

MIDVALE CITY, UTAH

RESOLUTION NO. 2023-R-11

**A RESOLUTION APPROVING THE RANKED CHOICE VOTING ELECTION
METHOD FOR THE 2023 MIDVALE MUNICIPAL ELECTION AND
AUTHORIZING THE MAYOR TO ENTER INTO AN INTERLOCAL COOPERATION
AGREEMENT BETWEEN SALT LAKE COUNTY ELECTION DIVISION AND
MIDVALE CITY FOR ELECTION SERVICES**

WHEREAS, during 2023, Municipal Elections will be conducted within Midvale City for Council Districts 1, 2, and 3 municipal council seats; and

WHEREAS, the City Council has made the decision to have the municipal election conducted by Ranked Choice Voting by election officials of Salt Lake County ("the County"); and

WHEREAS, the County has the expertise and election equipment to provide such services at a cost equal to or less than the City may be able to conduct the election; and

WHEREAS, the County has proposed an Interlocal Cooperation Agreement to provide said election services at an estimated cost of \$26,882;

WHEREAS, the parties desire to continue by contract said services under the terms and conditions set forth in the attached Interlocal Cooperation Agreement;

NOW, THEREFORE, be it resolved by the Midvale City Council that the Mayor is authorized to execute the Interlocal Cooperation Agreement with Salt Lake County Election Division providing for the conducting of the 2023 Municipal Election within the City attached hereto.

PASSED AND APPROVED this 21st day of March 2023.

By: 
Marcus Stevenson, Mayor

[SEAL]

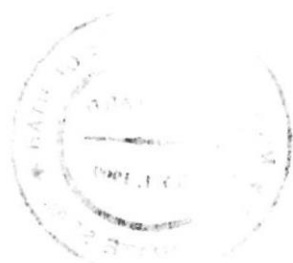


VOTING:

Quinn Sperry	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Paul Glover	Yea <input type="checkbox"/>	Nay <input checked="" type="checkbox"/>
Heidi Robinson	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Bryant Brown	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Dustin Gettel	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

ATTEST:


Rori L. Andreason, MMC
City Recorder



AGREEMENT
between
MIDVALE CITY
and
SALT LAKE COUNTY on behalf of the
COUNTY CLERK'S ELECTION'S DIVISION
FOR MUNICIPAL ELECTION

THIS AGREEMENT is made and entered into the 21st day of March, 2023, 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 MIDVALE CITY (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 2023 primary and general municipal elections; and

WHEREAS, the City desires to engage the County for such services.

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.** The County shall provide election services described below to the City commencing on the date this Agreement is approved by both parties and terminating on December 31, 2023. 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 County shall be as set forth in the Scope of Work, attached hereto and incorporated by reference as Exhibit "A." Generally, the County shall perform the listed election functions as set forth in Exhibit "A" and as needed to ensure implementation of the City's 2023 primary and general municipal elections.

3. **Legal Requirements.**

a. The County and the City understand and agree that the City's 2023 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. The 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." The County agrees to disclose and maintain election results through its website merely as a courtesy and convenience to the City. The City, and not the County, is responsible to resolve any and all election questions, problems, and legal issues that are within the City's statutory authority.

b. The County and the City understand and agree that if the County provides services or resources to conduct an instant runoff voting election as described in sections 20A-4-603 and -604, UTAH CODE (2022) ("Rank Choice

Voting”), the estimated cost of administering such an election will be provided to the City at a later time.

c. If the City decides to hold a Rank Choice Voting election, then, in accordance with Utah Code § 20A-4-602(3)(a), it shall provide the Lt. Governor and the County notice of its intent to use Rank Choice Voting as its selected method of voting, no later than May 1, 2023.

d. The County has the full ability to conduct Rank Choice Voting for races involving no more than 10 candidates. The City therefore acknowledges that if the County conducts a Rank Choice Voting race involving more than 10 candidates, then the County will be able to count only the first ten valid preference rankings cast by each voter in that race. The City hereby assumes full risk and liability for, and agrees to indemnify and hold harmless the County, its agents, officers and employees from and against, any and all actions, claims, lawsuits, contests, controversies, challenges, proceedings, liability, damages, losses and expenses (including attorney's fees and costs) arising out of or resulting from the City's decision to use of Rank Choice Voting in a race involving more than 10 candidates. Moreover, the County reserves the right to refuse to conduct a City election, or any contest, that includes a Rank Choice Voting race involving more than 10 candidates. The County's exercise of such a right shall be effective immediately upon written notice to the City and shall not be construed as a breach of, or an event of default under, this Agreement, and said exercise shall be without any liability of, or penalty to, the County.

4. **Cost.** In consideration of the services performed under this Agreement, the City shall pay the County. The estimated cost of such services shall be provided in

Exhibit "B," and will be attached hereto and incorporated by reference. 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 and subject to the Governmental Immunity Act of Utah, UTAH CODE §§ 63G-7-101 to – 904 (2022) (the "Governmental Immunity Act"). Nothing in this Agreement shall be deemed a waiver of any rights, statutory limitations on liability, or defenses applicable to the City or the County under the Governmental Immunity Act or common law. Each party shall retain liability and responsibility for the acts and omissions of their representative officers. In no event shall this Agreement be construed to establish a partnership, joint venture or other similar relationship between the parties and nothing contained herein shall authorize either party to act as an agent for the other. Each of the parties hereto assumes full responsibility for the negligent operations, acts and omissions of its own employees, agents and contractors. It is not the intent of the parties to incur by Agreement any liability for the negligent operations, acts, or omissions of the other party or its agents, employees, or contractors.

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 Governmental Immunity Act, each party agrees to indemnify and hold harmless the other, as well as the other party's 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 its own negligent or wrongful act, error or omission or those of its own officers, agents or employees. The City's indemnity obligation hereunder includes, but is 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 of its 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 its election records consistent with the Government Records Access and Management Act, UTAH CODE §§ 63G-2-101 to -901 (2022), and all other relevant local, state and federal laws.

9. **Service Cancellation.** If the Agreement is canceled or terminated 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 or termination 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 said cancellation or

termination 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. The City agrees that the direction it gives the County under Utah Code § 20A-5-400.1(2)(a) and this Agreement shall likewise be in strict compliance with all such applicable laws. The County shall be under no obligation to comply with any direction from the City that is not demonstrably consistent with all applicable federal, state and county laws governing elections.

11. **Agency.** No agent, employee or servant of the City or the 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. The City and the 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, the City or the 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

Ann Stoddard
Admin/Fiscal Manager
Salt Lake County Clerk's Office
2001 South State, Suite S1-200
Salt Lake City, Utah 84190-1050
email: astoddard@slco.org

City Midvale City
Attn: City Recorder
7505 S. Holden Street
Midvale, Utah 84047
email: randreason@midvale.com

and

Midvale City
Attn: Contract Analyst
7505 S. Holden Street
Midvale, Utah 84047
email: sstengal@midvale.com

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 August 15, 2023, and on November 7, 2023, 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 a consistent type, 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 the 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 the City's operations or authorizes funding or payments to the City.

17. **Ethical Standards.** The 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. [REMOVED].

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.

[SIGNATURE PAGE TO FOLLOW]

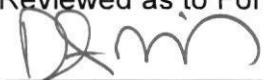
IN WITNESS WHEREOF, the parties have executed this Agreement on the day
and year first above written.

SALT LAKE COUNTY:

Mayor or Designee
Date: _____

Recommended for Approval:

Lannie Chapman
Salt Lake County Clerk

Reviewed as to Form:
 Adam Miller
2023.02.10 13:34:12 -07'00'

Deputy District Attorney
Date: _____

MIDVALE CITY:

By: _____
Name: _____
Title: _____
Date: _____

Approved as to Form:

By: _____
Date: _____

Exhibit "A"
2023 Municipal Elections
Scope of Work

The City agrees to the consolidation of all election administrative functions to ensure the successful conduct of multiple, simultaneous municipal, local district elections and county elections and the County agrees to conduct vote by mail/consolidated polls elections for the City.

In a consolidated election, decisions made by the County regarding resources, procedures and policies are based upon providing the same scope and level of service to all the participating jurisdictions and the City recognizes that such decisions, made for the benefit of the whole, may not be subject to review by the City.

Services the County will perform for the City include, but are not limited to:

- Ballot layout and design
- Ballot ordering and printing
- Machine programming and testing
- Delivery of supplies and equipment
- Provision of all supplies
- Election vote centers/early vote locations
- Vote by Mail administration
- Updating state and county websites
- Tabulating, reporting, auditing and preparing canvassing election results
- Conducting recounts as needed
- All notices and mailings required by law (except those required by Utah Code Ann. Ch. 11-14, Part 2 and § 20A-9-203)
- Direct payment of all costs associated with the elections to include vote center workers, training, vote centers, rovers.

The City will provide all voter education outreach related to Rank Choice Voting, if applicable.

The City will provide the County Clerk with information, decisions, and resolutions and will take appropriate actions required for the conduct of the elections in a timely manner.

The County will provide a good faith estimate for budgeting purposes (Exhibit "B"). Election costs are variable and are based upon the offices scheduled for election, the number of voters, the number of jurisdictions participating as well as any direct costs incurred.

The City will be invoiced for its pro-rata share of the actual costs of the elections which are estimated in Exhibit B. In the event of a state or county special election being held in conjunction with a municipal election, the scope of services and associated costs, and the method of calculating those costs, will remain unchanged.

Exhibit "B"

2023 Election Costs

Midvale

Below is the good faith estimate for the upcoming **2023 Municipal Election for Midvale**. Assumptions for providing this estimate consist of the following:

- A. Active voters (as of 1/27/2023): **9,669**
- B. Election for the offices below:

2023 Offices
Council District 1
Council District 2
Council District 3

All billing will be based on actual costs.

If your municipality pursues traditional voting, **not** ranked choice voting (RCV), **and** has a Primary Election and a General Election, the estimated cost would be \$22,815.

If your municipality chooses RCV for the General Election **and** cancels the Primary Election, the estimated cost would be \$14,830 for the General Election **plus** RCV costs (see below).

If your municipality chooses RCV for the Primary Election **and** holds a traditional voting General Election, the estimated cost would be \$22,815 **plus** the RCV costs (see below).

RCV Costs will be applied on a sliding scale, see below. If your municipality chooses to hold a RCV election for either the Primary or the General, the added costs will be dependent upon how many other municipalities opt into RCV.

As an example, if Midvale is the only municipality to hold a RCV election, the costs would be as quoted above plus \$36,156. You can see if two municipalities choose RCV, your added costs would be \$18,078. (See the chart below for the additional cost depending on how many municipalities participate.)

Number of participating municipalities	Allocated costs
1	\$ 36,156
2	\$ 18,078
3	\$ 12,052
4	\$ 9,039
5	\$ 7,231
6	\$ 6,026
7	\$ 5,165
8	\$ 4,520
9	\$ 4,017
10	\$ 3,616
11	\$ 3,287
12	\$ 3,013

Number of participating municipalities	Allocated costs
13	\$ 2,781
14	\$ 2,583
15	\$ 2,410
16	\$ 2,260
17	\$ 2,127
18	\$ 2,009
19	\$ 1,903
20	\$ 1,808
21	\$ 1,722
22	\$ 1,643
23	\$ 1,572