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RESOLUTION NO.: 19-286

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO

RESOLUTION TO APPROVE AND AUTHORIZE THE COUNTY CLERK AND RECORDER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT AND LETTERS OF AGREEMENT WITH THE CITY OF COLORADO SPRINGS CONCERNING THE CONDUCT OF THE NOVEMBER 5, 2019, COORDINATED ELECTION

WHEREAS, C.R.S. § 1-1-104 (6.5) states the County Clerk and Recorder is the Coordinated Election Official when more than one political subdivision with overlapping boundaries or the same electors holds an election on the same day; and

WHEREAS, C.R.S. § 1-7-116 (2) requires participating political jurisdictions to enter into an agreement with the County Clerk and Recorder concerning the conduct of the election; and

WHEREAS, Colorado Constitution, Section 20 of Article X, requires the production of a mailed ballot issue notice concerning certain ballot issues that will be submitted to the electors of the County and the Jurisdiction; and

WHEREAS, C.R.S. § 1-13.5-1103 (3) permits a jurisdiction to conduct an independent mail ballot election and coordinate any procedure or notice, by agreement, with the County Clerk and Recorder; and

WHEREAS, said agreements, as exhibited by the attached agreements, concerns scheduling and obligations on behalf of the County and shall be entered into no less than seventy days prior to the scheduled election.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of El Paso County, Colorado, that:

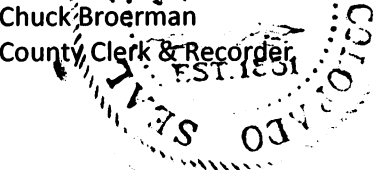
1. The attached Intergovernmental Agreement and Letter of Agreement are hereby approved for execution; and
2. The El Paso County Clerk and Recorder is authorized to sign said agreements by and on behalf of the Board of County Commissioners as they are entered into; and
3. The El Paso County Clerk and Recorder is further authorized to make any necessary modifications to the said agreements for each participating jurisdiction in conjunction with the El Paso County's Attorney's Office; and
4. Said authority shall only be exercised for agreements concerning the November 5, 2019, Election.

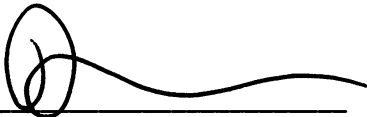
DONE THIS 30th day of July, 2019, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST

By: 
 Chuck Broerman
 County Clerk & Recorder



By: 
 Mark Waller, Chair
 Board of County Commissioners

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INTERGOVERNMENTAL AGREEMENT
BETWEEN
EL PASO COUNTY CLERK AND RECORDER
AND
CITY OF COLORADO SPRINGS
Regarding the Conduct and Administration of the
November 5, 2019
COORDINATED ELECTION



Prepared by:

Chuck Broerman
El Paso County Clerk and Recorder
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(719) 575-VOTE (8683)

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into by and between the **EL PASO COUNTY BOARD OF COUNTY COMMISSIONERS** ("County"); **THE EL PASO COUNTY CLERK AND RECORDER** ("County Clerk") and City of Colorado Springs, a home rule city and Colorado municipal corporation ("Jurisdiction"), collectively referred to as the "Parties."

WITNESSETH

WHEREAS, pursuant to Colorado Revised Statutes (C.R.S. or the "Code") § 1-7-116(2), as amended, and the Rules of the Colorado Secretary of State (the "Rules"); the County Clerk and the Jurisdiction are required to enter into an agreement for the administration of their respective duties concerning the conduct of the November 5, 2019, Coordinated Election ("Election"); and

WHEREAS, the County Clerk and the Jurisdiction are authorized to conduct elections as required by law;

WHEREAS, the Colorado Constitution, Section 20 of Article X, requires the production of a mailed Ballot Issue Notice (also known as a "TABOR" notice) concerning certain ballot issues that will be submitted to the electors of the County and the Jurisdiction; and

WHEREAS, the Jurisdiction has certain ballot issues and/or ballot questions to present to its eligible electors and shall participate in this Coordinated Election.

NOW, THEREFORE, for and in consideration of the promises contained herein, the sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. This election shall be conducted as a Coordinated Election in accordance with the Uniform Election Code of 1992 (Articles 1-13 of Title 1, C.R.S.). The election participants shall be required to execute agreements with El Paso County for this purpose and may include any jurisdiction type, eligible to conduct such an election within the El Paso County limits and the State of Colorado.
2. This election shall be conducted by El Paso County as a Mail Ballot Election.
3. FURTHER, the Parties agree as follows:

ARTICLE ONE
PURPOSE AND GENERAL MATTERS

1.1 DEFINITIONS:

- A. **"Coordinated Election Official"**, (hereinafter **"CEO"**) shall mean the El Paso County Clerk and Recorder as referenced in C.R.S. § 1-7-116(1)(a). The CEO shall act within the Code and Rules and, as such, shall conduct the election for the Jurisdiction for all matters in the Code and the Rules which require action by the CEO.
- B. **"Colorado Election Code"** or **"Code"** shall mean any part of the Uniform Election Code of 1992 (Articles 1-13 of Title 1, C.R.S.), as well as the Colorado Constitution, and the State of Colorado Secretary of State (SOS) Rules.
- C. **"Coordinated Election"** shall mean 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 and Recorder is the Coordinated Election Official for the jurisdictions.
- D. **"Designated Election Official"** (hereinafter **"DEO"**), shall be identified by the Jurisdiction to act as the primary liaison between the Jurisdiction and the CEO or his designated contact person (defined below), and who will have primary responsibility for the conduct of election procedures to be handled by the Jurisdiction hereunder.
- E. **"IGA"** or **"Agreement"** shall mean this Intergovernmental Agreement between the County and the Jurisdiction for election coordination.
- F. **"General Election"** means the election held on the Tuesday succeeding the first Monday of November in each even-numbered year.
- G. **"Jurisdiction"** shall mean the City of Colorado Springs, a home rule city and Colorado municipal corporation.
- H. **"Mail Ballot Packet"** shall mean the packet of information provided by the CEO to eligible electors in the mail ballot election. The packet includes the ballot, instructions for completing the ballot, a secrecy sleeve, and a return envelope. C.R.S. § 1-7.5-103(5).

office hours and on Election Day from 7:00 a.m. until the counting of the ballots is completed. To the extent that the Code requires that an Election Official of the Jurisdiction conduct a task, the DEO shall conduct the same.

- 1.6 **APPLICABILITY:** This Agreement shall be construed to apply to all areas within the jurisdictional boundaries of the Jurisdiction .
- 1.7 **TERM:** This Agreement shall start as of the date of the last party's execution of this Agreement and shall continue through the official certification of the November 5, 2019, Coordinated Election.
- 1.8 **LEGAL ADVICE:** The Jurisdiction understands that the CEO and his designees do not provide legal advice to the Jurisdiction. The CEO and his designees may provide information to the Jurisdiction concerning the CEO's understanding of applicable laws and rules, but it is the responsibility of the Jurisdiction to contact its own attorney for legal advice.
- 1.9 **RESPONSIBILITIES BEYOND THIS AGREEMENT:** The Jurisdiction understands that there may be additional obligations and responsibilities, legal, contractual, or otherwise, placed upon the Jurisdiction outside the terms of this IGA. The Jurisdiction further understands that it is the responsibility of the Jurisdiction to be aware of all obligations and responsibilities of the Jurisdiction.

ARTICLE TWO

DUTIES OF THE COUNTY CLERK AND RECORDER (CEO)

The CEO shall perform the following duties for the election for the Jurisdiction:

- 2.0 **VOTER REGISTRATION:** Supervise, administer and provide the necessary facilities and forms for all regular voter registration sites and voter service and polling centers.
- 2.1 **BALLOT PREPARATION:** Upon certification from the DEO pursuant to Section 3.4, the CEO shall layout the text of the ballot in a format that complies with the Code and the Rules. CEO shall provide ballot printing layouts and text for proofreading and for signature approval of the Jurisdiction. CEO shall certify the ballot content to the printer.
- 2.2 **VOTER LISTS:** Upon request of the Jurisdiction, create a list of the registered voters containing the names and addresses of each elector registered to vote in the Jurisdiction. This will not be a certified list, but may be used for checking signatures on candidate petitions. The Jurisdiction shall pay the CEO for the cost of such list. The Jurisdiction

may choose to receive the list on CD, via FTP site or as a printed copy. The fee for furnishing the list shall be as follows:

List on ftp site = \$25.00

List on CD = \$25.00 plus \$1.25 CD charge

List as a Printed Copy = \$25.00 and \$.05 per page

- 2.3 **MAIL BALLOT PLAN:** The CEO shall file the proposed election plan with the Secretary of State as required by C.R.S. § 1-7.5-105 (1).
- 2.4 **ELECTION JUDGES/BOARD OF CANVASSERS/STAFF:** The CEO shall appoint, receive appointments as required by law, compensate, instruct and oversee election judges, the Board of Canvassers, and any qualified number of additional election staff to adequately serve the number of electors registered to vote in the Coordinated Election.
- 2.5 **ELECTION SUPPLIES:** The CEO shall provide all necessary equipment, forms and personnel to conduct the election, including the County's electronic vote counting equipment.
- 2.6 **LOGIC AND ACCURACY:** The CEO shall conduct three tests on all electronic voting equipment in accordance with C.R.S. § 1-7-509(1)(b) and Rules promulgated by the Secretary of State, including a hardware test, public logic and accuracy test, and a post-election test. The CEO shall select a testing board comprised of at least two persons, who are registered electors.
- The CEO shall conduct public testing of voting equipment prior to the commencement of voting. The public test shall be open to representatives of the political parties, the press and the public, pursuant to C.R.S. § 1-7-509(2)(b). The CEO shall select a testing board comprising of at least two persons who are registered electors. Notice of the fact that the public test will take place shall be posted in the designated public place for posting notices in the county for at least seven days before the public test.
- 2.7 **PREPARE AND MAIL BALLOT PACKETS:** The CEO shall prepare and mail all Mail Ballot Packets as required by C.R.S. § 1-7.5-107 and § 1-8.3-110.
- 2.8 **ELECTION DAY:** The CEO shall provide Election Day telephone and in person support from 7:00 a.m. to the conclusion of the unofficial count on election night.
- 2.9 **COUNTING OF BALLOTS:** The CEO shall conduct and oversee the process of counting the ballots and reporting the results by precinct.

Establish backup procedures and voting sites should the need arise. Provide personnel to participate in the ballot counting procedures as accomplished by any electronic vote tabulating equipment used in the election. Provide personnel and all other necessary services for any recount as provided by the Code.

- 2.10 **STORAGE:** The CEO shall store all voted ballots and all other election materials for a minimum of twenty-five (25) months, to be saved in such a manner that they may be accessed by the participating jurisdictions, if necessary, to resolve any challenge or other legal questions that might arise regarding the election.
- 2.11 **PUBLIC NOTICE:** The CEO shall provide notice by publication of a mail ballot election as required by C.R.S. § 1-5-205.
- 2.12 **BALLOT ISSUE NOTICE:** The CEO shall determine the "least cost" method for mailing the Ballot Issue Notice package and combine the text of the Ballot Issue Notice produced by the Jurisdiction with those of other participating jurisdictions to produce the Ballot Issue Notice package. The CEO will determine the order of the ballot and the order of the Ballot Issue Notice in the order of final ballot certification on a first received basis. All materials supplied by the participating jurisdiction shall be kept together by individual jurisdiction, and in the order supplied by the jurisdiction, and with the same text as supplied.

The CEO shall print, address and mail the package to "All Registered Voters" at each address of one or more active registered elector of the Jurisdiction. Nothing herein shall preclude the CEO from sending the Ballot Issue Notice or notice package to persons other than electors of the Jurisdiction if such sending arises from the CEO's efforts to mail the Ballot Issue Notice package at "least cost."

- 2.13 **COSTS:** The CEO shall keep a careful and accurate accounting of all chargeable items to the Jurisdiction. Costs shall include, but are not limited to: software and equipment usage, election judges and other associated election personnel, ballots and related election forms, printing, election supplies, public notices paid for by the CEO, postage, rental charges, related computer hardware and technical support, and any other fees reasonably related to conducting the 2019 Coordinated Election.

The CEO shall charge each jurisdiction taking part in the election a proportional share of the actual costs of the election. This proportional share shall be based upon the number of active voters eligible to vote within each jurisdiction involved in the election, the number of jurisdictions participating, and may also take into account the number of

ballot issues and/or items to be included on the ballot for each jurisdiction.

In the event the Parties are required to defend against any legal or administrative action brought by a candidate or jurisdiction as it relates to this Agreement, the Parties agree to utilize their existing legal services as appropriate to defend against the action. The Parties agree to consult with each other to determine whether legal counsel outside of the El Paso County Attorney's office and the Office of the City Attorney for Jurisdiction is required or warranted to defend legal or administrative action as referenced in this Agreement. If a determination is made that outside legal counsel is desired and warranted, the Parties may, but are not obligated to, enter into a separate agreement to defend against the actions and to pay for the outside legal services.

- 2.14 **Voting and Ballot drop-off:** The CEO shall establish precincts, voter service and polling centers, and ballot drop-off locations as required by law, and cooperate with Jurisdictions in the petition verification process.

ARTICLE THREE DUTIES OF THE JURISDICTION

- 3.0 **AUTHORITY:** The DEO shall provide the CEO with a copy of the ordinance or resolution stating that the Jurisdiction will follow the election provisions of the Code and that the Jurisdiction will participate in the Coordinated Election in accordance with the terms and conditions of this Agreement, including the time guidelines schedule attached hereto as these relate to the November 5, 2019, Coordinated Election.
- 3.1 **CALL AND NOTICE:** The CEO shall publish the Notice as required by C.R.S. § 1-5-205. If other notices required by C.R.S. § 1-7-908 or any other constitutional or statutory reference are required by the Jurisdiction, it shall be the DEO's responsibility to comply with those requirements.
- 3.2 **PETITIONS:** The DEO shall perform all responsibilities required to certify any initiative petition(s) to the ballot. Signatures on all petitions shall be verified by the Jurisdiction.
- 3.3 **CAMPAIGN FINANCE:**

The DEO understands that issue committees formed to support or oppose any municipal ballot issue or question may have state law obligations that are separate and distinct from the Jurisdiction's campaign finance

reporting obligations pursuant to Colorado Springs City Code § 5.2.201, *et seq.*

- 3.4 **BALLOT PREPARATION and CERTIFICATION:** The DEO shall certify the ballot issues and/or ballot questions and the titles and summaries of each ballot issue or question in the format as described in the attached "Format Information Page" to the CEO exactly as the list is to be printed on the ballot as soon as the information is available but **no later than 5:00 P.M. on September 6, 2019.**

Certification is required by two methods any time prior to the above deadline:

Electronically by email to angieleath@elpasoco.com, and

A printed hard copy delivered to the Main Clerk & Recorder's office no later than 5:00 p.m. on September 6, 2019.

The Jurisdiction must indicate whether question(s) are a referred measure or an initiative from a citizen petition. The Jurisdiction understands and agrees that any ballot content submitted to the CEO after the above noted date may result in their issues or questions not being on the ballot. In such event, the Jurisdiction will be required to provide for its own election at its sole expense and the remaining terms and conditions of this Agreement will automatically terminate. Jurisdiction shall be solely responsible for the content of any ballot issue and/or ballot question, including the title and summary of any ballot issue and/or ballot question. The CEO may provide proofreading assistance (i.e. technical, grammatical, or syntactic proofing) but under no circumstance shall the CEO be responsible for the content or how it is presented to its voters.

The Jurisdiction understands that it must wait and that it must instruct ballot issue committees and coordinating entities to wait before the numbering of a ballot issue and/or ballot question until the CEO has assigned a number to the respective ballot issue and/or ballot question.

- 3.5 **PROOFING:** The DEO shall proofread the layout and the text of the Jurisdiction's portion of the official ballots before authorizing in writing the printing of the ballots. Such authorization shall be made **WITHIN THREE (3) HOURS** of the CEO's email or fax transmission to the DEO. The expected date and time for this proofing will be between 8:00 a.m. and 5:00 p.m. on Thursday, 9/12/19 or Friday, 9/13/19. Should the DEO fail to contact the CEO within three (3) hours of the CEO's email or fax transmission, the CEO shall not be held responsible for any errors or omissions should they proceed with the printing of the ballots.

