

**AGENDA – SPECIAL MEETING OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, TO BE HELD ON MONDAY, MARCH 5, 2012, AT 6:30 P.M., IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS.**

**I. CALL TO ORDER**

**II. PURPOSE OF THE MEETING:**

- 1. CONSIDERATION AND POSSIBLE ACTION – REGARDING RESOLUTION NO. R2012-30 – A RESOLUTION AND ORDER OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, ORDERING THE HOLDING OF A GENERAL ELECTION TO BE HELD ON SATURDAY, MAY 12, 2012, FOR THE PURPOSE OF ELECTING COUNCILMEMBERS POSITION NO. 2 AND POSITION NO. 4 OF THE CITY OF PEARLAND CITY COUNCIL. *Mr. Young Lorfing, City Secretary.***
- 2. CONSIDERATION AND POSSIBLE ACTION – REGARDING RESOLUTION NO. R2012-15 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO ENTER INTO AN ELECTION SERVICES AGREEMENT WITH BRAZORIA COUNTY. *Mr. Bill Eisen, City Manager.***

**EXECUTIVE SESSION UNDER TEXAS GOVERNMENT CODE**

- 1. SECTION 551.074 – PERSONNEL MATTERS – REGARDING APPOINTMENTS TO THE CITY'S VARIOUS BOARDS AND COMMISSIONS. *Mayor Tom Reid.***

**NEW BUSINESS:**

- 3. CONSIDERATION AND POSSIBLE ACTION – REGARDING APPOINTMENTS TO THE CITY'S VARIOUS BOARDS AND COMMISSIONS. *City Council.***

**III. ADJOURNMENT**

This site is accessible to disabled individuals. For special assistance, please call Young Lorfing at 281-652-1840 prior to the meeting so that appropriate arrangements can be made.

# New Business Item No. 1

1. **CONSIDERATION AND POSSIBLE ACTION – REGARDING RESOLUTION NO. R2012-30** A RESOLUTION AND ORDER OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, ORDERING THE HOLDING OF A GENERAL ELECTION TO BE HELD ON SATURDAY, MAY 12, 2012, FOR THE PURPOSE OF ELECTING COUNCILMEMBERS POSITION NO. 2 AND POSITION NO. 4 OF THE CITY OF PEARLAND CITY COUNCIL. *Mr. Young Lorfing, City Secretary.*

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b> 3/5/2012	<b>ITEM NO.:</b> Resolution No. R2012-30
<b>DATE SUBMITTED:</b> 2/28/2012	<b>DEPARTMENT OF ORIGIN:</b> City Secretary
<b>PREPARED BY:</b> Young Lorfing	<b>PRESENTOR:</b> Young Lorfing, City Secretary
<b>REVIEWED BY:</b> Bill Eisen	<b>REVIEW DATE:</b> 2/28/12
<b>SUBJECT:</b> Election Order Calling the May 12, 2012 General Election	
<b>EXHIBITS:</b> Resolution No. R2012-30, (Exhibit "A" Election Day Precincts and Polling Places Exhibit "B" Early Voting Polling Places) 1 – Voting Precinct Map.	
<b>EXPENDITURE REQUIRED:</b> N/A	<b>AMOUNT BUDGETED:</b> N/A
<b>AMOUNT AVAILABLE:</b> N/A	<b>PROJECT NO.:</b> N/A
<b>ACCOUNT NO.:</b> N/A	
<b>ADDITIONAL APPROPRIATION REQUIRED:</b> N/A	
<b>ACCOUNT NO.:</b> N/A	
<b>PROJECT NO.:</b> N/A	
<b>To be completed by Department:</b>	
<input type="checkbox"/> Finance <input checked="" type="checkbox"/> Legal <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution	

**EXECUTIVE SUMMARY**

In order to comply with the Election Code of the State of Texas, City Council shall "Order" the upcoming General Election by passing a Resolution. The Election is scheduled for Saturday, May 12, 2012. The purpose of said election is to elect Councilmembers Position No. 2 and Position No. 4 of the City Council.

Please note some of the Brazoria County Precinct Numbers and/or Boundaries have changed and are listed and highlighted below. However, all of the Voting Day locations remain the same as previous May General Elections:

**Old Precinct Number**

65  
76  
63  
64  
67  
68

**New Precinct Number**

27  
54  
44  
13  
47  
52

**PRECINCTS AND POLLING PLACES**

**City of Pearland  
Precinct No.**

**13**

**Location**  
Bailey Road Facility  
4717 Bailey Rd.  
Pearland

**County Precincts voting  
at this location**

Brazoria County Precincts **13**,  
36 & 47

26

Lawhon Elem. School  
5810 Brookside Rd.  
Pearland

Brazoria County Precincts 12  
& 26

29

Westside Event Center  
2150 Countryplace Pkwy.  
Pearland

Brazoria County Precinct **27**,  
29, **54**, Harris County  
Precincts 630

**44**

Silverlake Recreation Center  
2715 Southwyck Pkwy.  
Pearland

Brazoria County Precincts **44**,  
60, 62

46

Pearland Community Center  
3523 Liberty Dr.  
Pearland

Brazoria County Precincts 28,  
**47**, and Harris County  
Precincts 654 & 537

**52**

Fellowship Bible Church  
1720 E Broadway  
Pearland

Brazoria County Precincts 51,  
**52**, & 61

59

Shadow Creek Ranch Visitor  
Center  
11711 Shadow Creek Pkwy.  
Pearland

Brazoria County Precincts 50,  
59, and Harris County  
Precinct 131 & Ft. Bend  
County Precinct 1134

## **EARLY VOTING POLLING PLACES**

**City of City of Pearland, Texas  
May 12, 2012 General Election**

### **EARLY VOTING BY PERSONAL APPEARANCE LOCATIONS:**

East Pearland Branch Location:	Justice Of The Peace, Pct. 3, Pl. 2 Courtroom 2436 S. Grand Blvd. Pearland
West Pearland Branch Location:	Westside Event Center 2150 Countryplace Pkwy. Pearland
Angleton Main Location:	East Annex (Old Walmart Building) 1524 E. Mulberry, Room 144 Angleton
Alvin Branch Location:	Alvin Library 105 S. Gordon St. Alvin
Brazoria Branch Location:	Precinct 4 County Barn 1001 Market St. Brazoria
Lake Jackson Branch Location:	Lake Jackson Library 250 Circle Way Lake Jackson
Freeport Branch Location:	Freeport Library 410 Brazosport Blvd. Freeport
Manvel Branch Location:	Courthouse North Annex 7313 Corporate Dr. Manvel
Sweeny Branch Location:	Sweeny Community Center 205 W. Ashley Wilson Rd. Sweeny
West Columbia Branch Location:	West Columbia City Hall 512 E. Brazos West Columbia

**PERSONAL APPEARANCE TIMES AND DATES FOR ABOVE LOCATIONS:**

Monday, April 23 – Friday, May 4:	8:00 a.m. to 5:00 p.m.
Saturday, May 5:	7:00 a.m. to 7:00 p.m.
Monday, May 7 – Tuesday, May 8:	7:00 a.m. to 7:00 p.m.

**EARLY VOTING BY MAIL:**

Applications for voting by mail should be mailed to be received no earlier than March 13, 2012 and no later than the close of business (5:00 p.m.) on May 4, 2012.

Applications should be mailed to:  
**JOYCE HUDMAN, COUNTY CLERK**  
**111 E. LOCUST, SUITE 200**  
**ANGLETON, TX 77515-4654**

**REASONS FOR BEING QUALIFIED TO VOTE BY MAIL ARE:**

65 years of age or older;  
Disability;  
Confinement in jail;  
Absence from the county on Election Day and during the Early Voting period

**RECOMMENDED ACTION**

Consider and adopt Resolution No. R2012-30.

## RESOLUTION NO. R2012-30

### A RESOLUTION AND ORDER OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, ORDERING THE HOLDING OF A GENERAL ELECTION TO BE HELD ON SATURDAY, MAY 12, 2012, FOR THE PURPOSE OF ELECTING COUNCILMEMBERS POSITION NO. 2 AND POSITION NO. 4 OF THE CITY OF PEARLAND CITY COUNCIL.

**WHEREAS**, the City Council (the "City Council") of the City of Pearland, Texas (the "City") is authorized and has determined to call a General Election to be held on May 12, 2012 for the purpose of electing Councilmembers Position No. 2 and Position No. 4 of the City Council;

**WHEREAS**, the City Council wishes to proceed with the ordering of such General Election and the City Council has determined that holding such elections is in the public interest;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEARLAND CITY, TEXAS:**

#### **Section 1. Call of Election; Date; Eligible Electors and Hours.**

(a) It is hereby ordered that a General Election (the "General Election") be held in and throughout the City on Saturday, May 12, 2012, between the hours of 7:00 o'clock a.m. and 7:00 o'clock p.m. at which General Election all resident, qualified electors of the City shall be entitled to vote for Councilmembers Position No. 2 and Position No. 4 of the City Council.

(b) The General Election shall be held under the provisions of the Charter of the City, the Constitution and laws of the State of Texas and of this Resolution. All qualified voters residing in the City shall be allowed to vote at the Election; and each voter shall vote in the election precinct in which such voter resides.

#### **Section 2. Election Precincts; Polling Places; Election Officers.**

(a) The election precincts for the Election shall include the county election precincts and such precincts, the polling places are hereby established and shall be as described in **Exhibit "A"** hereto.

(b) The election officials for each City precinct shall be designated by the County Clerk of Brazoria County, Texas (the "Elections Administrator"); and such officials shall conduct the City's Election in accordance with a Joint Election Agreement and Contract for Election Services (the "Election Contract") between Brazoria County, Texas and the City. The Elections Administrator is hereby authorized and instructed to provide and furnish all necessary election supplies for all City precincts. The official mailing address

## **Resolution No. R2012-30**

for Elections Administrator, Joyce Hudman, County Clerk, 111 East Locust, Suite 200, Angleton, Texas 77515-4654. The physical address of the Elections Administrator is Brazoria County East Annex Building, 1524 E. Mulberry, Suite 145, Angleton, Texas 77515.

(c) In the event the Election Administrator shall find that one or more of the polling places listed on **Exhibit "A"** have become unavailable or unsuitable for use at the Elections or if any person or persons appointed herein do not appear or are unable to perform their duties, and is hereby authorized to designate substitute polling places and appoint substitute personnel, giving such notice as he deems appropriate.

**Section 3. Candidates in General Election.** Persons desiring to become candidates for Councilmembers Position No. 2 and Position No. 4 of the City Council in the General Election shall, not later than the March 5, 2012 at 5:00 p.m. file their written applications for candidacy for office with the City Secretary, Pearland City Hall, 3519 Liberty Drive, Pearland, Texas 77581, pursuant to the provisions of Chapter 143, Texas Election Code, as amended. Each candidate must specify in each instance the City Council Position for which the applicant is filing and no candidate may file for more than one City Council position to be filled at the General Election. Candidates must be a resident of the City and must be a qualified voter and otherwise qualified to hold the position of a member of the City Council under Texas law.

**Section 4. Ballots.** The City Secretary and the Election Administrator are hereby authorized and directed to prepare the ballots for the General Election in accordance with the provisions of the Texas Election Code. The ballots to be used in the General Election shall have printed thereon the names of the candidates for Councilmembers Position No. 2 and Position No. 4 of the City Council.

**Section 5. Voting.** Voting in the Election, including early voting by personal appearance shall be by an electronic voting system adopted by the City and the Commissioners Court of Brazoria County, Texas for use in elections held by the City and Brazoria County. Each voter in the General Election shall mark the ballot indicating such voter's choice of candidate for Councilmembers Position No. 2 and Position No. 4 of the City Council. Voting shall be conducted in accordance with the Texas Election Code.

**Section 6. Early Voting.** Early voting by personal appearance shall be conducted at the dates, times and polling places listed in **Exhibit "B"** to this Resolution.

The City Council hereby establishes Brazoria County Courthouse East Annex, 1524 E. Mulberry, Room 144, Angleton, Texas 77515 as the main early voting polling place at which early voting by personal appearance shall be conducted.

The Council hereby appoints the Elections Administrator as the early voting clerk. The Elections Administrator shall receive applications for a ballot to be voted by mail. The mailing address to which ballot applications and ballots voted by mail may be sent

## **Resolution No. R2012-30**

is as follows: Joyce Hudman, County Clerk, 111 East Locust, Suite 200, Angleton, Texas 77515-4654. Applications for ballots by mail may be received no earlier than March 10, 2009 and no later than 5:00 p.m. on May 1, 2009.

The Council hereby appoints the Counting Station Judge or Alternate as the presiding judge of the early voting ballot board to count and return early voting ballots in accordance with the Election Code. The presiding judge shall appoint election clerks as needed, and such judge and clerks shall constitute the early voting ballot board and shall perform the duties set forth for such board in the Texas Election Code.

**Section 7. Notice of Elections.** Notice of the Elections, in English and Spanish, stating in substance the contents of this Resolution, shall be: (i) published one time in a newspaper of general circulation within the City's territory not earlier than the thirtieth (30<sup>th</sup>) day or later than the tenth (10<sup>th</sup>) day before the Elections; (ii) posted on the bulletin board used by the Council to post notices of the Council's meetings no later than the twenty-first (21<sup>st</sup>) day before the date of the Elections; and (iii) posted, not later than the twenty-first (21<sup>st</sup>) day before the date of the Elections, in three (3) public places within the City and at City Hall.

**Section 8. Declaring Results.** City Council shall canvass the returns and declare the results of the Elections.

At the General Election, the candidate for each office who has received a majority of all votes cast for each particular office shall be declared elected. A runoff election shall be ordered by the Mayor of the City in the event any candidate fails to receive a majority of all votes cast for each particular office. The date for the runoff election shall be ordered and held in a timely manner as prescribed by the General Election laws of the State of Texas and the Charter of the City. The two candidates who receive the largest number of votes cast for each particular office requiring a runoff election shall again be voted for. The candidate receiving the largest number of votes in the runoff election shall be declared elected. The City Secretary shall give notice of such runoff election by causing said notice to be published in accordance with Texas Election Laws.

**Section 9. Notice of Meeting.** It is further found and determined that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this Resolution and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

**Resolution No. R2012-30**

**Section 10. Authority of the Mayor.** The Mayor shall have the authority to take, or cause to be taken, all actions reasonable and necessary to insure that the Elections are fairly held and returns properly counted and tabulated for the canvass of the Elections returns by the City Council in accordance with state law.

**Section 11. Effective Date.** This Resolution is effective immediately upon its passage and approval.

PASSED, APPROVED, ADOPTED and ORDERED this the \_\_\_ day of \_\_\_\_\_,  
A. D., 2012.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY

**EXHIBIT "A"**

**PRECINCTS AND POLLING PLACES**

<b>City of Pearland Precinct No.</b>	<b>Location</b>	<b>County Precincts voting at this location</b>
13	Bailey Road Facility 4717 Bailey Rd. Pearland	Brazoria County Precincts 13, 36 & 47
26	Lawhon Elem. School 5810 Brookside Rd. Pearland	Brazoria County Precincts 12 & 26
29	Westside Event Center 2150 Countryplace Pkwy. Pearland	Brazoria County Precinct 27, 29, 54, Harris County Precincts 630
44	Silverlake Recreation Center 2715 Southwyck Pkwy. Pearland	Brazoria County Precincts 44, 60, 62
46	Pearland Community Center 3523 Liberty Dr. Pearland	Brazoria County Precincts 28, 47, and Harris County Precincts 654 & 537
52	Fellowship Bible Church 1720 E Broadway Pearland	Brazoria County Precincts 51, 52, & 61
59	Shadow Creek Ranch Visitor Center 11711 Shadow Creek Pkwy. Pearland	Brazoria County Precincts 50, 59, and Harris County Precinct 131 & Ft. Bend County Precinct 1134

**Resolution No. R2012-30**

**EXHIBIT "B"  
EARLY VOTING POLLING PLACES**

**City of City of Pearland, Texas  
May 12, 2012 General Election**

**EARLY VOTING BY PERSONAL APPEARANCE LOCATIONS:**

East Pearland Branch Location:	Justice Of The Peace, Pct. 3, Pl. 2 Courtroom 2436 S. Grand Blvd. Pearland
West Pearland Branch Location:	Westside Event Center 2150 Countryplace Pkwy. Pearland
Angleton Main Location:	East Annex (Old Walmart Building) 1524 E. Mulberry, Room 144 Angleton
Alvin Branch Location:	Alvin Library 105 S. Gordon St. Alvin
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Manvel Branch Location:	Courthouse North Annex 7313 Corporate Dr. Manvel
Sweeny Branch Location:	Sweeny Community Center 205 W. Ashley Wilson Rd. Sweeny
West Columbia Branch Location:	West Columbia City Hall 512 E. Brazos West Columbia

**PERSONAL APPEARANCE TIMES AND DATES FOR ABOVE LOCATIONS:**

Monday, April 23 – Friday, May 4:	8:00 a.m. to 5:00 p.m.
Saturday, May 5:	7:00 a.m. to 7:00 p.m.
Monday, May 7 – Tuesday, May 8:	7:00 a.m. to 7:00 p.m.

**EARLY VOTING BY MAIL:**

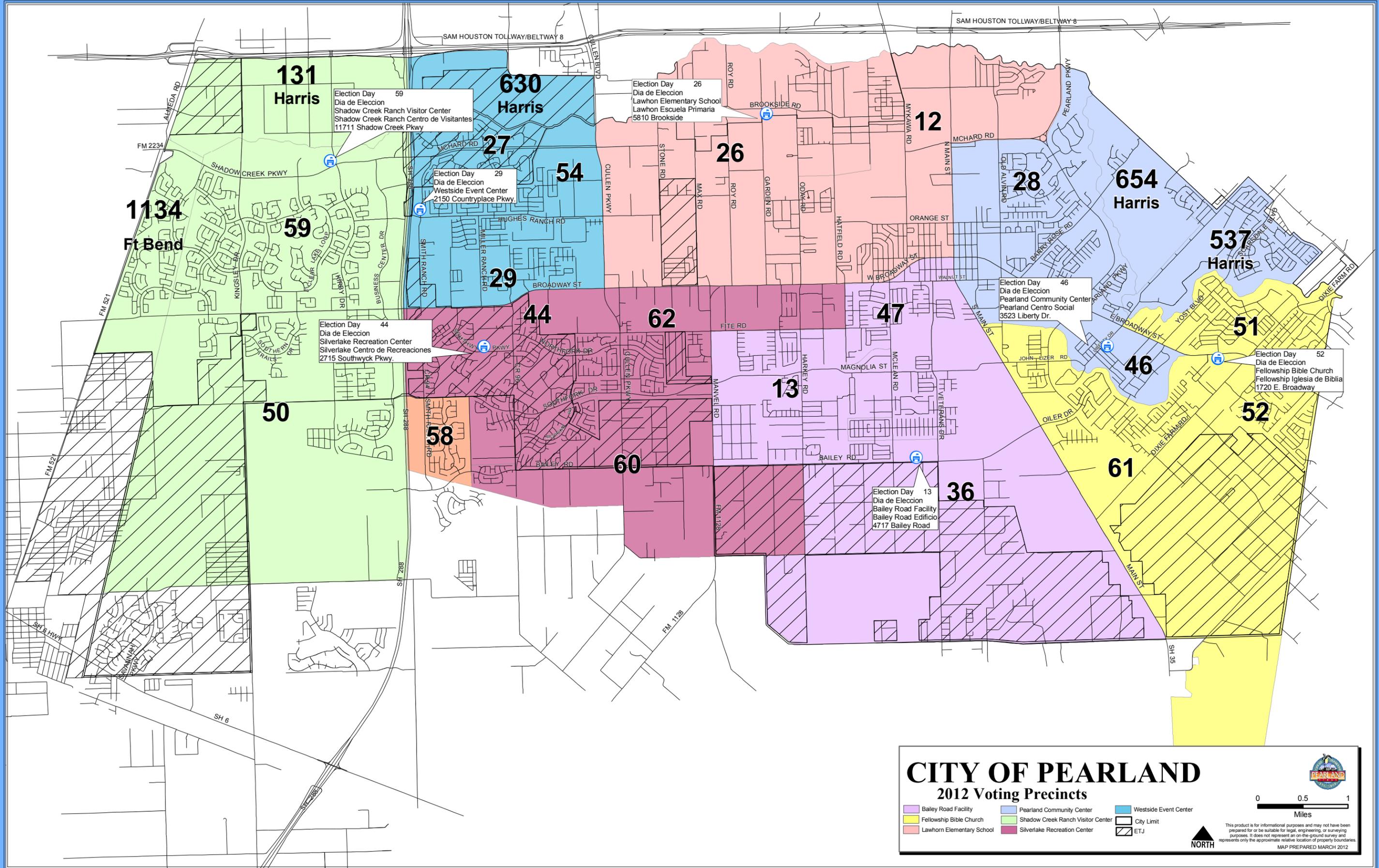
**Resolution No. R2012-30**

Applications for voting by mail should be mailed to be received no earlier than March 13, 2012 and no later than the close of business (5:00 p.m.) on May 4, 2012.

Applications should be mailed to:  
**JOYCE HUDMAN, COUNTY CLERK**  
**111 E. LOCUST, SUITE 200**  
**ANGLETON, TX 77515-4654**

**REASONS FOR BEING QUALIFIED TO VOTE BY MAIL ARE:**

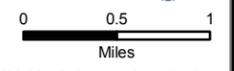
- 65 years of age or older;
- Disability;
- Confinement in jail;
- Absence from the county on Election Day and during the Early Voting period



# CITY OF PEARLAND

## 2012 Voting Precincts

- Bailey Road Facility
- Pearland Community Center
- Westside Event Center
- Fellowship Bible Church
- Shadow Creek Ranch Visitor Center
- City Limit
- Lawhon Elementary School
- Silverlake Recreation Center
- ETJ



**NORTH**

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

MAP PREPARED MARCH 2012

# New Business Item No. 2

2. **CONSIDERATION AND POSSIBLE ACTION – REGARDING RESOLUTION NO. R2012-15 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO ENTER INTO AN ELECTION SERVICES AGREEMENT WITH BRAZORIA COUNTY.**

*Mr. Bill Eisen, City Manager.*

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b>	March 5, 2012	<b>ITEM NO.:</b>	Resolution No. R2012-15
<b>DATE SUBMITTED:</b>	February 7, 2012	<b>DEPT. OF ORIGIN:</b>	City Secretary's Office
<b>PREPARED BY:</b>	Young Lorfing	<b>PRESENTOR:</b>	Bill Eisen, City Manager
<b>REVIEWED BY:</b>	Bill Eisen	<b>REVIEW DATE:</b>	2/8/12
<b>SUBJECT:</b> Contract for election services with Brazoria County for the May 12, 2012 General Election.			
<b>EXHIBITS:</b> Resolution R2012-15, Exhibit "A" Contract			
<b>FUNDING:</b>			
<input type="checkbox"/> Grant <input type="checkbox"/> Developer/Other <input checked="" type="checkbox"/> Cash <input type="checkbox"/> Bonds To Be Sold <input type="checkbox"/> Bonds- Sold <input type="checkbox"/> L/P – Sold <input type="checkbox"/> L/P – To Be Sold			
<b>EXPENDITURE REQUIRED:</b> \$13,000 (est.)		<b>AMOUNT BUDGETED:</b> \$13,000	
<b>AMOUNT AVAILABLE:</b> \$13,000		<b>PROJECT NO.:</b>	
<b>ACCOUNT NO.:</b> 010-1050-555.15-00			
<b>ADDITIONAL APPROPRIATION REQUIRED:</b>			
<b>ACCOUNT NO.:</b>			
<b>PROJECT NO.:</b>			
<b>To be completed by Department:</b>			
Finance	Legal	Ordinance	Resolution

**EXECUTIVE SUMMARY**

**BACKGROUND**

This contract is for election services for a General Election – for City Council Position Nos. 2 and 4. This contract is the same used in previous elections and approved by the Legal Department. The contract requires a \$1,000 deposit.

According to the Election Code Sec. 31-096, local entities have nontransferable functions. An election services contract may not change:

- (1) the authority with whom applications of candidates for a place on the ballot are filed;
- (2) the authority with whom documents are filed under Title 15; or

- (3) the authority to serve as custodian of voted ballots or other election records, except that a contract with a political subdivision other than a city may provide that the county election officer will be the custodian of voted ballots.

The Brazoria County Contract provides in Section XI the County Clerk is appointed general custodian of voted ballots and all records of the Election.

The other duties as required by the Election Code will be conducted by the City Secretary's Office.

The amount of the proposed cost of this election is an estimate. It may increase or decrease depending on the number of entities participating. The estimate is based on the entities holding a General Election.

**SCOPE OF CONTRACT**

Conduct Election Services for the May 12, 2012 General Election.

**BID AND AWARD**

N/A

**SCHEDULE**

**Early Voting: April 30 – May 8, 2012**

Election Day: May 12, 2012

**POLICY/GOAL CONSIDERATION**

Conduct the election within the scope of the law.

**CURRENT AND FUTURE FUNDING /FINANCIAL IMPACTS**

There is a possibility of having a Runoff Election in June 2012.

**O&M IMPACT INFORMATION**

Fiscal Year	2012	2013	2014
\$13,000 (estimate)	N/A	N/A	N/A

**RECOMMENDED ACTION**

Consider the Resolution and approve the contract to authorize Brazoria County to conduct the May 12, 2012 General Election.

**RESOLUTION NO. R2012-15**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO ENTER INTO AN ELECTION SERVICES AGREEMENT WITH BRAZORIA COUNTY.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section 1.** That certain election services agreement by and between the City of Pearland and Brazoria County, a copy of which is attached hereto as Exhibit "A" and made a part hereof for all purposes, is hereby authorized and approved.

**Section 2.** That the City Manager or his designee is hereby authorized to execute and the City Secretary to attest an election services agreement with Brazoria County.

PASSED, APPROVED and ADOPTED this the \_\_\_\_\_ day of \_\_\_\_\_,  
A.D., 2012.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY

## **JOINT ELECTION AGREEMENT AND CONTRACT FOR ELECTION SERVICES**

THIS CONTRACT by and between CITY OF PEARLAND, acting by and through the governing body of hereinafter referred to as "Political Subdivision", and Joyce Hudman, County Clerk of Brazoria County, Texas, hereinafter referred to as "County Clerk", and by authority of section 31.092(a), Texas Election Code, for the conduct and supervision of the Political Subdivisions election to be held on May 12, 2012 .

### *RECITALS*

Political Subdivision is holding a Municipal Election (at the expense of Political Subdivision) on May 12, 2012 .

The County owns an electronic voting system, the Hart InterCivic eSlate Voting System (Version 6.1), which has been duly approved by the Secretary of State pursuant to Texas Election Code Chapter 122 as amended, and is compliant with the accessibility requirements set forth by Texas Election Code Section 61.012. Political Subdivision desires to use the County's electronic voting system and to compensate the County for such use and to share in certain other expenses connected with joint elections in accordance with the applicable provisions of Chapters 31 and 271 of the Texas Election Code, as amended.

NOW THEREFORE, in consideration of the mutual covenants, agreements, and benefits to the parties, IT IS AGREED as follows:

### **I. ADMINISTRATION**

The parties agree to hold a "Joint Election" in accordance with Chapter 271 of the Texas Election Code and this agreement. The County Clerk of Brazoria County shall coordinate, supervise, and handle all aspects of administering the Joint Election as provided in this agreement. Political Subdivision agrees to pay Brazoria County for equipment, supplies, services, and administrative costs as provided in this agreement. The County Clerk shall serve as the administrator for the Joint Election; however, the Political Subdivision shall remain responsible for the decisions and actions of its officers necessary for the lawful conduct of its election. The County Clerk shall provide advisory services in connection with decisions to be made and actions to be taken by the officers of the Political Subdivision.

It is understood that other political subdivisions may wish to participate in the use of the County's electronic voting system and polling places, and it is agreed that Brazoria County and the County Clerk may enter into other joint election agreements and contracts for election services for those purposes on terms and conditions generally similar to those set forth in this contract. Political Subdivision agrees that Brazoria County may enter into joint election agreements with other political subdivisions that may have territory located partially or wholly within the boundaries of Political Subdivision, and in such case all parties sharing common territory shall share a joint ballot

on the county's electronic voting system at the applicable polling places. In such cases, costs shall be divided among the participants.

At each polling location, joint participants shall share voting equipment and supplies to the extent possible. The participating parties shall share a mutual ballot in those precincts where jurisdictions overlap. However, in no instance shall a voter be permitted to receive a ballot containing an office or proposition stating a measure on which the voter is ineligible to vote. Multiple ballot styles shall be available in those shared polling places where jurisdictions do not overlap.

## II. LEGAL DOCUMENTS

Political Subdivision shall be responsible for the preparation, adoption, and publication of all required election orders, resolutions, notices, and any other pertinent documents required by the Texas Election Code and/or Political Subdivision's governing body, charter, or ordinances. With reference to publications, the "County Clerk" will publish the "Notice of Tabulation Testing", but the "Political Subdivision" will publish the "Notice of Election."

Preparation of the necessary materials for notices and the official ballot shall be the responsibility of each participating authority, including translation to languages other than English. Each participating authority shall provide a copy of their respective election orders and notices to the County Clerk Elections Office. The County Clerk's Election Office, with the assistance of the Civil District Attorney's Office, shall prepare a submission to the United States Department of Justice for preclearance of the joint election procedures and polling places, pursuant to the Voting Rights Act of 1965, as amended. This submission to the Department of Justice shall be made on behalf of all political subdivisions participating in joint elections on May 12, 2012. Each Political Subdivision shall provide necessary documentation for preclearance.

## III. VOTING LOCATIONS

The County Clerk's Election Office shall select and arrange for the use of and payment for all election day voting locations. Voting locations will be, whenever possible, the usual voting location for each election precinct in elections conducted by the county. The proposed voting locations are listed in Attachment A of this agreement. In the event a voting location is not available, the Elections Department will arrange for use of an alternate location with the approval of the Political Subdivision. The Elections Department shall notify the Political Subdivision of any changes from the locations listed in Attachment A.

If polling places for the May 12, 2012 joint election are different from the polling place(s) used by Political Subdivision in its most recent election, Political Subdivision agrees to post a notice no later than May 11, 2012 at the entrance to any previous polling places in the jurisdiction stating that the polling location has changed and stating the political subdivision's polling place names and addresses in effect for the May 12, 2012 election. Any changes in voting location from those that were used in the May 14, 2011 elections will be posted by the County Clerk's Election Office.

#### IV. ELECTION JUDGES, CLERKS, AND OTHER ELECTION PERSONNEL

Brazoria County shall be responsible for the appointment of the presiding judge and alternate judge for each polling location in accordance with Chapter 32 of the Texas Election Code. The County Clerk shall make emergency appointments of election officials if necessary. Upon request by the County Clerk, Political Subdivision agrees to assist in recruiting polling place officials who are bilingual (fluent in both English and Spanish).

The Elections Department shall notify all election judges of the eligibility requirements of Subchapter C of Chapter 32 of the Texas Election Code, and will take the necessary steps to insure that all election judges appointed for the Joint Election are eligible to serve.

The County Clerk shall arrange for the training and compensation of all election judges and clerks. The Elections Department shall arrange for the date, time, and place for presiding election judges to pick up their election supplies. Each presiding election judge will be sent a letter from the Elections Department notifying him of his appointment, the time and location of training and distribution of election supplies, and the number of election clerks that the presiding judge may appoint.

Each election judge will receive compensation at an hourly rate of \$12.00. Each election clerk will receive compensation at an hourly rate of \$10.00. The election judge will receive an additional sum of \$25.00 for picking up the election supplies prior to election day and for returning the supplies and equipment to the central counting station after the polls close. All judges and clerks will receive \$30.00 for attending training.

It is agreed by all parties that at all times and for all purposes hereunder, all election judges, clerks, and all other personnel involved in this election are independent contractors and are not employees or agents of the County or Political Subdivision. No statement contained in this Agreement shall be construed so as to find any judge, clerk, or any other election personnel an employee or agent of the County or Political Subdivision, and no election personnel shall be entitled to the rights, privileges, or benefits of County or Political Subdivision employees except as otherwise stated herein, nor shall any election personnel hold himself out as an employee or agent of the County or Political Subdivision, unless considered a county employee as determined by the Brazoria County Human Resources Department.

#### V. PREPARATION OF SUPPLIES AND VOTING EQUIPMENT

The Elections Department shall arrange for all election supplies and voting equipment including, but not limited to official ballots, sample ballots, voter registration lists, and all forms, signs and other materials used by the election judges at the voting locations. At each polling location, joint participants shall share voting equipment and supplies to the extent possible. The participating parties shall share a mutual ballot in those precincts where jurisdictions overlap. However, in no instance shall a voter be permitted to receive a ballot containing an office or proposition stating a measure on which the voter is ineligible to vote. Multiple ballot styles shall be available in those shared polling places where jurisdictions do not overlap. The Elections Department shall provide the necessary voter registration information, instructions, and other information needed to enable the election judges in the voting locations that have more than one ballot style to conduct a proper election. If special maps are needed for a particular Political

Subdivision, the Election Department will order the maps and pass that charge on to that particular Political Subdivision.

Political Subdivision shall furnish the County Clerk a list of candidates and/or propositions showing the order and the exact manner in which the candidate names and/or proposition(s) are to appear on the official ballot (including titles and text in each language in which the authority's ballot is to be printed). This list shall be delivered to the Elections Department as soon as possible after ballot positions have been determined by each of the participating authorities. Each participating authority shall be responsible for proofreading and approving the ballot insofar as it pertains to that authority's candidates and/or propositions.

## VI. EARLY VOTING

The participating authorities agree to conduct joint early voting and to appoint the County Clerk as the Early Voting Clerk in accordance with Sections 31.097 and 271.006 of the Texas Election Code. Political Subdivision agrees to appoint the County Clerk's permanent county employees as deputy early voting clerks. The participating authorities further agree that each Early Voting Location will have an "Officer in Charge" that will receive compensation at an hourly rate of \$10.00. The clerks at each location will receive compensation at an hourly rate of \$10.00. Early Voting by personal appearance will be held at the locations, dates, and times listed in Attachment "B" of this document. Any qualified voter of the Joint Election may vote early by personal appearance at any one of the joint early voting locations.

As Early Voting Clerk, the County Clerk shall receive applications for early voting ballots to be voted by mail in accordance with Chapters 31 and 86 of the Texas Election Code. Any requests for early voting ballots to be voted by mail received by the Political Subdivision shall be forwarded immediately by fax or courier to the Elections Department for processing.

The Elections Department shall, upon request, provide the Political Subdivision a copy of the early voting report on a daily basis and a cumulative final early voting report following the election.

## VII. EARLY VOTING BALLOT BOARD

Brazoria County shall appoint an Early Voting Ballot Board (EVBB) to process early voting results from the Joint Election. The Presiding Judge, with the assistance of the Elections Department, shall appoint two or more additional members to constitute the EVBB. The Elections Department shall determine the number of EVBB members required to efficiently process the early voting ballots.

## VIII. CENTRAL COUNTING STATION AND ELECTION RETURNS

The County Clerk shall be responsible for establishing and operating the central counting station to receive and tabulate the voted ballots in accordance with the provisions of the Texas Election Code and of this agreement.

The participating authorities hereby, in accordance with Section 127.002, 127.003, and 127.005 of the Texas Election Code, appoint the following central counting station officials:

Counting Station Manager:	Janice Evans
Alternate Counting Station Manager:	Brandy Pena
Tabulation Supervisor:	Susan Cloudt
Alternate Tabulation Supervisor:	Brandy Pena
Presiding Judge:	Bonnie Farrer
Alternate Presiding Judge:	Dottie Cornett

The Elections Department will prepare the unofficial canvass reports after all precincts have been counted, and will deliver a copy of the unofficial canvass to the Political Subdivision as soon as possible after all returns have been tabulated. All participating authorities shall be responsible for the official canvass of their respective elections.

The Elections Department shall be responsible for conducting the post-election manual recount required by Section 127.201 of the Texas Election Code unless a waiver is granted by the Secretary of State. Notification and copies of the recount, if waiver is denied, will be provided to each participating authority and the Secretary of State's Office.

The Elections Department shall submit all Political Subdivision's precinct by precinct returns to the Texas Secretary of State's Office electronically.

The Elections Department shall post all election night results to our website on election night. [http://www. Brazoriacountyvotes.com](http://www.Brazoriacountyvotes.com).

#### IX. ELECTION EXPENSES AND ALLOCATION OF COSTS

The participating authorities agree to share the costs of administering the Joint Election. Allocation of costs, unless specifically stated otherwise, is mutually agreed to be shared according to a formula which is based on the cost per polling place. Costs for polling places shared by County, Political Subdivision, and other political subdivisions shall be divided equally among the participants utilizing that polling place.

It is agreed that the normal rental rate charged for the County's voting equipment used on election day shall be divided equally among the participants utilizing each polling location.

Costs for Early Voting by Personal Appearance will be divided by all Political Subdivisions as follows: Total cost of all 10 locations will be divided by all Political Subdivisions holding elections on May 12, 2012. Cost will be based on registered voters.

#### X. WITHDRAWAL FROM CONTRACT DUE TO CANCELLATION OF ELECTION

Political Subdivision may withdraw from this agreement and the Joint Election should it cancel its election in accordance with Sections 2.051 - 2.053 of the Texas Election Code, or should it be later ruled that the election is not needed. Political Subdivision is fully liable for any expenses incurred by Brazoria County on behalf of Political Subdivision. Any monies deposited with the county by the withdrawing authority shall be refunded, minus the aforementioned expenses.

## XI. RECORDS OF THE ELECTION

The County Clerk is hereby appointed general custodian of the voted ballots and all records of the Joint Election as authorized by Section 271.010 of the Texas Election Code.

Access to the election records shall be available to each participating authority as well as to the public in accordance with applicable provisions of the Texas Election Code and the Texas Public Information Act. The election records shall be stored at the offices of the County Clerk or at an alternate facility used for storage of county records. The Elections Department shall ensure that the records are maintained in an orderly manner so that the records are clearly identifiable and retrievable.

Records of the election shall be retained and disposed of in accordance with the provisions of Section 66.058 of the Texas Election Code. If records of the election are involved in any pending election contest, investigation, litigation, or open records request, the County Clerk shall maintain the records until final resolution or until final judgment, whichever is applicable. It is the responsibility of each participating authority to bring to the attention of the County Clerk any notice of pending election contest, investigation, litigation or open records request which may be filed with the participating authority.

## XII. RECOUNTS

A recount may be obtained as provided by Title 13 of the Texas Election Code. Political Subdivision agrees that any recount shall take place at the offices of the County Clerk, and that the County Clerk shall serve as Recount Supervisor and the Political Subdivision's official or employee who performs the duties of a secretary under the Texas Election Code shall serve as Recount Coordinator.

The Elections Department agrees to provide advisory services to the District as necessary to conduct a proper recount and cost of the recount depends on the size of the election and number of precincts to be recounted.

## XIII. MISCELLANEOUS PROVISIONS

1. It is understood that to the extent space is available, that other districts and political subdivisions may wish to participate in the use of the County's election equipment and voting places, and it is agreed that the County Clerk may contract with such other districts or political subdivisions for such purposes and that in such event there may be an adjustment of the pro-rata share to be paid to the County by the participating authorities.

2. The County clerk shall file copies of this document with the Brazoria County Treasurer and the Brazoria County Auditor in accordance with Section 31.099 of the Texas Election Code.

3. In the event that legal action is filed contesting Political Subdivision's election under Title 14 of the Texas Election Code, Political Subdivision shall choose and provide, at its own expense, legal counsel for the County, the County Clerk, and additional election personnel as necessary.

4. Nothing in this contract prevents any party from taking appropriate legal action against any other party and/or other election personnel for a breach of this contract or a violation of the Texas Election Code.

5. The parties agree that under the Constitution and laws of the State of Texas, neither Brazoria County nor Political Subdivision can enter into an agreement whereby either party agrees to indemnify or hold harmless another party; therefore, all references of any kind, if any, to indemnifying or holding or saving harmless for any reason are hereby deleted.

6. This agreement shall be construed under and in accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Brazoria County, Texas.

7. In the event of one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

8. All parties shall comply with all applicable laws, ordinances, and codes of the State of Texas, all local governments, and any other entities with local jurisdiction.

9. The waiver by any party of a breach of any provision of this agreement shall not operate as or be construed as a waiver of any subsequent breach.

10. Any amendments of this agreement shall be of no effect unless in writing and signed by all parties hereto.

#### XIV. COST ESTIMATES AND DEPOSIT OF FUNDS

It is estimated that Political Subdivision's obligation under the terms of this agreement shall be DETERMINED AFTER THE ELECTION. Political Subdivision agrees to pay to Brazoria County a deposit of \$1,000.00. This deposit shall be paid to Brazoria County within 10 days after the final candidate filing deadline. The final candidate filing deadline is March 5, 2012. Therefore, deposit is due by March 16, 2012. The exact amount of the Political Subdivision's obligation under the terms of this agreement shall be calculated after the May 12, 2012 election and if the amount of the Political Subdivision's obligation exceeds the amount deposited, the Political Subdivision shall pay to Brazoria County the balance due within thirty (30) days after receipt of the final invoice from the County Clerk's Election Department. However, if the amount of the Political Subdivision's obligation is less than the amount deposited, Brazoria County shall refund to the Political Subdivision the excess amount paid within thirty (30) days after final costs are calculated.

IN TESTIMONY HEREOF, this agreement, its multiple originals all of equal force, has been executed on behalf of the parties hereto as follows, to-wit:

(1) It has on the \_\_\_\_\_ day of \_\_\_\_\_, 2012 been executed on behalf of Brazoria County by the County Judge or the County Clerk pursuant to the Texas Election Code so authorizing;

(2) It has on the \_\_\_\_\_ day of \_\_\_\_\_, 2012 been executed on behalf of the Political Subdivision by its Presiding Officer or authorized representative, pursuant to an action of the Political Subdivision so authorizing;

BRAZORIA COUNTY

By \_\_\_\_\_  
Joyce Hudman, County Clerk

ATTEST:

POLITICAL SUBDIVISION

\_\_\_\_\_ By \_\_\_\_\_  
Presiding Officer or Authorized Representative  
CITY OF PEARLAND

# New Business Item No. 3

3. **SECTION 551.074 – PERSONNEL MATTERS – REGARDING APPOINTMENTS TO THE CITY'S VARIOUS BOARDS AND COMMISSIONS. *Mayor Tom Reid.***