

BALLOT PRINT AND MAIL SERVICES AGREEMENT

THIS BALLOT PRINT AND MAIL SERVICES AGREEMENT (“Agreement”) is made as of the date of execution by the Parties, by and between El Paso County, a political subdivision of the State of Texas (“County”), and RUNBECK ELECTION SERVICES, INC., an Arizona corporation, whose address is 2800 S. 36th Street, Phoenix, AZ 85034 (“Runbeck”) (Collectively, the “Parties”).

RECITALS

1. Runbeck is the provider of certain ballot printing and mailing services (the “Services”), more fully described in Exhibits A and B, which are available for sale. Runbeck also offers other services, support and products (“Products”) related to the elections process.

2. County desires to purchase from Runbeck Products and Services that are described in Exhibits A and B.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants contained herein and other good and valuable consideration, the Parties agree as follows:

AGREEMENTS

1. Product and Service Purchase.

Runbeck agrees to sell, and County agrees to purchase, the ballot printing and mailing services (and related products) that are described in Exhibits A and B. County agrees to pay to Runbeck in accordance with the fee schedule as shown in Exhibit A and the parties expressly acknowledge and agree that if the cost of paper increases by more than one-percent (1.0%) annually, the price will be adjusted to include the amount by which such annual paper cost increase exceeds one-percent (1.0%); provided, however, that County shall not be required to pay as a paper cost adjustment more than three-percent (3%) in any one year during the term of this Agreement. County agrees to use the purchased Products and Services in a manner that is consistent with the terms of this Agreement.

2. Payment to Runbeck.

County hereby agrees to pay to Runbeck, no later than the applicable due date, all fees that are due and payable under this Agreement, including Ballot Printing, Mailing Services, Applicable Shipping Charges and any other ancillary items the County requests be produced hereunder. The total amount paid by County to Runbeck under this agreement shall not exceed NINE HUNDRED THOUSAND DOLLARS and NO CENTS (\$900,000.00). Payment terms on amounts billed to County are Net thirty (30) days. Runbeck may charge a late fee equal to one and one-half percent (1.5%) per month on any unpaid and past due balances that are owed by County. Further, if County fails to timely pay any amounts due, and such failure continues for ten (10) days after written demand for payment is delivered to County, Runbeck, at its sole discretion,

may immediately terminate this Agreement and take possession of any materials owned by Runbeck, including any delivered to, but unpaid for by, County, with or without a court order. In addition, Runbeck may pursue any other remedy permitted by law or in equity.

2.1 Taxes.

COUNTY is a tax exempt political subdivision of the State of Texas and shall not be liable for any taxes from which it is exempt. The parties understand and agree nothing referenced in the Agreement modifies or waives any sovereign immunity, lien or indemnity prohibition, defense, or limitation of liability enjoyed by COUNTY, its elected officials, or employees at common law or under other Texas law.

3. Product Delivery.

Runbeck shall deliver all Products and Services to County at the address specified in Section 20 of this Agreement, or at such other address that County provides in writing. The Products and Services will be delivered on a schedule that is mutually acceptable to the parties. Runbeck shall not be responsible for delays in delivery of the Products and Services that are not caused by Runbeck.

3.1 Shipping.

During the term of this Agreement County is responsible for paying any expedited shipping charges on the Products and Services that are provided under this Agreement.

4. Availability and Retention of Records.

All records relating to the Products and Services provided under this Agreement and supporting documentation for invoices submitted to County by Runbeck shall be retained and made available by Runbeck for audit by County, its duly authorized representatives, the State of Texas (including, but not limited to the Auditor of the State of Texas, Inspector General or duly appointed law enforcement officials) and agencies of the United States government. Such records shall be retained by Runbeck and made available for any time period required by state or federal law.

5. Assignment.

The Parties expressly agree that neither shall assign this Agreement without the prior written consent of the other. Runbeck may subcontract services agreed to in this Agreement, but only with the written consent of the County. All subcontracts are subject to the same terms, conditions, and covenants contained within this Agreement.

6. Governing Law.

This Agreement shall be governed, construed, and enforced under the laws of Texas, notwithstanding any conflicts of laws provisions. Venue is in El Paso County, Texas.

7. Integration and Modification.

This Agreement, including exhibits, embodies the entire agreement of the Parties. There are no promises, terms, conditions or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations or contracts, either written or oral, between the Parties to this Agreement. This Agreement shall not be modified in any manner except by an instrument, in writing, executed by the Parties to this Agreement.

8. Severability.

If any term or provision of this Agreement shall be held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby and each remaining term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

9. Appropriations.

County represents and covenants that (i) it has funds available to pay all fees that will become due to Runbeck through the date of the next annual appropriations from County's funding authority; and (ii) that it shall use its best efforts to obtain funds to pay any of the foregoing financial obligations for each subsequent fiscal year of the four (4) year term of the Agreement. In the event County's appropriations request to its governing body or funding authority for necessary funds hereunder is denied, this Agreement, and all exhibits, may be terminated by Runbeck. County shall make payment of all charges and obligations incurred through the end of the fiscal period for which funds were appropriated. In any such event, County shall thereupon return all Runbeck property in its possession. In the event funding is not appropriated in any fiscal year, the County may terminate the Agreement between the parties upon 60 days prior written notice without incurring any termination liability or penalty. Runbeck shall be entitled to be paid by County for all services provided through the effective date of termination of this Agreement, together with such reasonably necessary post-termination services Runbeck provides.

10. Compliance.

Runbeck agrees to comply with all applicable federal, state, and local laws in the conduct of work hereunder. Runbeck accepts full responsibility for payment of all taxes including, without limitation, unemployment compensation, insurance premiums, income tax deductions, social security deductions, and all other taxes or payroll deductions required for all employees engaged by Runbeck in the performance of work under this Agreement.

11. Non-Discrimination.

Runbeck certifies it is an equal opportunity employer and shall remain in compliance with state and federal civil rights and nondiscrimination laws and regulations including, but not limited to, Title VI, and Title VII of the Civil Rights Act of 1964 as amended, the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Age Discrimination Act of 1975 and the Age Discrimination in Employment Act, as amended.

During the performance of this Agreement, Runbeck will not discriminate against any employee, contract worker, or applicant for employment because of race, color, religion, sex, sexual orientation, national origin, ancestry, disability, Vietnam-era veteran status, age, political belief or place of birth. Runbeck will take affirmative action to ensure that during employment, all employees are treated without regard to race, color, religion, sex, national origin, ancestry, disability, Vietnam-era veteran status, age, political belief or place of birth. These provisions apply also to contract workers, such action shall include, but is not limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising, layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Runbeck agrees to post in conspicuous places, available to employees and applicants for employment, notices stating Runbeck complies with all applicable federal and state non-discrimination laws.

Runbeck, or any person claiming through Runbeck, agrees not to establish or knowingly permit any such practice or practices of discrimination or segregation in reference to anything relating to this Agreement, or in reference to any contractors or subcontractors of said Runbeck.

12. Independent Relationship.

Nothing in this Agreement is intended to, nor shall be deemed to, create a partnership, association or joint venture between County and Runbeck in the conduct of the provisions of this Agreement. Runbeck shall at all times have the status of an independent contractor.

13. Waiver.

Any waiver by either party of any right, provision or condition under this Agreement shall not be construed or deemed to be a waiver of any other right, provision or condition of this Agreement, nor a waiver of a subsequent breach of the same right, provision or condition.

14. Confidential Information.

All information owned, possessed or used by County which is communicated to, learned, or otherwise acquired by Runbeck or its employees, agents or contractors in the performance of the terms of this Agreement shall be deemed and remain Confidential Information. Runbeck shall not, beginning on the date of first association or communication between the County and Runbeck and continuing through the term of this Agreement and thereafter, disclose, communicate or divulge to another, or use for Runbeck's own benefit or the benefit of another, any such Confidential Information without the prior written consent of the County.

Notwithstanding anything to the contrary in the Agreement, the Parties acknowledge and agree that County is a political subdivision of the State of Texas. As such, County is subject to the requirements of the Texas Public Information Act, Government Code Chapter 552. In the event that County receives a request for information that is confidential, or a trade secret, under the Agreement, County will provide Runbeck an opportunity to enforce its privacy

rights pursuant to section 552.305 of the Texas Government Code or other relevant law. If County receives a public information request affecting Runbeck's confidential information or trade secrets under this Agreement, County will submit a request to the Texas Attorney General to withhold such information. County will also provide reasonable notice to Runbeck so that Runbeck may submit a brief to the Texas Attorney General on its own behalf.

15. Risk of Loss.

The parties are not liable for delays in performance due to causes beyond their reasonable control. The parties are not liable under any circumstance for lost business/profits, indirect, consequential, liquidated, or punitive damages of any kind, under any theory of recovery even if the party is advised of the potential for any such damages, and a party shall be liable for direct damages only to the extent allowed by law and attributable to that party's gross negligence, willful, or intentional conduct. Runbeck's invoices will conform to the reasonable requirements of the County.

16. Warranty.

Runbeck warrants and represents that services provided pursuant to this Agreement, and attached exhibits, shall be timely performed in a professional manner.

17. Parties Responsibility.

Each party agrees to be responsible and assume liability for its own negligent acts and omissions, and those of its officers, agents and employees to the extent required by law. Notwithstanding any other provision to the contrary herein, neither party shall be liable to the other for any indirect, incidental, special or consequential damages or loss of profits, anticipated or otherwise, or loss of revenues in connection with or arising out of, or in connection with, the subject matter of this contract. No term or condition of this Agreement shall be construed or interpreted as a waiver, either express or implied, of the notice requirements, immunities, rights, benefits, defenses, limitations and protections available to County under Texas law.

18. No Third-Party Beneficiary.

Enforcement of the terms of this Agreement and all rights of action relating to enforcement are strictly reserved to the Parties. Nothing contained in this Agreement allows any claim or right of action in any third person or entity. Any person or entity other than County or Runbeck receiving services or benefits pursuant to this Agreement is an incidental beneficiary only.

19. Notices.

All written notices required under this Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid as follows:

By Runbeck to: El Paso County
500 East San Antonio St., Room 314
El Paso, TX 79901
Attention: Melissa Soto
Elections Administrator

To Runbeck: Runbeck Election Services, Inc.
2800 South 36th Street
Phoenix, Arizona 85034
Attention: Rizwan Fidai

With a copy to: Steven H. Williams, Esq.
2323 North Central Avenue, Unit 1905
Phoenix, Arizona 85004

Notices hand delivered or sent by overnight courier are effective upon delivery; notices sent by certified mail are effective upon receipt; and notices sent by U.S. mail are effective upon the expiration of five (5) mail delivery days from deposit (postmarked) with the U.S. Postal Service.

20. No Construction Against Drafting Party.

The Parties and their respective counsel have had the opportunity to review this Agreement, and the Agreement will not be construed against any party merely because this Agreement was prepared by a particular party.

20.1 Binding Authority.

The person signing this Agreement on behalf of each party represents and warrants that he or she has full legal power to execute this Agreement and that he or she has proper authority to bind and obligate his or her party with respect to all provisions contained in this Agreement.

21. Successors and Assigns.

The rights and obligations of the Parties herein set forth shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns permitted under this Agreement.

22. Time is of the Essence.

The Parties agree that in the performance of the terms of this Agreement, time shall be of the essence.

23. Attorneys' Fees.

In the event of a litigation action to enforce, or arising from, the terms of this Agreement, the Parties shall pay their own attorneys' fees and costs incurred in the action.

24. Term.

The Parties declare, acknowledge and agree that the term of this Agreement shall be four (4) years, subject to Parties' rights to terminate due to lack of approved appropriations as set forth in Section 9 of the Agreement; fraud; or disclosure of Runbeck Confidential Information in violation of this Agreement. The Agreement may be renewed if County provides Runbeck with written notice, at least ninety (90) days prior to the Agreement end date, of its intention to renew.

25. Obligations at Expiration.

Upon expiration of this Agreement, Runbeck shall provide to County an accounting of all monies due and payable to Runbeck under this Agreement. County shall pay to Runbeck all amounts owed, if any, within thirty (30) days of the date of the invoice that Runbeck sends to County.

IN WITNESS WHEREOF, the Parties have signed this Agreement as of the day and year first above written.

THE COUNTY OF EL PASO, TEXAS

RUNBECK ELECTION SERVICES, INC.

By: _____
Ricardo A. Samaniego, County Judge

By: _____

Date: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A

Description: Ballot Printing

- 11" – 14" Ballot = **\$.23 per ballot**
- 18" Ballot = **\$.24 per ballot**
- 22" Ballot = **\$.25 per ballot**
- Test Decks Pre-filled = **\$.40 per ballot**
- Precinct Ballot (Poll Ballot) – Preparation to include shrink wrap and packaging = **\$.04 per ballot card**
- Database Set-up = **\$2,000**
- Standard ground shipping to Texas General Mail Facility (GMF) or designated local facility = **Included**

Description: Outgoing Process

- Insertion (up to three (3) pieces) = **\$.24 per packet**
- Insertion (beyond three (3) pieces) = **\$.05 per additional piece**
- Election Set-up = **\$2,000**
- Mailing services = **Included**
- USPS Mailing Coordination & Statements = **Included**
- **Postage = Actual USPS Automation rates**

Description: Envelopes

- Outgoing 6 1/8" x 9 7/8" Envelope 2 color = **\$.18 per envelope**
- Reply 5 7/8" x 9" White Envelope 2 color = **\$.12 per envelope**
- Secrecy 5.75" x 9.25" White Envelope = **\$.10 per envelope**
- Voter Instruction Insert 8.5" x 11" folded to 5 1/2" x 8 1/2" 2 color = **\$.10 each**
- Additional Inserts 5.5" x 8.5" color = **\$.08 each**
- USPS Mail Piece Consult and Design = **Included**
- Initial Envelope Composition = **Included**

Pricing Adjustment:

- The parties expressly acknowledge and agree that if the cost of paper increases by more than one-percent (1.0%) annually, the price will be adjusted to include the amount by which such annual paper cost increase exceeds one-percent (1.0%); provided, however, that County shall not be required to pay as a paper cost adjustment more than three-percent (3%) in any one year during the term of this Agreement.
- For any election in which quantity or page count is not consistent with above, Runbeck will provide the County with a revised quote that reflects the actual quantity and page count.

EXHIBIT B

Additional Scope of Services

1. Scope of Services:

Runbeck must provide the following:

1. Utilize El Paso County's electronic voter export file for envelope addressing requirements. The file will be exported from the VR database into a text format. A mail file mapping layout documenting the fields in each record and also examples with voter information will be provided. The database identifies the appropriate precinct/district (ballot) style for each vote- by-mail.
2. Evaluate address standardization and conformity per USPS - Coding Accuracy Support System (CASS) requirements in order to achieve the lowest non-profit bulk rate available.
3. Exercise adequate quality control measures to ensure the delivery of the correct ballot style and appropriate precinct to each vote-by-mail and mail ballot voter.
4. Provide quality control documentation to the El Paso County Office of Elections and permit "on- sight" inspections of quality controls and processes during printing and inserting of materials.
5. Provide the El Paso County Office of Elections proofs of the official ballot art, one per ballot type-style or per precinct, following with one per precinct for approval prior to printing. The proof ballot shall be imprinted with a PROOF watermark to differentiate them from the official ballots. Shipping charges of any proofs (ballots, sample ballots, envelopes, inserts) are assessed to the County.
6. Receive confirmation of approval from El Paso County Office of Elections prior to proceeding with envelope printing for the mail ballot packet.
7. Print and fold all official vote-by-mail and mail ballots by precinct per mail files. Assemble the appropriate ballot packet for each individual vote-by-mail and mail ballot voter and insert the following items into the outgoing mail-in ballot envelope: official ballot, insertion materials, and appropriate reply mail envelope. Preprint the individual vote-by-mail voter's name and address information and information required by the US Postal service in order to mail the mail ballot packet. Tender all ballots to the U.S. Postal as requested by statutory deadlines.
8. Provide the El Paso County Office of Elections postage estimates for the mailing of mail ballot packets.
9. Prepare a mail ballot packet. Each packet shall be mailed using the most cost-effective means available. Each mail ballot packet shall be comprised of the following items (subject to changes by County): Outgoing envelope packet is properly addressed by ink jetting the address of each voter onto the CRM; Official ballot; Insertions materials/Voter instructions; and appropriate reply mail envelope.
10. Comply with all specifications for ballot printing and must conform to the manufacturer's specifications.
11. Print official ballots with a barcode on ballot or on stub depending on the El Paso County Office of Elections preference.
12. Deliver and tender mail ballot packets to the local General Mail Facility (GMF).

13. Print additional official ballots for the El Paso County Office of Elections if ordered "in office" use by precinct. The El Paso County Office of Elections will determine quantities at the time of ordering. Print outgoing envelopes, insertion materials/voter instructions, and courtesy reply envelopes. The El Paso County Office of Elections will determine quantities at the time of ordering.
14. Pack all official ballots by location, by precinct in order to facilitate inventory and retrieval. Shipping containers shall be labeled to identify contents. Labeling information must include: "Official Ballots", location, precinct number, and ballot style of contents. Packing information must accompany ballots. Packing specifications will be determined at the time of order.
15. Deliver all test ballots by precinct style. The test ballot shall be imprinted with a TEST watermark to differentiate them from the official ballots.
16. Exercise adequate quality control measures to ensure the delivery of the correct ballot style and appropriate precinct booklet to each voter receiving a sample ballot.
17. If applicable, utilize El Paso County's electronic voter export file for envelope addressing requirements. The file will be exported from the VR database into a text format. A file layout documenting the fields in each record will be provided. The database identifies the appropriate precinct/district style for each sample ballot.
18. If applicable, provide the El Paso County Office of Elections PDF images of official ballot art after produced for the sample ballot booklet.
19. If applicable, provide confirmation of approval to El Paso County Office of Elections prior to proceeding with variable data printing on sample ballot (layout and voter data information).
20. If applicable, provide the El Paso County Office of Elections postage estimates for the mailing of sample ballot booklets.
21. If applicable, prepare a sample ballot booklet and comply with county print job specifications. Each booklet shall be mailed using the most cost-effective means available. Each sample ballot shall be comprised of the following items (subject to changes by County): Cover properly addressed to each voter and sample ballot/copy of official ballot.
22. The El Paso County Office of Elections will determine sample ballot booklet quantities at the time of ordering.
23. Print additional sample ballot booklets for County's "in office" use by ballot style. The El Paso County Office of Elections will determine quantities at the time of ordering.
24. If the County is delayed in delivery with necessary information, or files or artwork to Runbeck, per the agreed schedule, Runbeck will need to extend its delivery dates accordingly.
25. In the event a product or service is not fully defined in the scope of work for sample ballot printing, ballot printing, insertion and mailing services or a new product or service is requested by the County from Runbeck, Runbeck will submit a quote to the County for such request. Only when the County agrees to proceed, is when execution of the quote will occur.