INTERLOCAL COOPERATION AGREEMENT REGARDING
OFFICIAL BALLOT DROP BOXES

This INTERLOCAL COOPERATION AGREEMENT (the "Agreement") is between Washington County, Utah ("the County") and _____ City ("the City", "the Town" or "Municipality") located within the geographic boundary of the County (collectively, "the Parties").

RECITALS

WHEREAS, under the Utah Election Code (Utah Code Ann. § 20A-1-101 et seq.) the Washington County Clerk-Auditor is charged with many duties pertaining to conducting fair elections in Washington County;

WHEREAS, municipalities within Washington County are responsible for conducting municipal elections within their own jurisdictions;

WHEREAS, new state law requires that one Official Ballot Drop Box be located in each municipality, as defined in Utah Code Annotated 20A-1-101(44), in the jurisdiction to which an election relates;

WHEREAS, due to the duties and responsibilities assigned to municipalities and the County, the Parties regularly cooperate to conduct safe and secure elections within the Municipality and County;

WHEREAS, the County adopted a vote by mail system for elections beginning in 2018 and has been implementing safe and secure practices for such elections, including the safety and security of ballot drop boxes and mail in ballots;

WHEREAS, under the Utah Code, local political subdivisions may enter into interlocal agreements for services related to elections;

WHEREAS, the County and the Municipality acknowledge the mutual benefit and efficiency of cooperating to locate and secure an Official Ballot Drop Box in the Municipality as required by state law, and for delivery of the Official Ballot Drop Box to the County Clerk for the purpose of opening and counting Official Ballots;

WHEREAS, the Municipality and the County are cooperating to administer new state rules about the location, monitoring, use, and delivery of the Official Ballot Drop Boxes, to enhance and execute their responsibilities to conduct safe and secure elections; and

WHEREAS, it is in the best interest of the citizens of the Municipality and Washington County to assist and cooperate with each other to accomplish these goals.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, the covenants contained herein, and pursuant to the Interlocal Cooperation Act, the Parties agree as follows.

A. SPECIFIC TERMS

Section 1. County.

(a) The County agrees to assist and support the Municipality in conducting safe and secure elections by delivering to the Municipality a locked metal box designated as an Official Ballot Drop Box.

(b) The County agrees to send two (2) election staff members too safely and securely pick up and replace an Official Ballot Drop Box that is full during the election cycle, up to the day before a scheduled election.

(c) The County will receive secured and locked Official Ballot Drop Boxes for the sole purpose of opening and counting Official Ballots. Only a designated County official shall open locked Official Ballot Drop Boxes for the purposes stated herein.

(d) The County will continue to conduct all statutorily required obligations, including signature verification, in accordance with applicable state and local codes if the Municipality has entered into an interlocal agreement for such election services.

Section 2. Municipality.

(a) The Municipality agrees to assist and support the County in conducting safe and secure elections by monitoring the Official Ballot Drop Box as required by state law.

(b) The Municipality agrees to make the Official Ballot Drop Box available to the public during normal business hours for the sole purpose of citizens inserting Official Ballots into the locked Official Ballot Drop Box. The Municipality will not open the Official Ballot Drop Box for any purpose.

(c) The Municipality agrees to monitor the Official Ballot Drop Box during normal business hours.

(d) After normal business hours, the Municipality agrees to place the Official Ballot Drop Box in a locked and secured location.

(e) On the day of a scheduled election, after normal business hours, the Municipality agrees to send two (2) staff members too safely and securely deliver the locked Official Ballot Drop Box to the County election official for the opening and counting of Official Ballots;

Section 3. Term. This Agreement shall become effective on the date is it duly executed and shall continue unless and until state law changes the requirement for municipal Official Ballot Drop Boxes. Upon such a change in state law, the Agreement will continue until termination as set forth in paragraph B(2), below. All provisions in prior interlocal agreements regarding election services between the Parties are revoked, but only to the extent narrowly required to give full effect to this Agreement.

B. GENERAL TERMS

Section 1. Purpose. The purpose of this Agreement is to allow the Parties to comply with state law to accomplish the intentions and purposes referred to in the recitals above.

Section 2. Termination. This Agreement is ongoing unless and until state law changes the requirements for municipal Official Ballot Drop Boxes. Upon a change in state law that removes the requirements, and other than as set forth in A(3), above, either Party, for good cause, may terminate this Agreement by notifying the other Party in writing of its intent to terminate the Agreement.

Section 3. No Waiver of Governmental Immunity. The Parties are governmental entities under the Governmental Immunity Act of Utah, Title 63, Chapter 30d of the Utah Code. None of the Parties waive any defenses otherwise available under the Governmental Immunity Act.

Section 4. Indemnity.

(a) The Municipality shall hold harmless and indemnify County, and its officers, employees and agents, against any and all loss, liability, damage, claim, cost, charge, demand, or expense (including reasonable attorney's fees and costs) arising out of or resulting from the services in, or performance of, this Agreement if caused by any negligent act or omission, or any intentional misconduct, of the Municipality or any of its officers, employees or agents.

(b) The County shall hold harmless and indemnify the Municipality, and it officers, employees and agents against any and all loss, liability, damage, claim, cost, charge, demand, or expense (including reasonable attorney's fees and costs) arising out of or resulting from the services in, or performance of, this Agreement if caused by any negligent act or omission, or any intentional misconduct, of the County or any of its officers, employees or agents.

Section 5. Interlocal Cooperation Act Requirements. In satisfaction of the requirements of the Interlocal Cooperation Act in connection with this Agreement, the Parties agree as follows.

(a) This Agreement shall be authorized and adopted by resolution of the legislative body of each Party pursuant to and in accordance with the provisions of Utah Code Section 11-13-202.5.

(b) This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each Party pursuant to and in accordance with the Utah Code Section 11-13-202.5(3).

(c) A duly executed original counterpart of this Agreement shall be filed immediately with the keeper of records of each Party pursuant to Utah Code Section 11-13-209.

(d) No separate legal entity is created by the terms of this Agreement. The Parties designate the Chair of the County Commission as the Administrator responsible to administer this Agreement and the accomplishment of the purposes of the cooperative action contemplated hereby and specified herein pursuant to Utah Code Section 11-13-207.

(e) The effective date of this Agreement shall be the date that each of the Parties has signed it, adopted a resolution to approve it, and filed the Agreement with the keeper of records.

(f) The term of this Agreement shall commence on the date of full execution of this Agreement by all Parties.

(g) No real or personal property shall be acquired jointly by the Parties as a result of this Agreement.

Following the execution of this Agreement by the Parties, either Party may cause a notice regarding this Agreement to be published on behalf of the Parties in accordance with Utah Code Section 11-13-219.

Section 6. Notices. All notices, requests, demands and other communications under this Agreement shall be in writing and shall either be hand delivered or sent by first-class mail, postage prepaid, and properly addressed to the Parties at the following addresses:

City
Attn: Clerk
ADDRESS

Washington County
Attn: Commission Chair
197 East Tabernacle
St. George, UT 84770.

Section 7. Entire Agreement; Modification; Waiver. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter and supersedes all prior and contemporaneous agreements, negotiations, representations, promises, or understandings of the Parties whether oral or written. No supplement, modification, amendment, or waiver of any obligation of this Agreement shall be binding unless executed in writing by all the Parties. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver.

Section 8. No Third-Party Beneficiaries. This Agreement is not intended to confer upon any person other than the Parties any rights or remedies.

Section 9. Governing Law. This Agreement shall be governed by the laws of the State of Utah. The Parties agree that venue for all legal actions, unless they involve a cause of action with mandatory federal jurisdiction, shall be the Fifth District Court for the State of Utah. The Parties further agree that the Federal District Court for the District of Utah shall be the venue for any cause of action with mandatory federal jurisdiction.

Section 10. Counterparts; Filing. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

DATED this ___ day of _____, 2022.

WASHINGTON COUNTY

_____
Victor Iverson
Washington County Commission Chair

Attest:

_____
Susan Lewis
Washington County Clerk-Auditor

Date: _____

Approved as to Form:

_____
Deputy Washington County Attorney

City

_____
Mayor

Attest:

_____
City Recorder

Date: _____

Approved as to Form:

_____
City Attorney