

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT is made and entered into this 25th day of July, 2022, between Pueblo County, on behalf of the Clerk and Recorder of Pueblo County, hereinafter referred to as the "County Clerk," and the City of Pueblo, a municipal corporation, hereinafter referred to as "City."

WITNESSED:

WHEREAS, the City is a home-rule city charged with the responsibility of providing for and governing the conduct of all of its municipal elections pursuant to Articles 2, 3, 17, 18, and 19 of its Charter and Article XX of the Colorado Constitution; and

WHEREAS, the County Clerk has the facilities to perform the functions required in the administration of those elections and is authorized to conduct elections as provided by law; and

WHEREAS, Colorado Constitution Article XIV, Section 18 (2)(a), and C.R.S. § 29-1-203, as amended, authorize the County Clerk and the City to cooperate or contract with each other to provide any function, service, or facility lawfully authorized to each, and any such contract may provide for the sharing of costs; and

WHEREAS, by Ordinance expected to be enacted on August 24, 2020, the City has determined that it is in the best interests of the City and its residents to participate in and conduct its election to be held on November 8, 2022, as a coordinated election and mail ballot election in accordance with the procedures and requirements of the Uniform Election Code of 1992 ("Code"), except to the extent same conflict with a specific provision of the Charter; and

WHEREAS, the City has determined that it is in the best interests of the City to conduct its election, to be held on November 8, 2022, as a "coordinated election" and "mail ballot election" as such term is defined in the Code, and pursuant to C.R.S. § 1-7-116, the Code requires entry into and performance of intergovernmental agreements where political subdivisions and the county clerk and recorder cooperate in the conduct and financing of the election; and

WHEREAS, the Constitution of Colorado, Article X, Section 20 and the Code, require the production of a mailed Notice ("TABOR Notice") concerning certain ballot issues that may be submitted to the electors of the City; and

WHEREAS, the TABOR Notices of several jurisdictions are to be sent as a package where jurisdictions overlapped ("TABOR Notice Package"); and

WHEREAS, the need to produce the TABOR Notice Package requires that there be County-wide coordination of the production and mailing of the TABOR Notice Package to effectuate the purposes of said constitutional section; and

WHEREAS, the County Clerk and Recorder of Pueblo County and the City desire to set forth their respective responsibilities in the production and mailing of the TABOR Notice Package for elections conducted pursuant to this Intergovernmental Agreement; and

WHEREAS, the County Clerk and the City have determined that it is in the best interests of the County, the City, and their respective inhabitants and landowners to cooperate and contract concerning the coordinated election on November 8, 2022, upon the terms and conditions contained herein.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and promises contained herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

I. GENERAL MATTERS:

A. Purpose:

The purpose of this Agreement is to set forth the tasks to be completed by the County Clerk and the City in the conduct and financing of the November 8, 2022.

B. Coordinated Election Official and Other Election Personnel:

Except as otherwise provided in this Section, the County Clerk shall act as the Coordinated Election Official for the conduct of the election for the City for all matters in the Code which require action by the Coordinated Election Official, except to the extent such action must be performed by the City Clerk or City's Board of Elections pursuant to Charter requirements and except as otherwise provided in this Agreement.

The City designates Marisa Stoller, City Clerk, as its "Designated Election Official" who, together with the City's Board of Elections, shall be the primary liaison between the City and the County Clerk and who shall have the primary responsibility for the conduct of the election procedures to be handled by the City hereunder and who shall cooperate with the County Clerk in the conduct of the election.

C. The County Clerk shall conduct the coordinated election on November 8, 2022 in conformity with the Code. The City shall provide explicit written instruction to County Clerk regarding any action City determines the County Clerk must perform that is required by the City Charter and which conflicts with the Code.

D. The parties acknowledge that for the purposes of the coordinated election on November 8, 2022, regardless of any registration requirements in the City Charter or City Code, the County Clerk will decide who is eligible to receive ballots pursuant to C.R.S. §1-2-101.

E. The parties acknowledge that all interpretations of the City Charter and City Code shall be and remain the sole responsibility of, and are to be exclusively handled by, the City.

II. DUTIES OF THE COUNTY CLERK:

The County Clerk shall perform the following duties for the City in connection with the conduct of the coordinated to the extent required:

- A. Provide operational, technical and logistical assistance to the City in its review of the petition sections and verify the signatures of qualified electors, under Article 18 of the City Charter, contained in citizen initiative petitions. The citizen initiative petitions shall be delivered to the City Clerk on or before August 8, 2022. The City Clerk shall issue a statement of sufficiency or insufficiency on or before September 1, 2022.
- B. Determine the "least cost" method for mailing the TABOR Notice Package.
- C. Combine the text of the TABOR Notice produced by the City, if any, with those of other jurisdictions to produce the TABOR Notice Package. The County Clerk may determine the order of the TABOR Notice submitted by the City and those of other jurisdictions to be included in the TABOR Notice Package, provided, however, that the materials supplied by the City shall be kept together as a group and in the order supplied by the City.
- D. Address the TABOR Notice package to "all registered voters" at each address of one or more active registered electors of the City. Nothing herein shall preclude the County Clerk from sending the TABOR Notice or Notice Package to persons other than electors of the City if such sending arises from the County Clerk's efforts to mail the TABOR Notice Package at "least cost".
- E. Mail the TABOR Notice Package, as required by the Code.
- F. Provide the final layout of the mail ballots and official ballots to the City in order to permit the City to review and proofread before the County Clerk authorizes the printing of the ballots. Within twenty-four (24) hours of receipt of ballots from County Clerk, the City shall return the ballots following review and proofreading.
- G. Arrange for the printing, and have printed, all mail ballots and official ballots. In consultation with the Designated Election Official, the County Clerk will order the number of ballots reasonably expected to be required to be printed for each service center polling place(s).
- H. Mail to all active registered electors eligible to vote in the City's November 8, 2022 coordinated election, at the last mailing address appearing in the County Clerk's records, a mail ballot packet, as required by law.
- I. Appoint, train, pay and, as required by law, provide written materials to a sufficient number of qualified election judges to adequately serve the number of electors anticipated to vote at the coordinated. The election judges for the City election may be the same persons as are employed for elections held by other jurisdictions on the same day and at the same service center polling place(s).
- J. Conduct such formal training sessions for the election judges as deemed reasonably necessary by the County Clerk.

- K. Perform all services necessary for mail ballot in the City's coordinated election, including preparing of mail ballots and mail ballot voter materials, and receiving and processing of applications for mail ballots, mailing mail ballot materials, receipt of mail ballot materials, checking voter qualifications, and preparation for counting, opening, and conduct of the service center polling place(s).
- L. Oversee the performance of the election judges with respect to their posting duties of required sample ballot, instruction cards, precinct maps, and other interior service center polling place(s) postings as may be required by law.
- M. Certify the results of the City's election within the time required by law and forthwith provide the City with a copy of all election statements and certificates which are to be created under the Code and provide City with election abstracts and official certifications in such number as the City may reasonably require.
- N. Store all voted ballots for a minimum of twenty-five (25) months and all signature cards of electors who cast ballots at the election for a minimum of twenty-five (25) months, and all other materials required by law to be saved for twenty-five (25) months in such a manner that they may be accessed by the City, if necessary, in connection with or to resolve any challenge, suit, or other legal question that might arise regarding the election.
- O. Facilitate special accommodations for all military and overseas citizens as provided by the Uniformed and Overseas Citizens Absentee Voting Act.
- P. Conduct a recount of any contest where the final ballot tabulation results are close enough to require a recount or if requested by an interested party.

III. ELECTION COSTS:

- A. County Clerk shall keep a careful, accurate, and contemporaneous accounting of time, supplies, and salaries chargeable to the City including:
 - 1. Charging the City for staff time, including salary and benefits, directly attributable to reviewing petition sections and verifying signatures contained in citizen initiative petitions and preparing and issuing certificates of sufficiency or insufficiency.
 - 2. Charging the City for that portion of staff time, including salary and benefits, directly attributable to conducting the coordinated election on behalf of the City and that portion of building rental, both for set-up and service center polling place(s), and materials directly attributable to the City for the preparation and conduct of the coordinated election.
 - 3. Charging the City for the cost of election and mail ballot judges, provided, however, that such cost shall be prorated by multiplying the number of judges and dividing the result by the number of jurisdictions utilizing each service center polling place(s).

4. The cost of any recount(s) will be charged and prorated among each of the participating Public Entities involved in the coordinated election.
- B. Adhere to all applicable provisions of the Code which are necessary or appropriate to the performance of the above duties.

IV. DUTIES OF THE CITY:

In consideration of the foregoing, the City agrees to perform the following tasks and activities to the extent required:

- A. Provide the County Clerk all TABOR Notices concerning City ballot issues in the manner required by the Code on or before September 23, 2022 by 4:30 p.m. Such TABOR Notice shall include:
1. The election date, hours, ballot title, text, and local election office address and telephone number.
 2. For proposed City tax or bonded debt increases, the estimated or actual total of City fiscal year spending for the current year and each of the past four years and the overall percentage and dollar change.
 3. For the first full fiscal year of each proposed City tax increase, City estimates of the maximum dollar amount of each increase and of district fiscal year spending without the increase.
 4. For proposed City bonded debt, its principal amount and maximum annual and total district repayment cost and the principal balance of total current City bonded debt and its maximum annual and remaining total City repayment cost.
 5. Two summaries, up to five hundred (500) words each, one for and one against any ballot proposal, of written comments filed with the Designated Election Official. The summary shall neither mention names of persons or private groups nor make any endorsements of or resolutions against the proposal. Petition representatives following these rules shall write this summary for their petition. The Designated Election Official shall maintain and accurately summarize all other relevant written comments.
 6. Summarize written comments concerning ballot issues following receipt of such comments received from the Designated Election Official and the public as necessary for use in the TABOR Notice.
 7. A completed TABOR Notice shall be provided to the County Clerk in camera-ready form. Regardless of the total number of pages, the submission to the County Clerk shall be on one side of each page. This submission shall be in the form that shall be printed by the County Clerk

and may not be changed by the City following submission to the County Clerk without special written dispensation from the County Clerk (such dispensation may be withheld for any or no reason) and shall be provided to the County Clerk on or before September 23, 2022.

8. Perform such acts as may be required by law or the City Charter, including circulation, approval, review, and all other activities, relating to any matter that may concern the City. The Designated Election Official shall interact with any City petition representatives, including but not limited to, working to ensure that the Designated Election Official receives the summary of written comments for their petition within the time required by law.
- B. Certify the complete ballot content to the County Clerk, on or before September 9, 2022; review and proofread the final ballot and provide to the County in the same manner set forth, within the time required by law and provide the ballot content in hard copy and in Microsoft Word format.
 - C. Review, proofread and confirm the layout, format, and text of the official ballots within twenty-four (24) hours of receipt before the County Clerk authorizes the printing of the ballots.
 - D. Pay to the County Clerk the City's share of the actual cost of materials and services specified in items 1-10 of this Section, Paragraph E. upon receipt of the itemized statement for same. (The City agrees to compensate the County Clerk on a prorated basis for costs not solely related to the City's election, and to pay full cost of materials and services solely related to the City's election.) The City represents that funds have been appropriated for this Election and are sufficient to compensate the County Clerk for the services described in this Agreement.
1. Actual costs of services, materials, and mileage associated with the conduct of the election. Actual costs include, but are not limited to, the costs of labor, printing, and materials itemized, identified, and consumed for the conduct of the City's election. The actual cost of labor includes the actual hourly wage and all associated benefits paid to each staff member, which are directly attributable to conducting the coordinated election on behalf of City.
 2. Actual costs for a complete alphabetical listing of electors, in electronic format.
 3. Actual costs for alphabetical listing by precinct.
 4. Actual costs for election preparation, set-up and tabulation and processing charge.
 5. Actual costs of building rental for set-up activities and service center polling place(s).

6. Actual costs for election and mail ballot judges.
 7. Actual costs of preparation and publication of all notices required by the Election Code.
 8. Actual cost of preparing and printing the ballots.
 9. Actual costs for all mailings.
 10. Any other cost or expense shall be as mutually agreed to between the City and the County Clerk. Such agreement shall be in writing and signed by both parties in compliance with Section VI., Paragraph B. herein.
- E. Within the time frames established by C.R.S. § 1-10-201, the City shall appoint two (2) members to serve on the Canvass Board. Clerk and Recorder shall be a member of the Canvass Board, as well as two (2) appointees of any other political subdivision that is participating in the election.
 - F. Provide a current, accurate map with a legal description of the City and its boundaries.
 - G. The City and its Designated Election Official shall cooperate with the Coordinated Election Official in the conduct of all dates and responsibilities of the Coordinated Election Official in the conduct of the election.
 - H. The City shall notify County Clerk in writing regarding actions City requests County Clerk to undertake when provisions of the City Code or Charter conflict with the Uniform Election Code.
 - I. The City shall be solely liable in the event the conduct of the Election does not conform with the City Charter or City Code.

V. TERM/TERMINATION:

This Agreement is intended to apply to the November 8, 2022, election. The effective date of this Agreement is upon the signatures of the parties to this Agreement, except as to those activities mandated by statute, and shall automatically terminate on February 28, 2023, provided, however, that the County Clerk's record retention obligations provided in Section II., Paragraph M., shall survive termination.

VI. OTHER:

A. CANCELLATION OF ELECTION BY THE CITY:

In the event that the City, at some time after the effective date of this Agreement, resolves not to hold the election, then notice of such resolution shall be provided to the County Clerk immediately. The City shall promptly pay the County Clerk the

full actual costs of the activities of the County Clerk, relating to the City's costs associated with the election, both before and after the County Clerk's receipt of such notice. The City shall publish notice, as defined in the Code, of such cancellation in at least two (2) newspapers of general circulation in Pueblo County. The County Clerk shall post notice of the cancellation in the Office of the County Clerk and the Contact Officer shall post notice of the cancellation on the official bulletin board located in the lobby of City Hall, #1 City Hall Place, Pueblo, CO 81003. The City shall not cancel the election after August 31, 2022.

- B. This Agreement constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, representation, and understandings between them. All duties, services, labor expenses, and costs needed or required in connection with this election that are attributable to the City, other than those specified above or by amendment to this Agreement, shall be provided by, and be the sole responsibility of, the City. No variation or modification of this Agreement and no waiver of any of the Agreement's provisions or conditions will be binding unless made in writing and signed by duly authorized owners, principals, or officers of the City and Pueblo County. This Agreement shall be construed and enforced according to the laws of the State of Colorado.

This Agreement shall be binding upon and inure to the benefit of the parties to it and their respective legal representatives, successors, and assigns. Any delegation or assignment of this Agreement by either party without the prior written consent of the other party shall be void. The subject headings of the paragraphs of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of its provisions.

- C. Except as set forth elsewhere in this paragraph, all notices to be given in this Agreement shall be made in writing and shall be sufficient if delivered personally due to the need for timely transmission of information to the other party at the following addresses:

Pueblo County Clerk and Recorder
Attention: Gilbert Ortiz
Pueblo County Election Division
720 N. Main Street, Suite 200
Pueblo, CO 81003
719-583-6620

and

City of Pueblo
Attention: Marisa Stoller, City Clerk
#1 City Hall Place
Pueblo, CO 81003
719-553-2669

D. CONFLICT OF AGREEMENT WITH LAW:

In the event that any provision of this Agreement conflicts with the Code or other statutory or regulatory law, this Agreement shall be modified to conform to such law. No subsequent resolution of the Board of County Commissioners or of the City shall impair the rights of the County Clerk or the City hereunder without the consent of the other party to this Agreement except as provided by Section V. herein.

E. TIME OF THE ESSENCE:

Time is of the essence of this Agreement. The statutory time requirements of the Code shall apply to the completion of the tasks required by this Agreement except as those time requirements are specifically modified in this Agreement as a result of the provisions in the City Charter.

F. GOOD FAITH:

The parties shall implement this Agreement in good faith including acting in good faith in all matters that require joint or coordinated action.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement effective the day and year first written above.

ATTEST:

PUEBLO COUNTY, COLORADO

By: _____
Clerk to the Board

By: _____
Chairman, Board of County Commissioners

Date: _____

ATTEST:

**CITY OF PUEBLO,
A MUNICIPAL CORPORATION**

By: _____
City Clerk

By: _____
Mayor

Date: _____

APPROVED AS TO FORM:

By: _____
City Attorney's Office

Date: _____

By: _____
Pueblo County Attorney's Office

Date: _____

APPROVED AS TO CONTENT:

By: _____
Pueblo County Clerk and Recorder

Date: _____