

INTERLOCAL COOPERATION AGREEMENT BETWEEN UTAH COUNTY AND CEDAR HILLS CITY REGARDING THE 2015 NOVEMBER ELECTION

THIS INTERLOCAL COOPERATION AGREEMENT is made and entered into this 20th day of October, 2015, by and between **UTAH COUNTY**, a political subdivision of the State of Utah (the "County"), the **CITY OF CEDAR HILLS**, a political subdivision of the State of Utah (City) in contemplation of the following facts and circumstances:

- A. **WHEREAS**, municipal general elections will be held November 3, 2015 in the City (Municipal Elections); and
- B. **WHEREAS**, this Agreement is made pursuant to the provisions of the Interlocal Cooperation Act (Utah Code Title 11, Chapter 13) (the "Interlocal Act") and Utah Code § 20A-5-400.1; and
- C. **WHEREAS**, City has adopted and authorized a vote-by-mail format (VBM) for the Municipal Elections; and
- D. **WHEREAS**, the VBM format is authorized by Utah Code § 20A-3-302; and
- E. **WHEREAS**, the Board of Utah County Commissioners has voted to hold a special election on November 3, 2015 for the citizens of Utah County to consider a ballot proposition that would increase sales and use taxes within the county (Special Election); and
- F. **WHEREAS**, the County and the City have determined that it is in the best interests of the citizens of Utah County and the residents of City to administer the Municipal Elections and Special Election jointly (collectively the "2015 Elections"); and
- G. **WHEREAS**, the County and the Cities desire to set forth in writing their agreements regarding the joint administration of the 2015 Elections;

NOW, THEREFORE, the parties agree as follows:

1. **Purpose: Joint Election Administration.** The purpose of this Interlocal Cooperation Agreement is for the County and the City to jointly administer the 2015 Elections by placing the County ballot proposition on the City's Municipal VBM Elections ballots. To the greatest extent possible, the City will coordinate with the County in establishing uniform procedures for administration of the 2015 Elections as contained herein.
2. **Parties' Responsibilities.**
Utah County agrees to:
 - a. Provide manpower and equipment to count all ballots for the 2015 Elections. Equipment in this case means electronic voting machines (DREs) for use in early voting and in polling places on Election Day. Optical scan equipment will be used for vote by mail (VBM) and provisional ballots in polling places on Election Day.
 - b. Provide manpower and equipment to process all applications for VBM ballots, mail and provisional ballots, and process/count them upon return to County and include these ballots in the official election return.
 - c. Provide manpower and equipment to program and test the programming for said elections.

- d. Provide manpower and equipment to prepare, inspect, deliver and retrieve all voting equipment belonging to the County used to administer said elections.
- e. Provide manpower and equipment to provide unofficial election results to City for posting on their web site.
- f. Provide manpower and equipment to canvass the election returns for the Special Election. The canvass date will be November 17, 2015.
- g. On Election Night, provide the official Election results through the standardized reports (PDF format) as generated by GEMS – the Election programming and management program and system used by the County.

Cedar Hills City agrees to:

- a. Provide manpower and equipment for Candidate Filings and receiving and processing of all financial disclosures required by state code and/or city code..
- b. Use Utah County's poll worker training contractor, Barbara Davies, and pay any and all expenses for poll worker training, early voting poll worker training and rover training should it be needed.
- c. Operate a polling location in its city on Election Day under the direction of County; to include: recruiting, training and staffing the polling location with an adequate number of poll workers.
- d. Provide manpower and equipment to canvass the election returns for the Municipal Election. The canvass date will be November 17, 2015.
- e. Mileage Reimbursement: City will reimburse Utah County employees for mileage driven to accomplish the responsibilities contained in the Agreement. City will make mileage reimbursement at the IRS standard mileage rate for business miles driven for 2015 (57.5 cents per mile). County employees who must drive to fulfill County responsibilities hereunder will submit mileage reimbursement forms to City.
- f. Pay Utah County up to \$442.33 (four hundred forty two dollars and thirty three cents) for ballot and machine programming. (See attached cost estimate sheet).
- g. Use K&H as VBM, absentee and ballot printing contractor and agree to pay associated costs estimated at up to \$7,419.12 (seven thousand four hundred and nineteen dollars and twelve cents) for these services. Services to include mailing of all VBM ballots and processing by the County, postage being estimated at .115 per mailed ballot. (See attached cost estimate sheet).
- h. City will pay a proportional share of the cost of rental equipment and setup of such equipment. This proportion will be calculated for each city based on the number of ballots returned and its percentage of the total VBM ballots returned for the entire Election. This calculation will be based only on VBM city ballots returned. The costs will be a proportion of \$9,900 (nine thousand nine hundred dollars) which is comprised of support from Dominion and the rental of 9 optical scan ballot readers plus the associated accessories and a \$50 per machine setup charge.
- i. Cedar Hills City will order 500 poll and counter ballots for accessible polling place, provisional and spoiled ballot replacements. At .19 per ballot this equates to \$95.00 (ninety five dollars).
- j. Pay postage of .49 per ballot on all returned undeliverable ballots for both Primary and General Elections. This is actual cost billed to the County bulk mail permit by the U.S. Post Office.

- k. Thoroughly examine and proof all election programming done for the 2015 Municipal Election. The City will examine and complete all proofs to ensure programming is complete and correct for all of their own ballot styles. Final approval of ballots and programming will rest with the City.
- l. Pay all reasonable costs associated with recounts, re-canvassing, election contests and any other extraordinary expenses that may arise in connection with this Agreement.
- m. Host on the official Cedar Hills City web site a link to or copy of the Official Election Results as hosted on the County Elections web page.
- n. Cedar Hills City will not change the format or otherwise alter the official reported results, only displaying them in the form and format as provided by the County.

3. **Access to 2015 Election Processes, Records, and Voter Information.** The County shall have the right to inspect, observe, and access all processes, records, and information related to the administration of the 2015 Elections by the Cities.

4. **Retention of Authority.** The County and the City shall retain all other duties, responsibilities, and authorities granted to them by the Utah Code not specifically addressed in this Agreement.

5. **Payment.** Notwithstanding the payment amounts listed above, the City shall pay to the County all expenses directly related to the County's administration of the Municipal Election. Such expenses shall not exceed the actual costs of the administration of the Municipal Election.

6. **Notices.** Any notice, request, demand, consent, approval or other communication required or permitted hereunder or by law shall be validly given or made only if in writing and delivered to an officer or duly authorized representative of the other party in person or by Federal Express, private commercial delivery or courier service for next business day delivery, or by United States mail, duly certified or registered (return receipt requested), postage prepaid, and addressed to the Party for whom intended, as follows:

If to County:
Utah County
Attn: Board of County Commissioners
100 E. Center Street
Provo, UT 84606
Facsimile: (801) 851-8136

If to City:
City of Cedar Hills
Attn: Colleen Mulvey, City Recorder
10246 N Canyon Rd
Cedar Hills, UT 84062
Facsimile: (801) 796-3543

7. **Entire Agreement.** This Agreement is the final expression of and contains the entire agreement between the County and the City with respect to the subject matter hereof and supersedes all prior understandings with respect thereto. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein. This Agreement constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions thereof. All prior agreements,

representations, negotiations and understandings of the parties hereto, oral or written, express or implied, are hereby superseded and merged herein.

8. **Construction.** Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. Unless otherwise indicated, all references to paragraphs and subparagraphs are to this Agreement. In the event the date on which any of the parties is required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.

9. **Partial Invalidity.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

10. **Amendments.** No addition to or modification of any provision contained in this Agreement shall be effective unless fully set forth in writing executed by each of the parties hereto.

11. **Counterparts.** 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 but one and the same instrument.

12. **Waivers.** No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

13. **Governing Law.** This Agreement and the exhibits attached hereto shall be governed by and construed under the laws of the State of Utah. In the event of any dispute hereunder, it is agreed that the sole and exclusive venue shall be in a court of competent jurisdiction in Utah County, Utah, and the parties hereto agree to submit to the jurisdiction of such court.

14. **No Separate Legal Entity.** No separate legal entity is created by this Agreement.

15. **Effective Date and Duration.** This Agreement shall terminate after the completion of the 2015 Elections and payment of expenses to the County.

16. **Assignment.** No Party may assign its rights, duties or obligations under this Agreement without the prior written consent first being obtained from all Parties. Notwithstanding the foregoing, such consent shall not be unreasonably withheld or delayed so long as the assignee thereof shall be reasonably expected to be able to perform the duties and obligations being assigned.

17. **Interlocal Cooperation Act.** In satisfaction of the requirements of the Interlocal 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 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 and in accordance with the provisions of Section 11-13-202.5(3) of the Interlocal Act;

- c. A duly executed original counterpart of this Agreement shall be filed immediately with the keeper of records of each Party pursuant to Section 11-13-209 of the Interlocal Act;
- d. The County Clerk is hereby designated the administrator for all purposes of the Interlocal Act, pursuant to Section 11-13-207 of the Interlocal Act; and
- e. Immediately after execution of this Agreement by both parties, each of the parties shall cause to be published notice regarding this Agreement pursuant to Section 11-13-219 of the Interlocal Act.
- f. This Agreement makes no provision for the parties acquiring, holding and disposing of real and personal property used in the joint undertaking as such action is not contemplated as part of this Agreement nor part of the undertaking. Any such provision would be outside the parameters of the current undertaking.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day specified above.

Utah County Authorized by Resolution No. 2015-_____, authorized and passed on the _____ day of _____ 2015.

UTAH COUNTY

By: _____
Larry A. Ellertson, County Commission Chairman

Attest:

Approved as to form:

County Clerk

Attorney for the County

Cedar Hills City Authorized by Resolution No. 10-20-2015B, authorized and passed on the 20th day of October, 2015.

THE CITY OF CEDAR HILLS



By: David Bunker
David Bunker, City Manager

Attest:

Approved as to form:

Colleen A. Mulvey
City Recorder

Attorney for City