

Memorandum of Intergovernmental Agreement
For Conduct of Coordinated Elections

Town of Erie, hereinafter referred to as "Jurisdiction," does hereby agree and contract with the Board of County Commissioners of the County of Weld, hereinafter referred to as "Commissioners," and the Weld County Clerk and Recorder, hereinafter referred to as "County Clerk," concerning the administration of the November 6, 2018, General Election conducted pursuant to the Uniform Election Code of 1992 as amended (hereinafter "Code"), and the rules and regulations promulgated thereunder, found at 8 C.C.R. 1505-1. This Agreement is not intended to address or modify statutory provisions regarding voter registration, nor to address or modify the County Clerk's duties thereunder.

WHEREAS, the Jurisdiction desires to conduct an election pursuant to its statutory authority or to have certain items placed on the ballot at an election pursuant to its statutory authority, such election to occur via mail ballot on November 6, 2018; and

WHEREAS, the Jurisdiction agrees to conduct a Coordinated Election with the County Clerk acting as the Coordinated Election Official; and

WHEREAS, the County Clerk is the "Coordinated Election Official," pursuant to § 1-7-116(1), C.R.S., and is to perform certain election services in consideration of performances by the Jurisdiction of the obligations herein below set forth; and

WHEREAS, such agreements are authorized by statute at §§ 1-1-111(3), 1-7-116, and 29-1-203, et seq., C.R.S.

NOW, THEREFORE, in consideration of the mutual covenants herein, the parties agree as follows:

1. The Jurisdiction encompasses territory within Weld County and Town of Erie County. This Agreement shall be construed to apply only to that portion of the Jurisdiction within Weld County.
2. Term of Agreement: This Agreement is intended only to deal with the conduct of the November 6, 2018, General Election.
3. The Jurisdiction agrees to perform the following tasks and activities:
 - a. Conduct all procedures required of the clerk or designated election official for initiatives, referenda, and referred measures under the provisions of §§ 31-11-101 through 31-11-118, C.R.S.
 - b. To do all tasks required by law of designated election officials concerning nomination of candidates by petition, including, but not limited to: issue approval as to form, where appropriate, of nominating petition; determine candidate eligibility; receive candidate acceptance of nominations; accept notice of intent, petitions for nomination, and affidavits of circulators; verify signatures on nominating petitions; and hear any protests of the nominating petitions, as said tasks are set forth in any applicable provisions of Title 1, Article IV, Parts 8 and 9, and §§ 1-4-501, C.R.S., and those portions of the Colorado Municipal Election Code of 1965, Article X of Title 31, as adopted by reference pursuant to § 1-4-805, C.R.S.
 - c. Establish order of names and questions for Jurisdiction's portion of the ballot and submit to the County Clerk in final form. The ballot content, including a list of candidates, ballot

Memorandum of Intergovernmental Agreement
For Conduct of Coordinated Elections

title, and text, must be certified to the County Clerk no later than 60 days before the election, pursuant to § 1-5-203(3)(a), C.R.S.

- d. Accept written comments for and against ballot issues pursuant to §§ 1-7-901 and Article 10, Section 20(3)(b)(v), C.R.S. Comments to be accepted must be filed by noon on the Friday before the 45th day before the election. Preparation of summaries of written comments shall be done by the Jurisdiction but only to the extent required pursuant to § 1-7-903(3), C.R.S. The full text of any required ballot issue notices must be transmitted to and received by the County Clerk no later than 43 days prior to the election pursuant to § 1-7-904, C.R.S. No portion of this Subsection 3(d) shall require the County Clerk to prepare summaries regarding the Jurisdiction's ballot issues.
- e. Collect, prepare, and submit all information required to give notice pursuant to Colorado Constitution Section 20, Article 10(3)(b), the Taxpayer's Bill of Rights. Such information must be received by the County Clerk no less than 43 days prior to the election to give the County Clerk sufficient time to circulate the information to voters.
- f. Accept affidavits of intent to accept write-in candidacy up until close of business on the 64th day before the election, and provide a list of valid affidavits received and forward them to the County Clerk pursuant to § 1-4-1102(2), C.R.S.
- g. Pay the sum of \$1.25 per registered elector eligible to vote in the Jurisdiction's election as of November 6, 2018, with a \$200 minimum, within 30 days of billing, regardless of whether or not the election is actually held. If the Jurisdiction cancels the election before its Section 20, Article X, the Taxpayer's Bill of Rights, notices are due to the County, and prior to the County Clerk incurring any expenses for the printing of the ballots, the Jurisdiction shall not be obligated for any expenses under this Subsection 3(g) (h). The Jurisdiction shall also be responsible for costs of recounts pursuant to §§ 1-10.5-107, 1-10.5-104, or 1-11-215 C.R.S., except for costs collected from an "interested party" pursuant to § 1-10.5-106 which shall be collected by the entity conducting the recount.
- h. Designate an "election official" who shall act as the primary liaison between the Jurisdiction and the County Clerk and who will have primary responsibility for the conduct of election procedures to be handled by the Jurisdiction hereunder.
- i. By approval of this Agreement, any municipality thereby resolves to not use the provisions of the Colorado Municipal Election Code, except as otherwise set forth herein or as its use is specifically authorized by the Code.
- j. Mail ballot issue notices pursuant to § 1-7-906(2) for active registered electors who do not reside within the county or counties where the political subdivision is located.
- k. Carry out all action necessary for cancellation of an election including notice pursuant to § 1-5-208, C.R.S., and pay any costs incurred by the County Clerk within 30 days of receipt of an invoice setting forth the costs of the canceled election pursuant to § 1-5-208(5), C.R.S.

Memorandum of Intergovernmental Agreement
For Conduct of Coordinated Elections

- l. Jurisdiction shall verify as being accurate the list of registered elector's names and addresses previously forwarded to the Jurisdiction by the Weld County Clerk and Recorder's Office. By signing this Agreement, Jurisdiction represents that the list of registered elector's names and addresses has been reviewed by the Jurisdiction and is accurate. The Jurisdiction will promptly notify Adam Gonzales, the Weld County Election Manager (see contact information in 5(h)), of any changes to the information contained in said list.
- m. By September 7th, Jurisdiction shall notify all candidates to call the Election Office at 970-304-6525 ext. 3109 to leave a voice mail on how to pronounce the candidate's name and the office the candidate is seeking.

4. The County Clerk Agrees to perform the following tasks and activities:

- a. Except as otherwise expressly provided for in this Agreement, to act as the Coordinated Election Official for the conduct of the election for the Jurisdiction for all matters in the Code which require action by the Coordinated Election Official.
- b. Circulate the Taxpayer's Bill of Rights notice pursuant to Colorado Constitution Article X, Section 20.
- c. Circulate general Ballot Issues notices pursuant to §§ 1-7-905 and 1-7-906(1), C.R.S. and publish and post notice, as directed in § 1-5-205, C.R.S.
- d. During the period designated for early voting, at least one voter service and polling center for each thirty thousand active electors; except that there must be at least one voter service and polling center in each such county. §§ 1-5-102.9(I)(A), C.R.S
- e. On Election Day, at least one voter service and polling center for every fifteen thousand active electors, but no fewer than three in each such county. §§ 1-5-102.9(I)(B), C.R.S
- f. County Clerk may designate a greater number of voter service and polling centers than the minimum required by this section. §§ 1-5-102.9(H)(II)(e), C.R.S
- g. Voter service and polling centers must be open, at a minimum, for the fifteen-day period prior to and including the day of the election, except that voter service and polling centers are not required to be open on Sundays. §§ 1-5-102.9(H)(II)(e)(2), C.R.S
- h. After Election Day, bill Jurisdiction for number of registered electors within the Jurisdiction as of Election Day; identify the members of the Board of Canvassers eligible for receiving a fee; and bill the Jurisdiction for the fees.
- i. Designate Adam Gonzales, Weld County Election Manager, to act as a primary liaison or contact between the County Clerk and the Jurisdiction (see contact information in 5(h)).
- j. The County Clerk shall appoint and train election judges and this power shall be delegated by the Jurisdiction to the County Clerk, to the extent required or allowed by law.

Memorandum of Intergovernmental Agreement
For Conduct of Coordinated Elections

- k. Select and appoint a Board of Canvassers to canvass the votes, provided that the Jurisdiction, at its option, may designate one of its members and one eligible elector from the jurisdiction to assist the County Clerk in the survey of the returns for that Jurisdiction. If the Jurisdiction desires to appoint one of its members and an eligible elector to assist, it shall make such appointments, and shall notify the County Clerk in writing of such appointments not later than 15 days prior to the election. The County Clerk shall receive and canvass all votes, and shall certify the results in the time and manner provided and required by the Code. The County Clerk shall perform all recounts required by the Code.

5. Additional Provisions

a. Time of the Essence.

Time is of the essence in this Agreement. The statutory time frames of the Code shall apply to the completion of the tasks required by this Agreement.

b. Conflict of Agreement with Law.

This Agreement shall be interpreted to be consistent with the Code, provisions of Title 31 applicable to the conduct of elections, and the Colorado Election Rules contained in 8 C.C.R. 1505-1. Should there be an irreconcilable conflict between the statutes, this Agreement and the Colorado Election Rules, the statutes shall first prevail, then this Agreement and lastly the Colorado Election Rules.

c. Right of Termination.

If Jurisdiction fails to accomplish its obligations, County is relieved of any further obligation under this agreement. Jurisdiction is fully responsible for any actions that result from its failure to meet its obligations.

d. Liquidated Damages.

In the event that a Court of competent jurisdiction finds that the election for the Jurisdiction was void or otherwise fatally defective as a result of the sole negligence or failure of the County Clerk to perform in accordance with this Agreement or laws applicable thereto, then the County Clerk shall, as liquidated damage, not as a penalty, refund all payments made, pursuant to Subsection 3(g) of this Agreement and shall, if requested by the Jurisdiction, conduct the next Coordinated Election which may include any election made necessary by a defect in the election conducted pursuant to this Agreement with no fee assessed to the Jurisdiction. This remedy shall be the sole and exclusive remedy for damages available to the Jurisdiction under this Agreement.

e. No Waiver of Privileges or Immunities.

No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions, of the Colorado Governmental Immunity Act §§ 24-10-101 et seq., as applicable now or hereafter amended, or any other applicable privileges or immunities held by the parties to this Agreement.

Memorandum of Intergovernmental Agreement
For Conduct of Coordinated Elections

f. No Third Party Beneficiary Enforcement.

It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the undersigned parties and nothing in this Agreement shall give or allow any claim or right of action whatsoever by any other person not included in this Agreement. It is the express intention of the undersigned parties that any entity other than the undersigned parties receiving services or benefits under this Agreement shall be an incidental beneficiary only.

g. Entire Agreement, Modification, Waiver of Breach.

This Agreement contains the entire Agreement and understanding between the parties to this Agreement and supersedes any other agreements concerning the subject matter of this transaction, whether oral or written. No modification, amendment, novation, renewal, or other alteration of or to this Agreement and any attached exhibits shall be deemed valid or of any force or effect whatsoever, unless mutually agreed upon in writing by the undersigned parties. No breach of any term, provision, or clause of this Agreement shall be deemed waived or excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party hereto, or waiver of, a breach by any other party, whether express or implied, shall not constitute a consent to, waiver of, or excuse for any other, or subsequent, breach.

Memorandum of Intergovernmental Agreement
For Conduct of Coordinated Elections

- h. Notice provided for in this Agreement shall be given by the Jurisdiction to Adam Gonzales of the Weld County Clerk and Records Office by phone:

Phone: (970) 400-3178

Additional Contact Information:

Fax: (970) 304-6566

E-mail: agonzales@weldgov.com

Address: PO Box 459, Greeley, CO 80632

Notice provided for in this Agreement shall be given to the Jurisdiction election official referred to in Subsection 3(h) of this Agreement by phone:

Designated Election Official for Jurisdiction: Jessica Koenig

Phone: 303-926-2730

After hour phone number: _____

Additional Contact Information:

Fax: _____

E-mail: jkoenig@erieco.gov

Address: 645 Holbrook / PO Box 750
Erie, CO 80516

DATED this 14th day of August, 2018.

WELD COUNTY CLERK AND RECORDER

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF WELD COUNTY

Carly Koppes, Clerk and Recorder

Steve Moreno, Chair

APPROVED AS TO FORM:

ATTEST: _____
Clerk to the Board of County Commissioners

County Attorney

Deputy Clerk to the Board

Town of Erie

APPROVED AS TO FORM:

ATTEST:

Attorney for Jurisdiction (Signature)

Designated Election Official for Jurisdiction
(Signature)