **Remedies for Past Due Undisputed Payments.** If any undisputed payment to ES&S is past due more than 30 calendar days, ES&S may suspend performance under this Agreement until such amount is paid. Any undisputed payment not paid by Customer to ES&S when due shall bear interest from the due date at a rate equal to the lesser of one and one-half percent per month or the maximum amount permitted by applicable law for each month or portion thereof during which it remains unpaid.

16. **Additional Services; Changes.** Unless otherwise stated on the Sales Order, Customer shall be responsible for all costs related to services entered into in separate agreements such as, but not limited to, election coding, data conversion costs and network set up and communication. Further, Customer is responsible for equipment and setup, and the costs associated with setup, of the network infrastructure for data transfer and application communication unless specified in separate agreements. In addition, in the event the Customer changes, makes updates, enhances or otherwise modifies the Customer's currently existing voter registration system and such changes, updates, enhancements or modifications results in ES&S having to re-perform any services provided under this Agreement, the Customer shall be responsible for any

such additional charges; which shall be invoiced at ES&S' then current rates. Likewise, any Customer requested enhancements, modifications or changes to the Equipment or ES&S Software which ES&S agrees to provide, in its sole discretion, shall be set forth in separate change orders to the Agreement. Customer shall be responsible for the payment of all fees associated with such enhancements, modifications or changes made by ES&S.

17. **Other.** ES&S is providing Equipment, Software and services to Customer as an independent contractor, and shall not be deemed to be a "state actor" for purposes of 42 U.S.C. § 1983. ES&S may engage subcontractors to provide certain of the Equipment, Software or services, but shall remain fully responsible for such performance. The provisions of Sections 1 – 6, 8(c), 9 – 11, 13, 14, 15(b) and this section 17 of these General Terms shall survive the termination of this Agreement, to the extent applicable.

**EXHIBIT A**  
**ES&S SOFTWARE LICENSE, MAINTENANCE AND SUPPORT SERVICES**

**ARTICLE I**  
**GENERAL**

1. **Term; Termination.** This Exhibit A shall be in effect from the date on which the Initial License Term expires until the first anniversary thereof (the "License Renewal Term"). The License Renewal Term shall automatically renew for an unlimited number of successive one year periods until this Exhibit A is terminated by the first to occur of (a) either party's election to terminate it upon expiration of the License Renewal Term or any renewal thereof, written notice of which election shall be given to the other party at least sixty (60) calendar days prior to such annual expiration date, (b) the date that is thirty (30) calendar days after either party notifies the other that the other has materially breached this Exhibit A, and the breaching party fails to cure such breach within such 30-day period, or (c) the date that is 30 days after Customer fails to pay any amount due ES&S under this Exhibit A. The termination of this Exhibit A shall not relieve Customer of its liability to pay any amounts due ES&S hereunder.

2. **Fees.** In consideration for ES&S' agreement to provide the ES&S Software License and Software Maintenance and Support Services under this Exhibit A, Customer shall pay to ES&S the Software License and Software Maintenance and Support Fees set forth on Electronic Pollbook Sales Order. The ES&S Software license and Software Maintenance and Support Fees for the License Renewal Term are due on the date of the expiration of the Initial License Term. ES&S may increase the Software License, Maintenance and Support Fees for a Renewal Period by not more than the annual percentage increase as set forth in the CPI Index for the South Region, subject to a minimum increase of 5.00%. The ES&S Software license and Software Maintenance and Support Fees for any renewal period shall be due and payable no later than thirty (30) days prior to the beginning of such renewal period. The ES&S Software license and Software Maintenance and Support Fee shall be in addition to any fees or charges separately referred to in any Section of this Exhibit A or the Agreement. If Customer elects to license and receive Software Maintenance and Support for an Add-On or New Product during the Term or any renewal thereof, ES&S will charge an incremental license and Software Maintenance and Support Fee for such license and services.

**ARTICLE II**  
**License of ES&S Software**

1. **Grant of License.** During the License Renewal Term or any renewal thereof, ES&S shall grant to Customer a nonexclusive, nontransferable license to use the ES&S Software and related Documentation in the Jurisdiction while Customer is using the Equipment and ES&S Software. The license allows Customer to use the ES&S Software (in object code only) and the Documentation, in the course of operating the Equipment and solely for the purposes of managing the electronic poll book voter lists and voter registration process at each polling location in Customer's jurisdiction. The license granted in this does not permit Customer to use or access the source code for the ES&S Software.

2. **Prohibited Uses.** Customer shall not take any of the following actions with respect to the ES&S Software or the Documentation:

a. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the ES&S Software; or

b. Cause or permit any use, display, loan, publication, transfer of possession, sublicensing or other dissemination of the ES&S Software or Documentation, in whole or in part, to or by any third party, including, but not limited to, any transfer of possession to, or use of the ES&S Software or Documentation by any third party to perform any services for Customer without ES&S' prior written consent; or

c. Cause or permit any change to be made to the ES&S Software without ES&S' prior written consent; or

d. Cause or permit any review, testing, examination or audit of the ES&S Software without ES&S' prior written consent; or

e. Cause or permit any copying, reproduction or printing of any output generated by the ES&S Software in which ES&S owns or claims any proprietary intellectual property rights (e.g., copyright, trademark or patent).

3. **Term of License.** The license granted in Article II, Section 1 shall commence upon the expiration of the Initial License Term and receipt of payment by ES&S in accordance with Article I, Section 2 of this Exhibit A. ES&S may terminate the license if Customer fails to pay the consideration due for, or breaches Sections 1 or 2 of this

Article II with respect to, such license. Upon the termination of the license granted in Section 1 of Article II for ES&S Software or upon Customer's discontinuance of the use of any ES&S Software, Customer shall immediately return such ES&S Software and the related Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

### **ARTICLE III**

#### **ES&S SOFTWARE MAINTENANCE AND SUPPORT SERVICES**

1. **Services Provided.** ES&S shall provide maintenance and support services for the ES&S Software ("Software Maintenance and Support"), to enable it to perform in accordance with its Documentation in all material respects, and to cure any defect in material or workmanship.

2. **Updates.** During the Software Maintenance Term and any renewals thereof, ES&S shall continue to provide updates in accordance with any update schedule determined by ES&S.

3. **Reinstatement of ES&S License and Software Maintenance and Support Services.** If the License Renewal Term or any renewal thereof expires without being renewed, Customer may thereafter resume receiving ES&S' license and Software Maintenance and Support Services upon (a) notification to ES&S, and (b) payment of all fees which would have been due to ES&S had the ES&S' License Renewal Term not expired, plus a reinstatement charge.

4. **Conditions.** ES&S shall provide Software Maintenance and Support Services for any item of ES&S Software if such item requires such services as a result of (a) repairs, changes, modifications or alterations not authorized or approved by ES&S, (b) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S, (c) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, (d) Customer's failure to timely and properly install and use the most recent Update provided to it by ES&S, (e) Customer's failure to notify ES&S within 24 hours after Customer knows of the need for such services, or (f) if Customer is otherwise not in compliance with its obligations under this Agreement. However, such Software Maintenance and Support Services shall not be provided at the Software Maintenance and Support Services Fees outlined in the Sales Order, but shall be provided at the fees to be agreed upon by the parties if and when the need for such Software Maintenance and Support arises.

5. **Proprietary Rights.** ES&S shall own the entire right, title and interest in and to all corrections, programs, information and work product conceived, created or developed, alone or with Customer or others, as a result of or related to the performance of this Exhibit A, including all proprietary rights therein or based thereon. Subject to the payment of all ES&S License and Software Maintenance and Services Fees, ES&S hereby grants to Customer a non-exclusive license to use that portion of such corrections, programs, information and work product that ES&S actually delivers to Customer pursuant to this Exhibit A. All licensed items shall be deemed to be ES&S Software for purposes of this Agreement. Except and to the extent expressly provided herein, ES&S does not grant to Customer any right, license, or other proprietary right, express or implied, in or to any corrections, programs, information, or work product covered.

## ATTACHMENT 3

**ELECTION SYSTEMS & SOFTWARE, LLC  
BALLOT ON DEMAND SYSTEM, PROCESSING AND SERVICES AGREEMENT  
SALES QUOTATION #: 11926**

This Agreement is made as of the date it is executed by the last of the parties named below on the signature page (the "Effective Date"),

**BETWEEN:** ELECTION SYSTEMS & SOFTWARE, LLC, a Delaware Limited Liability Company ("ES&S")

**AND:** JEFFERSON COUNTY, TEXAS ("Customer").

### **RECITALS:**

- A. ES&S is the owner of certain ballot printing equipment and software as set forth herein and Customer has agreed to purchase and license the ballot printing equipment and related software and services from ES&S for use in **Jefferson County, Texas** (the "Jurisdiction"). The terms and conditions under which such equipment, software and services shall be provided are set forth in the **GENERAL TERMS** attached hereto and incorporated herein by reference.
- B. The following Exhibits are incorporated into, and constitute an integral part of, this Agreement (check all that apply):
- Exhibit A (Pricing Summary)
- Exhibit B (Ballot on Demand Equipment, ES&S Software, and Services Description, Pricing and Fees)

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each of the parties hereto:

- Agrees to the **GENERAL TERMS** and the terms and conditions set forth in each Exhibit attached hereto and incorporated herein.
- Agrees that at all times, this Agreement shall be governed by and construed in accordance with the laws of the **State of Texas**, without regard to conflicts of law principles that would require the application of the laws of any other state.
- Represents and warrants to the other party that as of its signature below it has full power and authority to enter into and perform this Agreement, and that the person signing below on its behalf has been properly authorized to execute this Agreement.
- Acknowledges that it has read this Agreement, understands it and intends to be bound by it.



**GENERAL TERMS  
ARTICLE 1  
DEFINITIONS**

All capitalized terms used, but not otherwise defined, in these General Terms or in an Exhibit shall have the following meanings:

- a. "Documentation" means the operating instructions, user manuals or training materials for the ES&S Equipment and ES&S Software.
- b. "ES&S Software" means ES&S' proprietary Ballot On Demand software and all Updates delivered to Customer under this Agreement, unless licensed pursuant to a separate written agreement.
- c. "Ballot on Demand Equipment" means hardware and software manufactured and developed by parties other than ES&S. Ballot on Demand Equipment shall include, but not be limited to, any printers and laptop computers provided under this Agreement.

**ARTICLE 2  
SALE OF ES&S EQUIPMENT AND LICENSE OF ES&S SOFTWARE AND PAYMENT OF FEES**

2.1 **Purchase Terms; Use.** Subject to the terms and conditions of this Agreement, ES&S agrees to sell, and Customer agrees to purchase, the Ballot on Demand Equipment and licenses to the ES&S Software described on Exhibit B. The payment terms are set forth on Exhibit A. Title to the Ballot on Demand Equipment shall pass to Customer when Customer has paid ES&S the total amount set forth on Exhibit A for the Ballot on Demand Equipment.

2.2 a. **Grant of Licenses.** Subject to the terms and conditions of this Agreement, ES&S hereby grants to Customer nonexclusive, nontransferable licenses for its bona fide full time, part time and temporary employees to use the ES&S Software described on Exhibit B and related Documentation supplied by ES&S. The licenses allow Customer to use (but not copy) the ES&S Software and the Documentation in the course of operating the ES&S Equipment and solely for the purposes of managing the printing of ballots in the Jurisdiction. The licenses granted in this Section 2.2 do not permit Customer to use the source code for the ES&S Software.

b. **Prohibited Uses.** Customer shall not take any of the following actions with respect to the ES&S Software or the Documentation:

i. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the ES&S Software;

ii. Cause or permit any use, display, loan, publication, transfer of possession, sublicensing or other dissemination of the ES&S Software or Documentation, in whole or in part, to or by any third party, including, but not limited to, any transfer of possession to, or use of the ES&S Software or Documentation by any third party to perform any services for Customer (including, but not limited to, any ballot printing, coding, programming or ballot layout services) without ES&S's prior written consent; or

iii. Cause or permit any change to be made to the ES&S Software without ES&S' prior written consent; or

iv. Allow a third party to cause or permit any copying, reproduction or printing of any output generated by the Software (except ballots by ballot printers selected by Customer) in which ES&S owns or claims any proprietary intellectual property rights (e.g.,

copyright, trademark, patent pending or patent), including, but not limited to, any ballot shells or ballot code stock.

2.3 **Term of Licenses.** The licenses granted in Section 2.2 shall commence upon the delivery of the ES&S Software described in Section 2.2 and shall continue for the Initial Term of the Agreement (the "Initial License Term"). Upon expiration of the Initial License Term, the licenses shall automatically renew for an unlimited number of successive one-year periods (each a "License Renewal Term") upon the payment by Customer of the annual software license and software maintenance and support fee as set forth on Exhibit A. ES&S may terminate the license if Customer fails to pay the consideration due for, or breaches Sections 2.2, 2.5, or 3.6 with respect to, such license. Upon the termination of either of the licenses granted in Section 2.2 for ES&S Software or upon Customer's discontinuance of the use of any ES&S Software, Customer shall immediately return such ES&S Software and the related Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

2.4 **Updates.** During the Initial License Term or any License Renewal Term, ES&S may provide new releases, upgrades or maintenance patches to the ES&S Software, together with appropriate Documentation ("Updates"), on a schedule defined by ES&S. Customer is responsible for obtaining any upgrades or purchases of Third-Party Items required to operate the Updates as well as the cost of any replacements, retrofits or modifications to the Ballot on Demand Equipment which may be necessary in order to operate the Updates. All Updates shall be deemed to be ES&S Software for purposes of this Agreement upon delivery. Customer may install the Updates in accordance with ES&S' recommended instructions or may request that ES&S install the Updates. ES&S will charge Customer at its then-current rates to (i) install the Updates to the Customer, (ii) train Customer on Updates, if such training is requested by Customer; or (iii) provide maintenance and support on the ES&S Software that is required as a result of Customer's failure to timely or properly install an Update. Notwithstanding the foregoing, Customer shall pay ES&S to install all election management software Updates. If applicable, Customer shall be responsible for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee which is caused by Customer's failure to install and use the most recent Update provided to it by ES&S. If Customer proposes changes in the ES&S Software to ES&S, such proposals will become ES&S' property. ES&S may, in its sole discretion, elect to make or not to make such changes without reference or compensation to Customer or any third party. ES&S represents to Customer that the Updates will comply with all applicable state law requirements at the time of delivery. Customer shall pay ES&S for any Update which is required due to a change in state or local law.

2.5 **Fees**

a. **Equipment Sale and Software License Fees.** The fees for the purchase of Ballot on Demand Equipment and License of ES&S Software are set forth on Exhibit A

b. **Election Set-Up Fee.** The per election fee for election set-up is set forth on Exhibit B.

c. **Pre-Election Services.** The fees for the optional Pre-Election Services are set forth on Exhibit B.

**ARTICLE 3  
MISCELLANEOUS**

3.1 **Term; Termination.** This Agreement shall be effective for a **One (1) Year Period beginning on the Effective Date** (the "Initial Term"). The Initial Term shall automatically renew for an unlimited number of successive one-year period unless otherwise agreed to, in writing, by the parties (each a "Renewal Period"). The Initial Term and all Renewal Periods shall be collectively referred to herein as the "Term". The Term shall continue until this Agreement is terminated by the first to occur of (i) either party's election to terminate it upon the expiration of the Initial Term or any Renewal Period thereof, written notice of such election shall be given to the other party at least sixty (60) calendar days prior to the expiration

of the Initial Term or any Renewal Period; (ii) the date that is thirty (30) days after either party notifies the other that the other has materially breached this Agreement, and the breaching party fails to cure such breach within such thirty (30) day period, (except a breach as provided in (iv) below which will require no notice); (iii) the date which is thirty (30) days after ES&S notifies the Customer of ES&S intent to terminate the Agreement as a result of the Customer no longer utilizing ES&S' voter tabulation system with the Ballot On Demand printer purchased and licensed hereunder, or (iv) Customer's failure to make any payment due hereunder within thirty (30) days after it is due. In the event of early termination by ES&S due to (a) a breach of this Agreement by Customer, (b) Customer's failure to pay any amounts owed under this Agreement or (c) the failure of Customer to appropriate funds to make the payments due under this Agreement, Customer shall pay ES&S for all products delivered and services performed up through the effective date of termination. Upon termination of this Agreement, Customer shall immediately return all ES&S Software and Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

3.2 **Delivery; Risk of Loss; Insurance.** ES&S anticipates shipping the Ballot on Demand Equipment and ES&S Software identified on Exhibit B to Customer on or before the "Estimated Delivery Dates" listed on Exhibit A. The Estimated Delivery Dates are estimates and may only be established or revised, as applicable, by the parties, because of delays in executing this Agreement, changes requested by Customer, product availability and other events outside of ES&S's control. ES&S will notify Customer of such revisions as soon as ES&S becomes aware of such revisions. Risk of loss for the Ballot on Demand Equipment and ES&S Software shall pass to Customer when such items are delivered to Customer's designated location. Upon transfer of risk of loss to Customer, Customer shall be responsible for obtaining and maintaining sufficient casualty insurance on the Ballot on Demand Equipment and shall name ES&S as an additional insured thereunder and, at ES&S' request, shall deliver written evidence thereof to ES&S until all amounts payable to ES&S under this Agreement for Ballot on Demand Equipment and Software have been paid by Customer.

### 3.3 **Warranty**

a. **ES&S Software.** ES&S warrants for a one (1) year period for the ES&S Software (the "Warranty Period") it will repair any component of the ES&S Software which, while under normal use and service: fails to perform in accordance with its Documentation in all material respects. The Warranty Period will commence upon installation. If a defect or malfunction occurs in the ES&S Software while it is under normal use and service, Customer shall promptly notify ES&S, and ES&S or its authorized representatives shall use reasonable efforts to restore the Software to perform in accordance with its Documentation as soon as practicable. ES&S or its authorized representatives shall restore ES&S Software at a location as determined by ES&S in its sole discretion. If a defect or malfunction occurs in any ES&S Software as a result of (1) repairs, changes, modifications or alterations not authorized or approved by ES&S, (2) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S or (3) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations, rodent infestation, and utility or communication interruptions, Customer shall pay ES&S for any maintenance services at ES&S' then-current rates, as well as for the cost of all parts used in connection with the performance of such maintenance services. Customer shall have access to ES&S Help Desk Support during the Warranty Periods. ES&S reserves that right to use third parties approved by ES&S to perform the warranty services hereunder.

#### b. **Ballot on Demand Equipment.**

i. **Ballot on Demand Printer.** ES&S shall provide a warranty to the Customer for the Ballot on Demand Printer ("Printer") in coordination with the manufacturer of the Printer that shall commence upon delivery and terminate upon the earlier of: (1) three

(3) years from the date of delivery (the "Maximum Coverage Period"), or (2) the end of the life of the fuser unit in the Printer. In the event that Customer desires to make a warranty claim prior to expiration of the Maximum Coverage Period, the parties shall determine if the warranty has expired by printing a printer settings sheet which displays the remaining life of the Printer's fuser unit. ES&S warrants during the Warranty Period it, in coordination with the manufacturer of the Printer, will replace a Printer which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. The Warranty shall not include the repair or replacement of any Consumables as defined in Section 3.5 below. Any replaced Printer shall be warranted only for the unexpired term of the Warranty Period.

**aa. Warranty Procedures.** In the event of a potential warranty claim, Customer shall contact the ES&S Helpdesk to assess and diagnose Printer performance issues. In the event the Customer and ES&S Helpdesk are unable to resolve the issue, ES&S shall arrange for Customer to be provided with a replacement Printer. Upon receipt of the replacement Printer, Customer shall have seven (7) business days within which to return the malfunctioning Printer to the manufacturer. Customer shall be responsible for shipping and handling costs incurred in order to return the malfunctioning Printer to the manufacturer. If Customer fails to return the malfunctioning Printer within the specified timeframe, Customer shall be responsible for the cost of the replacement Printer and all shipping and handling costs for the replacement Printer. This warranty is effective provided that , (I) Customer cooperates with the ES&S Helpdesk to fully troubleshoot any defects related to the Printer, and (II) the Printer to be replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, use which is not in accordance with instructions or specifications furnished by ES&S or the manufacturer of the Printer or causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions. This warranty is void for any units of equipment which: (i) have not been stored or operated in a temperature range according their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product.

**ii. Ballot on Demand Laptop Computer.** ES&S shall provide a three (3) year warranty to the Customer in coordination with the manufacturer of the Ballot on Demand Laptop Computer ("Laptop") that shall commence upon delivery (the "Warranty Period"). ES&S warrants during the Warranty Period it, in coordination with the manufacturer, will repair or replace any component of the Laptop which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. Any repaired or replaced item of Laptop shall be warranted only for the unexpired term of the Warranty Period. All replaced components of the Laptop become the property of ES&S. In the event that the Laptop fails to perform in accordance with its Documentation, Customer shall contact the ES&S Helpdesk to assess and diagnose any material defects. In the event the ES&S Helpdesk is unable to resolve the issue, ES&S will work with the Customer to return the item to ES&S, and ES&S will work in coordination with the Laptop manufacturer to repair and/or replace the Laptop. This warranty is effective provided that (I) Customer cooperates with the ES&S Helpdesk to fully troubleshoot any defects related to the Laptop, and (II) the Laptop to be replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, use

which is not in accordance with instructions or specifications furnished by ES&S or the manufacturer of the Laptop or causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions. This warranty is void for any units of equipment which: (i) have not been stored or operated in a temperature range according to their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product.

c. **Exclusive Remedies/Disclaimer.** IN THE EVENT OF A BREACH OF SUBSECTION 3.3(a), ES&S' OBLIGATIONS, AS DESCRIBED IN SUCH SUBSECTION, ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES. ES&S EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHICH ARE NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

3.4 **Consumables.** Customer shall be responsible for the purchase, shipping and installation of all components that are consumed in the normal course of operating the Ballot on Demand Equipment, including, but not limited to, toner, drums, transfer belts, fusers, and ballot stock (collectively, "Consumables"). All Consumables shall meet ES&S' specifications and may be purchased directly from ES&S or from authorized dealers. In the event the Customer purchases Consumables which do not meet ES&S specifications, Customer shall be solely responsible for any and all costs, expenses, liabilities, losses and damages resulting from the Customer's failure to purchase Consumables which meet ES&S' specifications.

3.5 **Limitation Of Liability.** Neither party shall be liable for any indirect, incidental, punitive, exemplary, special or consequential damages of any kind whatsoever arising out of or relating to this Agreement. Neither party shall be liable for the other party's negligent or willful misconduct. ES&S' total liability to Customer arising out of or relating to this Agreement shall not exceed the aggregate amount to be paid to ES&S hereunder. By entering into this Agreement, Customer agrees to accept responsibility for (a) the selection of, use of and results obtained from any equipment, software or services not provided by ES&S and used with the Ballot on Demand Equipment or ES&S Software; or (b) errors that arise from mechanical or electronic component failures that are not covered under warranty or not subject to maintenance efforts or cure under this Agreement; or (c) user errors, voter errors or problems encountered by any individual in voting that are not otherwise a result of the failure of ES&S to perform its obligations under this Agreement.

3.6 **Taxes; Interest.** Customer shall provide ES&S with proof of its tax-exempt status. If Customer does not provide such proof, it shall pay, or shall reimburse ES&S for, all sales and use, excise or other similar taxes imposed on the transactions contemplated by this Agreement; provided, however, Customer shall in no event be liable for taxes imposed on or measured by ES&S' income. If Customer disputes the applicability of any tax to be paid pursuant to this Section 3.6, it shall pay the tax and may thereafter seek a refund. Any disputed or undisputed payment not paid by Customer to ES&S when due shall bear interest from the due date at a rate equal to the lesser of one and one-half percent (1.5%) per month or the maximum amount permitted by applicable law for each month or portion thereof during which it remains unpaid.

3.7 **Proprietary Rights.** Customer acknowledges and agrees as follows:

a. ES&S owns the ES&S Software, all Documentation and training materials provided by ES&S, and the format, layout, measurements, design and all other technical information associated with the ballots to be used with the Ballot on Demand Equipment. Customer has the



right to use the aforementioned items to the extent specified in this Agreement. ES&S also owns all patents, trademarks, copyrights, trade names and other proprietary or intellectual property in, or used in connection with, the aforementioned items. The aforementioned items also contain confidential and proprietary trade secrets of ES&S that are protected by law and are of substantial value to ES&S.

b. Customer shall not cause or permit the adaptation, conversion, reverse engineering, disassembly or decompilation of any of the Ballot on Demand Equipment or ES&S Software.

c. Customer shall keep the ES&S Software and related Documentation free and clear of all claims, liens and encumbrances and shall maintain all copyright, trademark, patent or other intellectual or proprietary rights notices that are set forth on the Ballot on Demand Equipment, the ES&S Software, the Documentation, training materials and ballots that are provided, and all permitted copies of the foregoing.

d. Notwithstanding the proceeding, the ES&S understands the Customer must comply with the Texas Public Information Act (PIA). As such, the Customer shall notify ES&S after receiving a public information request for ES&S' Documentation, allowing ES&S an opportunity to respond to such request.

3.8 **Excusable Nonperformance.** Except for obligations to make payments hereunder, if either party is delayed or prevented from performing its obligations under this Agreement as a result of any cause beyond its reasonable control, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, the delay shall be excused during the continuance of, and to the extent of, such cause, and the period of performance shall be extended to the extent necessary to allow performance after the cause of delay has been removed. ES&S agrees to work with Customer, at Customer's request, to develop mutually agreeable alternatives in order to minimize the negative impact of any such delay.

3.9 **Non-Appropriation of Funds.** Customer represents, warrants, and covenants that it has appropriated, and will have appropriated, funds available necessary to pay the amounts due herein through the end of the Customer's current fiscal year, and that Customer shall use its best efforts to obtain and appropriate funds in order to pay all payments which shall be due in each year of this Agreement. In the event that funds are not appropriated or otherwise made available to support the continuation of performance by Customer hereunder in any subsequent fiscal period, this Agreement may be terminated by either party; provided, however, that this Section 3.9 shall not be construed so as to permit Customer to terminate this Agreement in order to acquire a ballot on demand system and/or related services from a third party. Either party may notify the other of the termination, which may occur no later than the beginning of the subsequent fiscal period. Upon termination, Customer shall pay ES&S for all services performed pursuant to this Agreement up to the date of termination and reasonable exit costs incurred by ES&S. The amount of such payment may be paid from any appropriations available for such purposes, and Customer's highest-ranking officer or official shall use his/her best efforts to timely and sufficiently request the appropriation necessary to pay such amount.

3.10 **Assignment.** Except in the case of a reorganization of the assets or operation of ES&S with one or more affiliates of ES&S or the sale, transfer or assignment of all or substantially all of the assets of ES&S to a successor who has asserted its intent to continue the business of ES&S, neither party may assign or transfer this Agreement or assign, subcontract or delegate any of its rights, duties or obligations hereunder without the prior written consent of the other party hereto, such consent not to be unreasonably withheld or conditioned, nor unduly delayed.

3.11 **Notice.** Any notice or other communication required or permitted hereunder shall be in writing, and will be deemed given when (a) delivered personally, (b) sent by confirmed email, (c) sent by

confirmed fax, (d) sent by commercial overnight courier (with written verification of receipt) or (e) sent by registered or certified mail, return receipt requested, postage prepaid, when the return receipt is received. All communications shall be sent to the attention of the persons listed on the signature page to this Agreement and at the addresses, email address or fax numbers set forth on such signature page unless other names, addresses or fax numbers are provided by either or both parties in accordance herewith.

3.12 **Disputes.**

a. **Payment of Undisputed Amounts.** In the event of a dispute between the parties regarding (1) a product or service for which payment has not yet been made to ES&S, (2) the amount due ES&S for any product or service, or (3) the due date of any payment, Customer shall nevertheless pay to ES&S when due all undisputed amounts. Such payment shall not constitute a waiver by Customer or ES&S of any of its rights and remedies against the other party.

b. **Remedies for Past Due Undisputed Payments.** If any undisputed payment to ES&S is past due more than thirty (30) days, ES&S may suspend performance under this Agreement until such amount is paid.

3.14 **Entire Agreement.** This Agreement, including all exhibits hereto, shall be binding upon and inure to the benefit of the parties and their respective representatives, successors and assigns. This Agreement, including all Exhibits hereto, contains the entire agreement of the parties with respect to the subject matter hereof and shall supersede and replace any and all other prior or contemporaneous discussions, negotiations, agreements or understandings between the parties, whether written or oral, regarding the subject matter hereof. Any provision of any purchase order, form or other agreement which conflicts with or is in addition to the provisions of this Agreement shall be of no force or effect. In the event of any conflict between a provision contained in an Exhibit to this Agreement and these General Terms, the provision contained in the Exhibit shall control. No waiver, amendment or modification of any provision of this Agreement shall be effective unless in writing and signed by the party against whom such waiver, amendment or modification is sought to be enforced. No consent by either party to, or waiver of, a breach by either party shall constitute a consent to or waiver of any other different or subsequent breach by either party. ES&S is providing Ballot on Demand Equipment, ES&S Software and services to Customer as an independent contractor, and shall not be deemed to be a "state actor" for purposes of 42 U.S.C. § 1983. ES&S may engage subcontractors to provide certain of the Ballot on Demand Equipment, ES&S Software or services, but shall remain fully responsible for such performance. The provisions of Article 2 and Sections 3.6-3.14 of these General Terms shall survive the termination of this Agreement, to the extent applicable.

**[END OF GENERAL TERMS]**

**EXHIBIT A  
PRICING SUMMARY**

<b>Sale Summary:</b>		
<b>Description</b>	<b>Refer to</b>	<b>Amount</b>
Ballot on Demand Equipment, ES&S Software, and Services	Exhibit B	\$73,360.00
Shipping & Handling		Included in Tabulation Sales Order Agreement
<b>Total Sale:</b>		<b>\$73,360.00</b>
Election Set Up Fees and Optional Pre-Election Services are not included in Total Sale. Please see <u>Exhibit B</u> for Election Set-Up Fees and Optional Pre-Election Services Fees and Payment Terms.		
<b>Terms &amp; Conditions:</b>		
<b>Note 1:</b> Pursuant to Section 3.6, any applicable state and local taxes are not included, and are the responsibility of Customer. Premium or rush transportation services incurred in connection with deliverables included in the Total Sale are additive and will be billed as incurred.		
<b>Note 2: <u>Invoicing and Payment Terms are as Follows:</u></b>		
See Consolidated Order Agreement for Payment Terms. Customer shall be responsible for the payment of all fees set forth in this Attachment 3.		
All other Service Fees are set forth on <u>Exhibit B</u> and are due within thirty (30) days of Customer's receipt of ES&S' invoice.		
<b>Ongoing Services:</b>		
<b>Description</b>	<b>Annual Fee – First Renewal Period</b>	
Software License, Maintenance & Support Services:		
- Ballot On Demand Software Fees (See <u>Exhibit B</u> for descriptions). ES&S may increase the Fees for a Renewal Period by not more than the annual percentage increase as set forth in the CPI Index for the South Region, subject to a minimum increase of 5.00%.	\$550.00	
Fees reflect a one-year term.		
Payment is due as set forth above and at the start of each Renewal Period.		

**EXHIBIT B  
BALLOT ON DEMAND EQUIPMENT, ES&S SOFTWARE, AND SERVICES DESCRIPTION,  
PRICING AND FEES**

QUANTITY	DESCRIPTION	TOTAL PRICE
<b>Ballot On Demand Printing Hardware</b>		
66	Compact Printer with Firmware	\$39,930.00
1	Laptop Computer with Router	\$1,480.00
1	Laptop Computer	\$1,255.00
<b>Software</b>		
1	Ballot On Demand 1-Year Software Licenses Including the Following Features:	
X	BOD Single Ballot Printing Only	\$2,500.00
<b>Election Services</b>		
1	Ballot on Demand Training	\$1,795.00
X	Ballot on Demand Installation	\$26,400.00
<b>TOTAL PURCHASE:</b>		<b>\$73,360.00</b>

**ELECTION SET-UP FEES  
(Subject to change after the Initial Term)**

<b>Initial Election Set-Up Fee per Election Event</b>
<b>Black and White Ballot Set-Up:</b>
\$450.00 per election set-up + \$1.00 per unique PDF for first Computer
\$75.00 for each additional Computer set-up
<b>Color Ballot Set-Up:</b>
\$550.00 per election set-up + \$1.00 per unique PDF for first Computer
\$75.00 for each additional Computer set-up
<b>Rework of Set-Up due to Customer Changes After Initial Set-Up is Complete:</b>
\$175.00 per change event for first Computer set-up
\$75.00 for each additional Computer set-up
<b>Other:</b>
\$350.00 fee for L&A Test Deck Creation
On-Site Set-Up: \$1,795.00 per person, per day

Election Set-Up Fees are due within thirty (30) days of receipt of ES&S invoice.

**OPTIONAL PRE-ELECTION SERVICES FEES**

Upon request by the Customer, ES&S shall provide the following services to the Customer ("Pre-Election Services")

DESCRIPTION	SERVICE FEE PER DAY
Printer Cleaning, Pre-Election Testing, Roller Replacement, Parts Inspection, Ballot-Folder Adjustment/Testing and Onsite Assistance with Print-Alignment, Clearing Jams and other Hardware Adjustments.	\$1,795.00 Per Person Per Day for the Initial Term

Optional Pre-Election Services Fees are due within thirty (30) days of receipt of ES&S invoice. ES&S reserves the right to increase the fees set forth herein at the beginning of each Renewal Period.



## ATTACHMENT 3

### ELECTION SYSTEMS & SOFTWARE, LLC BALLOT ON DEMAND SYSTEM, PROCESSING AND SERVICES AGREEMENT SALES QUOTATION #: 11926

This Agreement is made as of the date it is executed by the last of the parties named below on the signature page (the "Effective Date"),

**BETWEEN:** ELECTION SYSTEMS & SOFTWARE, LLC, a Delaware Limited Liability Company ("ES&S")

**AND:** JEFFERSON COUNTY, TEXAS ("Customer").

#### RECITALS:

- A. ES&S is the owner of certain ballot printing equipment and software as set forth herein and Customer has agreed to purchase and license the ballot printing equipment and related software and services from ES&S for use in **Jefferson County, Texas** (the "Jurisdiction"). The terms and conditions under which such equipment, software and services shall be provided are set forth in the **GENERAL TERMS** attached hereto and incorporated herein by reference.
- B. The following Exhibits are incorporated into, and constitute an integral part of, this Agreement (check all that apply):
- Exhibit A (Pricing Summary)
- Exhibit B (Ballot on Demand Equipment, ES&S Software, and Services Description, Pricing and Fees)

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each of the parties hereto:

- Agrees to the **GENERAL TERMS** and the terms and conditions set forth in each Exhibit attached hereto and incorporated herein.
- Agrees that at all times, this Agreement shall be governed by and construed in accordance with the laws of the **State of Texas**, without regard to conflicts of law principles that would require the application of the laws of any other state.
- Represents and warrants to the other party that as of its signature below it has full power and authority to enter into and perform this Agreement, and that the person signing below on its behalf has been properly authorized to execute this Agreement.
- Acknowledges that it has read this Agreement, understands it and intends to be bound by it.

**GENERAL TERMS  
ARTICLE 1  
DEFINITIONS**

All capitalized terms used, but not otherwise defined, in these General Terms or in an Exhibit shall have the following meanings:

- a. "Documentation" means the operating instructions, user manuals or training materials for the ES&S Equipment and ES&S Software.
- b. "ES&S Software" means ES&S' proprietary Ballot On Demand software and all Updates delivered to Customer under this Agreement, unless licensed pursuant to a separate written agreement.
- c. "Ballot on Demand Equipment" means hardware and software manufactured and developed by parties other than ES&S. Ballot on Demand Equipment shall include, but not be limited to, any printers and laptop computers provided under this Agreement.

**ARTICLE 2  
SALE OF ES&S EQUIPMENT AND LICENSE OF ES&S SOFTWARE AND PAYMENT OF FEES**

2.1 **Purchase Terms; Use.** Subject to the terms and conditions of this Agreement, ES&S agrees to sell, and Customer agrees to purchase, the Ballot on Demand Equipment and licenses to the ES&S Software described on Exhibit B. The payment terms are set forth on Exhibit A. Title to the Ballot on Demand Equipment shall pass to Customer when Customer has paid ES&S the total amount set forth on Exhibit A for the Ballot on Demand Equipment.

2.2 a. **Grant of Licenses.** Subject to the terms and conditions of this Agreement, ES&S hereby grants to Customer nonexclusive, nontransferable licenses for its bona fide full time, part time and temporary employees to use the ES&S Software described on Exhibit B and related Documentation supplied by ES&S. The licenses allow Customer to use (but not copy) the ES&S Software and the Documentation in the course of operating the ES&S Equipment and solely for the purposes of managing the printing of ballots in the Jurisdiction. The licenses granted in this Section 2.2 do not permit Customer to use the source code for the ES&S Software.

b. **Prohibited Uses.** Customer shall not take any of the following actions with respect to the ES&S Software or the Documentation:

i. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the ES&S Software;

ii. Cause or permit any use, display, loan, publication, transfer of possession, sublicensing or other dissemination of the ES&S Software or Documentation, in whole or in part, to or by any third party, including, but not limited to, any transfer of possession to, or use of the ES&S Software or Documentation by any third party to perform any services for Customer (including, but not limited to, any ballot printing, coding, programming or ballot layout services) without ES&S's prior written consent; or

iii. Cause or permit any change to be made to the ES&S Software without ES&S' prior written consent; or

iv. Allow a third party to cause or permit any copying, reproduction or printing of any output generated by the Software (except ballots by ballot printers selected by Customer) in which ES&S owns or claims any proprietary intellectual property rights (e.g.,

copyright, trademark, patent pending or patent), including, but not limited to, any ballot shells or ballot code stock.

2.3 **Term of Licenses.** The licenses granted in Section 2.2 shall commence upon the delivery of the ES&S Software described in Section 2.2 and shall continue for the Initial Term of the Agreement (the "Initial License Term"). Upon expiration of the Initial License Term, the licenses shall automatically renew for an unlimited number of successive one-year periods (each a "License Renewal Term") upon the payment by Customer of the annual software license and software maintenance and support fee as set forth on Exhibit A. ES&S may terminate the license if Customer fails to pay the consideration due for, or breaches Sections 2.2, 2.5, or 3.6 with respect to, such license. Upon the termination of either of the licenses granted in Section 2.2 for ES&S Software or upon Customer's discontinuance of the use of any ES&S Software, Customer shall immediately return such ES&S Software and the related Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

2.4 **Updates.** During the Initial License Term or any License Renewal Term, ES&S may provide new releases, upgrades or maintenance patches to the ES&S Software, together with appropriate Documentation ("Updates"), on a schedule defined by ES&S. Customer is responsible for obtaining any upgrades or purchases of Third-Party Items required to operate the Updates as well as the cost of any replacements, retrofits or modifications to the Ballot on Demand Equipment which may be necessary in order to operate the Updates. All Updates shall be deemed to be ES&S Software for purposes of this Agreement upon delivery. Customer may install the Updates in accordance with ES&S' recommended instructions or may request that ES&S install the Updates. ES&S will charge Customer at its then-current rates to (i) install the Updates to the Customer, (ii) train Customer on Updates, if such training is requested by Customer; or (iii) provide maintenance and support on the ES&S Software that is required as a result of Customer's failure to timely or properly install an Update. Notwithstanding the foregoing, Customer shall pay ES&S to install all election management software Updates. If applicable, Customer shall be responsible for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee which is caused by Customer's failure to install and use the most recent Update provided to it by ES&S. If Customer proposes changes in the ES&S Software to ES&S, such proposals will become ES&S' property. ES&S may, in its sole discretion, elect to make or not to make such changes without reference or compensation to Customer or any third party. ES&S represents to Customer that the Updates will comply with all applicable state law requirements at the time of delivery. Customer shall pay ES&S for any Update which is required due to a change in state or local law.

2.5 **Fees**

a. **Equipment Sale and Software License Fees.** The fees for the purchase of Ballot on Demand Equipment and License of ES&S Software are set forth on Exhibit A

b. **Election Set-Up Fee.** The per election fee for election set-up is set forth on Exhibit B.

c. **Pre-Election Services.** The fees for the optional Pre-Election Services are set forth on Exhibit B.

**ARTICLE 3  
MISCELLANEOUS**

3.1 **Term; Termination.** This Agreement shall be effective for a **One (1) Year Period beginning on the Effective Date** (the "Initial Term"). The Initial Term shall automatically renew for an unlimited number of successive one-year period unless otherwise agreed to, in writing, by the parties (each a "Renewal Period"). The Initial Term and all Renewal Periods shall be collectively referred to herein as the "Term". The Term shall continue until this Agreement is terminated by the first to occur of (i) either party's election to terminate it upon the expiration of the Initial Term or any Renewal Period thereof, written notice of such election shall be given to the other party at least sixty (60) calendar days prior to the expiration

of the Initial Term or any Renewal Period; (ii) the date that is thirty (30) days after either party notifies the other that the other has materially breached this Agreement, and the breaching party fails to cure such breach within such thirty (30) day period, (except a breach as provided in (iv) below which will require no notice); (iii) the date which is thirty (30) days after ES&S notifies the Customer of ES&S intent to terminate the Agreement as a result of the Customer no longer utilizing ES&S' voter tabulation system with the Ballot On Demand printer purchased and licensed hereunder, or (iv) Customer's failure to make any payment due hereunder within thirty (30) days after it is due. In the event of early termination by ES&S due to (a) a breach of this Agreement by Customer, (b) Customer's failure to pay any amounts owed under this Agreement or (c) the failure of Customer to appropriate funds to make the payments due under this Agreement, Customer shall pay ES&S for all products delivered and services performed up through the effective date of termination. Upon termination of this Agreement, Customer shall immediately return all ES&S Software and Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

3.2 **Delivery; Risk of Loss; Insurance.** ES&S anticipates shipping the Ballot on Demand Equipment and ES&S Software identified on Exhibit B to Customer on or before the "Estimated Delivery Dates" listed on Exhibit A. The Estimated Delivery Dates are estimates and may only be established or revised, as applicable, by the parties, because of delays in executing this Agreement, changes requested by Customer, product availability and other events outside of ES&S's control. ES&S will notify Customer of such revisions as soon as ES&S becomes aware of such revisions. Risk of loss for the Ballot on Demand Equipment and ES&S Software shall pass to Customer when such items are delivered to Customer's designated location. Upon transfer of risk of loss to Customer, Customer shall be responsible for obtaining and maintaining sufficient casualty insurance on the Ballot on Demand Equipment and shall name ES&S as an additional insured thereunder and, at ES&S' request, shall deliver written evidence thereof to ES&S until all amounts payable to ES&S under this Agreement for Ballot on Demand Equipment and Software have been paid by Customer.

### 3.3 **Warranty**

a. **ES&S Software.** ES&S warrants for a one (1) year period for the ES&S Software (the "Warranty Period") it will repair any component of the ES&S Software which, while under normal use and service: fails to perform in accordance with its Documentation in all material respects. The Warranty Period will commence upon installation. If a defect or malfunction occurs in the ES&S Software while it is under normal use and service, Customer shall promptly notify ES&S, and ES&S or its authorized representatives shall use reasonable efforts to restore the Software to perform in accordance with its Documentation as soon as practicable. ES&S or its authorized representatives shall restore ES&S Software at a location as determined by ES&S in its sole discretion. If a defect or malfunction occurs in any ES&S Software as a result of (1) repairs, changes, modifications or alterations not authorized or approved by ES&S, (2) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S or (3) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations, rodent infestation, and utility or communication interruptions, Customer shall pay ES&S for any maintenance services at ES&S' then-current rates, as well as for the cost of all parts used in connection with the performance of such maintenance services. Customer shall have access to ES&S Help Desk Support during the Warranty Periods. ES&S reserves that right to use third parties approved by ES&S to perform the warranty services hereunder.

#### b. **Ballot on Demand Equipment.**

i. **Ballot on Demand Printer.** ES&S shall provide a warranty to the Customer for the Ballot on Demand Printer ("Printer") in coordination with the manufacturer of the Printer that shall commence upon delivery and terminate upon the earlier of: (1) three

(3) years from the date of delivery (the "Maximum Coverage Period"), or (2) the end of the life of the fuser unit in the Printer. In the event that Customer desires to make a warranty claim prior to expiration of the Maximum Coverage Period, the parties shall determine if the warranty has expired by printing a printer settings sheet which displays the remaining life of the Printer's fuser unit. ES&S warrants during the Warranty Period it, in coordination with the manufacturer of the Printer, will replace a Printer which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. The Warranty shall not include the repair or replacement of any Consumables as defined in Section 3.5 below. Any replaced Printer shall be warranted only for the unexpired term of the Warranty Period.

**aa. Warranty Procedures.** In the event of a potential warranty claim, Customer shall contact the ES&S Helpdesk to assess and diagnose Printer performance issues. In the event the Customer and ES&S Helpdesk are unable to resolve the issue, ES&S shall arrange for Customer to be provided with a replacement Printer. Upon receipt of the replacement Printer, Customer shall have seven (7) business days within which to return the malfunctioning Printer to the manufacturer. Customer shall be responsible for shipping and handling costs incurred in order to return the malfunctioning Printer to the manufacturer. If Customer fails to return the malfunctioning Printer within the specified timeframe, Customer shall be responsible for the cost of the replacement Printer and all shipping and handling costs for the replacement Printer. This warranty is effective provided that , (I) Customer cooperates with the ES&S Helpdesk to fully troubleshoot any defects related to the Printer, and (II) the Printer to be replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, use which is not in accordance with instructions or specifications furnished by ES&S or the manufacturer of the Printer or causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions. This warranty is void for any units of equipment which: (i) have not been stored or operated in a temperature range according their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product.

**ii. Ballot on Demand Laptop Computer.** ES&S shall provide a three (3) year warranty to the Customer in coordination with the manufacturer of the Ballot on Demand Laptop Computer ("Laptop") that shall commence upon delivery (the "Warranty Period"). ES&S warrants during the Warranty Period it, in coordination with the manufacturer, will repair or replace any component of the Laptop which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. Any repaired or replaced item of Laptop shall be warranted only for the unexpired term of the Warranty Period. All replaced components of the Laptop become the property of ES&S. In the event that the Laptop fails to perform in accordance with its Documentation, Customer shall contact the ES&S Helpdesk to assess and diagnose any material defects. In the event the ES&S Helpdesk is unable to resolve the issue, ES&S will work with the Customer to return the item to ES&S, and ES&S will work in coordination with the Laptop manufacturer to repair and/or replace the Laptop. This warranty is effective provided that (I) Customer cooperates with the ES&S Helpdesk to fully troubleshoot any defects related to the Laptop, and (II) the Laptop to be replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, use



which is not in accordance with instructions or specifications furnished by ES&S or the manufacturer of the Laptop or causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions. This warranty is void for any units of equipment which: (i) have not been stored or operated in a temperature range according to their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product.

c. **Exclusive Remedies/Disclaimer.** IN THE EVENT OF A BREACH OF SUBSECTION 3.3(a), ES&S' OBLIGATIONS, AS DESCRIBED IN SUCH SUBSECTION, ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES. ES&S EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHICH ARE NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

3.4 **Consumables.** Customer shall be responsible for the purchase, shipping and installation of all components that are consumed in the normal course of operating the Ballot on Demand Equipment, including, but not limited to, toner, drums, transfer belts, fusers, and ballot stock (collectively, "Consumables"). All Consumables shall meet ES&S' specifications and may be purchased directly from ES&S or from authorized dealers. In the event the Customer purchases Consumables which do not meet ES&S specifications, Customer shall be solely responsible for any and all costs, expenses, liabilities, losses and damages resulting from the Customer's failure to purchase Consumables which meet ES&S' specifications.

3.5 **Limitation Of Liability.** Neither party shall be liable for any indirect, incidental, punitive, exemplary, special or consequential damages of any kind whatsoever arising out of or relating to this Agreement. Neither party shall be liable for the other party's negligent or willful misconduct. ES&S' total liability to Customer arising out of or relating to this Agreement shall not exceed the aggregate amount to be paid to ES&S hereunder. By entering into this Agreement, Customer agrees to accept responsibility for (a) the selection of, use of and results obtained from any equipment, software or services not provided by ES&S and used with the Ballot on Demand Equipment or ES&S Software; or (b) errors that arise from mechanical or electronic component failures that are not covered under warranty or not subject to maintenance efforts or cure under this Agreement; or (c) user errors, voter errors or problems encountered by any individual in voting that are not otherwise a result of the failure of ES&S to perform its obligations under this Agreement.

3.6 **Taxes; Interest.** Customer shall provide ES&S with proof of its tax-exempt status. If Customer does not provide such proof, it shall pay, or shall reimburse ES&S for, all sales and use, excise or other similar taxes imposed on the transactions contemplated by this Agreement; provided, however, Customer shall in no event be liable for taxes imposed on or measured by ES&S' income. If Customer disputes the applicability of any tax to be paid pursuant to this Section 3.6, it shall pay the tax and may thereafter seek a refund. Any disputed or undisputed payment not paid by Customer to ES&S when due shall bear interest from the due date at a rate equal to the lesser of one and one-half percent (1.5%) per month or the maximum amount permitted by applicable law for each month or portion thereof during which it remains unpaid.

3.7 **Proprietary Rights.** Customer acknowledges and agrees as follows:

a. ES&S owns the ES&S Software, all Documentation and training materials provided by ES&S, and the format, layout, measurements, design and all other technical information associated with the ballots to be used with the Ballot on Demand Equipment. Customer has the

right to use the aforementioned items to the extent specified in this Agreement. ES&S also owns all patents, trademarks, copyrights, trade names and other proprietary or intellectual property in, or used in connection with, the aforementioned items. The aforementioned items also contain confidential and proprietary trade secrets of ES&S that are protected by law and are of substantial value to ES&S.

b. Customer shall not cause or permit the adaptation, conversion, reverse engineering, disassembly or decompilation of any of the Ballot on Demand Equipment or ES&S Software.

c. Customer shall keep the ES&S Software and related Documentation free and clear of all claims, liens and encumbrances and shall maintain all copyright, trademark, patent or other intellectual or proprietary rights notices that are set forth on the Ballot on Demand Equipment, the ES&S Software, the Documentation, training materials and ballots that are provided, and all permitted copies of the foregoing.

3.8 **Excusable Nonperformance.** Except for obligations to make payments hereunder, if either party is delayed or prevented from performing its obligations under this Agreement as a result of any cause beyond its reasonable control, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, the delay shall be excused during the continuance of, and to the extent of, such cause, and the period of performance shall be extended to the extent necessary to allow performance after the cause of delay has been removed. ES&S agrees to work with Customer, at Customer's request, to develop mutually agreeable alternatives in order to minimize the negative impact of any such delay.

3.9 **Non-Appropriation of Funds.** Customer represents, warrants, and covenants that it has appropriated, and will have appropriated, funds available necessary to pay the amounts due herein through the end of the Customer's current fiscal year, and that Customer shall use its best efforts to obtain and appropriate funds in order to pay all payments which shall be due in each year of this Agreement. In the event that funds are not appropriated or otherwise made available to support the continuation of performance by Customer hereunder in any subsequent fiscal period, this Agreement may be terminated by either party; provided, however, that this Section 3.9 shall not be construed so as to permit Customer to terminate this Agreement in order to acquire a ballot on demand system and/or related services from a third party. Either party may notify the other of the termination, which may occur no later than the beginning of the subsequent fiscal period. Upon termination, Customer shall pay ES&S for all services performed pursuant to this Agreement up to the date of termination and reasonable exit costs incurred by ES&S. The amount of such payment may be paid from any appropriations available for such purposes, and Customer's highest-ranking officer or official shall use his/her best efforts to timely and sufficiently request the appropriation necessary to pay such amount.

3.10 **Assignment.** Except in the case of a reorganization of the assets or operation of ES&S with one or more affiliates of ES&S or the sale, transfer or assignment of all or substantially all of the assets of ES&S to a successor who has asserted its intent to continue the business of ES&S, neither party may assign or transfer this Agreement or assign, subcontract or delegate any of its rights, duties or obligations hereunder without the prior written consent of the other party hereto, such consent not to be unreasonably withheld or conditioned, nor unduly delayed.

3.11 **Notice.** Any notice or other communication required or permitted hereunder shall be in writing, and will be deemed given when (a) delivered personally, (b) sent by confirmed email, (c) sent by confirmed fax, (d) sent by commercial overnight courier (with written verification of receipt) or (e) sent by registered or certified mail, return receipt requested, postage prepaid, when the return receipt is received. All communications shall be sent to the attention of the persons listed on the signature page to this Agreement and at the addresses, email address or fax numbers set forth on such signature page unless other names, addresses or fax numbers are provided by either or both parties in accordance herewith.

3.12 **Disputes.**

a. **Payment of Undisputed Amounts.** In the event of a dispute between the parties regarding (1) a product or service for which payment has not yet been made to ES&S, (2) the amount due ES&S for any product or service, or (3) the due date of any payment, Customer shall nevertheless pay to ES&S when due all undisputed amounts. Such payment shall not constitute a waiver by Customer or ES&S of any of its rights and remedies against the other party.

b. **Remedies for Past Due Undisputed Payments.** If any undisputed payment to ES&S is past due more than thirty (30) days, ES&S may suspend performance under this Agreement until such amount is paid.

3.14 **Entire Agreement.** This Agreement, including all exhibits hereto, shall be binding upon and inure to the benefit of the parties and their respective representatives, successors and assigns. This Agreement, including all Exhibits hereto, contains the entire agreement of the parties with respect to the subject matter hereof and shall supersede and replace any and all other prior or contemporaneous discussions, negotiations, agreements or understandings between the parties, whether written or oral, regarding the subject matter hereof. Any provision of any purchase order, form or other agreement which conflicts with or is in addition to the provisions of this Agreement shall be of no force or effect. In the event of any conflict between a provision contained in an Exhibit to this Agreement and these General Terms, the provision contained in the Exhibit shall control. No waiver, amendment or modification of any provision of this Agreement shall be effective unless in writing and signed by the party against whom such waiver, amendment or modification is sought to be enforced. No consent by either party to, or waiver of, a breach by either party shall constitute a consent to or waiver of any other different or subsequent breach by either party. ES&S is providing Ballot on Demand Equipment, ES&S Software and services to Customer as an independent contractor, and shall not be deemed to be a "state actor" for purposes of 42 U.S.C. § 1983. ES&S may engage subcontractors to provide certain of the Ballot on Demand Equipment, ES&S Software or services, but shall remain fully responsible for such performance. The provisions of Article 2 and Sections 3.6-3.14 of these General Terms shall survive the termination of this Agreement, to the extent applicable.

**[END OF GENERAL TERMS]**

**EXHIBIT A  
PRICING SUMMARY**

<b>Sale Summary:</b>		
<b>Description</b>	<b>Refer to</b>	<b>Amount</b>
Ballot on Demand Equipment, ES&S Software, and Services	Exhibit B	\$73,360.00
Shipping & Handling		Included in Tabulation Sales Order Agreement
<b>Total Sale:</b>		<b>\$73,360.00</b>
Election Set Up Fees and Optional Pre-Election Services are not included in Total Sale. Please see <u>Exhibit B</u> for Election Set-Up Fees and Optional Pre-Election Services Fees and Payment Terms.		
<b>Terms &amp; Conditions:</b>		
<b>Note 1:</b> Pursuant to Section 3.6, any applicable state and local taxes are not included, and are the responsibility of Customer. Premium or rush transportation services incurred in connection with deliverables included in the Total Sale are additive and will be billed as incurred.		
<b>Note 2: <u>Invoicing and Payment Terms are as Follows:</u></b>		
See Consolidated Order Agreement for Payment Terms. Customer shall be responsible for the payment of all fees set forth in this Attachment 3.		
All other Service Fees are set forth on <u>Exhibit B</u> and are due within thirty (30) days of Customer's receipt of ES&S' invoice.		
<b>Ongoing Services:</b>		
<b>Description</b>	<b>Annual Fee – First Renewal Period</b>	
Software License, Maintenance & Support Services:		
- Ballot On Demand Software Fees (See <u>Exhibit B</u> for descriptions). ES&S may increase the Fees for a Renewal Period by not more than the annual percentage increase as set forth in the CPI Index for the South Region, subject to a minimum increase of 5.00%.	\$550.00	
Fees reflect a one-year term. Payment is due as set forth above and at the start of each Renewal Period.		

**EXHIBIT B  
BALLOT ON DEMAND EQUIPMENT, ES&S SOFTWARE, AND SERVICES DESCRIPTION,  
PRICING AND FEES**

QUANTITY	DESCRIPTION	TOTAL PRICE
<b>Ballot On Demand Printing Hardware</b>		
66	Compact Printer with Firmware	\$39,930.00
1	Laptop Computer with Router	\$1,480.00
1	Laptop Computer	\$1,255.00
<b>Software</b>		
1	Ballot On Demand 1-Year Software Licenses Including the Following Features:	
X	BOD Single Ballot Printing Only	\$2,500.00
<b>Election Services</b>		
1	Ballot on Demand Training	\$1,795.00
X	Ballot on Demand Installation	\$26,400.00
<b>TOTAL PURCHASE:</b>		<b>\$73,360.00</b>

**ELECTION SET-UP FEES  
(Subject to change after the Initial Term)**

<b>Initial Election Set-Up Fee per Election Event</b>
<b>Black and White Ballot Set-Up:</b>
\$450.00 per election set-up + \$1.00 per unique PDF for first Computer
\$75.00 for each additional Computer set-up
<b>Color Ballot Set-Up:</b>
\$550.00 per election set-up + \$1.00 per unique PDF for first Computer
\$75.00 for each additional Computer set-up
<b>Rework of Set-Up due to Customer Changes After Initial Set-Up is Complete:</b>
\$175.00 per change event for first Computer set-up
\$75.00 for each additional Computer set-up
<b>Other:</b>
\$350.00 fee for L&A Test Deck Creation
On-Site Set-Up: \$1,795.00 per person, per day

Election Set-Up Fees are due within thirty (30) days of receipt of ES&S invoice.

**OPTIONAL PRE-ELECTION SERVICES FEES**

Upon request by the Customer and the payment of the associated fees, ES&S shall provide the following services to the Customer ("Pre-Election Services")

DESCRIPTION	SERVICE FEE PER DAY
Printer Cleaning, Pre-Election Testing, Roller Replacement, Parts Inspection, Ballot-Folder Adjustment/Testing and Onsite Assistance with Print-Alignment, Clearing Jams and other Hardware Adjustments.	\$1,795.00 Per Person Per Day for the Initial Term



Optional Pre-Election Services Fees are due within thirty (30) days of receipt of ES&S invoice. ES&S reserves the right to increase the fees set forth herein at the beginning of each Renewal Period.



Election Systems & Software, LLC  
 11208 John Galt Blvd  
 Omaha, NE 68137

## Attachment 4

### EVS 6.1.1.0 PYO Standalone System Purchase Order Sales Quotation #: 11926

July 27, 2022

Jefferson County, Texas  
 1149 Pearl Street  
 Beaumont, TX 77704

Quantity	Part #	Description	Price	Ext. Price
		<b>EMS WORKSTATION</b>		
3	96046	OPTIPLEX XE3 SFF XCTO WITH WIN 10 LTSC	\$1,713.00	\$5,139.00
		DELL OPTIPLEX XE3 (Desktop) <ul style="list-style-type: none"> <li>● OptiPlex XE3 Small Form Factor XCTO</li> <li>● 8th Generation Intel Core i5-8500 (6 Cores/9MB Cache/up to 4.1GHz/65W)</li> <li>● 16GB (1x16GB) DDR4 Non-ECC Memory</li> <li>● M.2 512GB PCIe NVMe Class 35 Solid State Drive</li> <li>● NVIDIA GeForce GT 730, 2GB Graphics Card</li> <li>● DVD+/-RW Bezel 8x DVD+/-RW 9.5mm Optical Disk Drive</li> <li>● Dell KB216 Wired Keyboard English</li> <li>● Dell Optical Mouse - MS116 (Black)</li> <li>● Trusted Platform Module (Discrete TPM Enabled)</li> <li>● No Anti-Virus Software</li> <li>● Intel vPro Technology Enabled</li> <li>● ProSupport and Next Business Day Onsite Service Initial, 36 Month(s)</li> <li>● ProSupport and Next Business Day Onsite Service Extension, 24 Month(s)</li> <li>● Win10 IoT Ent LTSC 2019 EMB - Value -</li> </ul>		
3	96071	DELL P2222H 22" MONITOR 3 YR HDMI VGA DISPLAYPORT	\$359.00	\$1,077.00
3	96015	UNINTERRUPTIBLE POWER SUPPLY (UPS) BATTERY BACKUP 850VA (WORKSTATIONS)	\$180.00	\$540.00
3	96008	*SYMANTEC ENDPOINT PROTECTION 14.2	\$61.00	\$183.00

<b>MISCELLANEOUS COMPONENTS</b>				
3	96000	BROTHER HL-L6400DW B/W DUPLEX LASER PRINTER	\$462.00	\$1,386.00
3	86906	LD 6' USB 2.0 A-B CABLE,T,IVOTR,RTAL 6' USB CABLE	\$8.00	\$24.00
1	9703-10	Refurbished Toshiba Laptop (Ubuntu)	\$500.00	\$500.00
<b>SERVICES</b>				
1	510210	STANDALONE EMS INSTALL	\$1,400.00	\$1,400.00
		<ul style="list-style-type: none"> <li>• Staging of EMS workstations at ES&amp;S Technical Services lab. <ul style="list-style-type: none"> <li>o Includes the installation, configuration, and testing of EMS workstation.</li> </ul> </li> <li>• Equipment is shipped to customer location. <ul style="list-style-type: none"> <li>o Physical installation of workstation and related hardware (Printer, UPS, etc.) performed by customer.</li> </ul> </li> <li>• EMS installation summary documentation provided to customer upon completion of installation.</li> </ul>		
<b>Order Total</b>				<b>\$10,249.00</b>

**Invoicing and Payment Terms:**

See Consolidated Order Agreement for Payment Terms. Customer shall be responsible for the payment of all fees set forth in this Attachment 4.

Customer acknowledges that ES&S is purchasing the Third-Party items set forth herein ("Third Party Items") for resale to Customer, and that the proprietary and intellectual property rights to the Third-Party Items are owned by parties other than ES&S ("Third Parties"). Customer further acknowledges that except for the payment to ES&S for the Third-Party Items, all of its rights and obligations with respect thereto flow from and to the Third Parties. ES&S shall provide Customer with copies of all documentation and warranties for the Third-Party Items which are provided to ES&S.



11208 JOHN GALT BLVD  
OMAHA, NE 68137-2364  
(402) 593-0101

# Attachment 1

## Voter Tabulation

### Sales Order Agreement

Sales Quotation #: 11926

1st Election Date: November 8, 2022

Estimated Delivery Date: August 2022

Customer Contact, Title: Laurie Leister - County Clerk

Phone Number: 409-835-8475

Customer Name: Jefferson County, Texas

Fax Number: N/A

Type of Sale:  NEW  
Type of Equip:  NEW  REFURBISHED

Bill To:  
Jefferson County, Texas  
Laurie Leister - County Clerk  
1149 Pearl Street - 7th Floor  
Beaumont, Texas 77706

Ship To:  
Jefferson County, Texas  
Laurie Leister - County Clerk  
7933 Viterbo Road  
Beaumont, TX 77705

Item	Description	Qty	Price	Total
1	DS200 DS200 Poll Place Scanner and Tabulator: Model DS200 Scanner with Internal Backup Battery, Plastic Ballot Box with Removable Carrying Case, #2 Ballot Box Lock, Paper Roll, and One (1) Standard 4GB Memory Device - Version EVS 6.1.1.0	65	\$6,210.00	\$403,650.00
2	DS200 Tote Bin	130	\$361.00	\$46,930.00
3	DS200 Soft-Sided Nylon Case	65	\$135.00	\$8,775.00
4	DS200 Paper Roll (Additional)	2,000	\$1.75	\$3,500.00
5	DS200 Standard 4GB Memory Device (Additional)	600	\$105.00	\$63,000.00
6	ExpressVote BMD ExpressVote Universal Voting System: ExpressVote BMD Terminal with Internal Backup Battery, ADA Keypad, Headphones, Power Supply with AC Cord, and One (1) Standard 4GB Memory Device - Version EVS 6.1.1.0	360	\$3,325.00	\$1,197,000.00
7	ExpressVote BMD Soft-Sided Carrying Case	50	\$225.00	\$11,250.00
8	ExpressVote BMD ExpressVote Printer	110	\$725.00	\$79,750.00
9	ExpressVote BMD Tabletop ExpressVote Privacy Screens (6 per case)	40	\$120.00	\$4,800.00
10	ExpressVote BMD ExpressVote Blank Ballot Card Stock - 11" (250 per pkg)	400	\$25.00	\$10,000.00
11	ExpressVote BMD ExpressVote Blank Ballot Card Stock - 14" (250 per pkg)	400	\$26.25	\$10,500.00
12	ExpressVote BMD ExpressVote Blank Ballot Card Stock - 17" (250 per pkg)	400	\$28.75	\$11,500.00
13	DS450 DS450 High-Throughput Scanner and Tabulator: Model DS450 High Speed Digital Image Scanner with Steel Table, Start-up Kit, Dust Cover, Reports Printer, Battery Backup, Two (2) USB Cables, and Two (2) Standard 8GB Memory Devices - Version EVS 6.1.1.0	2	\$51,450.00	\$102,900.00
14	DS450 Standard 8GB Memory Device (Additional)	100	\$210.00	\$21,000.00

15	Software	Electionware Election Management Software EVS 6.1.1.0 PYO Base Package with English Language Synthesized Voice Files	1	\$32,450.00	\$32,450.00
16	Software	Synthesized Audio Capability - Each Additional Language	1	\$1,465.00	\$1,465.00
17	Election Supplies	ExpressVote Quad Cart	65	\$4,095.00	\$266,175.00
18	Election Supplies	Ballot Express Cart	65	\$2,045.00	\$132,925.00
19	Election Supplies	ExpressVote Curbside Cart	50	\$890.00	\$44,500.00
20	Election Supplies	11" BOD Ballot Stock	20,000	\$0.12	\$2,400.00
21	Election Supplies	14" BOD Ballot Stock	20,000	\$0.12	\$2,400.00
22	Election Supplies	17" BOD Ballot Stock	20,000	\$0.12	\$2,400.00
23	Election Supplies	Black BOD Toner	130	\$150.00	\$19,500.00
24	Election Supplies	ExpresVote Card Storage Box	220	\$10.00	\$2,200.00
25	Election Supplies	Canned Air for Cleaning Optical Mark Reader	240	\$15.00	\$3,600.00
26	Election Supplies	Touch Screen Cleaning Kit	260	\$12.00	\$3,120.00
27	Election Supplies	I Voted Today Sticker English - 1,000 per Roll	260	\$4.95	\$1,287.00
28	Election Supplies	Paper Ballot Booth - KoraBooth Carboard No Light	325	\$40.00	\$13,000.00
29	Election Supplies	Power Strip - SL-WABER DS450	130	\$50.00	\$6,500.00
30	Election Supplies	Ballot Transfer Case Cardboard 14"	388	\$3.25	\$1,261.00
31	Election Supplies	Mini Precinct Election Bag - Blue	130	\$17.50	\$2,275.00
32	Election Supplies	Privacy Sleeve - Ballot, Plastic	260	\$8.75	\$2,275.00
33	Election Supplies	TamperProof Seal 1x3-3/8 Red - Barcode - 100pk	30	\$45.00	\$1,350.00
34	Election Supplies	BiC Retractable Gel Pen Black - 12 Count	325	\$6.00	\$1,950.00
35	Election Supplies	BiC Retractable Gel Pen Red -12 Count	195	\$10.00	\$1,950.00
36	Election Supplies	BiC Stic Ball Pen, Black - 60 Count	260	\$8.00	\$2,080.00
37	Election Supplies	Poll Distance Marker Sign	260	\$11.95	\$3,107.00
38	Election Supplies	Polling Place Cone Cap Sign	260	\$16.50	\$4,290.00
39	Election Supplies	Clasp Envelopes 12"x15-1/2" - Box of 100	30	\$66.00	\$1,980.00
40	Election Supplies	Dual-Lock, Collapsible Ballot Bag With Keyless Security Slot	65	\$220.00	\$14,300.00
41	DS200	Equipment Installation	65	\$115.00	\$7,475.00
42	ExpressVote BMD	Equipment Installation	360	\$105.00	\$37,800.00
43	DS450	Equipment Installation	2	\$1,500.00	\$3,000.00
44	Quad Cart	Equipment Installation	65	\$105.00	\$6,825.00
45	Election Services	Project Management Day	5	\$1,795.00	\$8,975.00



46	Election Services	Tabulation Equipment Operations Training Day	43	\$1,795.00	\$77,185.00
47	Election Services	Central Scanner Training Day	1	\$1,795.00	\$1,795.00
48	Election Services	Tabulation Software Training Day	20	\$1,795.00	\$35,900.00
49	Election Services	Election On-Site Support Event	10	\$4,975.00	\$49,750.00
50	Shipping	Shipping & Handling	1	\$52,600.00	\$52,600.00

**Order Subtotal \$2,826,600.00**

**Currently Owned Equipment Disposal  
Credit and Tabulation Hardware  
Discount (\$391,640.00)**

**Order Total \$ 2,434,960.00**

Freight Billable:    yes     no

**Special Note:**  
Should the Customer upgrade to an ES&S VVSG 2.0-compliant tabulation system in calendar year 2027, Customer will be entitled to a 20% trade-in value for the Tabulation Hardware.  
Should the Customer upgrade to an ES&S VVSG 2.0-compliant tabulation system in calendar year 2028, Customer will be entitled to a 15% trade-in value for Tabulation Hardware.  
Should the Customer upgrade to an ES&S VVSG 2.0-compliant tabulation system in calendar year 2029, Customer will be entitled to a 10% trade-in value for Tabulation Hardware.

**Payment Terms**                      See Consolidated Order Agreement for Payment Terms. Customer shall be responsible for the payment of all fees set forth in this Attachment 1.

**Warranty Period (Years):**            One (1) Year From Equipment Delivery

**Hardware Maintenance and Software License, Maintenance and Support Services (Post-Warranty Period)**  
The terms, conditions, and pricing for the Hardware Maintenance and Software License, Maintenance and Support Services (Post-Warranty Period) are set forth in Exhibit A attached hereto.

SEE EQUIPMENT PURCHASE AND SOFTWARE LICENSE TERMS

## EQUIPMENT PURCHASE AND SOFTWARE LICENSE TERMS

1. **Equipment Purchase and Software License Terms.** Subject to the terms and conditions of this Agreement, ES&S agrees to sell and/or license, and Customer agrees to purchase and/or license, the ES&S Equipment, ES&S Software and ES&S Firmware described on the front side of this Agreement. The ES&S Firmware and ES&S Software are collectively referred to hereinafter as the "ES&S Software." The payment terms for the ES&S Equipment and ES&S Software are set forth on the front side of this Agreement. The consideration for ES&S' grant of the license during the Initial Term for the ES&S Firmware is included in the cost of the ES&S Equipment.
- a. **Equipment Purchase.** Subject to the terms and conditions of this Agreement, ES&S agrees to sell, and Customer agrees to purchase, the ES&S Equipment. Title to the ES&S Equipment shall pass to Customer when Customer has paid ES&S the total amount set forth on the front side of this Agreement for the ES&S Equipment.
- b. **Grant of Licenses.** Subject to the terms and conditions of this Agreement, ES&S hereby grants to Customer nonexclusive, nontransferable licenses for its bona fide full time, part time or temporary employees to use the ES&S Software and any and all written or electronic documentation furnished or generally made available to licensees by ES&S relating to the ES&S Software, including any operating instructions, user manuals or training materials (collectively, the "Documentation") in the Jurisdiction while Customer is using the ES&S Equipment and timely pays the applicable annual ES&S Software License, Maintenance and Support Fees set forth on Schedule A1. The licenses allow such bona fide employees to use and copy the ES&S Software (in object code only) and the Documentation, in the course of operating the ES&S Equipment and solely for the purposes of defining and conducting elections and tabulating and reporting election results in the Jurisdiction.
2. **Prohibited Uses.** Customer shall not take any of the following actions with respect to the ES&S Software or the Documentation:
- a. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the ES&S Software;
- b. Cause or permit any use, display, loan, publication, transfer of possession, sublicensing or other dissemination of the ES&S Software or Documentation, in whole or in part, to or by any third party without ES&S' prior written consent; or
- c. Cause or permit any change to be made to the ES&S Software without ES&S' prior written consent;
- d. Cause or permit any review, testing, examination or audit of the ES&S Software without ES&S' prior written consent; or
- e. Allow a third party to cause or permit any copying, reproduction or printing of any output generated by the ES&S Software (except finished ballots by ballot printers selected by Customer) in which ES&S owns or claims any proprietary intellectual property rights (e.g., copyright, trademark, patent pending or patent), including, but not limited to, any ballot shells or ballot code stock.
3. **Term of Licenses.** The licenses granted in Section 1(b) shall commence upon the delivery of the ES&S Software described in Section 1(b) and shall continue for a one (1) year period (the "Initial License Term"). Upon expiration of the Initial License Term, the licenses shall automatically renew for an unlimited number of successive one-year periods (each a "License Renewal Term") upon the payment by Customer of the annual software license and software maintenance and support fee as set forth on the front side of this Agreement. ES&S may terminate either license if Customer fails to pay the consideration due for, or breaches Sections 1(b), 2, or 8 with respect to, such license. Upon the termination of either of the licenses granted in Section 1(b) for ES&S Software or upon Customer's discontinuance of the use of any ES&S Software, Customer shall immediately return such ES&S Software and the related Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.
4. **Updates.** During the Initial License Term or any License Renewal Term for which Customer has paid the associated renewal fees, ES&S may provide new releases, upgrades or maintenance patches to the ES&S Software, together with appropriate Documentation ("Updates"), on a schedule defined by ES&S. Customer is solely responsible for obtaining and purchasing any upgrades or Third-Party items required to operate the Updates, as well as the cost of any replacements, retrofits or modifications to the ES&S Equipment which may be necessary in order to operate the Updates. All Updates shall be deemed to be ES&S Software for purposes of this Agreement upon delivery. Updates to the ES&S Equipment Firmware will be incorporated by ES&S into a regularly scheduled preventative maintenance event at no additional charge to Customer. If this foregoing is not acceptable to Customer and subject to Customer's prior execution of a purchase order therefore, ES&S shall charge to install the Updates to the ES&S Equipment Firmware. ES&S shall also charge Customer at its then-current rates to: (i) train Customer on Updates, if such training is requested by Customer and (ii) if applicable, provide maintenance and support on the ES&S Software that is required as a result of Customer's failure to timely or properly install an Update. Notwithstanding the foregoing, Customer shall pay ES&S to install all election management software Updates. If applicable, Customer shall be responsible for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee which is caused by Customer's failure to install the most recent Update provided to it by ES&S. If Customer proposes changes in the ES&S Software to ES&S, such proposals will become ES&S' property. ES&S may, in its sole discretion, elect to make or not to make such changes without reference or compensation to Customer or any third party. ES&S represents to Customer that the Updates will comply with all applicable state law requirements at the time of delivery. Customer shall be responsible to ensure that it has installed and is using only certified versions of ES&S Software in accordance with applicable law. In the event that any Updates are required due to changes in state law, ES&S reserves the right to charge Customer for the following:
- (i) the total cost of any third-party items that are required in order to operate the Updates;
- (ii) the total cost of any replacements, retrofits or modifications to the ES&S Equipment contracted for herein that may be developed and offered by ES&S in order for such ES&S Equipment to remain compliant with applicable laws and regulations; and
- (iii) Customer's pro-rata share of the costs of designing, developing and/or certification by applicable federal and state authorities of such state mandated Updates.
- Customer's pro-rata share of the costs included under subsection (iii) above shall be determined at the time by dividing the number of registered voters in Customer's jurisdiction by the total number of registered voters in all counties in Customer's state to which ES&S has sold and/or licensed the Equipment and/or Licensed Software purchased and licensed by Customer under this Agreement. Customer shall pay ES&S the entire costs incurred for design, development and certification of any Update which is required due to a change in local law or is otherwise requested or required by Customer.
5. **Delivery; Risk of Loss.** The Estimated Delivery Dates and First Election Use (if any) set forth on the front side of this Agreement are estimates and may only be established or revised, as applicable, by the parties, in a written amendment to this Agreement, because of delays in executing this Agreement, changes requested by Customer, product availability and other events. ES&S will notify Customer of such revisions as soon as ES&S becomes aware of such revisions. Risk of loss for the ES&S Equipment and ES&S Software shall pass to Customer when such items are delivered to Customer's designated location. Upon transfer of risk of loss to Customer, Customer shall be responsible for obtaining and maintaining sufficient casualty insurance on the ES&S Equipment and ES&S Software and shall name ES&S as an additional insured thereunder and, at ES&S' request, shall deliver written evidence thereof to ES&S until all amounts payable to ES&S under this Agreement have been paid by Customer.
6. **Warranty.**
- a. **ES&S Equipment/ES&S Software.** ES&S warrants that for a one (1) year period (the "Warranty Period"), it will repair or replace any component of the ES&S Equipment or ES&S Software which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. The Warranty Period will commence upon delivery. The Warranty shall not include the repair or replacement of any ES&S Equipment components that are consumed in the normal course of operating the ES&S Equipment, including, but not limited to, headphones and headphone protective covers, printer cartridges or ribbons, paper, batteries drums, toners, fusers, transfer belts, removable media storage devices, seals, keys, power supplies/cords, PCMCIA, Smart, or CF cards or marking devices (collectively, the "Consumables"). ES&S may modify and make available additional Consumables as they may become available from time to time. ES&S has no obligation under this Agreement to assume the obligations under any existing or expired warranty for a Third Party Item. Any repaired or replaced item of ES&S Equipment or ES&S Software shall be warranted only for the unexpired term of the Warranty Period. All replaced components of the ES&S Equipment or ES&S Software will become the property of ES&S. This warranty is effective provided that (i) Customer notifies ES&S within three (3) business days of the discovery of the failure of performance or defect and is otherwise in compliance with its obligations hereunder, (ii) the ES&S Equipment or ES&S Software to be repaired or replaced has not been repaired, changed, modified or altered except as authorized or approved by ES&S, (iii) the ES&S Equipment or ES&S Software to be repaired or replaced has been maintained or repaired by an individual other than an ES&S Representative (iv) the ES&S Equipment or ES&S Software to be repaired or replaced has not been used, displayed, disseminated, transferred, loaned, disassembled, dismantled, modified, and/or tampered with by a third party without ES&S' prior written consent (v) the ES&S Equipment or ES&S Software to be repaired or replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, use which is not in accordance with instructions or specifications furnished by ES&S or causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, and (vi) Customer has installed and is using the most recent update provided to it by ES&S. This warranty is void for any units of equipment which: (i) have not been stored or operated in a temperature range according their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product. The terms of post-warranty license, maintenance and support are set forth on Exhibit A.
- b. **Exclusive Remedies/Disclaimer.** IN THE EVENT OF A BREACH OF SUBSECTION 6(a), ES&S' OBLIGATIONS, AS DESCRIBED IN SUCH SUBSECTION, ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES. ES&S EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHICH ARE NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. FURTHER, IN THE EVENT CUSTOMER DECLINES ES&S' INSTALLATION AND ACCEPTANCE TESTING SERVICES OR IN ANY WAY AT ANY TIME ALTERS, MODIFIES OR CHANGES ANY EQUIPMENT, SOFTWARE, THIRD PARTY ITEMS AND/OR NETWORK (COLLECTIVELY "SYSTEM") CONFIGURATIONS WHICH HAVE BEEN PREVIOUSLY INSTALLED BY ES&S OR WHICH ARE OTHERWISE REQUIRED IN ACCORDANCE WITH THE CERTIFIED VOTING SYSTEM CONFIGURATION, ALL WARRANTIES OTHERWISE PROVIDED HEREUNDER WITH RESPECT TO THE SYSTEM PURCHASED, LEASED, RENTED AND/OR LICENSED UNDER THIS AGREEMENT SHALL BE VOID AND OF NO FURTHER FORCE AND EFFECT.
7. **Limitation Of Liability.** Neither party shall be liable for any indirect, incidental, punitive, exemplary, special or consequential damages of any kind whatsoever arising out of or relating to this Agreement. Neither party shall be liable for the other party's negligent or willful misconduct. ES&S' total liability to Customer arising out of or relating to this Agreement shall not exceed the aggregate amount to be paid to ES&S hereunder. By entering into this Agreement, Customer agrees to accept responsibility for (a) the selection of, use of and results obtained from any equipment, software or services not provided by ES&S and used with the ES&S Equipment or ES&S Software; or (b) user errors, voter errors or problems encountered by any individual in voting that are not otherwise a result of the failure of ES&S to perform. ES&S shall not be liable under this Agreement for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee that is caused by (y) Customer's failure to timely or properly install and use the most recent update provided to it by ES&S or (z) Customer's election not to receive, or to terminate, the Hardware Maintenance Services or the ES&S Software Maintenance and Support.
8. **Proprietary Rights.** Customer acknowledges and agrees as follows:
- ES&S owns the ES&S Software, all Documentation and training materials provided by ES&S, the design and configuration of the ES&S Equipment and the format, layout, measurements, design and all other technical information associated with the ballots to be used with the ES&S Equipment. Customer has the right to use the aforementioned items to the extent specified in this Agreement. ES&S also owns all patents, trademarks, copyrights, trade names and other proprietary or intellectual property in, or used in connection with, the aforementioned items. The aforementioned items also contain confidential and proprietary trade secrets of ES&S that are protected by law and are of substantial value to ES&S. Customer shall keep the ES&S Software and related Documentation free and clear of all claims, liens and encumbrances and shall maintain all copyright, trademark, patent or other intellectual or proprietary rights notices that are set forth on the ES&S Equipment, the ES&S Software, the Documentation, training materials and ballots that are provided, and all permitted copies of the foregoing.
9. **Termination.** This Agreement may be terminated, in writing, at any time by either party if the other party breaches any material provision hereof and does not cure such breach within 30 days after it receives written notification thereof from the non-breaching party.

**10. Disputes.**

a. **Payment of Undisputed Amounts.** In the event of a dispute between the parties regarding (1) a product or service for which payment has not yet been made to ES&S, (2) the amount due ES&S for any product or service, or (3) the due date of any payment, Customer shall nevertheless pay to ES&S when due all undisputed amounts. Such payment shall not constitute a waiver by Customer or ES&S of any of its rights and remedies against the other party.

b. **Remedies for Past Due Undisputed Payments.** If any undisputed payment to ES&S is past due more than 30 days, ES&S may suspend performance under this Agreement until such amount is paid. Any disputed or undisputed payment not paid by Customer to ES&S when due shall bear interest from the due date at a rate equal to the lesser of one and one-half percent per month or the maximum amount permitted by applicable law for each month or portion thereof during which it remains unpaid.

11. **Assignment.** Except in the case of a reorganization of the assets or operations of ES&S with one or more affiliates of ES&S or the sale, transfer or assignment of all or substantially all of the assets of ES&S or any business operations thereof to a successor who has asserted its intent to continue the applicable business of ES&S, neither party may assign or transfer this Agreement or assign, subcontract or delegate any of its rights, duties or obligations hereunder without the prior written consent of the other party hereto, such consent not to be unreasonably withheld or conditioned, nor unduly delayed.

12. **Compliance with Laws.** ES&S warrants to Customer that, at the time of delivery, the ES&S Equipment and ES&S Software sold and licensed under this Agreement will comply with all applicable requirements of federal and state election laws and regulations that are mandatory and effective as of the Effective Date and will have been certified by the appropriate state authorities for use in Customer's state. The ES&S Equipment and ES&S Software, including all components will be provided to Customer with a hardened network for the election management software ("EMS"), in accordance with the guidelines of the United States Election Assistance Commission. During the Term of this Agreement, in the event Customer fails to maintain EMS in the hardened network or allows any internal or external access to the hardened network, ES&S shall not be liable for any and all claims, damages, losses, liens, obligations, liabilities, judgments, assessed damages, costs, expenses (including reasonable attorney's fees) and the like arising out of or related to the Customer's breach of its obligations hereunder.

13. **Voting System Reviews.** In the event that the Jurisdiction or the State require any future reviews or examinations ("Reviews") of current or previous versions of state-certified ES&S voting systems or components thereof that are not otherwise required as a result of any changes or modifications voluntarily made by ES&S to the ES&S Software and/or ES&S Equipment licensed and sold hereunder, Customer shall be responsible for:

(i) Customer's pro-rata share of such Review costs;

(ii) Customer's pro-rata share of the costs of designing, developing, manufacturing and/or certification by applicable federal and state authorities of any mandated modifications to the ES&S Equipment and/or ES&S Software that may result from such Reviews; and

(iii) the total cost of any third-party items that are required in order for the ES&S Equipment and/or ES&S Software to satisfy any new requirements resulting from such Reviews in order to remain certified;

Customer's pro-rata share of the costs included under subsections 13(ii) and 13(iii) above shall be determined at the time by dividing the number of registered voters in Customer's jurisdiction by the total number of registered voters in all counties in Customer's state to which ES&S has sold and/or licensed the ES&S Equipment and/or ES&S Software purchased and licensed by Customer under this Agreement.

14. **Certification.** By execution of this Agreement, ES&S represents and warrants that:

a) In accordance with Texas Government Code § 2270, ES&S does not boycott Israel currently and will not boycott Israel during the term of this Agreement; and

b) In accordance with Texas Government Code § 2252, that, at the time of the execution of this Agreement and for the duration of the term of this Agreement and any renewal terms, ES&S is not entered on the list prepared pursuant to Section 2252.152 of the Texas Government Code by the Texas State Comptroller of companies known to have contracts with or provide supplies or services to a foreign terrorist organization.

15. **Entire Agreement.** This Agreement, including all exhibits hereto, shall be binding upon and inure to the benefit of the parties and their respective representatives, successors and assigns. This Agreement, including all Exhibits hereto, contains the entire agreement of the parties with respect to the subject matter hereof and shall supersede and replace any and all other prior or contemporaneous discussions, negotiations, agreements or understandings between the parties, whether written or oral, regarding the subject matter hereof. Any provision of any purchase order, form or other agreement which conflicts with or is in addition to the provisions of this Agreement shall be of no force or effect. In the event of any conflict between a provision contained in an Exhibit to this Agreement and these General Terms, the provision contained in the Exhibit shall control. No waiver, amendment or modification of any provision of this Agreement shall be effective unless in writing and signed by the party against whom such waiver, amendment or modification is sought to be enforced. No consent by either party to, or waiver of, a breach by either party shall constitute a consent to or waiver of any other different or subsequent breach by either party. This Agreement shall be governed by and construed in accordance with the laws of the State in which the Customer resides, without regard to its conflicts of laws principles. The parties agree that venue for any dispute or cause of action arising out of or related to this Agreement shall be in the state and federal courts of the United States located in the County and State in which the Customer resides. ES&S is providing equipment, software and services to Customer as an independent contractor, and shall not be deemed to be a "state actor" for purposes of 42 U.S.C. § 1983. ES&S may engage subcontractors to provide certain of the equipment, software or services, but shall remain fully responsible for such performance. The provisions of Sections 1-4, 6(b), 7, 8, 10(b), 11-15 these General Terms shall survive the termination of this Agreement, to the extent applicable.



**EXHIBIT A**  
**HARDWARE MAINTENANCE AND SOFTWARE LICENSE, MAINTENANCE AND SUPPORT**  
**SERVICES**  
**(POST-WARRANTY PERIOD)**

**ARTICLE I**  
**GENERAL**

1. **Term; Termination.** This Exhibit A for Hardware Maintenance and Software License, Maintenance and Support Services shall be in effect for the coverage period as described in Schedule A1 (the "Initial Term"). Upon expiration of the Initial Term, this Exhibit A shall automatically renew for an unlimited number of successive **One-Year Periods** (each a "Renewal Period") until this Exhibit A is terminated by the first to occur of (a) either party's written election not to renew, which shall be delivered to the other party at least thirty (30) days prior to the end of the Initial Term or any Renewal Period, as applicable, (b) the date which is thirty (30) days after either party notifies the other that it has materially breached this Exhibit A, if the breaching party fails to cure such breach (except for a breach pursuant to subsection (e), which will require no notice), (c) the date which is thirty (30) days after ES&S notifies Customer that it is no longer able to procure replacement parts that may be needed in order to perform the Hardware Maintenance Services contemplated hereunder, (d) the date on which the Equipment or firmware installed thereon is no longer certified by federal and/or state authorities for use in Customer's jurisdiction, or (e) the date which is thirty (30) days after Customer fails to pay any amount due to ES&S under this Exhibit A. The termination of this Exhibit A shall not relieve Customer of its liability to pay any amounts due to ES&S hereunder and shall only entitle Customer to a prorated refund of any fees already paid to ES&S in the event that this is Exhibit A is terminated pursuant to subsection 1(c) or 1(d) above.

2. **Fees.** In consideration for ES&S' agreement to provide Hardware Maintenance and Software License, Maintenance and Support Services under this Exhibit A, Customer shall pay to ES&S the Hardware Maintenance and Software License, Maintenance and Support Fees set forth on Schedule A1 for the Initial Term. The Hardware Maintenance and Software License, Maintenance and Support Fees for the Initial Term are due as set forth on Schedule A1. **ES&S may increase the Hardware Maintenance and Software License, Maintenance and Support Fees for a Renewal Period by not more than the annual percentage increase as set forth in the CPI Index for the South Region, subject to a minimum increase of 5.00%. All fees for any Renewal Period shall be due and payable no later than thirty (30) days prior to the beginning of such Renewal Period.** The Software License, Maintenance and Support Fee shall be comprised of (i) a fee for the Software License, Maintenance and Support provided for the ES&S Firmware, and (ii) a fee for the Software License, Maintenance and Support provided for all other ES&S Software, and shall be in addition to any fees or charges separately referred to in any Section of this Exhibit A. If Customer elects to receive Software License, Maintenance and Support for an Add-On or New Product during the Initial Term or any Renewal Period thereof, ES&S will charge an incremental Software License, Maintenance and Support Fee for such services.

**ARTICLE II**  
**HARDWARE**

1. **Maintenance Services.** The Hardware Maintenance Services to be provided to Customer under this Agreement for the ES&S equipment set forth on Schedule A1 (the "Products") shall be subject to the following terms and conditions:

a. **Routine Maintenance Services.** An ES&S Representative shall provide such services as may be necessary to keep the Products working in accordance with their Documentation, normal wear and tear excepted ("Normal Working Condition"). The services provided by ES&S pursuant to this Subsection 1(a) are referred to herein as "Routine Maintenance Services". Routine Maintenance Services shall be provided once each **Twelve (12) Months** during the Initial Term for those hardware products identified as "**Gold Coverage**" on Attachment 1 and once each **Twenty-Four (24) Months** during the Initial Term

for those hardware products identified as “**Silver Coverage**” on Attachment 1 during the Initial Term or any Renewal Period thereof. Generally, Routine Maintenance Services shall include cleaning, lubrication, diagnostic check, and calibration services. The Routine Maintenance Services shall not include the repair or replacement of any ES&S Equipment components that are consumed in the normal course of operating the Equipment, including, but not limited to, headphones and headphone protective covers, printer cartridges or ribbons, paper, batteries, drums, toners, fusers, transfer belts, removable media storage devices, seals, keys, power supplies/cords, PCMCIA, Smart, or CF cards or marking devices (collectively, the “Consumables”). ES&S may modify and make available additional Consumables as they may become available from time to time. Customer may request that Routine Maintenance Services be performed more than once during the Initial Term or any Renewal Period. Any such request shall be made at least sixty (60) days before the Routine Maintenance Services are desired. The per-unit fee for such additional Routine Maintenance Services is set forth on Schedule A1 and shall be due within thirty (30) days after invoice date. ES&S will schedule the Routine Maintenance Services with Customer. The Routine Maintenance Services will be provided at Customer’s Designated Location. Customer’s “Designated Location” shall mean Customer’s owned or leased facility at which Customer desires ES&S to perform the Hardware Maintenance Services.

b. **Repair Services.**

i. **Defects Under Normal Use and Service.** If a defect or malfunction occurs in any Product while it is under normal use and service, Customer shall promptly notify ES&S, and ES&S shall use reasonable efforts to restore the item to Normal Working Condition as soon as practicable. The services provided by ES&S pursuant to this Subsection 1(b)(i) are referred to herein as “Repair Services”. ES&S will perform Repair Services in conjunction with a Routine Maintenance Service event at the Customer’s Designated Location.

ii. **Defects Due to Customer Actions or Omissions.** If a defect or malfunction occurs in any Product as a result of (1) repairs, changes, modifications or alterations not authorized or approved by ES&S, (2) use, modification, dismantling, disassembly, or transfer to third party without ES&S’s prior written consent, (3) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S or (4) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, rodent infestation, or if Customer does not notify ES&S within 72 hours after it knows of the defect or malfunction, Customer shall pay ES&S for the Repair Services at ES&S’ then-current rates, as well as for the cost of all parts used in connection with such Repair Services.

iii. **Timing.** The date(s) on which any Repair Services shall be provided shall be mutually agreed upon by ES&S and Customer. If Customer requires ES&S to provide “emergency” Repair Services (which shall be defined as Repair Services that are provided by ES&S within 48 hours after Customer notifies ES&S of the need therefore), and such emergency Repair Services are not needed as a result of an action, error or omission by ES&S, Customer shall pay a surcharge, as set forth on Schedule A1.

iv. **Loaner Unit.** At Customer’s request and if such product is available, ES&S shall use reasonable efforts to promptly make available to Customer a product that is the same as, or substantially similar to, the Product for which Repair Services are being performed (a “Loaner Unit”). If the Repair Services are being performed



pursuant to Subsection 1(b)(ii) above, Customer shall pay ES&S for the use of the Loaner Unit at ES&S' then-current rates including the cost of shipping.

c. **Exclusions.** ES&S has no obligation under this Agreement to (i) assume the obligations under any existing or expired warranty for a Third Party Item; (ii) repair or replace Product components that are consumed in the normal course of operating the Product, including, but not limited to, headphones and headphone protective covers, printer cartridges or ribbons, paper, batteries, drums, toners, fusers, transfer belts, removable media storage devices, seals, keys, power supplies/cords, PCMCIA, Smart, or CF cards or marking devices (collectively, the "Consumables"), or (iii) repair any Product from which the serial number has been removed or altered. In addition, ES&S may, at any time in its discretion, determine that any Product is no longer fit for Hardware Maintenance Services because it is in such poor condition that it cannot practically be restored to Normal Working Condition, or cannot be restored to Normal Working Condition at an expense that is less than the then-current value of the Product. If such a determination is made, ES&S shall no longer be required to provide Hardware Maintenance Services for such Product. ES&S shall also refund to Customer an amount equal to (1) that portion of the most recent fee paid for Hardware Maintenance Services that is attributable to such Product, multiplied by (2) a fraction, the numerator of which is the remaining number of days within the Term for which such fee was paid and the denominator of which is the total number of days within the Term.

d. **Sole Provider; Access.** Customer shall not permit any individual other than an ES&S Representative to provide maintenance or repairs with respect to the Products for so long as the Initial Term or any Renewal Period is in effect. Customer shall provide ES&S Representatives with all information necessary to enable them to provide Hardware Maintenance Services. Customer shall likewise provide full access to the Products and adequate working space for all Hardware Maintenance Services performed at its Designated Location, including sufficient heat, lights, ventilation, electric current and outlets.

e. **Environmental Conditions.** Products should be stored in a clean, dry and secure environment. During the storage and operation of the Products, the temperature and moisture ranges should be maintained in accordance with the Products' Documentation.

f. **Reinstatement of Hardware Maintenance Services; Inspection.** If the Initial Term or any Renewal Period thereof expires without being renewed, Customer may thereafter resume receiving Hardware Maintenance Services upon (a) notification to ES&S and (b) the granting to ES&S of access to the Products. ES&S requires Customer to allow it to inspect such Products before it provides any Hardware Maintenance Services. The purpose of such inspection shall be to determine whether or not the Products are in Normal Working Condition. The cost of such inspection will be at ES&S' then current rates and shall be due from Customer within thirty (30) days of its receipt of ES&S' invoice therefore. If any of the Products is not in Normal Working Condition, ES&S, at the option of Customer, (i) shall provide such repairs and replacements as it deems reasonable and necessary to restore such item to Normal Working Condition, at Customer's expense with respect to the cost of any labor (charged at ES&S' then current rates) and parts used in such repairs or replacements, or (ii) shall not provide any Hardware Maintenance Services with respect to such Product(s).

### **ARTICLE III**

#### **SOFTWARE LICENSE, MAINTENANCE AND SUPPORT SERVICES**

1. **License and Services Provided.** ES&S shall provide license, maintenance and support services ("Software License, Maintenance and Support") for the ES&S Software and ES&S Firmware (collectively, "ES&S Software"), to allow Customer to continue to license and use the software in accordance with the license terms set forth in Sections 2-4 of the General Terms as well as to enable it to perform in accordance with its Documentation in all material respects, and to cure any defect in material

or workmanship. The specific Software License, Maintenance and Support services provided by ES&S and each party's obligations with respect to such services are set forth on Schedule A1.

2. **Updates.** During the Initial Term and any Renewal Period thereof, ES&S may continue to provide Updates in accordance with the terms of Section 4 of the General Terms. Unless otherwise agreed to by the parties, and subject to Customer's prior execution of a purchase order therefor, ES&S shall install ES&S Firmware Updates in accordance with Section 4 of the General Terms. ES&S shall install such ES&S Firmware Updates in conjunction with a scheduled Routine Maintenance Services event provided Customer is subscribing to and has paid for ES&S' hardware maintenance services which include Routine Maintenance Services. Customer shall pay ES&S to install all ES&S Firmware Updates which are requested to be installed outside of a scheduled Routine Maintenance Services event or in the event the Customer has not subscribed to ES&S' hardware maintenance services which include Routine Maintenance Services. Notwithstanding the foregoing, Customer shall pay ES&S to install all election management software Updates.

3. **Conditions.** ES&S shall not provide Software License, Maintenance and Support for any item of ES&S Software if such item requires such services as a result of (a) repairs, changes, modifications or alterations not authorized or approved by ES&S, (b) use, modification, dismantling, or transfer to third party without ES&S's prior written consent, (c) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S, (d) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, (e) Customer's failure to timely and properly install and use the most recent update provided to it by ES&S, or (f) Customer's failure to notify ES&S within three (3) business days after Customer knows of the need for such services. Any such Software License, Maintenance and Support shall be provided at the fees to be agreed upon by the parties if and when the need for such Software License, Maintenance and Support arises. Replacement versions of Software requested by Customer as a result of items set forth in this Section 3 or as a result of Customer's actions or inactions shall be billable to Customer at ES&S' then current rates.

4. **Proprietary Rights.** ES&S shall own the entire right, title and interest in and to all corrections, programs, information and work product conceived, created or developed, alone or with Customer or others, as a result of or related to the performance of this Exhibit A, including all proprietary rights therein or based thereon. Subject to the payment of all Software License, Maintenance and Support Fees, ES&S hereby grants to Customer a non-exclusive license to use that portion of such corrections, programs, information and work product that ES&S actually delivers to Customer pursuant to this Exhibit A. All licensed items shall be deemed to be ES&S Software for purposes of this Exhibit A. Except and to the extent expressly provided herein, ES&S does not grant to Customer any right, license, or other proprietary right, express or implied, in or to any corrections, programs, information, or work product covered by this Exhibit A.

5. **Reinstatement of Software License, Maintenance and Support.** If the Initial Term or any Renewal Period thereof expires without being renewed, Customer may thereafter receive a Software License and resume receiving Software Maintenance and Support upon (a) notification to ES&S, (b) payment of all fees, which would have been due to ES&S had the Initial Term or any Renewal Period not expired, and (c) the granting to ES&S of access to the ES&S Software, so that ES&S may analyze it and perform such maintenance as may be necessary before resuming the Software License, Maintenance and Support services.

**Schedule A1**  
**Pricing Summary**

<b>Summary:</b>		
<b>Description</b>	<b>Refer To</b>	<b>Amount</b>
ES&S Hardware Maintenance Fees	ES&S Hardware Maintenance Description and Fees Below	\$88,820.00
ES&S Software License, Maintenance and Support Fees	ES&S Software License, Maintenance and Support Description and Fees Below	\$74,610.00
ES&S Firmware License, Maintenance and Support Fees	ES&S Firmware License, Maintenance and Support Description and Fees Below	\$73,530.00
<b>Total Maintenance Fees for the Initial Term being Post Warranty Period Year 1 and Post Warranty Year 2:</b>		<b>\$236,960.00</b>
<b>Payment Terms:</b>		
ES&S shall Invoice Customer annually for each year of the Initial Term. Payment is due before the start of each period within the Initial Term.		
<b>Terms &amp; Conditions:</b>		
<b>Note 1:</b> Any applicable state and local taxes are not included, and are the responsibility of Customer.		

**ES&S HARDWARE MAINTENANCE DESCRIPTION AND FEES**

Initial Term: Expiration of the Warranty Period through the second anniversary thereof

Qty	Description	Coverage Period	Annual Maintenance Fee Per Unit	Maintenance Fee In Total
65	Model DS200 Scanner (Silver Coverage)	Post Warranty Period Year 1	\$120.00	\$7,800.00
360	ExpressVote BMD (Silver Coverage)	Post Warranty Period Year 1	\$85.00	\$30,600.00
2	Model DS450 Scanner (Gold Coverage)	Post Warranty Period Year 1	\$3,005.00	\$6,010.00
<b>Total Maintenance Fees for Year 1</b>				<b>\$44,410.00</b>
65	Model DS200 Scanner (Silver Coverage)	Post Warranty Period Year 2	\$120.00	\$7,800.00
360	ExpressVote BMD (Silver Coverage)	Post Warranty Period Year 2	\$85.00	\$30,600.00
2	Model DS450 Scanner (Gold Coverage)	Post Warranty Period Year 2	\$3,005.00	\$6,010.00
<b>Total Maintenance Fees for Post Warranty Period Year 2</b>				<b>\$44,410.00</b>
<b>Total Hardware Maintenance Fees for the Initial Term</b>				<b>\$88,820.00</b>

**Note 1:** The Per-Unit Fees if Customer requests more than one Routine Maintenance visit in a 12-month period for "Gold" Coverage Items shall be 55% of the then current maintenance fee per unit. The Per-Unit Fees if Customer requests more than one Routine Maintenance visit in a 24-month period for "Silver" Coverage Items shall be 75% of the then current maintenance fee per unit.

**Note 2:** Surcharge for Emergency Repair Services shall be the daily maintenance service rate in effect at the time such service is requested.

**Note 3:** Customer's Designated Location: Jefferson County, Texas

**Note 4:** The Per Unit Surcharge for performance of Routine Maintenance visit at more than one Customer Designated Location shall be \$25.00 per unit for all units located at second or more locations.

**Hardware Maintenance Services Provided by ES&S Under this Schedule A1**

1. Telephone Support.
2. Issue Resolution.
3. Technical Bulletins will be available through Customer's ES&S Web-based portal.
4. Routine Maintenance Services.
  - Onsite scheduled maintenance inspection per Article II, Section 1(a). The Inspection includes:

- Service performed by an ES&S trained and certified technician.
- Performance of factory approved diagnostics on the unit, identifying and making adjustments where necessary as indicated by the testing.
- Replacement of worn or defective parts with new or remanufactured federally and state certified parts.
- Conducting a final test to verify that the unit is working according to manufacturer's specifications.
- Use of a checklist tailored for each piece of ES&S Equipment.

#### 5. Repair Services.

- Customer will receive coverage for interim repair calls.
  - Interim repair calls may be provided during a scheduled Routine Maintenance Services event or scheduled in conjunction with other service work being performed in close proximity to Customer's location if such repairs are not election critical.
  - A Product may be sent to ES&S' Depot location for repairs at a time to be mutually agreed upon by ES&S and Customer.

#### 6. Priority Services.

- Customer has access to the ES&S Help Desk for assistance.
- The customer receives priority on service calls.
- The customer receives priority on response time.
- The customer receives priority on certified ES&S parts inventory.

**Note:** Except for those Hardware Maintenance Services specifically set forth herein, ES&S is under no obligation and shall not provide other Hardware Maintenance Services to the Customer unless previously agreed upon in writing by the parties.



**ES&S SOFTWARE LICENSE, MAINTENANCE AND SUPPORT DESCRIPTION AND FEES  
SOFTWARE**

Initial Term: Expiration of the Warranty Period through the second anniversary thereof

Listed below is the Software and Fees for which Software License, Maintenance and Support will be provided:

Qty	Description	Coverage Period	Software License, Maintenance and Support Fee In Total
1	Electionware Election Management Software PYO Base Package with English Language Synthesized Voice Files	Post Warranty Period Year 1	\$35,695.00
1	Synthesized Audio Capability – Each Additional Language	Post Warranty Period Year 1	\$1,610.00
<b>Total License, Maintenance and Support Fees for Post Warranty Period Year 1</b>			<b>\$37,305.00</b>
1	Electionware Election Management Software PYO Base Package with English Language Synthesized Voice Files	Post Warranty Period Year 2	\$35,695.00
1	Synthesized Audio Capability – Each Additional Language	Post Warranty Period Year 2	\$1,610.00
<b>Total License, Maintenance and Support Fees for Post Warranty Period Year 2</b>			<b>\$37,305.00</b>
<b>Total Software License, Maintenance and Support Fees for the Initial Term of the Post Warranty Period</b>			<b>\$74,610.00</b>

**ES&S SOFTWARE LICENSE, MAINTENANCE AND SUPPORT DESCRIPTION AND FEES  
FIRMWARE**

Initial Term: Expiration of the Warranty Period through the second anniversary thereof

Listed below are the Hardware Products and Fees for which Firmware License, Maintenance and Support will be provided:

Qty	Description	Coverage Period	Annual Firmware License, Maintenance and Support Fee Per Unit	Firmware License, Maintenance and Support Fee In Total
65	Model DS200 Scanner	Post Warranty Period Year 1	\$95.00	\$6,175.00
360	ExpressVote BMD	Post Warranty Period Year 1	\$75.00	\$27,000.00
2	Model DS450 Scanner	Post Warranty Period Year 1	\$1,795.00	\$3,590.00
<b>Total License, Maintenance and Support Fees for Post Warranty Period Year 1</b>				<b>\$36,765.00</b>
65	Model DS200 Scanner	Post Warranty Period Year 2	\$95.00	\$6,175.00
360	ExpressVote BMD	Post Warranty Period Year 2	\$75.00	\$27,000.00

Qty	Description	Coverage Period	Annual Firmware License, Maintenance and Support Fee Per Unit	Firmware License, Maintenance and Support Fee In Total
2	Model DS450 Scanner	Post Warranty Period Year 2	\$1,795.00	\$3,590.00
<b>Total License, Maintenance and Support Fees for Post Warranty Period Year 2</b>				<b>\$36,765.00</b>
<b>Total Firmware License, Maintenance and Support Fees for the Initial Term of the Post Warranty Period</b>				<b>\$73,530.00</b>

**Software License, Maintenance and Support Services Provided by ES&S under the Agreement**

1. Telephone Support.
2. Issue Resolution.
3. Technical Bulletins will be available through Customer's ES&S Web-based portal.

**Note:** Except for those Software License, Maintenance and Support services specifically set forth herein, ES&S is under no obligation and shall not provide other Software License, Maintenance and Support services to the Customer unless previously agreed upon by the parties.

**Software License, Maintenance and Support and Hardware Maintenance and Support Services – Customer Responsibilities**

1. Customer shall have completed a full software training session for each product selected.
  - Customer shall have completed training at a proficiency level to successfully use the hardware (firmware) and software products.
  - Customer shall have the ability to install firmware and application software and make changes to date and time settings.
  - Customer shall have the ability to change consumable items. Any other changes made by the customer must be pre-approved in writing by ES&S.
2. Customer shall have reviewed a complete set of User Manuals.
3. Customer shall be responsible for the installation and integration of any third-party hardware or software application or system purchased by the Customer, unless otherwise agreed upon, in writing, by the parties.
4. Customer shall be responsible for data extraction from Customer voter registration system.
5. Customer shall be responsible for implementation of any security protocols physical, network or otherwise which are necessary for the proper operation of the ES&S Equipment and ES&S Software.
6. Customer shall be responsible for the acceptance of the Equipment and Software, unless otherwise agreed upon, in writing, by the parties.
7. Customer shall be responsible for the design, layout, set up, administration, maintenance or connectivity of the Customer's network.

8. Customer shall be responsible for the resolution of any errors associated with the Customer's network or other hardware and software not purchased or recommended by ES&S and not otherwise identified in the User Guides as part of ES&S' Equipment and Software.
9. Customer shall be responsible for all costs associated with diagnosing ballot printing problems resulting from the use of non-ES&S Ballot Partner Printers ballots.
10. Customer shall be responsible for the payment of additional or replacement Software CDs or DVDs requested by Customer. The price for such additional or replacement Software CDs or DVDs shall be at ES&S' then current rates.



Maintaining voter confidence. Enhancing the voter experience.

## Attachment 2

### Jefferson County, Texas Purchase Proposal Sales Order Agreement Sales Quotation #: 11926

#### Purchase Solution Includes:

Quantity	Item Description	Unit Price	Extended Price
<b>Pollbook Hardware</b>			
110	ExpressPoll System including Tablet, Flip Stand, Mobile Device Management and ExpressPoll Software Application	\$870.00	\$95,700.00
75	Dual Unit Case for Flip Stand Configuration	\$75.00	\$5,625.00
110	Pollbook Universal Printer Soft Case	\$40.00	\$4,400.00
<b>Software</b>			
1	ExpressPoll Connect License and Hosting Fee	\$4,000.00	\$4,000.00
<b>Election Services</b>			
1	Implementation Services	\$1,795.00	\$1,795.00
X	Pollbook Training		
X	Pollbook Acceptance Testing		\$9,900.00
X	1 Year Hardware and Software Warranty		Included
X	Shipping and Handling included in Tabulation Sales Order Agreement		N/A
<b>Total Purchase Solution</b>			<b>\$121,420.00</b>

#### Payment Terms

See Consolidated Order Agreement for Payment Terms. Customer shall be responsible for the payment of all fees set forth in this Attachment 2.

#### Annual Post-Warranty License and Maintenance and Support Fees (Fees are Based Upon a 1-Year Customer Commitment to Subscribe to the Following Services)

Annual Post-Warranty Software License and Maintenance and Support Fees:			
110	ExpressPoll Software License and Maintenance and Support Fee	\$140.00	\$15,400.00
1	ExpressPoll Connect License and Hosting Fee	\$4,400.00	\$4,400.00
<b>Total Annual Post-Warranty License and Maintenance and Support Fees</b>			<b>\$19,800.00</b>

The parties hereby agree that this Sales Order and the ExpressPoll Sales Order Agreement General Terms, attached hereto and fully incorporated herein by this reference, (collectively, the "Agreement") represents a binding agreement between ES&S and Customer for the purchase of ExpressPoll System products and services. Further, the undersigned Customer hereby agrees to purchase such ExpressPoll products and services from ES&S as set forth herein. The undersigned Customer hereby agrees to the ExpressPoll System Sales Order Agreement General Terms and acknowledges that he or she has read the entire Agreement, understands it and fully intends to be bound by it. The undersigned Customer hereby certifies that: 1) sufficient funds are available for any of this purchase that exceeds my allocation of state and/or federal funding; and 2) any amount not funded by state and/or federal funds has been authorized and appropriated for this purchase. As of the date of the signature below, the undersigned Customer has full power and authority to enter into and perform this Agreement, and has been properly authorized to execute and deliver this Agreement on behalf of the Customer as set forth above.

Contact Person	Laurie Leister - County Clerk
Address	1149 Pearl Street - 7th Floor
City	Beaumont
State/Province	TX
Zip	77706
Phone Number	409-835-8475

## ELECTRONIC POLLBOOK GENERAL TERMS

1. **Purchase/License Terms.** Subject to the terms and conditions of this Agreement, ES&S agrees to sell and/or license to Customer and Customer agrees to purchase and/or license from ES&S, the Equipment, ES&S Firmware and ES&S Software described on the attached Electronic Pollbook Sales Order ("Sales Order"). The ES&S Firmware and ES&S Software are collectively referred to hereinafter as the "ES&S Software." The payment terms for the Equipment and ES&S Software are set forth on the attached Sales Order. Title to the Equipment shall pass to Customer when Customer has paid ES&S the total amount set forth on the Sales Order for the Equipment. The consideration for ES&S' grant of the license during the Initial Term for the ES&S Firmware is included in the cost of the Equipment.

2. **Grant of Licenses.** Subject to the terms and conditions of this Agreement, ES&S hereby grants to Customer a nonexclusive, nontransferable license for its bona fide full time, part time and temporary employees to use the ES&S Software described on the Sales Order, and related Documentation in the Jurisdiction while Customer is using the Equipment and ES&S Software during the Initial License Term or any License Renewal Term as defined in Section 4 below. The ES&S Software described in this Section 2 are ES&S proprietary software products. The license allows Customer to use the ES&S Software (in object code only) and the Documentation, in the course of operating the Equipment and solely for the purposes of managing the electronic poll book voter lists and voter registration process at each polling location in Customer's jurisdiction.

3. **Prohibited Uses.** Customer shall not take any of the following actions with respect to the ES&S Software or the Documentation:

a. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the ES&S Software; or

b. Cause or permit any use, display, loan, publication, transfer of possession, sublicensing or other dissemination of the ES&S Software or Documentation, in whole or in part, to or by any third party, including, but not limited to, any transfer of possession to, or use of the ES&S Software or Documentation by any third party to perform any services for Customer without ES&S' prior written consent; or

c. Cause or permit any change to be made to the ES&S Software without ES&S' prior written consent; or

d. Cause or permit any review, testing, examination or audit of the ES&S Software without ES&S' prior written consent; or

e. Cause or permit any copying, reproduction or printing of any output generated by the ES&S Software (except for finished ballot printers selected by Customer) in which ES&S owns or claims any

proprietary intellectual property rights (e.g., copyright, trademark or patent).

4. **Term of License.** The license granted in Section 2 shall commence upon the delivery of the ES&S Software described in Section 2 and shall continue for a one-year period (the "Initial License Term"). Upon expiration of the Initial License Term, the license shall automatically renew for an unlimited number of successive one-year periods (each a "License Renewal Term") upon the payment by Customer of the annual software license and software maintenance and support fee as set forth on the Sales Order. The license terms for any License Renewal Term shall be as set forth on Exhibit A. ES&S may terminate the license if Customer fails to pay the consideration due for, or breaches Sections 2 or 3 with respect to, such license. Upon the termination of the license granted in Section 2 for ES&S Software or upon Customer's discontinuance of the use of any ES&S Software, Customer shall immediately return such ES&S Software and the related Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

5. **Updates.** During the Initial License Term or any License Renewal Term, ES&S may provide new releases, upgrades or maintenance patches to the ES&S Software, together with appropriate Documentation ("Updates"), on a schedule solely defined by ES&S. Customer is responsible for obtaining any upgrades or purchases of third party items required to operate the Updates. All Updates shall be deemed to be ES&S Software for purposes of this Agreement upon delivery. Customer may install the Updates in accordance with ES&S' recommended instructions or may request that ES&S install the Updates. ES&S may charge Customer at its then-current rates to (i) install the Updates; (ii) train Customer on Updates, if such training is requested by Customer; or (iii) provide maintenance and support on the ES&S Software that is required as a result of Customer's failure to timely or properly install an Update. Customer shall pay ES&S for any Update which is specific to Customer or required due to a change in state or local law.

6. **Compliance with Laws.** ES&S warrants to Customer that, at the time of delivery, the Equipment and ES&S Software sold and licensed under this Agreement will comply with all applicable requirements of state election laws and regulations that are mandatory and effective as of the Effective Date set forth on the Sales Order and, if required, will have been certified by the appropriate state authorities for use in the Customer's state. ES&S further warrants that during the Warranty Period and thereafter so long as Customer is subscribing and paying for ES&S Software License, Maintenance and Support Services, the ES&S Software shall be maintained or upgraded by ES&S in such a way as to remain compliant with all applicable state election



laws and regulations. "Maintained or upgraded" shall mean only such changes to individual items of the Software (but not Equipment) as are technologically feasible and commercially reasonable. Customer shall be solely responsible for the cost of any replacements, retrofits or modifications to the Equipment contracted for herein that may be developed and offered by ES&S in order for such Equipment to remain compliant with applicable laws and regulations. Customer shall also be solely responsible for the cost of any third-party items that are required in order for the Equipment and/or Software to remain compliant with applicable laws and regulations.

7. **Delivery; Risk of Loss.** The Estimated Delivery Dates are estimates and may only be established or revised, as applicable, by the parties, in a written amendment to this Agreement because of delays in executing this Agreement, changes requested by Customer, product availability and other events outside of ES&S's control. ES&S will notify Customer of such revisions as soon as ES&S becomes aware of such revisions. Risk of loss for the ES&S Equipment and ES&S Software shall pass to Customer when such items are delivered to Customer's designated location. Upon transfer of risk of loss to Customer, Customer shall be responsible for obtaining and maintaining sufficient casualty insurance on the ES&S Equipment and ES&S Software and shall name ES&S as an additional insured thereunder and, at ES&S' request, shall deliver written evidence thereof to ES&S until all amounts payable to ES&S under this Agreement for ES&S Equipment and Software have been paid by Customer.

8. **Warranty.**

a. **Equipment/ Software.** ES&S warrants that for a 1-year period (the "Warranty Period"), it will repair or replace any component of the Equipment or ES&S Software which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. The Warranty Period will commence upon delivery. Any repaired or replaced item of Equipment or ES&S Software shall be warranted only for the unexpired term of the Warranty Period. All replaced components of the Equipment or ES&S Software will become the property of ES&S. ES&S shall not be responsible for the repair or replacement of (i) consumable parts, such as batteries or protective coatings that are designed to diminish over time, (ii) cosmetic damage, including, but not limited to, screen cracks, scratches, dents and broken plastic or (iii) defects caused by normal wear and tear. All Equipment warranty services shall be provided at ES&S' designated location. This warranty is effective provided that (i) Customer notifies ES&S within three (3) business days of the failure of performance or defect and is otherwise in compliance with its obligations hereunder, (ii) the Equipment or ES&S Software to be repaired or replaced has not been repaired, changed, modified or altered except as authorized or approved by ES&S, (iii) the Equipment or ES&S Software to be repaired or replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, liquid contact or use which is not in accordance with instructions or specifications furnished by ES&S or causes beyond the reasonable control of ES&S or

Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, and (iv) Customer has installed and is using the most recent Update provided to it by ES&S. This warranty is void for any units of equipment which: (i) have not been stored or operated in a temperature range according their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product. Upon the expiration of the Warranty Period, the Customer shall be entitled to receive the Software Maintenance and Support Services described on Exhibit A, upon the payment of the applicable fees for such service.

b. **System.** ES&S warrants that the Equipment and ES&S Software will operate in conjunction with the third party items during the Warranty Period, provided that (i) Customer is using third party items which have been approved by ES&S in writing for use with the Equipment and ES&S Software, (ii) Customer has installed and is using the most recent Update provided to it by ES&S, and (iii) the third party items are performing in accordance with their own specifications and documentation in all material respects and are not defective in material or workmanship. In the event of a breach of this warranty, ES&S will repair or replace the item of Equipment or ES&S Software that is causing such breach to occur. Customer acknowledges that ES&S has merely purchased the third-party items for resale or rental to Customer, and that the proprietary and intellectual property rights to the third-party items are owned by parties other than ES&S ("Third Parties"). Customer further acknowledges that except for the payment to ES&S for the third-party items, all of its rights and obligations with respect thereto flow from and to the Third Parties.

c. **Exclusive Remedies.** IN THE EVENT OF A BREACH OF SUBSECTIONS 8(a) or 8(b), ES&S' OBLIGATIONS, AS DESCRIBED IN SUCH SUBSECTIONS, ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES. ES&S EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHICH ARE NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

9. **Limitation Of Liability.** Neither party shall be liable for any indirect, incidental, punitive, exemplary, special or consequential damages of any kind whatsoever arising out of or relating to this Agreement. Neither party shall be liable for the other party's negligent or willful misconduct. ES&S' total liability to Customer arising out of or relating to this Agreement shall not exceed the aggregate amount to be paid to ES&S hereunder. By entering into this Agreement, Customer agrees to accept responsibility for (a) the selection of, use of and results obtained from any equipment, software or services not provided by ES&S and used with the Equipment or ES&S Software; or (b) user errors, voter errors or

problems encountered by any individual in voting that are not otherwise a result of the failure of ES&S to perform. ES&S shall not be liable under this Agreement for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee that is caused by (y) Customer's failure to timely or properly install and use the most recent Update provided to it by ES&S or (z) Customer's election not to receive, or to terminate, the Software Maintenance and Support Services.

10. **Proprietary Rights.** Customer acknowledges and agrees as follows:

ES&S owns the ES&S Software, all Documentation and training materials provided by ES&S. Customer has the right to use the aforementioned items to the extent specified in this Agreement. ES&S also owns all patents, trademarks, copyrights, trade names and other proprietary or intellectual property in, or used in connection with, the aforementioned items. The aforementioned items also contain confidential and proprietary trade secrets of ES&S that are protected by law and are of substantial value to ES&S. Customer shall not cause or permit the adaptation, conversion, reverse engineering, disassembly or decompilation of any of the ES&S Software. Further, Customer shall keep the ES&S Software and related Documentation free and clear of all claims, liens and encumbrances and shall maintain all copyright, trademark, patent or other intellectual or proprietary rights notices that are set forth on the Equipment, the Software, the Documentation and training materials that are provided, and all permitted copies of the foregoing. Notwithstanding the proceeding, the ES&S understands the Customer must comply with the Texas Public Information Act (PIA). As such, the Customer shall notify ES&S after receiving a public information request for ES&S' Documentation, allowing ES&S an opportunity to respond to such request.

11. **Excusable Nonperformance.** Except for obligations to make payments hereunder, if either party is delayed or prevented from performing its obligations under this Agreement as a result of any cause beyond its reasonable control, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, the delay shall be excused during the continuance of, and to the extent of, such cause, and the period of performance shall be extended to the extent necessary to allow performance after the cause of delay has been removed. ES&S agrees to work with Customer, at Customer's request, to develop mutually agreeable alternatives in order to minimize the negative impact of any such delay.

12. **Term; Termination.** This Agreement is made as of the date it is executed by the last of the parties named on the Sales Order (the "Effective Date"). The parties acknowledge and agree that certain of the Exhibits contain separate termination provisions, and that the termination of any Exhibit shall not constitute a termination of any other Exhibit or of the Agreement as a whole. This Agreement may be terminated, in writing, at any time by either party if the other party breaches any material provision hereof and does not

cure such breach within 30 calendar days after it receives written notification thereof from the non-breaching party.

13. **Assignment.** Except in the case of a reorganization of the assets or operation of ES&S with one or more affiliates of ES&S or the sale, transfer or assignment of all or substantially all of the assets of ES&S to a successor who has asserted its intent to continue the business of ES&S, neither party may assign or transfer this Agreement or assign, subcontract or delegate any of its rights, duties or obligations hereunder without the prior written consent of the other party hereto, such consent not to be unreasonably withheld or conditioned, nor unduly delayed.

14. **Notice.** Any notice or other communication required or permitted hereunder shall be in writing, and will be deemed given when (a) delivered personally, (b) sent by confirmed email, (c) sent by confirmed fax, (d) sent by commercial overnight courier (with written verification of receipt) or (e) sent by registered or certified mail, return receipt requested, postage prepaid, when the return receipt is received. All communications shall be sent to the attention of the persons listed on the signature page to this Agreement and at the addresses, email address or fax numbers set forth on such signature page unless other names, addresses or fax numbers are provided by either or both parties in accordance herewith.

15. **Disputes.**

a. **Payment of Undisputed Amounts.** In the event of a dispute between the parties regarding (1) a product or service for which payment has not yet been made to ES&S, (2) the amount due ES&S for any product or service, or (3) the due date of any payment, Customer shall nevertheless pay to ES&S when due all undisputed amounts. Such payment shall not constitute a waiver by Customer or ES&S of any of its rights and remedies against the other party.

b. **Remedies for Past Due Undisputed Payments.** If any undisputed payment to ES&S is past due more than 30 calendar days, ES&S may suspend performance under this Agreement until such amount is paid. Any undisputed payment not paid by Customer to ES&S when due shall bear interest from the due date at a rate equal to the lesser of one and one-half percent per month or the maximum amount permitted by applicable law for each month or portion thereof during which it remains unpaid.

16. **Additional Services; Changes.** Unless otherwise stated on the Sales Order, Customer shall be responsible for all costs related to services entered into in separate agreements such as, but not limited to, election coding, data conversion costs and network set up and communication. Further, Customer is responsible for equipment and setup, and the costs associated with setup, of the network infrastructure for data transfer and application communication unless specified in separate agreements. In addition, in the event the Customer changes, makes updates, enhances or otherwise modifies the Customer's currently existing voter registration system and such changes, updates, enhancements or modifications results in ES&S having to re-perform any services provided under this Agreement, the Customer shall be responsible for any

such additional charges; which shall be invoiced at ES&S' then current rates. Likewise, any Customer requested enhancements, modifications or changes to the Equipment or ES&S Software which ES&S agrees to provide, in its sole discretion, shall be set forth in separate change orders to the Agreement. Customer shall be responsible for the payment of all fees associated with such enhancements, modifications or changes made by ES&S.

17. Other. ES&S is providing Equipment, Software and services to Customer as an independent contractor, and shall not be deemed to be a "state actor" for purposes of 42 U.S.C. § 1983. ES&S may engage subcontractors to provide certain of the Equipment, Software or services, but shall remain fully responsible for such performance. The provisions of Sections 1 – 6, 8(c), 9 – 11, 13, 14, 15(b) and this section 17 of these General Terms shall survive the termination of this Agreement, to the extent applicable.

**EXHIBIT A**  
**ES&S SOFTWARE LICENSE, MAINTENANCE AND SUPPORT SERVICES**

**ARTICLE I**  
**GENERAL**

1. **Term; Termination.** This Exhibit A shall be in effect from the date on which the Initial License Term expires until the first anniversary thereof (the "License Renewal Term"). The License Renewal Term shall automatically renew for an unlimited number of successive one year periods until this Exhibit A is terminated by the first to occur of (a) either party's election to terminate it upon expiration of the License Renewal Term or any renewal thereof, written notice of which election shall be given to the other party at least sixty (60) calendar days prior to such annual expiration date, (b) the date that is thirty (30) calendar days after either party notifies the other that the other has materially breached this Exhibit A, and the breaching party fails to cure such breach within such 30-day period, or (c) the date that is 30 days after Customer fails to pay any amount due ES&S under this Exhibit A. The termination of this Exhibit A shall not relieve Customer of its liability to pay any amounts due ES&S hereunder.

2. **Fees.** In consideration for ES&S' agreement to provide the ES&S Software License and Software Maintenance and Support Services under this Exhibit A, Customer shall pay to ES&S the Software License and Software Maintenance and Support Fees set forth on Electronic Pollbook Sales Order. The ES&S Software license and Software Maintenance and Support Fees for the License Renewal Term are due on the date of the expiration of the Initial License Term. ES&S may increase the Software License, Maintenance and Support Fees for a Renewal Period by not more than the annual percentage increase as set forth in the CPI Index for the South Region, subject to a minimum increase of 5.00%. The ES&S Software license and Software Maintenance and Support Fees for any renewal period shall be due and payable no later than thirty (30) days prior to the beginning of such renewal period. The ES&S Software license and Software Maintenance and Support Fee shall be in addition to any fees or charges separately referred to in any Section of this Exhibit A or the Agreement. If Customer elects to license and receive Software Maintenance and Support for an Add-On or New Product during the Term or any renewal thereof, ES&S will charge an incremental license and Software Maintenance and Support Fee for such license and services.

**ARTICLE II**  
**License of ES&S Software**

1. **Grant of License.** During the License Renewal Term or any renewal thereof, ES&S shall grant to Customer a nonexclusive, nontransferable license to use the ES&S Software and related Documentation in the Jurisdiction while Customer is using the Equipment and ES&S Software. The license allows Customer to use the ES&S Software (in object code only) and the Documentation, in the course of operating the Equipment and solely for the purposes of managing the electronic poll book voter lists and voter registration process at each polling location in Customer's jurisdiction. The license granted in this does not permit Customer to use or access the source code for the ES&S Software.

2. **Prohibited Uses.** Customer shall not take any of the following actions with respect to the ES&S Software or the Documentation:

- a. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the ES&S Software; or
- b. Cause or permit any use, display, loan, publication, transfer of possession, sublicensing or other dissemination of the ES&S Software or Documentation, in whole or in part, to or by any third party, including, but not limited to, any transfer of possession to, or use of the ES&S Software or Documentation by any third party to perform any services for Customer without ES&S' prior written consent; or
- c. Cause or permit any change to be made to the ES&S Software without ES&S' prior written consent; or
- d. Cause or permit any review, testing, examination or audit of the ES&S Software without ES&S' prior written consent; or
- e. Cause or permit any copying, reproduction or printing of any output generated by the ES&S Software in which ES&S owns or claims any proprietary intellectual property rights (e.g., copyright, trademark or patent).

3. **Term of License.** The license granted in Article II, Section 1 shall commence upon the expiration of the Initial License Term and receipt of payment by ES&S in accordance with Article I, Section 2 of this Exhibit A. ES&S may terminate the license if Customer fails to pay the consideration due for, or breaches Sections 1 or 2 of this

Article II with respect to, such license. Upon the termination of the license granted in Section 1 of Article II for ES&S Software or upon Customer's discontinuance of the use of any ES&S Software, Customer shall immediately return such ES&S Software and the related Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

**ARTICLE III**  
**ES&S SOFTWARE MAINTENANCE AND SUPPORT SERVICES**

1. **Services Provided.** ES&S shall provide maintenance and support services for the ES&S Software ("Software Maintenance and Support"), to enable it to perform in accordance with its Documentation in all material respects, and to cure any defect in material or workmanship.

2. **Updates.** During the Software Maintenance Term and any renewals thereof, ES&S shall continue to provide updates in accordance with any update schedule determined by ES&S.

3. **Reinstatement of ES&S License and Software Maintenance and Support Services.** If the License Renewal Term or any renewal thereof expires without being renewed, Customer may thereafter resume receiving ES&S' license and Software Maintenance and Support Services upon (a) notification to ES&S, and (b) payment of all fees which would have been due to ES&S had the ES&S' License Renewal Term not expired, plus a reinstatement charge.

4. **Conditions.** ES&S shall provide Software Maintenance and Support Services for any item of ES&S Software if such item requires such services as a result of (a) repairs, changes, modifications or alterations not authorized or approved by ES&S, (b) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S, (c) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, (d) Customer's failure to timely and properly install and use the most recent Update provided to it by ES&S, (e) Customer's failure to notify ES&S within 24 hours after Customer knows of the need for such services, or (f) if Customer is otherwise not in compliance with its obligations under this Agreement. However, such Software Maintenance and Support Services shall not be provided at the Software Maintenance and Support Services Fees outlined in the Sales Order, but shall be provided at the fees to be agreed upon by the parties if and when the need for such Software Maintenance and Support arises.

5. **Proprietary Rights.** ES&S shall own the entire right, title and interest in and to all corrections, programs, information and work product conceived, created or developed, alone or with Customer or others, as a result of or related to the performance of this Exhibit A, including all proprietary rights therein or based thereon. Subject to the payment of all ES&S License and Software Maintenance and Services Fees, ES&S hereby grants to Customer a non-exclusive license to use that portion of such corrections, programs, information and work product that ES&S actually delivers to Customer pursuant to this Exhibit A. All licensed items shall be deemed to be ES&S Software for purposes of this Agreement. Except and to the extent expressly provided herein, ES&S does not grant to Customer any right, license, or other proprietary right, express or implied, in or to any corrections, programs, information, or work product covered.

### ATTACHMENT 3

**ELECTION SYSTEMS & SOFTWARE, LLC  
BALLOT ON DEMAND SYSTEM, PROCESSING AND SERVICES AGREEMENT  
SALES QUOTATION #: 11926**

This Agreement is made as of the date it is executed by the last of the parties named below on the signature page (the "Effective Date"),

**BETWEEN:** ELECTION SYSTEMS & SOFTWARE, LLC, a Delaware Limited Liability Company ("ES&S")

**AND:** JEFFERSON COUNTY, TEXAS ("Customer").

**RECITALS:**

- A. ES&S is the owner of certain ballot printing equipment and software as set forth herein and Customer has agreed to purchase and license the ballot printing equipment and related software and services from ES&S for use in **Jefferson County, Texas** (the "Jurisdiction"). The terms and conditions under which such equipment, software and services shall be provided are set forth in the **GENERAL TERMS** attached hereto and incorporated herein by reference.
- B. The following Exhibits are incorporated into, and constitute an integral part of, this Agreement (check all that apply):
- Exhibit A (Pricing Summary)
- Exhibit B (Ballot on Demand Equipment, ES&S Software, and Services Description, Pricing and Fees)

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each of the parties hereto:

- Agrees to the **GENERAL TERMS** and the terms and conditions set forth in each Exhibit attached hereto and incorporated herein.
- Agrees that at all times, this Agreement shall be governed by and construed in accordance with the laws of the **State of Texas**, without regard to conflicts of law principles that would require the application of the laws of any other state.
- Represents and warrants to the other party that as of its signature below it has full power and authority to enter into and perform this Agreement, and that the person signing below on its behalf has been properly authorized to execute this Agreement.
- Acknowledges that it has read this Agreement, understands it and intends to be bound by it.



**GENERAL TERMS  
ARTICLE 1  
DEFINITIONS**

All capitalized terms used, but not otherwise defined, in these General Terms or in an Exhibit shall have the following meanings:

- a. "Documentation" means the operating instructions, user manuals or training materials for the ES&S Equipment and ES&S Software.
- b. "ES&S Software" means ES&S' proprietary Ballot On Demand software and all Updates delivered to Customer under this Agreement, unless licensed pursuant to a separate written agreement.
- c. "Ballot on Demand Equipment" means hardware and software manufactured and developed by parties other than ES&S. Ballot on Demand Equipment shall include, but not be limited to, any printers and laptop computers provided under this Agreement.

**ARTICLE 2  
SALE OF ES&S EQUIPMENT AND LICENSE OF ES&S SOFTWARE AND PAYMENT OF FEES**

2.1 **Purchase Terms; Use.** Subject to the terms and conditions of this Agreement, ES&S agrees to sell, and Customer agrees to purchase, the Ballot on Demand Equipment and licenses to the ES&S Software described on Exhibit B. The payment terms are set forth on Exhibit A. Title to the Ballot on Demand Equipment shall pass to Customer when Customer has paid ES&S the total amount set forth on Exhibit A for the Ballot on Demand Equipment.

2.2 a. **Grant of Licenses.** Subject to the terms and conditions of this Agreement, ES&S hereby grants to Customer nonexclusive, nontransferable licenses for its bona fide full time, part time and temporary employees to use the ES&S Software described on Exhibit B and related Documentation supplied by ES&S. The licenses allow Customer to use (but not copy) the ES&S Software and the Documentation in the course of operating the ES&S Equipment and solely for the purposes of managing the printing of ballots in the Jurisdiction. The licenses granted in this Section 2.2 do not permit Customer to use the source code for the ES&S Software.

b. **Prohibited Uses.** Customer shall not take any of the following actions with respect to the ES&S Software or the Documentation:

i. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the ES&S Software;

ii. Cause or permit any use, display, loan, publication, transfer of possession, sublicensing or other dissemination of the ES&S Software or Documentation, in whole or in part, to or by any third party, including, but not limited to, any transfer of possession to, or use of the ES&S Software or Documentation by any third party to perform any services for Customer (including, but not limited to, any ballot printing, coding, programming or ballot layout services) without ES&S's prior written consent; or

iii. Cause or permit any change to be made to the ES&S Software without ES&S' prior written consent; or

iv. Allow a third party to cause or permit any copying, reproduction or printing of any output generated by the Software (except ballots by ballot printers selected by Customer) in which ES&S owns or claims any proprietary intellectual property rights (e.g.,

copyright, trademark, patent pending or patent), including, but not limited to, any ballot shells or ballot code stock.

**2.3 Term of Licenses.** The licenses granted in Section 2.2 shall commence upon the delivery of the ES&S Software described in Section 2.2 and shall continue for the Initial Term of the Agreement (the "Initial License Term"). Upon expiration of the Initial License Term, the licenses shall automatically renew for an unlimited number of successive one-year periods (each a "License Renewal Term") upon the payment by Customer of the annual software license and software maintenance and support fee as set forth on Exhibit A. ES&S may terminate the license if Customer fails to pay the consideration due for, or breaches Sections 2.2, 2.5, or 3.6 with respect to, such license. Upon the termination of either of the licenses granted in Section 2.2 for ES&S Software or upon Customer's discontinuance of the use of any ES&S Software, Customer shall immediately return such ES&S Software and the related Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

**2.4 Updates.** During the Initial License Term or any License Renewal Term, ES&S may provide new releases, upgrades or maintenance patches to the ES&S Software, together with appropriate Documentation ("Updates"), on a schedule defined by ES&S. Customer is responsible for obtaining any upgrades or purchases of Third-Party Items required to operate the Updates as well as the cost of any replacements, retrofits or modifications to the Ballot on Demand Equipment which may be necessary in order to operate the Updates. All Updates shall be deemed to be ES&S Software for purposes of this Agreement upon delivery. Customer may install the Updates in accordance with ES&S' recommended instructions or may request that ES&S install the Updates. ES&S will charge Customer at its then-current rates to (i) install the Updates to the Customer, (ii) train Customer on Updates, if such training is requested by Customer; or (iii) provide maintenance and support on the ES&S Software that is required as a result of Customer's failure to timely or properly install an Update. Notwithstanding the foregoing, Customer shall pay ES&S to install all election management software Updates. If applicable, Customer shall be responsible for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee which is caused by Customer's failure to install and use the most recent Update provided to it by ES&S. If Customer proposes changes in the ES&S Software to ES&S, such proposals will become ES&S' property. ES&S may, in its sole discretion, elect to make or not to make such changes without reference or compensation to Customer or any third party. ES&S represents to Customer that the Updates will comply with all applicable state law requirements at the time of delivery. Customer shall pay ES&S for any Update which is required due to a change in state or local law.

**2.5 Fees**

- a. **Equipment Sale and Software License Fees.** The fees for the purchase of Ballot on Demand Equipment and License of ES&S Software are set forth on Exhibit A
- b. **Election Set-Up Fee.** The per election fee for election set-up is set forth on Exhibit B.
- c. **Pre-Election Services.** The fees for the optional Pre-Election Services are set forth on Exhibit B.

**ARTICLE 3  
MISCELLANEOUS**

**3.1 Term; Termination.** This Agreement shall be effective for a **One (1) Year Period beginning on the Effective Date** (the "Initial Term"). The Initial Term shall automatically renew for an unlimited number of successive one-year period unless otherwise agreed to, in writing, by the parties (each a "Renewal Period"). The Initial Term and all Renewal Periods shall be collectively referred to herein as the "Term". The Term shall continue until this Agreement is terminated by the first to occur of (i) either party's election to terminate it upon the expiration of the Initial Term or any Renewal Period thereof, written notice of such election shall be given to the other party at least sixty (60) calendar days prior to the expiration

of the Initial Term or any Renewal Period; (ii) the date that is thirty (30) days after either party notifies the other that the other has materially breached this Agreement, and the breaching party fails to cure such breach within such thirty (30) day period, (except a breach as provided in (iv) below which will require no notice); (iii) the date which is thirty (30) days after ES&S notifies the Customer of ES&S intent to terminate the Agreement as a result of the Customer no longer utilizing ES&S' voter tabulation system with the Ballot On Demand printer purchased and licensed hereunder, or (iv) Customer's failure to make any payment due hereunder within thirty (30) days after it is due. In the event of early termination by ES&S due to (a) a breach of this Agreement by Customer, (b) Customer's failure to pay any amounts owed under this Agreement or (c) the failure of Customer to appropriate funds to make the payments due under this Agreement, Customer shall pay ES&S for all products delivered and services performed up through the effective date of termination. Upon termination of this Agreement, Customer shall immediately return all ES&S Software and Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

**3.2 Delivery; Risk of Loss; Insurance.** ES&S anticipates shipping the Ballot on Demand Equipment and ES&S Software identified on Exhibit B to Customer on or before the "Estimated Delivery Dates" listed on Exhibit A. The Estimated Delivery Dates are estimates and may only be established or revised, as applicable, by the parties, because of delays in executing this Agreement, changes requested by Customer, product availability and other events outside of ES&S's control. ES&S will notify Customer of such revisions as soon as ES&S becomes aware of such revisions. Risk of loss for the Ballot on Demand Equipment and ES&S Software shall pass to Customer when such items are delivered to Customer's designated location. Upon transfer of risk of loss to Customer, Customer shall be responsible for obtaining and maintaining sufficient casualty insurance on the Ballot on Demand Equipment and shall name ES&S as an additional insured thereunder and, at ES&S' request, shall deliver written evidence thereof to ES&S until all amounts payable to ES&S under this Agreement for Ballot on Demand Equipment and Software have been paid by Customer.

### **3.3 Warranty**

a. **ES&S Software.** ES&S warrants for a one (1) year period for the ES&S Software (the "Warranty Period") it will repair any component of the ES&S Software which, while under normal use and service: fails to perform in accordance with its Documentation in all material respects. The Warranty Period will commence upon installation. If a defect or malfunction occurs in the ES&S Software while it is under normal use and service, Customer shall promptly notify ES&S, and ES&S or its authorized representatives shall use reasonable efforts to restore the Software to perform in accordance with its Documentation as soon as practicable. ES&S or its authorized representatives shall restore ES&S Software at a location as determined by ES&S in its sole discretion. If a defect or malfunction occurs in any ES&S Software as a result of (1) repairs, changes, modifications or alterations not authorized or approved by ES&S, (2) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S or (3) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations, rodent infestation, and utility or communication interruptions, Customer shall pay ES&S for any maintenance services at ES&S' then-current rates, as well as for the cost of all parts used in connection with the performance of such maintenance services. Customer shall have access to ES&S Help Desk Support during the Warranty Periods. ES&S reserves that right to use third parties approved by ES&S to perform the warranty services hereunder.

#### **b. Ballot on Demand Equipment.**

i. **Ballot on Demand Printer.** ES&S shall provide a warranty to the Customer for the Ballot on Demand Printer ("Printer") in coordination with the manufacturer of the Printer that shall commence upon delivery and terminate upon the earlier of: (1) three

(3) years from the date of delivery (the "Maximum Coverage Period"), or (2) the end of the life of the fuser unit in the Printer. In the event that Customer desires to make a warranty claim prior to expiration of the Maximum Coverage Period, the parties shall determine if the warranty has expired by printing a printer settings sheet which displays the remaining life of the Printer's fuser unit. ES&S warrants during the Warranty Period it, in coordination with the manufacturer of the Printer, will replace a Printer which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. The Warranty shall not include the repair or replacement of any Consumables as defined in Section 3.5 below. Any replaced Printer shall be warranted only for the unexpired term of the Warranty Period.

**aa. Warranty Procedures.** In the event of a potential warranty claim, Customer shall contact the ES&S Helpdesk to assess and diagnose Printer performance issues. In the event the Customer and ES&S Helpdesk are unable to resolve the issue, ES&S shall arrange for Customer to be provided with a replacement Printer. Upon receipt of the replacement Printer, Customer shall have seven (7) business days within which to return the malfunctioning Printer to the manufacturer. Customer shall be responsible for shipping and handling costs incurred in order to return the malfunctioning Printer to the manufacturer. If Customer fails to return the malfunctioning Printer within the specified timeframe, Customer shall be responsible for the cost of the replacement Printer and all shipping and handling costs for the replacement Printer. This warranty is effective provided that, (I) Customer cooperates with the ES&S Helpdesk to fully troubleshoot any defects related to the Printer, and (II) the Printer to be replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, use which is not in accordance with instructions or specifications furnished by ES&S or the manufacturer of the Printer or causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions. This warranty is void for any units of equipment which: (i) have not been stored or operated in a temperature range according their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product.

**ii. Ballot on Demand Laptop Computer.** ES&S shall provide a three (3) year warranty to the Customer in coordination with the manufacturer of the Ballot on Demand Laptop Computer ("Laptop") that shall commence upon delivery (the "Warranty Period"). ES&S warrants during the Warranty Period it, in coordination with the manufacturer, will repair or replace any component of the Laptop which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. Any repaired or replaced item of Laptop shall be warranted only for the unexpired term of the Warranty Period. All replaced components of the Laptop become the property of ES&S. In the event that the Laptop fails to perform in accordance with its Documentation, Customer shall contact the ES&S Helpdesk to assess and diagnose any material defects. In the event the ES&S Helpdesk is unable to resolve the issue, ES&S will work with the Customer to return the item to ES&S, and ES&S will work in coordination with the Laptop manufacturer to repair and/or replace the Laptop. This warranty is effective provided that (I) Customer cooperates with the ES&S Helpdesk to fully troubleshoot any defects related to the Laptop, and (II) the Laptop to be replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, use

which is not in accordance with instructions or specifications furnished by ES&S or the manufacturer of the Laptop or causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions. This warranty is void for any units of equipment which: (i) have not been stored or operated in a temperature range according their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product.

c. **Exclusive Remedies/Disclaimer.** IN THE EVENT OF A BREACH OF SUBSECTION 3.3(a), ES&S' OBLIGATIONS, AS DESCRIBED IN SUCH SUBSECTION, ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES. ES&S EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHICH ARE NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

3.4 **Consumables.** Customer shall be responsible for the purchase, shipping and installation of all components that are consumed in the normal course of operating the Ballot on Demand Equipment, including, but not limited to, toner, drums, transfer belts, fusers, and ballot stock (collectively, "Consumables"). All Consumables shall meet ES&S' specifications and may be purchased directly from ES&S or from authorized dealers. In the event the Customer purchases Consumables which do not meet ES&S specifications, Customer shall be solely responsible for any and all costs, expenses, liabilities, losses and damages resulting from the Customer's failure to purchase Consumables which meet ES&S' specifications.

3.5 **Limitation Of Liability.** Neither party shall be liable for any indirect, incidental, punitive, exemplary, special or consequential damages of any kind whatsoever arising out of or relating to this Agreement. Neither party shall be liable for the other party's negligent or willful misconduct. ES&S' total liability to Customer arising out of or relating to this Agreement shall not exceed the aggregate amount to be paid to ES&S hereunder. By entering into this Agreement, Customer agrees to accept responsibility for (a) the selection of, use of and results obtained from any equipment, software or services not provided by ES&S and used with the Ballot on Demand Equipment or ES&S Software; or (b) errors that arise from mechanical or electronic component failures that are not covered under warranty or not subject to maintenance efforts or cure under this Agreement; or (c) user errors, voter errors or problems encountered by any individual in voting that are not otherwise a result of the failure of ES&S to perform its obligations under this Agreement.

3.6 **Taxes; Interest.** Customer shall provide ES&S with proof of its tax-exempt status. If Customer does not provide such proof, it shall pay, or shall reimburse ES&S for, all sales and use, excise or other similar taxes imposed on the transactions contemplated by this Agreement; provided, however, Customer shall in no event be liable for taxes imposed on or measured by ES&S' income. If Customer disputes the applicability of any tax to be paid pursuant to this Section 3.6, it shall pay the tax and may thereafter seek a refund. Any disputed or undisputed payment not paid by Customer to ES&S when due shall bear interest from the due date at a rate equal to the lesser of one and one-half percent (1.5%) per month or the maximum amount permitted by applicable law for each month or portion thereof during which it remains unpaid.

3.7 **Proprietary Rights.** Customer acknowledges and agrees as follows:

a. ES&S owns the ES&S Software, all Documentation and training materials provided by ES&S, and the format, layout, measurements, design and all other technical information associated with the ballots to be used with the Ballot on Demand Equipment. Customer has the

right to use the aforementioned items to the extent specified in this Agreement. ES&S also owns all patents, trademarks, copyrights, trade names and other proprietary or intellectual property in, or used in connection with, the aforementioned items. The aforementioned items also contain confidential and proprietary trade secrets of ES&S that are protected by law and are of substantial value to ES&S.

b. Customer shall not cause or permit the adaptation, conversion, reverse engineering, disassembly or decompilation of any of the Ballot on Demand Equipment or ES&S Software.

c. Customer shall keep the ES&S Software and related Documentation free and clear of all claims, liens and encumbrances and shall maintain all copyright, trademark, patent or other intellectual or proprietary rights notices that are set forth on the Ballot on Demand Equipment, the ES&S Software, the Documentation, training materials and ballots that are provided, and all permitted copies of the foregoing.

d. Notwithstanding the proceeding, the ES&S understands the Customer must comply with the Texas Public Information Act (PIA). As such, the Customer shall notify ES&S after receiving a public information request for ES&S' Documentation, allowing ES&S an opportunity to respond to such request.

3.8 **Excusable Nonperformance.** Except for obligations to make payments hereunder, if either party is delayed or prevented from performing its obligations under this Agreement as a result of any cause beyond its reasonable control, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, the delay shall be excused during the continuance of, and to the extent of, such cause, and the period of performance shall be extended to the extent necessary to allow performance after the cause of delay has been removed. ES&S agrees to work with Customer, at Customer's request, to develop mutually agreeable alternatives in order to minimize the negative impact of any such delay.

3.9 **Non-Appropriation of Funds.** Customer represents, warrants, and covenants that it has appropriated, and will have appropriated, funds available necessary to pay the amounts due herein through the end of the Customer's current fiscal year, and that Customer shall use its best efforts to obtain and appropriate funds in order to pay all payments which shall be due in each year of this Agreement. In the event that funds are not appropriated or otherwise made available to support the continuation of performance by Customer hereunder in any subsequent fiscal period, this Agreement may be terminated by either party; provided, however, that this Section 3.9 shall not be construed so as to permit Customer to terminate this Agreement in order to acquire a ballot on demand system and/or related services from a third party. Either party may notify the other of the termination, which may occur no later than the beginning of the subsequent fiscal period. Upon termination, Customer shall pay ES&S for all services performed pursuant to this Agreement up to the date of termination and reasonable exit costs incurred by ES&S. The amount of such payment may be paid from any appropriations available for such purposes, and Customer's highest-ranking officer or official shall use his/her best efforts to timely and sufficiently request the appropriation necessary to pay such amount.

3.10 **Assignment.** Except in the case of a reorganization of the assets or operation of ES&S with one or more affiliates of ES&S or the sale, transfer or assignment of all or substantially all of the assets of ES&S to a successor who has asserted its intent to continue the business of ES&S, neither party may assign or transfer this Agreement or assign, subcontract or delegate any of its rights, duties or obligations hereunder without the prior written consent of the other party hereto, such consent not to be unreasonably withheld or conditioned, nor unduly delayed.

3.11 **Notice.** Any notice or other communication required or permitted hereunder shall be in writing, and will be deemed given when (a) delivered personally, (b) sent by confirmed email, (c) sent by



confirmed fax, (d) sent by commercial overnight courier (with written verification of receipt) or (e) sent by registered or certified mail, return receipt requested, postage prepaid, when the return receipt is received. All communications shall be sent to the attention of the persons listed on the signature page to this Agreement and at the addresses, email address or fax numbers set forth on such signature page unless other names, addresses or fax numbers are provided by either or both parties in accordance herewith.

3.12 **Disputes.**

a. **Payment of Undisputed Amounts.** In the event of a dispute between the parties regarding (1) a product or service for which payment has not yet been made to ES&S, (2) the amount due ES&S for any product or service, or (3) the due date of any payment, Customer shall nevertheless pay to ES&S when due all undisputed amounts. Such payment shall not constitute a waiver by Customer or ES&S of any of its rights and remedies against the other party.

b. **Remedies for Past Due Undisputed Payments.** If any undisputed payment to ES&S is past due more than thirty (30) days, ES&S may suspend performance under this Agreement until such amount is paid.

3.14 **Entire Agreement.** This Agreement, including all exhibits hereto, shall be binding upon and inure to the benefit of the parties and their respective representatives, successors and assigns. This Agreement, including all Exhibits hereto, contains the entire agreement of the parties with respect to the subject matter hereof and shall supersede and replace any and all other prior or contemporaneous discussions, negotiations, agreements or understandings between the parties, whether written or oral, regarding the subject matter hereof. Any provision of any purchase order, form or other agreement which conflicts with or is in addition to the provisions of this Agreement shall be of no force or effect. In the event of any conflict between a provision contained in an Exhibit to this Agreement and these General Terms, the provision contained in the Exhibit shall control. No waiver, amendment or modification of any provision of this Agreement shall be effective unless in writing and signed by the party against whom such waiver, amendment or modification is sought to be enforced. No consent by either party to, or waiver of, a breach by either party shall constitute a consent to or waiver of any other different or subsequent breach by either party. ES&S is providing Ballot on Demand Equipment, ES&S Software and services to Customer as an independent contractor, and shall not be deemed to be a "state actor" for purposes of 42 U.S.C. § 1983. ES&S may engage subcontractors to provide certain of the Ballot on Demand Equipment, ES&S Software or services, but shall remain fully responsible for such performance. The provisions of Article 2 and Sections 3.6-3.14 of these General Terms shall survive the termination of this Agreement, to the extent applicable.

**[END OF GENERAL TERMS]**

**EXHIBIT A  
PRICING SUMMARY**

<b>Sale Summary:</b>		
<b>Description</b>	<b>Refer to</b>	<b>Amount</b>
Ballot on Demand Equipment, ES&S Software, and Services	Exhibit B	\$73,360.00
Shipping & Handling		Included in Tabulation Sales Order Agreement
<b>Total Sale:</b>		<b>\$73,360.00</b>
Election Set Up Fees and Optional Pre-Election Services are not included in Total Sale. Please see <u>Exhibit B</u> for Election Set-Up Fees and Optional Pre-Election Services Fees and Payment Terms.		
<b>Terms &amp; Conditions:</b>		
<b>Note 1:</b> Pursuant to Section 3.6, any applicable state and local taxes are not included, and are the responsibility of Customer. Premium or rush transportation services incurred in connection with deliverables included in the Total Sale are additive and will be billed as incurred.		
<b>Note 2: <u>Invoicing and Payment Terms are as Follows:</u></b>		
See Consolidated Order Agreement for Payment Terms. Customer shall be responsible for the payment of all fees set forth in this Attachment 3.		
All other Service Fees are set forth on <u>Exhibit B</u> and are due within thirty (30) days of Customer's receipt of ES&S' invoice.		
<b>Ongoing Services:</b>		
<b>Description</b>	<b>Annual Fee – First Renewal Period</b>	
Software License, Maintenance & Support Services:		
- Ballot On Demand Software Fees (See <u>Exhibit B</u> for descriptions). ES&S may increase the Fees for a Renewal Period by not more than the annual percentage increase as set forth in the CPI Index for the South Region, subject to a minimum increase of 5.00%.	\$550.00	
Fees reflect a one-year term. Payment is due as set forth above and at the start of each Renewal Period.		

**EXHIBIT B  
BALLOT ON DEMAND EQUIPMENT, ES&S SOFTWARE, AND SERVICES DESCRIPTION,  
PRICING AND FEES**

QUANTITY	DESCRIPTION	TOTAL PRICE
<b>Ballot On Demand Printing Hardware</b>		
66	Compact Printer with Firmware	\$39,930.00
1	Laptop Computer with Router	\$1,480.00
1	Laptop Computer	\$1,255.00
<b>Software</b>		
1	Ballot On Demand 1-Year Software Licenses Including the Following Features:	
X	BOD Single Ballot Printing Only	\$2,500.00
<b>Election Services</b>		
1	Ballot on Demand Training	\$1,795.00
X	Ballot on Demand Installation	\$26,400.00
	<b>TOTAL PURCHASE:</b>	<b>\$73,360.00</b>

**ELECTION SET-UP FEES  
(Subject to change after the Initial Term)**

<b>Initial Election Set-Up Fee per Election Event</b>
<b>Black and White Ballot Set-Up:</b>
\$450.00 per election set-up + \$1.00 per unique PDF for first Computer
\$75.00 for each additional Computer set-up
<b>Color Ballot Set-Up:</b>
\$550.00 per election set-up + \$1.00 per unique PDF for first Computer
\$75.00 for each additional Computer set-up
<b>Rework of Set-Up due to Customer Changes After Initial Set-Up is Complete:</b>
\$175.00 per change event for first Computer set-up
\$75.00 for each additional Computer set-up
<b>Other:</b>
\$350.00 fee for L&A Test Deck Creation
On-Site Set-Up: \$1,795.00 per person, per day

Election Set-Up Fees are due within thirty (30) days of receipt of ES&S invoice.

**OPTIONAL PRE-ELECTION SERVICES FEES**

Upon request by the Customer, ES&S shall provide the following services to the Customer ("Pre-Election Services")

DESCRIPTION	SERVICE FEE PER DAY
Printer Cleaning, Pre-Election Testing, Roller Replacement, Parts Inspection, Ballot-Folder Adjustment/Testing and Onsite Assistance with Print-Alignment, Clearing Jams and other Hardware Adjustments.	\$1,795.00 Per Person Per Day for the Initial Term

Optional Pre-Election Services Fees are due within thirty (30) days of receipt of ES&S invoice. ES&S reserves the right to increase the fees set forth herein at the beginning of each Renewal Period.

### ATTACHMENT 3

**ELECTION SYSTEMS & SOFTWARE, LLC  
BALLOT ON DEMAND SYSTEM, PROCESSING AND SERVICES AGREEMENT  
SALES QUOTATION #: 11926**

This Agreement is made as of the date it is executed by the last of the parties named below on the signature page (the "Effective Date"),

**BETWEEN:** ELECTION SYSTEMS & SOFTWARE, LLC, a Delaware Limited Liability Company ("ES&S")

**AND:** JEFFERSON COUNTY, TEXAS ("Customer").

**RECITALS:**

- A. ES&S is the owner of certain ballot printing equipment and software as set forth herein and Customer has agreed to purchase and license the ballot printing equipment and related software and services from ES&S for use in **Jefferson County, Texas** (the "Jurisdiction"). The terms and conditions under which such equipment, software and services shall be provided are set forth in the **GENERAL TERMS** attached hereto and incorporated herein by reference.
- B. The following Exhibits are incorporated into, and constitute an integral part of, this Agreement (check all that apply):
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- Agrees to the **GENERAL TERMS** and the terms and conditions set forth in each Exhibit attached hereto and incorporated herein.
- Agrees that at all times, this Agreement shall be governed by and construed in accordance with the laws of the **State of Texas**, without regard to conflicts of law principles that would require the application of the laws of any other state.
- Represents and warrants to the other party that as of its signature below it has full power and authority to enter into and perform this Agreement, and that the person signing below on its behalf has been properly authorized to execute this Agreement.
- Acknowledges that it has read this Agreement, understands it and intends to be bound by it.

**GENERAL TERMS  
ARTICLE 1  
DEFINITIONS**

All capitalized terms used, but not otherwise defined, in these General Terms or in an Exhibit shall have the following meanings:

- a. "Documentation" means the operating instructions, user manuals or training materials for the ES&S Equipment and ES&S Software.
- b. "ES&S Software" means ES&S' proprietary Ballot On Demand software and all Updates delivered to Customer under this Agreement, unless licensed pursuant to a separate written agreement.
- c. "Ballot on Demand Equipment" means hardware and software manufactured and developed by parties other than ES&S. Ballot on Demand Equipment shall include, but not be limited to, any printers and laptop computers provided under this Agreement.

**ARTICLE 2  
SALE OF ES&S EQUIPMENT AND LICENSE OF ES&S SOFTWARE AND PAYMENT OF FEES**

2.1 **Purchase Terms; Use.** Subject to the terms and conditions of this Agreement, ES&S agrees to sell, and Customer agrees to purchase, the Ballot on Demand Equipment and licenses to the ES&S Software described on Exhibit B. The payment terms are set forth on Exhibit A. Title to the Ballot on Demand Equipment shall pass to Customer when Customer has paid ES&S the total amount set forth on Exhibit A for the Ballot on Demand Equipment.

2.2 a. **Grant of Licenses.** Subject to the terms and conditions of this Agreement, ES&S hereby grants to Customer nonexclusive, nontransferable licenses for its bona fide full time, part time and temporary employees to use the ES&S Software described on Exhibit B and related Documentation supplied by ES&S. The licenses allow Customer to use (but not copy) the ES&S Software and the Documentation in the course of operating the ES&S Equipment and solely for the purposes of managing the printing of ballots in the Jurisdiction. The licenses granted in this Section 2.2 do not permit Customer to use the source code for the ES&S Software.

b. **Prohibited Uses.** Customer shall not take any of the following actions with respect to the ES&S Software or the Documentation:

- i. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the ES&S Software;

- ii. Cause or permit any use, display, loan, publication, transfer of possession, sublicensing or other dissemination of the ES&S Software or Documentation, in whole or in part, to or by any third party, including, but not limited to, any transfer of possession to, or use of the ES&S Software or Documentation by any third party to perform any services for Customer (including, but not limited to, any ballot printing, coding, programming or ballot layout services) without ES&S's prior written consent; or

- iii. Cause or permit any change to be made to the ES&S Software without ES&S' prior written consent; or

- iv. Allow a third party to cause or permit any copying, reproduction or printing of any output generated by the Software (except ballots by ballot printers selected by Customer) in which ES&S owns or claims any proprietary intellectual property rights (e.g.,



copyright, trademark, patent pending or patent), including, but not limited to, any ballot shells or ballot code stock.

**2.3 Term of Licenses.** The licenses granted in Section 2.2 shall commence upon the delivery of the ES&S Software described in Section 2.2 and shall continue for the Initial Term of the Agreement (the "Initial License Term"). Upon expiration of the Initial License Term, the licenses shall automatically renew for an unlimited number of successive one-year periods (each a "License Renewal Term") upon the payment by Customer of the annual software license and software maintenance and support fee as set forth on Exhibit A. ES&S may terminate the license if Customer fails to pay the consideration due for, or breaches Sections 2.2, 2.5, or 3.6 with respect to, such license. Upon the termination of either of the licenses granted in Section 2.2 for ES&S Software or upon Customer's discontinuance of the use of any ES&S Software, Customer shall immediately return such ES&S Software and the related Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

**2.4 Updates.** During the Initial License Term or any License Renewal Term, ES&S may provide new releases, upgrades or maintenance patches to the ES&S Software, together with appropriate Documentation ("Updates"), on a schedule defined by ES&S. Customer is responsible for obtaining any upgrades or purchases of Third-Party Items required to operate the Updates as well as the cost of any replacements, retrofits or modifications to the Ballot on Demand Equipment which may be necessary in order to operate the Updates. All Updates shall be deemed to be ES&S Software for purposes of this Agreement upon delivery. Customer may install the Updates in accordance with ES&S' recommended instructions or may request that ES&S install the Updates. ES&S will charge Customer at its then-current rates to (i) install the Updates to the Customer, (ii) train Customer on Updates, if such training is requested by Customer; or (iii) provide maintenance and support on the ES&S Software that is required as a result of Customer's failure to timely or properly install an Update. Notwithstanding the foregoing, Customer shall pay ES&S to install all election management software Updates. If applicable, Customer shall be responsible for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee which is caused by Customer's failure to install and use the most recent Update provided to it by ES&S. If Customer proposes changes in the ES&S Software to ES&S, such proposals will become ES&S' property. ES&S may, in its sole discretion, elect to make or not to make such changes without reference or compensation to Customer or any third party. ES&S represents to Customer that the Updates will comply with all applicable state law requirements at the time of delivery. Customer shall pay ES&S for any Update which is required due to a change in state or local law.

**2.5 Fees**

a. **Equipment Sale and Software License Fees.** The fees for the purchase of Ballot on Demand Equipment and License of ES&S Software are set forth on Exhibit A

b. **Election Set-Up Fee.** The per election fee for election set-up is set forth on Exhibit B.

c. **Pre-Election Services.** The fees for the optional Pre-Election Services are set forth on Exhibit B.

**ARTICLE 3  
MISCELLANEOUS**

**3.1 Term; Termination.** This Agreement shall be effective for a **One (1) Year Period beginning on the Effective Date** (the "Initial Term"). The Initial Term shall automatically renew for an unlimited number of successive one-year period unless otherwise agreed to, in writing, by the parties (each a "Renewal Period"). The Initial Term and all Renewal Periods shall be collectively referred to herein as the "Term". The Term shall continue until this Agreement is terminated by the first to occur of (i) either party's election to terminate it upon the expiration of the Initial Term or any Renewal Period thereof, written notice of such election shall be given to the other party at least sixty (60) calendar days prior to the expiration

of the Initial Term or any Renewal Period; (ii) the date that is thirty (30) days after either party notifies the other that the other has materially breached this Agreement, and the breaching party fails to cure such breach within such thirty (30) day period, (except a breach as provided in (iv) below which will require no notice); (iii) the date which is thirty (30) days after ES&S notifies the Customer of ES&S intent to terminate the Agreement as a result of the Customer no longer utilizing ES&S' voter tabulation system with the Ballot On Demand printer purchased and licensed hereunder, or (iv) Customer's failure to make any payment due hereunder within thirty (30) days after it is due. In the event of early termination by ES&S due to (a) a breach of this Agreement by Customer, (b) Customer's failure to pay any amounts owed under this Agreement or (c) the failure of Customer to appropriate funds to make the payments due under this Agreement, Customer shall pay ES&S for all products delivered and services performed up through the effective date of termination. Upon termination of this Agreement, Customer shall immediately return all ES&S Software and Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

**3.2 Delivery; Risk of Loss; Insurance.** ES&S anticipates shipping the Ballot on Demand Equipment and ES&S Software identified on Exhibit B to Customer on or before the "Estimated Delivery Dates" listed on Exhibit A. The Estimated Delivery Dates are estimates and may only be established or revised, as applicable, by the parties, because of delays in executing this Agreement, changes requested by Customer, product availability and other events outside of ES&S's control. ES&S will notify Customer of such revisions as soon as ES&S becomes aware of such revisions. Risk of loss for the Ballot on Demand Equipment and ES&S Software shall pass to Customer when such items are delivered to Customer's designated location. Upon transfer of risk of loss to Customer, Customer shall be responsible for obtaining and maintaining sufficient casualty insurance on the Ballot on Demand Equipment and shall name ES&S as an additional insured thereunder and, at ES&S' request, shall deliver written evidence thereof to ES&S until all amounts payable to ES&S under this Agreement for Ballot on Demand Equipment and Software have been paid by Customer.

**3.3 Warranty**

a. **ES&S Software.** ES&S warrants for a one (1) year period for the ES&S Software (the "Warranty Period") it will repair any component of the ES&S Software which, while under normal use and service: fails to perform in accordance with its Documentation in all material respects. The Warranty Period will commence upon installation. If a defect or malfunction occurs in the ES&S Software while it is under normal use and service, Customer shall promptly notify ES&S, and ES&S or its authorized representatives shall use reasonable efforts to restore the Software to perform in accordance with its Documentation as soon as practicable. ES&S or its authorized representatives shall restore ES&S Software at a location as determined by ES&S in its sole discretion. If a defect or malfunction occurs in any ES&S Software as a result of (1) repairs, changes, modifications or alterations not authorized or approved by ES&S, (2) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S or (3) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations, rodent infestation, and utility or communication interruptions, Customer shall pay ES&S for any maintenance services at ES&S' then-current rates, as well as for the cost of all parts used in connection with the performance of such maintenance services. Customer shall have access to ES&S Help Desk Support during the Warranty Periods. ES&S reserves that right to use third parties approved by ES&S to perform the warranty services hereunder.

**b. Ballot on Demand Equipment.**

i. **Ballot on Demand Printer.** ES&S shall provide a warranty to the Customer for the Ballot on Demand Printer ("Printer") in coordination with the manufacturer of the Printer that shall commence upon delivery and terminate upon the earlier of: (1) three

(3) years from the date of delivery (the "Maximum Coverage Period"), or (2) the end of the life of the fuser unit in the Printer. In the event that Customer desires to make a warranty claim prior to expiration of the Maximum Coverage Period, the parties shall determine if the warranty has expired by printing a printer settings sheet which displays the remaining life of the Printer's fuser unit. ES&S warrants during the Warranty Period it, in coordination with the manufacturer of the Printer, will replace a Printer which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. The Warranty shall not include the repair or replacement of any Consumables as defined in Section 3.5 below. Any replaced Printer shall be warranted only for the unexpired term of the Warranty Period.

aa. **Warranty Procedures.** In the event of a potential warranty claim, Customer shall contact the ES&S Helpdesk to assess and diagnose Printer performance issues. In the event the Customer and ES&S Helpdesk are unable to resolve the issue, ES&S shall arrange for Customer to be provided with a replacement Printer. Upon receipt of the replacement Printer, Customer shall have seven (7) business days within which to return the malfunctioning Printer to the manufacturer. Customer shall be responsible for shipping and handling costs incurred in order to return the malfunctioning Printer to the manufacturer. If Customer fails to return the malfunctioning Printer within the specified timeframe, Customer shall be responsible for the cost of the replacement Printer and all shipping and handling costs for the replacement Printer. This warranty is effective provided that , (I) Customer cooperates with the ES&S Helpdesk to fully troubleshoot any defects related to the Printer, and (II) the Printer to be replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, use which is not in accordance with instructions or specifications furnished by ES&S or the manufacturer of the Printer or causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions. This warranty is void for any units of equipment which: (i) have not been stored or operated in a temperature range according their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product.

ii. **Ballot on Demand Laptop Computer.** ES&S shall provide a three (3) year warranty to the Customer in coordination with the manufacturer of the Ballot on Demand Laptop Computer ("Laptop") that shall commence upon delivery (the "Warranty Period"). ES&S warrants during the Warranty Period it, in coordination with the manufacturer, will repair or replace any component of the Laptop which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. Any repaired or replaced item of Laptop shall be warranted only for the unexpired term of the Warranty Period. All replaced components of the Laptop become the property of ES&S. In the event that the Laptop fails to perform in accordance with its Documentation, Customer shall contact the ES&S Helpdesk to assess and diagnose any material defects. In the event the ES&S Helpdesk is unable to resolve the issue, ES&S will work with the Customer to return the item to ES&S, and ES&S will work in coordination with the Laptop manufacturer to repair and/or replace the Laptop. This warranty is effective provided that (I) Customer cooperates with the ES&S Helpdesk to fully troubleshoot any defects related to the Laptop, and (II) the Laptop to be replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, use

which is not in accordance with instructions or specifications furnished by ES&S or the manufacturer of the Laptop or causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions. This warranty is void for any units of equipment which: (i) have not been stored or operated in a temperature range according to their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product.

c. **Exclusive Remedies/Disclaimer.** IN THE EVENT OF A BREACH OF SUBSECTION 3.3(a), ES&S' OBLIGATIONS, AS DESCRIBED IN SUCH SUBSECTION, ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES. ES&S EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHICH ARE NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

3.4 **Consumables.** Customer shall be responsible for the purchase, shipping and installation of all components that are consumed in the normal course of operating the Ballot on Demand Equipment, including, but not limited to, toner, drums, transfer belts, fusers, and ballot stock (collectively, "Consumables"). All Consumables shall meet ES&S' specifications and may be purchased directly from ES&S or from authorized dealers. In the event the Customer purchases Consumables which do not meet ES&S specifications, Customer shall be solely responsible for any and all costs, expenses, liabilities, losses and damages resulting from the Customer's failure to purchase Consumables which meet ES&S' specifications.

3.5 **Limitation Of Liability.** Neither party shall be liable for any indirect, incidental, punitive, exemplary, special or consequential damages of any kind whatsoever arising out of or relating to this Agreement. Neither party shall be liable for the other party's negligent or willful misconduct. ES&S' total liability to Customer arising out of or relating to this Agreement shall not exceed the aggregate amount to be paid to ES&S hereunder. By entering into this Agreement, Customer agrees to accept responsibility for (a) the selection of, use of and results obtained from any equipment, software or services not provided by ES&S and used with the Ballot on Demand Equipment or ES&S Software; or (b) errors that arise from mechanical or electronic component failures that are not covered under warranty or not subject to maintenance efforts or cure under this Agreement; or (c) user errors, voter errors or problems encountered by any individual in voting that are not otherwise a result of the failure of ES&S to perform its obligations under this Agreement.

3.6 **Taxes; Interest.** Customer shall provide ES&S with proof of its tax-exempt status. If Customer does not provide such proof, it shall pay, or shall reimburse ES&S for, all sales and use, excise or other similar taxes imposed on the transactions contemplated by this Agreement; provided, however, Customer shall in no event be liable for taxes imposed on or measured by ES&S' income. If Customer disputes the applicability of any tax to be paid pursuant to this Section 3.6, it shall pay the tax and may thereafter seek a refund. Any disputed or undisputed payment not paid by Customer to ES&S when due shall bear interest from the due date at a rate equal to the lesser of one and one-half percent (1.5%) per month or the maximum amount permitted by applicable law for each month or portion thereof during which it remains unpaid.

3.7 **Proprietary Rights.** Customer acknowledges and agrees as follows:

a. ES&S owns the ES&S Software, all Documentation and training materials provided by ES&S, and the format, layout, measurements, design and all other technical information associated with the ballots to be used with the Ballot on Demand Equipment. Customer has the

right to use the aforementioned items to the extent specified in this Agreement. ES&S also owns all patents, trademarks, copyrights, trade names and other proprietary or intellectual property in, or used in connection with, the aforementioned items. The aforementioned items also contain confidential and proprietary trade secrets of ES&S that are protected by law and are of substantial value to ES&S.

b. Customer shall not cause or permit the adaptation, conversion, reverse engineering, disassembly or decompilation of any of the Ballot on Demand Equipment or ES&S Software.

c. Customer shall keep the ES&S Software and related Documentation free and clear of all claims, liens and encumbrances and shall maintain all copyright, trademark, patent or other intellectual or proprietary rights notices that are set forth on the Ballot on Demand Equipment, the ES&S Software, the Documentation, training materials and ballots that are provided, and all permitted copies of the foregoing.

**3.8 Excusable Nonperformance.** Except for obligations to make payments hereunder, if either party is delayed or prevented from performing its obligations under this Agreement as a result of any cause beyond its reasonable control, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, the delay shall be excused during the continuance of, and to the extent of, such cause, and the period of performance shall be extended to the extent necessary to allow performance after the cause of delay has been removed. ES&S agrees to work with Customer, at Customer's request, to develop mutually agreeable alternatives in order to minimize the negative impact of any such delay.

**3.9 Non-Appropriation of Funds.** Customer represents, warrants, and covenants that it has appropriated, and will have appropriated, funds available necessary to pay the amounts due herein through the end of the Customer's current fiscal year, and that Customer shall use its best efforts to obtain and appropriate funds in order to pay all payments which shall be due in each year of this Agreement. In the event that funds are not appropriated or otherwise made available to support the continuation of performance by Customer hereunder in any subsequent fiscal period, this Agreement may be terminated by either party; provided, however, that this Section 3.9 shall not be construed so as to permit Customer to terminate this Agreement in order to acquire a ballot on demand system and/or related services from a third party. Either party may notify the other of the termination, which may occur no later than the beginning of the subsequent fiscal period. Upon termination, Customer shall pay ES&S for all services performed pursuant to this Agreement up to the date of termination and reasonable exit costs incurred by ES&S. The amount of such payment may be paid from any appropriations available for such purposes, and Customer's highest-ranking officer or official shall use his/her best efforts to timely and sufficiently request the appropriation necessary to pay such amount.

**3.10 Assignment.** Except in the case of a reorganization of the assets or operation of ES&S with one or more affiliates of ES&S or the sale, transfer or assignment of all or substantially all of the assets of ES&S to a successor who has asserted its intent to continue the business of ES&S, neither party may assign or transfer this Agreement or assign, subcontract or delegate any of its rights, duties or obligations hereunder without the prior written consent of the other party hereto, such consent not to be unreasonably withheld or conditioned, nor unduly delayed.

**3.11 Notice.** Any notice or other communication required or permitted hereunder shall be in writing, and will be deemed given when (a) delivered personally, (b) sent by confirmed email, (c) sent by confirmed fax, (d) sent by commercial overnight courier (with written verification of receipt) or (e) sent by registered or certified mail, return receipt requested, postage prepaid, when the return receipt is received. All communications shall be sent to the attention of the persons listed on the signature page to this Agreement and at the addresses, email address or fax numbers set forth on such signature page unless other names, addresses or fax numbers are provided by either or both parties in accordance herewith.

3.12 **Disputes.**

a. **Payment of Undisputed Amounts.** In the event of a dispute between the parties regarding (1) a product or service for which payment has not yet been made to ES&S, (2) the amount due ES&S for any product or service, or (3) the due date of any payment, Customer shall nevertheless pay to ES&S when due all undisputed amounts. Such payment shall not constitute a waiver by Customer or ES&S of any of its rights and remedies against the other party.

b. **Remedies for Past Due Undisputed Payments.** If any undisputed payment to ES&S is past due more than thirty (30) days, ES&S may suspend performance under this Agreement until such amount is paid.

3.14 **Entire Agreement.** This Agreement, including all exhibits hereto, shall be binding upon and inure to the benefit of the parties and their respective representatives, successors and assigns. This Agreement, including all Exhibits hereto, contains the entire agreement of the parties with respect to the subject matter hereof and shall supersede and replace any and all other prior or contemporaneous discussions, negotiations, agreements or understandings between the parties, whether written or oral, regarding the subject matter hereof. Any provision of any purchase order, form or other agreement which conflicts with or is in addition to the provisions of this Agreement shall be of no force or effect. In the event of any conflict between a provision contained in an Exhibit to this Agreement and these General Terms, the provision contained in the Exhibit shall control. No waiver, amendment or modification of any provision of this Agreement shall be effective unless in writing and signed by the party against whom such waiver, amendment or modification is sought to be enforced. No consent by either party to, or waiver of, a breach by either party shall constitute a consent to or waiver of any other different or subsequent breach by either party. ES&S is providing Ballot on Demand Equipment, ES&S Software and services to Customer as an independent contractor, and shall not be deemed to be a "state actor" for purposes of 42 U.S.C. § 1983. ES&S may engage subcontractors to provide certain of the Ballot on Demand Equipment, ES&S Software or services, but shall remain fully responsible for such performance. The provisions of Article 2 and Sections 3.6-3.14 of these General Terms shall survive the termination of this Agreement, to the extent applicable.

**[END OF GENERAL TERMS]**



**EXHIBIT A  
PRICING SUMMARY**

<b>Sale Summary:</b>		
<b>Description</b>	<b>Refer to</b>	<b>Amount</b>
Ballot on Demand Equipment, ES&S Software, and Services	Exhibit B	\$73,360.00
Shipping & Handling		Included in Tabulation Sales Order Agreement
<b>Total Sale:</b>		<b>\$73,360.00</b>
Election Set Up Fees and Optional Pre-Election Services are not included in Total Sale. Please see <u>Exhibit B</u> for Election Set-Up Fees and Optional Pre-Election Services Fees and Payment Terms.		
<b>Terms &amp; Conditions:</b>		
<b>Note 1:</b> Pursuant to Section 3.6, any applicable state and local taxes are not included, and are the responsibility of Customer. Premium or rush transportation services incurred in connection with deliverables included in the Total Sale are additive and will be billed as incurred.		
<b>Note 2: <u>Invoicing and Payment Terms are as Follows:</u></b>		
See Consolidated Order Agreement for Payment Terms. Customer shall be responsible for the payment of all fees set forth in this Attachment 3.		
All other Service Fees are set forth on <u>Exhibit B</u> and are due within thirty (30) days of Customer's receipt of ES&S' invoice.		
<b>Ongoing Services:</b>		
<b>Description</b>	<b>Annual Fee – First Renewal Period</b>	
<b>Software License, Maintenance &amp; Support Services:</b>		
- Ballot On Demand Software Fees (See <u>Exhibit B</u> for descriptions). ES&S may increase the Fees for a Renewal Period by not more than the annual percentage increase as set forth in the CPI Index for the South Region, subject to a minimum increase of 5.00%.	\$550.00	
Fees reflect a one-year term. Payment is due as set forth above and at the start of each Renewal Period.		

**EXHIBIT B  
BALLOT ON DEMAND EQUIPMENT, ES&S SOFTWARE, AND SERVICES DESCRIPTION,  
PRICING AND FEES**

QUANTITY	DESCRIPTION	TOTAL PRICE
<b>Ballot On Demand Printing Hardware</b>		
66	Compact Printer with Firmware	\$39,930.00
1	Laptop Computer with Router	\$1,480.00
1	Laptop Computer	\$1,255.00
<b>Software</b>		
1	Ballot On Demand 1-Year Software Licenses Including the Following Features:	
X	BOD Single Ballot Printing Only	\$2,500.00
<b>Election Services</b>		
1	Ballot on Demand Training	\$1,795.00
X	Ballot on Demand Installation	\$26,400.00
	<b>TOTAL PURCHASE:</b>	<b>\$73,360.00</b>

**ELECTION SET-UP FEES  
(Subject to change after the Initial Term)**

<b>Initial Election Set-Up Fee per Election Event</b>	
<b>Black and White Ballot Set-Up:</b>	
\$450.00 per election set-up + \$1.00 per unique PDF for first Computer	
\$75.00 for each additional Computer set-up	
<b>Color Ballot Set-Up:</b>	
\$550.00 per election set-up + \$1.00 per unique PDF for first Computer	
\$75.00 for each additional Computer set-up	
<b>Rework of Set-Up due to Customer Changes After Initial Set-Up is Complete:</b>	
\$175.00 per change event for first Computer set-up	
\$75.00 for each additional Computer set-up	
<b>Other:</b>	
\$350.00 fee for L&A Test Deck Creation	
On-Site Set-Up: \$1,795.00 per person, per day	

Election Set-Up Fees are due within thirty (30) days of receipt of ES&S invoice.

**OPTIONAL PRE-ELECTION SERVICES FEES**

Upon request by the Customer and the payment of the associated fees, ES&S shall provide the following services to the Customer ("Pre-Election Services")

DESCRIPTION	SERVICE FEE PER DAY
Printer Cleaning, Pre-Election Testing, Roller Replacement, Parts Inspection, Ballot-Folder Adjustment/Testing and Onsite Assistance with Print-Alignment, Clearing Jams and other Hardware Adjustments.	\$1,795.00 Per Person Per Day for the Initial Term

Optional Pre-Election Services Fees are due within thirty (30) days of receipt of ES&S invoice. ES&S reserves the right to increase the fees set forth herein at the beginning of each Renewal Period.



## Election Systems & Software, LLC

11208 John Galt Blvd  
Omaha, NE 68137

# Attachment 4

## EVS 6.1.1.0 PYO Standalone System Purchase Order Sales Quotation #: 11926

July 27, 2022

### Jefferson County, Texas

1149 Pearl Street  
Beaumont, TX 77704

Quantity	Part #	Description	Price	Ext. Price
		<b>EMS WORKSTATION</b>		
3	96046	OPTIPLEX XE3 SFF XCTO WITH WIN 10 LTSC	\$1,713.00	\$5,139.00
		DELL OPTIPLEX XE3 (Desktop) <ul style="list-style-type: none"> <li>• OptiPlex XE3 Small Form Factor XCTO</li> <li>• 8th Generation Intel Core i5-8500 (6 Cores/9MB Cache/up to 4.1GHz/65W)</li> <li>• 16GB (1x16GB) DDR4 Non-ECC Memory</li> <li>• M.2 512GB PCIe NVMe Class 35 Solid State Drive</li> <li>• NVIDIA GeForce GT 730, 2GB Graphics Card</li> <li>• DVD+/-RW Bezel 8x DVD+/-RW 9.5mm Optical Disk Drive</li> <li>• Dell KB216 Wired Keyboard English</li> <li>• Dell Optical Mouse - MS116 (Black)</li> <li>• Trusted Platform Module (Discrete TPM Enabled)</li> <li>• No Anti-Virus Software</li> <li>• Intel vPro Technology Enabled</li> <li>• ProSupport and Next Business Day Onsite Service Initial, 36 Month(s)</li> <li>• ProSupport and Next Business Day Onsite Service Extension, 24 Month(s)</li> <li>• Win10 IoT Ent LTSC 2019 EMB - Value -</li> </ul>		
3	96071	DELL P2222H 22" MONITOR 3 YR HDMI VGA DISPLAYPORT	\$359.00	\$1,077.00
3	96015	UNINTERRUPTIBLE POWER SUPPLY (UPS) BATTERY BACKUP 850VA (WORKSTATIONS)	\$180.00	\$540.00
3	96008	*SYMANTEC ENDPOINT PROTECTION 14.2	\$61.00	\$183.00

<b>MISCELLANEOUS COMPONENTS</b>				
3	96000	BROTHER HL-L6400DW B/W DUPLEX LASER PRINTER	\$462.00	\$1,386.00
3	86906	LD 6' USB 2.0 A-B CABLE,T,IVOTR,RTAL 6' USB CABLE	\$8.00	\$24.00
1	9703-10	Refurbished Toshiba Laptop (Ubuntu)	\$500.00	\$500.00
<b>SERVICES</b>				
1	510210	STANDALONE EMS INSTALL	\$1,400.00	\$1,400.00
		<ul style="list-style-type: none"> <li>• Staging of EMS workstations at ES&amp;S Technical Services lab.               <ul style="list-style-type: none"> <li>o Includes the installation, configuration, and testing of EMS workstation.</li> </ul> </li> <li>• Equipment is shipped to customer location.               <ul style="list-style-type: none"> <li>o Physical installation of workstation and related hardware (Printer, UPS, etc.) performed by customer.</li> </ul> </li> <li>• EMS installation summary documentation provided to customer upon completion of installation.</li> </ul>		
		<b>Order Total</b>		<b>\$10,249.00</b>

### **Invoicing and Payment Terms:**

See Consolidated Order Agreement for Payment Terms. Customer shall be responsible for the payment of all fees set forth in this Attachment 4.

Customer acknowledges that ES&S is purchasing the Third-Party items set forth herein ("Third Party Items") for resale to Customer, and that the proprietary and intellectual property rights to the Third-Party Items are owned by parties other than ES&S ("Third Parties"). Customer further acknowledges that except for the payment to ES&S for the Third-Party Items, all of its rights and obligations with respect thereto flow from and to the Third Parties. ES&S shall provide Customer with copies of all documentation and warranties for the Third-Party Items which are provided to ES&S.