

NOTICE OF ELECTION

The State Of Texas	§
	§
County Of Hutchinson	§
	§
City Of Borger	§

To The Resident, Qualified Voters Of The
City Of Borger

Take notice that an election will be held in the City of Borger, Texas on November 3, 2020, concerning authorizing the City of Borger, Texas to provide for the planning, acquisition, establishment, development, construction, financing, and renovation of a Venue Project of the type defined in Chapter 334, as amended, Texas Local Government Code (the *Act*) and described generally as an arena, coliseum, stadium, or other type of arena or facility, including any related infrastructure (i) that is used or is planned for use for one or more professional or amateur sports events, community events, or other sports events, including promotional events, and other civic or charitable events; and (ii) for which a fee for admission to the events is charged or is planned to be charged; and (b) to authorize the following taxes to pay the costs of the Venue Project and to secure the payment of revenue bonds of the City issued to pay the costs of the Venue Project: (1) the imposition of an additional hotel occupancy tax at a rate not to exceed two percent (2%) as and to the extent authorized by Subchapter H of the Act; (2) the imposition of a new admission tax at a rate not to exceed ten percent (10%) of the price of the tickets sold as admission to an event at the City's Venue Project as and to the extent authorized by Subchapter F of the Act; and (3) the use of an amount not to exceed three percent (3%) of the revenue derived from the City's property tax, in addition to the hotel occupancy tax and any other applicable taxes as and to the extent authorized by Section 334.0241 of the Act, all in obedience to an ordinance duly entered by the City Council of the City of Borger, Texas on August 4, 2020, which ordinance reads substantially as follows:

ORDINANCE NO. O-006-20

AN AMENDED AND RESTATED ORDINANCE BY THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS CALLING A VENUE PROJECT ELECTION IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 334, AS AMENDED, TEXAS LOCAL GOVERNMENT CODE AND OTHER APPLICABLE LAW; MAKING PROVISION FOR THE CONDUCT OF A JOINT ELECTION; RESOLVING OTHER MATTERS INCIDENT AND RELATED TO SUCH ELECTION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council (the *Council*) of the City of Borger, Texas (the *City*), located in Hutchinson County (the *County*), hereby finds and determines that an election should be held to determine whether the Council shall be authorized to establish a Venue Project (as defined hereinafter) in accordance with the provisions of Chapter 334, as amended, Texas Local Government Code (the *Act*) and other applicable law and for the purposes hereinafter identified; and

WHEREAS, the Council previously called an election for the Venue Project to be held on May 2, 2020 through Ordinance No. O-001-20 dated February 4, 2020 (the *Prior Ordinance*); and

WHEREAS, due to the novel coronavirus (COVID-19) and the Proclamation issued by the Governor of the State of Texas allowing political subdivisions of the State that would otherwise hold elections on May 2, 2020, to postpone general and special elections to the next uniform election date, November 3, 2020, the Council postponed the May 2, 2020 election through Ordinance O-005-20 dated April 2, 2020; and

WHEREAS, the Council has previously adopted Resolution R-002-20 on January 7, 2020 (the *Comptroller's Resolution*) to provide for the planning, acquisition, establishment, development, construction, renovation, and financing of a Venue Project, specifically being an arena, coliseum, stadium, or other type of area or facility including any related infrastructure (i) that is used or is planned for use for one or more professional or amateur sports events, community events, or other sports events, including promotional events and other civic or charitable events; and (ii) for which a fee for admission to the events is charged or is planned to be charged (the *City's Venue Project*); and

WHEREAS, the Council has followed the procedures prescribed by the Act to obtain, and has in fact obtained, the determination from the Comptroller of Public Accounts of the State of Texas that the implementation of the Comptroller's Resolution will not have a significant negative fiscal impact on revenues of the State of Texas (the *State*); and

WHEREAS, the Council desires to present the qualified voters of the City, voting at an election hereby called and held in accordance with applicable law (the *Election*), to consider

approval and implementation of the Comptroller's Resolution and designating the method of financing the City's Venue Project and payment of the costs of maintenance and operation thereof; and

WHEREAS, the Council, in the Comptroller's Resolution, found and determined that the City's Venue Project is not to, and will not, be used primarily for community, civil, and charitable events that are attended only by residents of the community; and

WHEREAS, the Comptroller's Resolution designated the following method of financing for the City's Venue Project: (1) the imposition of an additional hotel occupancy tax at a rate not to exceed two percent (2%) as and to the extent authorized by Subchapter H of the Act; (2) the imposition of an admission tax at a rate not to exceed ten percent (10%) of the price of the tickets sold as admission to an event at the City's Venue Project as and to the extent authorized by Subchapter F of the Act; and (3) the use of an amount not to exceed three percent (3%) of the revenue derived from the City's property tax, in addition to the hotel occupancy tax and any other applicable taxes as and to the extent authorized by Section 334.0241 of the Act; and

WHEREAS, the Council hereby finds, determines, and declares for all constitutional and statutory purposes that the City's Venue Project will be owned, used and held for public purposes by the City, and the City hereby adopts as applicable to and confirms the application of the provisions of Section 334.044 of the Act with respect to the City's Venue Project; and

WHEREAS, the City will contract with the Elections Administrator (the *Administrator*) of the County to conduct all aspects of the Election; and

WHEREAS, the Election will be held jointly with other political subdivisions (such other political subdivisions, collectively, the *Participants*) for whom the County is also conducting their elections, as provided pursuant to the provisions of one or more joint election agreements or contracts among the City, the County, and the Participants, entered into in accordance with the provisions of Section 271.002, as amended, Texas Election Code, or other applicable law, pursuant to which the County will conduct all aspects of the Election on the City's behalf; and

WHEREAS, the Council hereby finds and determines that this action is in the best interests of the residents of the City; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BORGER, TEXAS THAT:

SECTION 1. This Ordinance hereby amends and restates the Prior Ordinance in its entirety.

SECTION 2. The Election shall be held on the 3rd day of November, 2020 (*Election Day*), a uniform election date, in the City of Borger, Texas, which date is seventy-eight (78) or more days from the date of the adoption of this Ordinance for the purpose of submitting the following measures to the qualified voters of the City:

MEASURE A

“Shall the City Council of Borger, Texas be authorized (a) to provide for the planning, acquisition, establishment, development, construction, financing, and renovation of a Venue Project of the type defined in Chapter 334, as amended, Texas Local Government Code (the *Act*) and described generally as an arena, coliseum, stadium, or other type of arena or facility, including any related infrastructure (i) that is used or is planned for use for one or more professional or amateur sports events, community events, or other sports events, including promotional events, and other civic or charitable events; and (ii) for which a fee for admission to the events is charged or is planned to be charged; and (b) to authorize the following taxes to pay the costs of the Venue Project and to secure the payment of revenue bonds of the City issued to pay the costs of the Venue Project: (1) the imposition of an additional hotel occupancy tax at a rate not to exceed two percent (2%) as and to the extent authorized by Subchapter H of the Act; (2) the imposition of a new admission tax at a rate not to exceed ten percent (10%) of the price of the tickets sold as admission to an event at the City’s Venue Project as and to the extent authorized by Subchapter F of the Act; and (3) the use of an amount not to exceed three percent (3%) of the revenue derived from the City’s property tax, in addition to the hotel occupancy tax and any other applicable taxes as and to the extent authorized by Section 334.0241 of the Act; the proceeds of the foregoing taxes to be deposited into a venue project fund created under, and to be used for any purposes authorized by the Act and also approving and authorizing the implementation of the Comptroller’s Resolution adopted by the City Council on January 7, 2020?”

SECTION 3. One or more City election precincts are hereby established for the purpose of holding the Election, and one or more polling places are hereby designated for holding the Election in the City election precincts as identified in Exhibit A to this Ordinance (which is incorporated herein by reference for all purposes). At least 79 days prior to Election Day, or as soon thereafter as is reasonably practicable, the City, acting through the Mayor, the City Manager, the City Secretary, or the designees thereof, in coordination with the Administrator, or the designee thereof, as necessary or desirable, will identify and formally approve the appointment of the Presiding Judges, Alternate Presiding Judges, Election Clerks, and all other election officials for the Election, together with any other necessary changes to election practices and procedures and can correct, modify, or change the Exhibits to this Ordinance based upon the final locations and times agreed upon by the Administrator, the City, and the Participants to the extent permitted by applicable law.

A. The Presiding Judge shall appoint not less than two resident qualified voters of the County to act as clerks in order to properly conduct the Election. To the extent required by the Texas Election Code or other applicable law, the appointment of these clerks must include a person fluent in the Spanish language to serve as a clerk to render oral aid in the Spanish language to any voter desiring such aid at the polls on Election Day. If the Presiding Judge appointed actually serves, the Alternate Presiding Judge shall serve as one of the clerks. In the absence of the Presiding Judge, the Alternate Presiding Judge shall perform the duties of the Presiding Judge of the election precinct.

B. On Election Day, the polls shall be open as designated on Exhibit A.

C. The early voting locations, dates, and hours are designated in Exhibit B to this Ordinance (which is hereby incorporated herein by reference for all purposes). The individual named as the Early Voting Clerk as designated in Exhibit B is hereby appointed as the Early Voting Clerk to conduct such early voting in the Election. The Early Voting Clerk shall appoint the Deputy Early Voting Clerks.

An Early Voting Ballot Board is hereby established for the purpose of processing early voting results. The individual designated in Exhibit B as the Presiding Judge of the Early Voting Ballot Board is hereby appointed the Presiding Judge of the Early Voting Ballot Board. The Presiding Judge shall appoint not less than two resident qualified voters of the City to serve as members of the Early Voting Ballot Board.

SECTION 4. Electronic voting machines may be used in conducting the Election; provided, however, in the event the use of such electronic voting machines is not practicable, the Election may be conducted by the use of paper ballots (except as otherwise provided in this section). Pursuant to Section 61.012, as amended, Texas Election Code, the City shall provide at least one accessible voting system in each polling place used in the Election. Certain early voting may be conducted by mail.

SECTION 5. The City is authorized to utilize a Central Counting Station (the *Station*) as provided by Section 127.001, et seq., Texas Election Code, as amended. The Administrator, or the designee thereof, is hereby appointed as the Manager and Presiding Judge of the Station and may appoint Station clerks and establish a written plan for the orderly operation of the Station in accordance with the provisions of the Texas Election Code, as amended. The Council hereby appoints the Administrator, or the designee thereof, as the Tabulation Supervisor and the Administrator, or the designee thereof, as the Programmer for the Station. Lastly, the Administrator will publish notice and conduct testing on the automatic tabulation equipment relating to the Station and conduct instruction for the officials and clerks for the Station in accordance with the provisions of the Texas Election Code, as amended.

SECTION 6. The official ballots shall be prepared in accordance with the Election Code, as amended, so as to permit qualified voters to vote “FOR” or “AGAINST” the aforesaid measure which shall appear on the ballot substantially as follows:

PROPOSITION A

“Authorizing the City of Borger, Texas to plan, acquire, establish, develop, construct, renovate, and finance a Venue Project in accordance with Chapter 334, as amended, Texas Local Government Code, and to impose a hotel occupancy tax at a rate not to exceed two percent (2%) in the City of Borger, Texas, to impose an admission tax at a rate not to exceed ten percent (10%) of the price of the tickets sold as admission to an event at the City’s Venue Project, and authorize the use of an amount not to exceed three percent (3%) of the revenue derived from the City’s property tax for the purpose of financing the Venue Project. If

approved, the maximum hotel occupancy tax rate imposed from all sources in the City of Borger would be 9% of the price paid for a room in a hotel.”

SECTION 7. All resident qualified voters of the City shall be permitted to vote at the Election, and on Election Day, such voters shall vote at the designated polling places. The Election shall be held and conducted in accordance with the provisions of the Texas Election Code, as amended, the applicable provisions of the Act, and as may be required by any other law. To the extent required by law, all materials and proceedings relating to the Election shall be printed in both English and Spanish.

SECTION 8. Notice of election, including a Spanish translation thereof, shall be posted at least 25 days prior to Election Day (i) at the normal posting location for meetings of the City Council, and (ii) in a prominent location on the City’s internet website. In addition, notice of election, including a Spanish translation thereof, shall be published in a newspaper of general circulation in the City not more than 30 days, and not less than 10 full days prior to Election Day. Any omission or irregularity in the publication or posting of this proclamation, call, and ordinance, or in the signing of the same, shall not in any way affect or invalidate the special election.

SECTION 9. The Council authorizes the Mayor, the City Manager, or their respective designee, to negotiate and enter into one or more joint election agreements and/or similar contracts or agreements with the County, acting by and through the Administrator, and any Participants if desired or required to comply with applicable law, as permitted and in accordance with the provisions of the Texas Election Code, as amended. In addition, the City authorizes the Mayor, the City Manager, or their respective designee of either of such parties to make such technical modifications to this Ordinance that are necessary for compliance with applicable Texas or federal law or to carry out the intent of the Council, as evidenced herein. To the extent that any duty or obligation of the City, in general, or any City official, in particular, is properly delegated to the County pursuant to a joint election agreement, then the County’s carrying out those duties and obligations on the City’s behalf pursuant to the terms of such joint election agreement shall be binding upon the City and are hereby determined by the Council to be evidence of the City’s compliance with the provisions of applicable Texas law concerning the Election relative to the same. By incorporating all essential terms necessary for a joint election agreement, this Ordinance is intended to satisfy Section 271.002(d) of the Texas Election Code, as amended, without further action of the City Council.

SECTION 10. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

SECTION 11. All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters ordained herein.

SECTION 12. This Ordinance shall be construed and enforced in accordance with the laws of the State and the United States of America.

SECTION 13. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION 14. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and this Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 15. Pursuant to the provisions of Section 1201.028, as amended, Texas Government Code, this Ordinance shall be effective immediately upon adoption.

[The remainder of this page intentionally left blank.]

PASSED, APPROVED, AND ADOPTED, on this the 4th day of August, 2020, at a regular meeting of the City Council of the City of Borger, Texas, which meeting was held in compliance with the Open Meetings Act, Tex Gov't Code, §551.001, et. seq. at which meeting a quorum was present and voting.

CITY OF BORGER, TEXAS

Karen Felker, Acting Mayor

ATTEST:

Stella Sauls, City Secretary

(CITY SEAL)

APPROVED AS TO FORM:

/s/Angelique S. Weaver
Angelique S. Weaver, City Attorney

[Signature page to the City of Borger Election Ordinance]

EXHIBIT A

ELECTION DAY PRECINCTS AND POLLING PLACES

Election Day: Tuesday, November 3, 2020

Election Day Polling Locations open from 7:00 a.m. to 7:00 p.m.

Presiding and Alternate Judge(s): see below.

<i>County Precinct Number</i>	<i>Judges</i>	<i>Polling Place Address</i>
11	Joan Carder	Faith Covenant Church 1501 S. Florida St. Borger, TX 79007
14	Reece Watson	Fairlanes Baptist Church 3000 Fairlanes Blvd. Borger, TX 79007
21	Valois Bell	SF ISD Administration 540 Eagle Blvd. Fritch, TX 79036
<i>County Precinct Number</i>	<i>Judges</i>	<i>Polling Place Address</i>
23	Mike Webb	St. Andrews Methodist Church 100 Amaryllis Borger, TX 79007
31	Sharon Earls	WTHS Common Rooms 600 Steward Avenue Stinnett, TX 79083
33	Connie Tindall	Service Drilling SW Center 901 S. Opal Borger, TX 79007
41	Jennifer Winegeart	Holt Community Building 1191 Co. Road 22 Spearman, TX 79081
42	Polly Gillingham	Borger ISD Administration 200 E. 9 th St. Borger, TX 79007

EXHIBIT B

EARLY VOTING

Early voting begins Tuesday, October 13, 2020 and ends on Friday, October 30, 2020.
Early Voting Clerk: Jan Barnes, Hutchinson County Clerk, 515 S. Main Street, Suite 211,
Stinnett, Texas 79083.

Presiding Judge of the Early Voting Ballot Board: Joan Carder, Valois Bell, and Connie Tindall.

Those entitled to vote an early ballot by personal appearance may do so at any Early Voting Site.

Main	Hutchinson County Courthouse 500 Main St. Stinnett, TX 79083	October 13-16, 2020 (Tuesday-Friday) October 19-20, 2020 (Monday-Tuesday) October 21-23, 2020 (Wednesday-Friday) October 26-30, 2020 (Monday-Friday)	8:00 am to 6:00 pm 7:00 am to 7:00 pm 8:00 am to 6:00 pm 8:00 am to 6:00 pm
Branch	Hutchinson County Annex 1400 Veta Room 211 Borger, TX 79007	October 13-16, 2020 (Tuesday-Friday) October 19-23, 2020 (Monday-Friday) October 26-30, 2020 (Monday-Friday)	8:00 am to 6:00 pm 8:00 am to 6:00 pm 8:00 am to 6:00 pm
Branch	Fritch Library Community Room 205 N. Cornell Fritch, TX 79036	October 13-16, 2020 (Tuesday-Friday) October 19-23, 2020 (Monday-Friday) October 26-30, 2020 (Monday-Friday)	8:00 am to 6:00 pm 8:00 am to 6:00 pm 8:00 am to 6:00 pm

Early Voting by Mail

Applications for voting by mail should be received no later than the close of business (5:00 p.m.) on Friday, October 23, 2020. Applications should be sent to:

Jan Barnes
Hutchinson County Clerk
515 S. Main Street, Suite 211
Stinnett, Texas 79083
Fax: (806) 878-4002
Email: co.clerk@hutchinsoncnty.com

If an application for ballot by mail is faxed or emailed (or if a federal postcard application is faxed), the applicant must also mail the original application so that the early voting clerk receives the original no later than four days after receiving the emailed or faxed copy.