

RESOLUTION #17-08 C

A RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERLOCAL COOPERATION AGREEMENT BETWEEN THE SALT LAKE COUNTY CLERK ELECTIONS DIVISION AND THE SANDY CITY RECORDER'S OFFICE REGARDING ASSISTANCE IN CONDUCTING SANDY CITY'S 2017 PRIMARY AND GENERAL MUNICIPAL ELECTIONS.

BE IT KNOWN AND REMEMBERED that the City Council of Sandy City, State of Utah, finds and determines as follows:

WHEREAS, Title 11, Chapter 13, Utah Code Annotated 1953, as amended, permits public agencies to enter into cooperative agreements to provide joint undertakings and services; and

WHEREAS, the attached agreement has been prepared to accomplish such purpose.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Sandy City, Utah:

1. It does hereby approve the attached agreement described as an interlocal agreement between the Salt Lake County Clerk Election's Division and the Sandy City Recorder's Office regarding assistance in conducting Sandy City's 2017 primary and general municipal elections.

2. The Hon. Thomas M. Dolan, Mayor of Sandy City, is hereby authorized to execute the agreement on behalf of Sandy City Corporation and to act in accordance with its terms.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Stephen P. Smith, Chairman  
Sandy City Council

ATTEST:

\_\_\_\_\_  
City Recorder

RECORDED this \_\_\_\_ day of \_\_\_\_\_, 2017.

**SALT LAKE COUNTY CLERK ELECTIONS DIVISION  
INTERLOCAL COOPERATION AGREEMENT**

\_\_\_\_\_  
(Name of Municipality)

**-AND-**

**SALT LAKE COUNTY on behalf of the  
COUNTY CLERK ELECTION'S DIVISION**

**FOR MUNICIPAL ELECTION**

THIS AGREEMENT is made and entered into the \_\_\_\_ day of \_\_\_\_\_, 2017, by and between SALT LAKE COUNTY (the "County"), a body corporate and politic of the State of Utah, on behalf of the Salt Lake County Clerk's Office, Elections Division; and \_\_\_\_\_ (the "City") a municipal corporation created under the laws of the State of Utah.

**RECITALS:**

WHEREAS, the County desires to provide the services of its clerk's office, elections division, to the City for the purpose of assisting the City in conducting the City's 2017 primary and general municipal elections; and

WHEREAS, the City desires to engage the County for such services; and

WHEREAS, the parties are public agencies and are therefore authorized by the Utah Interlocal Cooperation Act, UTAH CODE ANN. §§ 11-13-101 to -608 (2016), to enter into agreements to cooperate with each other in a manner which will enable them to make the most efficient use of their resources and powers.

**AGREEMENT:**

NOW THEREFORE, in exchange for valuable consideration, including the mutual covenants contained in this Agreement, the parties covenant and agree as follows:

1. **Term.** County shall provide election services described below to the City commencing on the date this Agreement is executed and terminating on December 31, 2017. Either party may cancel this Agreement upon thirty (30) days written notice to the other party. Upon such cancellation, each party shall retain ownership of any property it owned prior to the

date of this Agreement, and the City shall own any property it created or acquired pursuant to this Agreement.

2. **Scope of Work.** The services to be provided by the Salt Lake County Clerk's Office, Elections Division, shall be as set forth in the Scope of Work, attached hereto and incorporated by reference as Exhibit "A." Generally, the County Clerk shall perform the listed election functions as set forth in Exhibit "A" and as needed to ensure implementation of the City's 2017 primary and general municipal election.

3. **Legal Requirements.** The County and the City understand and agree that the 2017 City primary and general municipal elections are the City's elections. The City shall be responsible for compliance with all legal requirements for these elections. The City agrees to translate ballot issues, if any, into Spanish. The County will provide the remaining Spanish translations for the ballot and other election materials as required by law. County agrees to work with the City in complying with all legal requirements for the conduct of these elections and conduct these elections pursuant to the direction of the City, except as provided in this Agreement and Exhibit "A." County agrees to disclose and maintain election results through its website merely as a courtesy and convenience to the City. The City, not the County, is responsible to resolve any and all election questions, problems, and legal issues that are within the City's statutory authority.

4. **Cost.** In consideration of the services performed under this Agreement, the City shall pay the County an amount not to exceed the estimate attached hereto and incorporated by reference as Exhibit "B." The County shall provide a written invoice to the City at the conclusion of the elections, and the City shall pay the County within thirty days of receiving the invoice. The invoice shall contain a summary of the costs of the election and shall provide the formula for allocating the costs among the issues and jurisdictions participating in the elections. In the case of a vote recount, election system audit, election contest, or similar event arising out of the City's election, the City shall pay the County's actual costs of responding to such events, based on a written invoice provided by the County. The invoice amount for these additional services may cause the total cost to the City to exceed the estimate given to the City by the County. For such consideration, the County shall furnish all materials, labor and equipment to complete the requirements and conditions of this Agreement.

5. **Governmental Immunity.** *The City and the County are governmental entities under the Utah Governmental Immunity Act. Consistent with the terms of the Act, and as provided herein, it is mutually agreed that each party is responsible and liable for its own wrongful or negligent acts which are committed by it or by its agents, officers or employees. Neither party waives any defenses otherwise available under the Act nor does any party waive any limits of liability currently provided by the Act. The parties agree to indemnify each other and hold each other harmless from any damages or claims for damages occurring to persons or property as a result of the negligence or fault of their own officers, employees or agents involved in the matter pertaining to this agreement.*

6. **No Obligations to Third Parties.** The parties agree that the County's obligations under this Agreement are solely to the City. This Agreement shall not confer any rights to third parties.

7. **Indemnification.** Subject to the provisions of the Act, the City agrees to indemnify and hold harmless the County, its agents, officers and employees from and against any and all actions, claims, lawsuits, proceedings, liability, damages, losses and expenses (including attorney's fees and costs), arising out of or resulting from the performance of this Agreement to the extent the same are caused by any negligent or wrongful act, error or omission of City, its officers, agents and employees and including but not limited to claims that the County violated any state or federal law in the provision of election services under this Agreement.

8. **Election Records.** The City shall maintain and keep control of all records created pursuant to this Agreement and from the elections relevant to this Agreement. The City shall respond to all public record requests related to this Agreement and the underlying elections and shall retain all election records consistent with the Government Records Access and Management Act, UTAH CODE ANN. §§ 63G-2-101 to -901 (2016), and all other relevant local, state and federal laws.

9. **Service Cancellation.** If the Agreement is canceled by the City as provided above, the City shall pay the County on the basis of the actual services performed according to the terms of this Agreement. Upon cancellation of this Agreement by either party, the County

shall submit to the City an itemized statement for services rendered under this Agreement up to the time of cancellation and based upon the dollar amounts for materials, equipment and services set forth herein.

10. **Legal Compliance.** The County, as part of the consideration herein, shall comply with all applicable federal, state and county laws governing elections.

11. **Agency.** No agent, employee or servant of City or County is or shall be deemed to be an employee, agent or servant of the other party. None of the benefits provided by either party to its employees including, but not limited to, workers' compensation insurance, health insurance and unemployment insurance, are available to the employees, agents, or servants of the other party. City and County shall each be solely and entirely responsible for its own acts and for the acts of its own agents, employees and servants during the performance of this Agreement.

12. **Force Majeure.** Neither party shall be liable for any excess costs if the failure to perform arises from causes beyond the control and without the fault or negligence of that party, e.g., acts of God, fires, floods, strikes or unusually severe weather. If such condition continues for a period in excess of 60 days, City or County shall have the right to terminate this Agreement without liability or penalty effective upon written notice to the other party.

13. **Notices.** Any notice or other communication required or permitted to be given under this Agreement shall be deemed sufficient if given by a written communication and shall be deemed to have been received upon personal delivery, actual receipt, or within three (3) days after such notice is deposited in the United States mail, postage prepaid, and certified and addressed to the parties as set forth below:

Salt Lake County      Salt Lake County Mayor  
2001 South State Street, N2-100  
Salt Lake City, Utah 84190

and

Rashelle Hobbs  
Chief Deputy  
Salt Lake County Clerk's Office  
2001 South State, Suite S2-200  
Salt Lake City, Utah 84190-1050  
email: rhobbs@slco.org

City

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email: \_\_\_\_\_

14. **Required Insurance Policies.** Both parties to this Agreement shall maintain insurance or self-insurance coverage sufficient to meet their obligations hereunder and consistent with applicable law.

15. **Independent Contractor.** Because the County is consolidating election functions in order to conduct multiple, simultaneous elections on November 7, 2017, certain decisions by the County referenced in Exhibit “A” may not be subject to review by the City. It is therefore understood by the parties that the County will act as an independent contractor with regard to its decisions regarding resources, procedures and policies based upon providing the same scope and level of service to all participating jurisdictions made for the benefit of the whole as set forth in Exhibit “A.”

16. **No Officer or Employee Interest.** It is understood and agreed that no officer or employee of the County has or shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds resulting from the performance of this Agreement. No officer or employee of City or any member of their families shall serve on any County board or committee or hold any such position which either by rule, practice or action nominates, recommends or supervises City’s operations or authorizes funding or payments to City.

17. **Ethical Standards.** City represents that it has not: (a) provided an illegal gift to any County officer or employee, or former County officer or employee, or to any relative or business entity of a County officer or employee, or relative or business entity of a former County officer or employee; (b) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (c) breached any of the ethical standards set forth in State statute or section 2.07, Salt Lake County Code of Ordinances; or (d) knowingly influenced, and hereby promises that it will not

knowingly influence, any County officer or employee or former County officer or employee to breach any of the ethical standards set forth in State statute or Salt Lake County ordinance.

18. **Interlocal Agreement.** In satisfaction of the requirements of the Utah Interlocal Cooperation Act, UTAH CODE ANN. §§ 11-13-101 to -608 (2016), (the “Interlocal Act”), in connection with this Agreement, the City and the County agree as follows:

- (a) This Agreement shall be approved by each party, pursuant to section 11-13-202.5 of the Interlocal Act;
- (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 Section 11-13-202.5 of the Interlocal Act;
- (c) Any duly executed original counterpart of the Agreement shall be filed with the keeper of records of each party, pursuant to section 11-13-209 of the Interlocal Act;
- (d) Except as otherwise specifically provided herein, each party shall be responsible for its own costs of any action performed pursuant to this Agreement, and for any financing of such costs; and
- (e) No separate legal entity is created by the terms of this Agreement. No real or personal property shall be acquired jointly by the parties as a result of this Agreement. To the extent that a party acquires, holds or disposes of any real or personal property for use in the joint or cooperative undertaking contemplated by this Agreement, such party shall do so in the same manner that it deals with other property of such party.
- (f) County and City Representatives.
  - (1) County designates the County Clerk as the County’s representative to assist in the administrative management of this Agreement and to coordinate performance of the services under this Agreement.
  - (2) City designates the City’s \_\_\_\_\_ [title] as the City’s representative in its performance of this Agreement. The City’s Representative shall have the responsibility of working with the County to coordinate the performance of its obligations under this Agreement.

19. **Counterparts.** This Agreement may be executed in counterparts by the City and the County.

20. **Governing Law.** This Agreement shall be governed by the laws of the State of Utah both as to interpretation and performance. All actions including but not limited to court proceedings, administrative proceedings, arbitration and mediation proceedings, shall be commenced, maintained, adjudicated and resolved within Salt Lake County.

21. **Integration.** This Agreement embodies the entire agreement between the parties relating to the subject matter of this Agreement and shall not be altered except in writing signed by both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

**SALT LAKE COUNTY**

By: \_\_\_\_\_  
Mayor Ben McAdams or Designee

Approved by the Salt Lake County Clerk's Office:

By \_\_\_\_\_  
Sherrie Swensen, County Clerk

Approved as to form:

By \_\_\_\_\_  
Adam Miller, Deputy District Attorney

\_\_\_\_\_ **CITY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_