

RESOLUTION NO. 2023-107R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, APPROVING A JOINT ELECTION AGREEMENT BETWEEN THE CITY OF SAN MARCOS AND HAYS COUNTY FOR THE HOLDING OF A JOINT ELECTION TO BE HELD ON NOVEMBER 7, 2023; AUTHORIZING THE CITY MANAGER, OR HER DESIGNEE, TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY; AND DECLARING AN EFFECTIVE DATE.

RECITALS:

1. The City Council of the City of San Marcos, Texas, finds and determines that it is in the best interest of the City to cooperate with Hays County in holding a joint election to be held on November 7, 2023.

2. Hays County is willing to participate in holding a joint election.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. The attached Joint Election Agreement between the City of San Marcos and Hays County for holding a joint election to be held on November 7, 2023 is approved.

PART 2. The City Manager, or her designee, is authorized to execute the Joint Election Agreement on behalf of the City.

PART 3. This resolution shall be in full force and effect from and after its passage.

ADOPTED on June 6, 2023.

Jane Hughson
Mayor

Attest:

Elizabeth Trevino
City Clerk

ATTACHMENT
JOINT ELECTION AGREEMENT

JOINT ELECTION AGREEMENT BETWEEN HAYS COUNTY AND THE CITY OF SAN MARCOS

This Joint Election Agreement ("Agreement") is entered into on the ___ day of _____, 2023, between the City of San Marcos, (the "City"), 630 West Hopkins, San Marcos, Texas 78666, and Hays County (the "County"), 712 S. Stagecoach Trail, Suite 1012, San Marcos, Texas 78666, collectively referred to as the Parties.

This Agreement is authorized by Chapter 31 of the Texas Election Code, Chapter 791 of the Texas Government Code and Section 271.002 and 271.003 of the Texas Election Code. The Parties to the Agreement agree as follows:

Section 1. *Scope of Agreement.* The City enters into this Agreement for the conduct of the elections to be held from August 2023 through July 2024.

Section 2. *Appointment of Election Officer.* The City appoints the Hays County Elections Administrator to serve as the Election Officer (the "Officer") in order to perform and supervise the duties and responsibilities of the Election Officer for any election from August 2023 through July 2024.

Section 3. *Early Voting Polling Locations.* To facilitate the administration of elections, and as a convenience to the voters, during the early voting period established by statute, the City agrees to designate the Hays County Election Administrator's Office, 712 South Stagecoach Trail, Suite 1012, San Marcos, Texas 78666 as the main early voting polling place for the City. Furthermore, the City agrees to designate temporary branch early polling places in accordance with Section 85.062, Election Code, V.T.C.A. as called out in the latest Election Orders.

Section 4. *Voting by Mail Ballot.* The City and County agree that early voting by mail ballot shall be conducted in accordance with the applicable provisions of the Texas Election Code and that 712 South Stagecoach Trail, Suite 1012 San Marcos, Texas 78666 is the early voting clerk's mailing address to which ballot applications and ballots voted by mail shall be sent for the City.

Section 5. *Election Day Polling Locations.* Election Day voting shall be held in approved vote centers where appropriate at the dates, times, and locations recommended by the Election Officer and authorized and ordered by the governing body of the City.

Section 6. *Election Day.* On Election Day, all forms used in the conduct of the election, including but not limited to the poll list, signature roster, ballot registers, expense accounts, and all oaths and certificates will be used jointly by the two agencies. All forms will be returned to the Hays County Election Administrator who shall keep them in her custody for the period prescribed by the Texas Election Code. The County agrees to furnish the City with copies of any election documents upon the City's request at no charge.

Section 7. Use of Common Ballot. It is agreed by the parties to this Agreement that a common ballot will be used for joint elections. The USB ("USB") containing the voted ballots for an election will be delivered by the Election Judges to the Hays County Election Administrator's office at 712 South Stagecoach Trail, Suite 1012, San Marcos, Texas and the USB'S will remain in the Hays County Election Administrator's custody, except that the County agrees to provide the City with the necessary documentation, if requested, for canvass of an election or in the event the voted ballots are required for a recount or any court proceedings in which the City may be a party. The County agrees to maintain custody of the USB'S containing the voted ballots for the period of time prescribed by the Texas Election Code. All USB'S that are not placed in active voting equipment will remain locked in the Officers' office. USBs will not be replaced without being logged out and checked out by the Officer at any time during an election. An audit shall be conducted to ensure that all USBs are present and accounted for. A spreadsheet shall be completed at the end of Early Voting and Election Day returns that will identify the number of signatures on the Combination Log and the Number of Cancelled booths, for a representation of voter totals. All replaced equipment will remain secured until after tabulation to ensure that all checks and balances have been satisfied.

Section 8. Reporting of Returns. The Officer shall prepare the unofficial and official tabulation of precinct results under Section 66.056(a) of the Texas Election Code. The unofficial tabulation of Early Voting precinct results and Election Day precinct results shall be made available to the City via email as soon as they are prepared and may be released under law, but no earlier than 7:00 p.m. on Election Day. The Officer or their designee will use their best efforts to post all reports for public review on the Hays County Elections website at www.co.hays.tx.us/elections as soon as reasonably possible.

Section 9. Cost Sharing. The City agrees to the cost sharing provisions below. This includes Hays County, the school districts of the county, the cities of the county, and the water districts and all other entities contracting for election services. The costs incurred with Early Voting locations and Early Voting Clerks will be shared only by entities utilizing the polling location for their individual election contest.

The formula is as follows:

Example:

Registered Voters in County -	135,000	$135,000/255,000=$	52.94% of total cost
Registered Voters in Joint Entity A -	100,000	$100,000/255,000=$	39.23% of total cost
Registered Voters in Joint Entity B -	20,000	$20,000/255,000=$	7.84% of total cost
Aggregate Registered Voters -	255,000		

\$1,000-dollar minimum cost for elections that don't exceed that total. Since programming and supplies would exceed the cost of elections with very small voter registration populations.

Equipment Rental Fees allocated separately.

Section 10. *Amendments.* This Agreement may not be amended or modified except in writing and executed by both the City and the County. Neither party may assign this Agreement without the written consent of the other party. However, the Officer may assign deputies to perform any of the contracted services and may contract with third persons for election services and supplies.

Section 11. *Effective Date.* This Agreement contains the entire agreement between the parties and supersedes all prior understandings and agreements between the parties regarding such matters. The term of this Agreement will commence on August 1, 2023 and end on July 31, 2024.

Section 12. *Force Majeure.* Either of the parties to this Agreement shall be excused from any delays and/or failures in the performance of the terms and conditions of this Contract, to the extent that such delays and/or failures result from causes beyond the delaying/failing party's reasonable control, including but not limited to war (whether declared or not), armed conflict or the serious threat of the same (including but not limited to hostile attack, blockade, military embargo), hostilities, invasion, act of a foreign enemy, extensive military mobilization, civil war, riot, rebellion, revolution, military or usurped power, insurrection, civil commotion or disorder, mob violence, act of civil disobedience, act of terrorism, sabotage or piracy; plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including quarantine, social distancing, isolation or other behavioral restrictions; act of authority whether lawful or unlawful, compliance with any law or governmental order, rule, regulation or direction, curfew restriction, expropriation, compulsory acquisition, seizure of works, requisition, nationalization; act of God or natural disaster such as but not limited to violent storm, cyclone, typhoon, hurricane, tornado, earthquake, landslide, flood, damage or destruction by lightning, drought; explosion, fire, destruction of machines, equipment and of any kind of installation, prolonged breakdown of transport, telecommunication or electric current; shortage or inability to obtain critical material or supplies to the extent not subject to the reasonable control of the subject party ("force majeure event") whether foreseeable or unforeseeable by the parties at the time of the execution of this Agreement. Any delaying/failing party shall, with all reasonable diligence, attempt to remedy the cause of delay and/or failure and shall recommence all remaining duties under this Agreement within a reasonable time of such remedy, or, when applicable, on the next available dates under the Texas Election Code.

Section 13. Should any provision in this Agreement be found or deemed to be invalid, this Agreement will be construed as not containing the provision and all other provisions which are otherwise lawful will remain in full force and effect, and to this end the provisions of this Agreement are declared to be severable. In case any one or more of the provisions contained in this Agreement are for any reason held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision thereof, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Section 14. Any notice provided for under this Agreement will be forwarded to the following addresses:

Hays County Elections Administrator
Government Center
712 South Stagecoach Trail Suite 1012
San Marcos, Texas 78666

City of San Marcos
City Clerk's Office
630 West Hopkins
San Marcos, Texas 78666

Section 15. Nothing contained in this Agreement will authorize or permit a change in the office with whom or the place at which any document or record relating to the Election(s) is to be filed, or place at which any function of the canvass of the election returns is to be performed, or the officer to serve as custodian of voted ballots or other election records.

Section 16. This Agreement shall take effect immediately upon execution by both parties hereof and shall inure to the benefit and be binding upon the administrators, successors and assigns of the Parties hereto.

WITNESS OUR HANDS this ____ day of _____, 2023,

Hays County Elections Administrator

City of San Marcos

Jennifer Anderson
Elections Administrator

Stephanie Reyes
City Manager

Attest:

Attest:
