

CITY OF WHEAT RIDGE, COLORADO
RESOLUTION NO. 60
SERIES of 2018

TITLE: RESOLUTION AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE COUNTY OF JEFFERSON, STATE OF COLORADO, AND THE CITY OF WHEAT RIDGE, COLORADO, REGARDING THE PRODUCTION OF A MAILED NOTICE CONCERNING TABOR BALLOT ISSUES

WHEREAS, pursuant to Section 29-1-203, C.R.S., as amended, the County and the City of Wheat Ridge may cooperate or contract with each other to provide any function or service lawfully authorized to each; and


WHEREAS, Article X, Section 20(3)(b) of the Colorado Constitution ("TABOR") and Section 1-7-901, et seq, C.R.S. require the production of a mailed notice ("Notice") concerning Ballot Issues as defined in the Uniform Election Code of 1992, Title I, C.R.S., as amended (the "Code") that will be submitted to eligible voters of the City of Wheat Ridge in connection with the general election to be held on November 6, 2018 (the "Election"); and

WHEREAS, TABOR requires that notices containing Election ballot issues of multiple jurisdictions be sent as a package where such jurisdictions overlap (the "Notice Package"); and

WHEREAS, the Parties desire to set forth their respective responsibilities for production and mailing of the Notice Package in connection with the Election.


NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Wheat Ridge, Colorado, that the appropriate City Officials are hereby authorized to execute the Intergovernmental Agreement by and between the City of Wheat Ridge and the County of Jefferson regarding the administration of the parties' respective duties concerning the requirement of a mailed notice concerning TABOR Issues.

DONE AND RESOLVED on this 24th day of September, 2018.



Bud Starker, Mayor

ATTEST:



Janelle Shaver, City Clerk



EXHIBIT A

Intergovernmental Agreement

INTERGOVERNMENTAL AGREEMENT FOR TABOR BALLOT ISSUE NOTICE

THIS INTERGOVERNMENTAL AGREEMENT FOR TABOR BALLOT ISSUE NOTICE (this “Agreement”), dated for reference purposes only this 20 day of SEPTEMBER 2018, is by and between the CLERK AND RECORDER FOR THE COUNTY OF JEFFERSON, STATE OF COLORADO (“County Clerk”) and the CITY OF WHEAT RIDGE (the “Jurisdiction”), individually referred to as a “Party,” and collectively referred to as the “Parties.”

RECITALS

- A. The County Clerk and the Jurisdiction are authorized to conduct elections as provided by law.
- B. The Jurisdiction has one or more Ballot Issues (as defined below) to present to its eligible electors and desires to participate in a coordinated election as provided by law.
- C. Article X, Section 20(3)(b) of the Colorado Constitution (“TABOR”) and Title I, Article 7, Part 9 of the Colorado Revised Statutes (C.R.S.) require the Parties to prepare and mail to the eligible voters of the Jurisdiction a notice (the “Notice Packet”) concerning such Ballot Issues in advance of the Election.
- D. The Parties desire to enter into this Agreement for the purpose of setting forth their respective duties in connection with the preparation and mailing of the Notice Packet.

AGREEMENT

In consideration of the foregoing recitals and the mutual covenants and promises herein contained, the Parties agree as follows:

ARTICLE I DEFINITIONS

Capitalized terms not otherwise defined herein, shall have the meaning as set forth below:

- 1.01** “**Ballot Issue**” shall have the meaning ascribed to that term in C.R.S. §1-1-104(2.3)
- 1.02** “**Ballot Issue Notice**” shall have the meaning ascribed to that term in C.R.S. §1-1-104(2.5).
- 1.03** “**Code**” or “**Uniform Election Code**” means the Uniform Election Code of 1992, C.R.S. Title 1, as amended, any other title of the Colorado Revised Statutes governing the participating Jurisdiction’s election matters, the Colorado Constitution (including TABOR) and the Rules (as defined below).
- 1.04** “**Coordinated Election Official**” means the Jefferson County Clerk and Recorder.
- 1.05** “**Coordinated Election**” means an election where more than one jurisdiction with overlapping boundaries or the same electors holds an election on the same day and the eligible electors are all registered electors, and the County Clerk is the Coordinated Election Official for the jurisdictions.

1.06 “**County Liaison**” means the individual identified by the County Clerk to act as its primary liaison between the Jurisdiction and the County Clerk for the Election. The County Liaison shall be that person under the authority of the County Clerk who will have primary responsibility for the coordination of the election for the Jurisdiction and the procedures to be completed by the County Clerk hereunder.

1.07 “**District Liaison**” means the individual identified by the Jurisdiction to act as its primary liaison between the Jurisdiction and the Contact Clerk for the Election. The District Liaison will have primary responsibility for the conduct of election procedures to be handled by the Jurisdiction hereunder and shall be responsible for performing such duties and responsibilities as are assigned to the Jurisdiction’s “designated election official” under the Code.

1.08 “**Election**” means the Coordinated Election that will be conducted on November 6, 2018.

1.09 “**Rules**” means the current rules and regulations governing election procedures adopted by the Colorado Secretary of State, including any amendments adopted after execution of this Agreement.

1.10 “**Shared TABOR Costs**” means all costs incurred by the County in connection with the preparation and mailing of the Notice Packet as described herein.

ARTICLE II PURPOSE AND GENERAL MATTERS

2.01 **Purpose.** The purpose of this Agreement is to set forth the Parties’ respective duties in connection with the preparation and mailing of the Notice Packet.

2.02 **Coordinated Election Official.** In accordance with C.R.S. §1-7-116(1)(a), the County Clerk shall serve as the Coordinated Election Official for the Election and shall conduct the Election on behalf of the Jurisdiction. As the Coordinated Election Official for the Election, the County Clerk shall participate in the preparation and mailing of the Notice Packet.

2.03 **County Liaison.** The County Clerk designates Cody Swanson as the County Liaison for the Election. The County Liaison shall act as the primary liaison between the County Clerk and the Jurisdiction. Nothing herein shall be deemed or construed to relieve the County Clerk or the Jurisdiction from their official responsibilities of coordinating the Notice Packet for the Jurisdiction. In addition, the County Clerk designates Cynthia Rasor as the alternate County Liaison (the “Alternate County Liaison”) in the event the Jurisdiction needs immediate assistance and the County Liaison is unavailable.

2.04 **District Liaison.** The Jurisdiction designates JANELLE SHAVER, CITY CLERK as the District Liaison for the Election. The District Liaison shall have primary responsibility for the Election procedures to be handled by the Jurisdiction in accordance with the Code and shall be responsible for performing such duties and responsibilities as are assigned to the Jurisdiction’s designated election official under the Code. The District Liaison shall provide the name of an alternate contact in Section 6.01 below (the “Alternate District Liaison”) in the event the County Clerk needs immediate assistance and the District Liaison is unavailable. The District Liaison or Alternate District Liaison shall be readily available and accessible during regular business hours, and at other times when notified by the County Liaison in advance, for

the purposes of consultation and decision-making on behalf of the Jurisdiction regarding the Notice Packet. In addition, the District Liaison is responsible for receiving and timely responding to inquiries made by the Jurisdiction's voters or others interested in the Jurisdiction's election. To the extent that the Code requires that an Election Official of the Jurisdiction conduct a task, the District Liaison shall conduct such task.

2.05 Jurisdictional Limitation. If the Jurisdiction encompasses territory outside of Jefferson County, State of Colorado, this Agreement shall be construed to apply only to that portion of the Jurisdiction within Jefferson County.

2.06 Term. The term of this Agreement shall commence on the date signed by the County Clerk (the "Effective Date"), and shall continue until all obligations of the Parties under this Agreement have been completed.

ARTICLE III DUTIES OF THE COUNTY CLERK

County Clerk Duties. The County Clerk shall perform the following duties for the Jurisdiction in connection with the preparation and mailing of the Notice Packet, in conformance with, and as required by, the Code:

3.01 Notice Packet

- 3.01.1 Placing the Ballot Issue Notice(s) received from the Jurisdiction in the Notice Packet.
- 3.01.2 Providing printing layouts and text of the Notice Packet to the Jurisdiction for final review and proofread.
- 3.01.3 Printing and Mailing the Notice Packet. The Notice Packet shall be printed and mailed at least cost to registered electors of the Jurisdiction who reside within Jefferson County. Nothing herein shall preclude the County Clerk from mailing the Notice Packet to persons other than electors of the Jurisdiction if doing so arises from the County Clerk's efforts to mail the Notice Packet at "least cost" and such mailing conforms with the Code.

3.02 Duties Subject to Jurisdiction Performance. The responsibility of the County Clerk to perform the duties set forth above are contingent upon the Jurisdiction's performance of its own duties hereunder. The County Clerk shall not be responsible for failing to meet any deadlines for mailing the Notice Packet if such failure was caused by the Jurisdiction's failure to timely submit the required information in a form required by this Agreement and the Code.

3.03 No Expansion of Duties. Nothing contained in this Agreement is intended to expand the duties of the County Clerk beyond those set forth in the Code.

**ARTICLE IV
DUTIES OF JURISDICTION**

4.01 Jurisdiction Duties. The Jurisdiction shall perform the following duties in connection in connection with the preparation and mailing of the Notice Packet, in conformance with, and as required by, the Code.

4.01.1 Authority. Provide the County Liaison with a copy of the ordinance or resolution (a) stating that the Jurisdiction has adopted the Uniform Election Code of 1992 and that the Jurisdiction will participate in the coordinated mailing of the Notice Packet in accordance with the terms and conditions of this Agreement; and (b) authorizing the presiding officer of the Jurisdiction or other designated person to execute this Agreement. The Jurisdiction shall email the ordinance or resolution and a copy of the executed Agreement to logistics@jeffco.us by August 28, 2018.

4.02 Acceptance of Comments; Preparation of Fiscal Information and Ballot Issue Notice.

4.02.1 The Jurisdiction shall accept, file, summarize and retain comments concerning the Jurisdiction's Ballot Issues in accordance with the Code.

4.02.2 The Jurisdiction shall prepare accurate fiscal information for inclusion in the Ballot Issue Notice as required by the Code.

4.02.3 The Jurisdiction shall prepare the text of the Ballot Issue Notice(s). The Ballot Issue Notice(s) shall include all information required by the Code to be included in a Ballot Issue Notice, including, without limitation, a title, the full text of the Ballot Issue(s), summaries for and against the Ballot Issue(s) and a description of the fiscal impact of the Ballot Issue(s), as described in Section 20(3)(b) of the Colorado Constitution and Title I, Article 7, Part 9 of the Colorado Revised Statutes.

4.02.4 The text of the Ballot Issue Notice(s) shall be in all UPPER CASE; all other text shall be in upper and lower case. The Ballot Issue Notice(s) text *shall not* be embedded in an email and *shall not* contain any extraordinary (unique) formatting.

4.02.5 Examples of extraordinary (unique) formatting *not* permitted in the Ballot Issue Notice(s) text include, but are not limited to:

4.02.5.1 Text boxes

4.02.5.2 Charts

4.02.5.3 Spreadsheets

4.02.5.4 Strike-outs

4.02.5.5 Bolding

4.02.5.6 Symbols

4.02.6 The Jurisdiction shall proofread the text of the Ballot Issue Notice(s) prior to sending it to the County Liaison for initial text lay out. The Jurisdiction shall be solely responsible for ensuring the accuracy of the Ballot Issue Notice(s) text.

4.03 Delivery of Ballot Issue Notice(s).

4.03.1 No later than 3:00 p.m. on September 24, 2018, the Jurisdiction shall electronically deliver the Ballot Issue Notice(s) to the County Liaison via text document (preferably Microsoft Word – no PDF) in the form prescribed above.

4.04 Final Review Proofread

4.04.1 Upon receipt of the lay out of the Notice Packet from the County Liaison, the Jurisdiction shall review the lay out of the Notice Packet and perform a final proofread of the Ballot Issue Notice(s) text. The Jurisdiction shall be solely responsible for ensuring the accuracy of the Ballot Issue Notice(s) text and the appropriateness of the Notice Packet layout.

4.04.2 Upon completion of the Jurisdiction's review of the Notice Packet, the District Liaison shall send approval of its content via electronic transmission to the County Liaison. Once approved, the Ballot Issue Notice(s) text cannot be changed. The deadline to return the approval will be included in the instructions sent to the Jurisdiction requesting approval of the lay out.

4.06 Mailing of Ballot Issue Notice(s) to non-Jefferson County Electors. The Jurisdiction shall be responsible for mailing the Ballot Issue Notice(s) to any registered electors who do not reside within Jefferson County.

4.07 Use and Confidentiality of Voter Records. The Jurisdiction shall be responsible for ensuring that any voter records received by the Jurisdiction are used for the sole purpose of performing its duties herein in accordance with the Code. The Jurisdiction shall ensure that all voter records are maintained in accordance with the requirements of the Code, including, without limitation, the Colorado Open Records Act, C.R.S. §§24-72-200.1, *et. seq.*

4.08 Withdrawal of Ballot Issues by the Jurisdiction.

4.08.01 The Jurisdiction may withdraw a Ballot Issue only as permitted by the Code.

4.08.02 If the Jurisdiction resolves to withdraw a Ballot Issue, then the Jurisdiction shall provide the County Liaison with written notice of such determination immediately.

4.08.03 If the Jurisdiction resolves to withdraw a Ballot Issue, the Jurisdiction shall pay the County Clerk its actual costs incurred in connection with the withdrawn Ballot Issue, which may include costs incurred both before and after receipt of the Jurisdiction's notice of withdrawal, within 30 days after withdrawal.

4.08.04 If the Jurisdiction resolves to withdraw a Ballot Issue, the Jurisdiction shall provide public notice by publication of such withdrawal as required by the Code. A copy of such notice must be posted in the Jurisdiction's offices and in the office of the County Clerk.

**ARTICLE V
COSTS**

5.01 Shared TABOR Costs. The Jurisdiction shall reimburse the County Clerk for the Jurisdiction's pro-rated share of the Shared TABOR Costs. Exhibit A hereto sets forth an example of how the Jurisdiction's pro-rated share of the Shared TABOR Costs will be calculated.

**ARTICLE VI
MISCELLANEOUS**

6.01 Notice.

6.01.1 Unless directed otherwise, all correspondence required to be given under this Agreement shall be deemed received if given by any one of the following: (1) electronic transmission (as defined in subsection 6.01.2 below) when transmitted, if transmitted on a business day and during normal business hours of the recipient, and otherwise on the next business day following transmission; (2) overnight carrier service or personal delivery, when received; (3) first class mail, postage prepaid, three (3) business days after being deposited in the United States mail.

If to the County Clerk to the County Liaison:

Cody Swanson
Jefferson County Clerk and Recorder's Office
Elections Division
3500 Illinois Street. Suite 1100
Golden CO 80401
Phone: (303) 271-8111
Email: logistics@jeffco.us

If to the Jurisdiction to the District Liaison:

District Liaison Name: JANELLE SHAVER, CITY CLERK
Jurisdiction: CITY OF WHEAT RIDGE
Address: 7500 WEST 29th AVENUE
City, State, Zip Code: WHEAT RIDGE, CO. 80033
Cell Phone: 303-242-1540
Office Phone: 303-235-2823
Email: jshaver@ci.wheatridge.co.us

If to the Alternate District Liaison:

Alternate District Liaison Name: ROBIN EATON, DEPUTY CITY CLERK
Jurisdiction: CITY OF WHEAT RIDGE
Address: 7500 WEST 29th AVENUE
City, State, Zip Code: WHEAT RIDGE, CO. 80033
Cell Phone: NA
Office Phone: 303-235-2816
Email: reaton@ci.wheatridge.co.us

6.01.2 The Parties agree that: (1) any notice or communication transmitted by electronic transmission, as defined below, shall be treated in all manner and respects as an original written document; (2) any such notice or communication shall be considered to have the same binding and legal effect as an original document; and (3) at the request of either party, any such notice or communication shall be re-delivered or re-executed, as appropriate, by the party in its original form. The Parties further agree that they shall not raise the transmission of a notice or communication by electronic transmission as a defense in any proceeding or action in which the validity of such notice or communication is at issue and hereby forever waive such defense. For purposes of this Agreement, the term “electronic transmission” means any form of communication not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process, but specifically excluding facsimile transmissions and texts.

6.02 Amendment. This Agreement may not be modified or amended except in writing signed by the Parties.

6.03 Entire Agreement. This Agreement and its Exhibits constitute the entire agreement between the Parties as to the subject matter hereof and supersede all prior or contemporaneous agreements, proposals, negotiations, understandings, representations and all other communications, both oral and written, between the Parties.

6.04 Indemnification. The Parties understand and agree that liability for claims for injuries to persons or property arising out of the acts or omissions of either party is controlled and limited by the Colorado Constitution, the Colorado Governmental Immunity Act (§§ 24-10-101, et seq., C.R.S.), and the Risk Management Act (§§ 24-30-1501, et seq., C.R.S.). Each party shall be responsible for any and all claims incurred as a result of any alleged act or omission of the said party and its employees, which occurred or is alleged to have occurred during the performance of their duties within the scope of their employment, except where such acts or omissions are willful and wanton.

6.05 Conflict of Agreement with Law, Impairment. In the event that any provision in this Agreement conflicts with the Code, this Agreement shall be modified to conform thereto. No subsequent resolution or ordinance of the Jurisdiction shall impair the rights of the County Clerk or the Jurisdiction without the consent of the other Party.

6.06 Time of Essence. Time is of the essence in the performance of this Agreement. Any deadlines or other time limits set forth in the Code shall apply to completion of the tasks required by this Agreement.

6.07 No Third-Party Beneficiaries. Enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the Parties, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other person or entity not a party to this Agreement.

6.08 Further Assurances. The Parties shall execute any other documents and to take any other action necessary to carry out the intent of this Agreement.

6.09 Governing Law; Jurisdiction & Venue. This Agreement and the rights of the Parties under it will be governed by, and construed in accordance with, the laws of the State of Colorado, without regard to the conflicts of laws and rules of Colorado. The courts of the State of Colorado shall have sole and exclusive jurisdiction of any disputes or litigation arising under this Agreement. Venue for any and all legal actions arising under this Agreement shall lie in the District Court in and for the County of Jefferson, State of Colorado.

6.10 Headings. The section headings in this Agreement are for reference only and shall not affect the interpretation or meaning of any provision of this Agreement.

6.11 Severability. If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, void or unenforceable, such provision shall be deemed to be severable, and all other provisions of this Agreement shall remain fully enforceable, and this Agreement shall be interpreted in all respects as if such provision were omitted.


6.12 Immunities Preserved. It is the intention of the Parties that this Agreement shall not be construed as a contractual waiver of any immunities or defenses provided by the Colorado Governmental Immunities Act, §24-10-101, C.R.S, et. seq.


6.13 Execution by Counterparts; Electronic Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The Parties approve the use of electronic signatures for execution of this Agreement. Only the following two forms of electronic signatures shall be permitted to bind the Parties to this Agreement: (1) Electronic transmission of a fully executed copy of a signature page; (2) The image of the signature of an authorized signer inserted onto PDF format documents. All documents must be properly notarized, if applicable. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, C.R.S. §§24-71.3-101 to -121.

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The Parties hereto have signed this Agreement as of the date indicated below.

JURISDICTION:

By: 
Name/Title: BUD STARKER, MAYOR
Date: 9-20-18

JURISDICTION LEGAL COUNSEL - OPTIONAL
By: 
Name/Title: GERALD DAHL, CITY ATTORNEY
Date: 9-20-18

COUNTY CLERK:

CLERK AND RECORDER FOR THE
COUNTY OF JEFFERSON
STATE OF COLORADO

By: _____
Faye Griffin, Jefferson County Clerk & Recorder
Date: _____

APPROVED AS TO FORM:

Assistant County Attorney

EXHIBIT A
PRO RATA COST FORMULA

THIS EXHIBIT IS FOR PURPOSES OF ILLUSTRATION ONLY. The below example assumes a Notice Packet with a total cost of \$50,000.

<u>Jurisdiction</u>	<u>% Households</u>	<u># Issues</u>
A	40	1
B	0 (Spec. Dist. forming)	5
C	35	2
D	20	3

Each jurisdiction pays a base cost of \$100 per Ballot Issue and \$50 per page and partial page:

<u>Jurisdiction</u>	<u># of Issues</u>	<u>Pages Used</u>	<u>Base Cost</u>
A	1 @ \$100	12 @ \$600	\$700
B	5 @ \$500	6 @ \$300	\$800
C	2 @ \$200	6 @ \$300	\$500
D	3 @ \$300	6 @ \$300	\$600
	<u>\$1100</u>	<u>\$1500</u>	<u>\$2600</u>

Total cost of Notice Packet \$50,000
 - \$2,600 Base Cost
 \$47,400

Determine weighted average factors by multiplying the percentage of registered voter households by the number of issues:

<u>Jurisdiction</u>	<u>% Households</u>	x	<u># Issues</u>	=
A	40		1	40
B	0		5	0
C	35		2	70
D	20		3	<u>60</u>
				170

\$47,400 left to apportion by utilizing weighting factors:

<u>Jurisdiction</u>		=	
A	40 divided by 170 x \$47,400	=	\$11,152.94
B	0 divided by 170 x \$47,400	=	0
C	70 divided by 170 x \$47,400	=	\$19,517.65
D	60 divided by 170 x \$47,400	=	<u>\$16,729.41</u>
			\$47,400.00

TOTAL COST BY JURISDICTION:

<u>Jurisdiction</u>	<u>Base</u>	+	<u>Weighted Share</u>	=	<u>Prorated Cost Total</u>
A	\$700		\$11,152.94		\$11,852.94
B	\$800		0		\$ 800.00
C	\$500		\$19,517.65		\$20,017.65
D	<u>\$600</u>		<u>\$16,729.41</u>		<u>\$17,329.41</u>
	\$2,600		\$47,400.00		\$50,000.00