

## BALLOT PRINT AND MAIL SERVICES AGREEMENT

THIS BALLOT PRINT AND MAIL SERVICES AGREEMENT ("Agreement") is made as of the date of execution by the Parties, by and between Tooele County, a governmental subdivision of the State of Utah ("Client"), and RUNBECK ELECTION SERVICES, INC., an Arizona corporation, whose address is 2800 S. 36<sup>th</sup> Street, Phoenix, AZ 85034 ("Runbeck") (Collectively, the "Parties").

### RECITALS

1. Runbeck is the provider of certain ballot printing and mailing services (the "Services"), more fully described in Exhibits A and B, which are available for sale. Runbeck also offers other services, support and products ("Products") related to the elections process.

2. Client desires to purchase from Runbeck Products and Services that are described in Exhibits A and B.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants contained herein and other good and valuable consideration, the Parties agree as follows:

### AGREEMENTS

#### 1. Product and Service Purchase.

Runbeck agrees to sell, and Client agrees to purchase, the ballot printing and mailing services (and related products) that are described in Exhibits A and B. Client agrees to pay to Runbeck in accordance with the fee schedule as shown in Exhibit A and the parties expressly acknowledge and agree that if the cost of paper increases by more than one-percent (1.0%) annually, the price will be adjusted to include the amount by which such annual paper cost increase exceeds one-percent (1.0%); provided, however, that Client shall not be required to pay as a paper cost adjustment more than three-percent (3%) in any one year during the term of this Agreement. Client agrees to use the purchased Products and Services in a manner that is consistent with the terms of this Agreement.

#### 2. Payment to Runbeck.

Client hereby agrees to pay to Runbeck, no later than the applicable due date, all fees that are due and payable under this Agreement, including Ballot Printing, Mailing Services, Applicable Shipping Charges and any other ancillary items the Client requests be produced hereunder. Payment terms on amounts billed to Client are Net thirty (30) days. Runbeck may charge a late fee equal to one and one-half percent (1.5%) per month on any unpaid and past due balances that are owed by Client. Further, if Client fails to timely pay any amounts due, and such failure continues for ten (10) days after written demand for payment is delivered to Client, Runbeck, at its sole discretion, may immediately terminate this Agreement and take possession of any materials owned by Runbeck, including any delivered to, but unpaid for by, Client, with or without a court order. In addition, Runbeck may pursue any other remedy permitted by law or in equity.

#### 2.1 Taxes.

Client is responsible for applicable taxes. Client shall be responsible for paying, when due, all taxes that are imposed by any state, local, or other government authority on Client's possession or use of the Products and Services referred to in Section 1 of this Agreement.

**3. Product Delivery.**

Runbeck shall deliver all Products and Services to Client at the address specified in Section 20 of this Agreement, or at such other address that Client provides in writing. The Products and Services will be delivered on a schedule that is mutually acceptable to the parties. Runbeck shall not be responsible for delays in delivery of the Products and Services that are not caused by Runbeck.

**3.1 Shipping.**

During the term of this Agreement Client is responsible for paying any expedited shipping charges on the Products and Services that are provided under this Agreement.

**4. Availability and Retention of Records.**

All records relating to the Products and Services provided under this Agreement and supporting documentation for invoices submitted to Client by Runbeck shall be retained and made available by Runbeck for audit by Client, its duly authorized representatives, the State of Utah (including, but not limited to the Auditor of the State of Utah, Inspector General or duly appointed law enforcement officials) and agencies of the United States government. Such records shall be retained by Runbeck and made available for any time period required by state or federal law.

**5. Assignment.**

The Parties expressly agree that neither shall assign this Agreement without the prior written consent of the other. Runbeck may subcontract services agreed to in this Agreement, but only with the written consent of the Client. All subcontracts are subject to the same terms, conditions, and covenants contained within this Agreement.

**6. Governing Law.**

This Agreement shall be governed, construed, and enforced under the laws of Utah, notwithstanding any conflicts of laws provisions. Any legal action brought pursuant to this Agreement shall be filed in the courts of Utah.

**7. Integration and Modification.**

This Agreement, including exhibits, embodies the entire agreement of the Parties. There are no promises, terms, conditions or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations or contracts, either written or oral, between the Parties to this Agreement. This Agreement shall not be modified in any manner except by an instrument, in writing, executed by the Parties to this Agreement.



**8. Severability.**

If any term or provision of this Agreement shall be held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby and each remaining term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

**9. Appropriations.**

Client represents and covenants that (i) it has funds available to pay all fees that will become due to Runbeck through the date of the next annual appropriations from Client's funding authority; and (ii) that it shall use its best efforts to obtain funds to pay any of the foregoing financial obligations for each subsequent fiscal year of the **four (4)** year term of the Agreement. In the event Client's appropriations request to its legislative body or funding authority for necessary funds hereunder is denied, this Agreement, and all exhibits, may be terminated by Runbeck. Client shall make payment of all charges and obligations incurred through the end of the fiscal period for which funds were appropriated. In any such event, Client shall thereupon return all Runbeck property in its possession. Runbeck shall be entitled to be paid by Client for all services provided through the effective date of termination of this Agreement.

**10. Compliance.**

Runbeck agrees to comply with all applicable federal, state, and local laws in the conduct of work hereunder. Runbeck accepts full responsibility for payment of all taxes including, without limitation, unemployment compensation, insurance premiums, income tax deductions, social security deductions, and all other taxes or payroll deductions required for all employees engaged by Runbeck in the performance of work under this Agreement.

**11. Non-Discrimination.**

Runbeck certifies it is an equal opportunity employer and shall remain in compliance with state and federal civil rights and nondiscrimination laws and regulations including, but not limited to, Title VI, and Title VII of the Civil Rights Act of 1964 as amended, the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Age Discrimination Act of 1975 and the Age Discrimination in Employment Act, as amended.

During the performance of this Agreement, Runbeck will not discriminate against any employee, contract worker, or applicant for employment because of race, color, religion, sex, sexual orientation, national origin, ancestry, disability, Vietnam-era veteran status, age, political belief or place of birth. Runbeck will take affirmative action to ensure that during employment, all employees are treated without regard to race, color, religion, sex, national origin, ancestry, disability, Vietnam-era veteran status, age, political belief or place of birth. These provisions apply also to contract workers, such action shall include, but is not limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising, layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Runbeck agrees to post in conspicuous places, available to employees and applicants for employment, notices stating Runbeck complies with all applicable federal and state non-discrimination laws.

Runbeck, or any person claiming through Runbeck, agrees not to establish or knowingly permit any such practice or practices of discrimination or segregation in reference to anything relating to this Agreement, or in reference to any contractors or subcontractors of said Runbeck.

**12. Independent Relationship.**

Nothing in this Agreement is intended to, nor shall be deemed to, create a partnership, association or joint venture between Client and Runbeck in the conduct of the provisions of this Agreement. Runbeck shall at all times have the status of an independent contractor.

**13. Waiver.**

Any waiver by either party of any right, provision or condition under this Agreement shall not be construed or deemed to be a waiver of any other right, provision or condition of this Agreement, nor a waiver of a subsequent breach of the same right, provision or condition.

**14. Confidential Information.**

All information owned, possessed or used by Client which is communicated to, learned, or otherwise acquired by Runbeck or its employees, agents or contractors in the performance of the terms of this Agreement shall be deemed and remain Confidential Information. Runbeck shall not, beginning on the date of first association or communication between the Client and Runbeck and continuing through the term of this Agreement and thereafter, disclose, communicate or divulge to another, or use for Runbeck's own benefit or the benefit of another, any such Confidential Information without the prior written consent of the Client.

**15. Risk of Loss.**

Runbeck agrees to bear all risk of loss, injury, or destruction of Products, as a result of this Agreement which occurs prior to delivery to the Client. Upon delivery by Runbeck to the Client, and Client taking possession of such Products, Client agrees to bear all risk of loss, injury, or destruction of such Products. Runbeck's invoices will conform to the reasonable requirements of the Client.

**16. Warranty.**

Runbeck warrants and represents that services provided pursuant to this Agreement, and attached exhibits, shall be timely performed in a professional manner.

**17. Limitation of Runbeck Liability.**

RUNBECK'S LIABILITY TO CLIENT FOR DAMAGES UNDER ANY THEORY OR FORM OF ACTION SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY CLIENT TO RUNBECK UNDER THIS AGREEMENT. RUNBECK SHALL NOT BE RESPONSIBLE OR LIABLE FOR ANY CLAIMS OR DAMAGES BY ANY PARTY RESULTING FROM CLIENT'S IMPROPER OR NEGLIGENT USE OR POSSESSION OF



PRODUCTS. RUNBECK SHALL NOT BE LIABLE TO CLIENT OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, OR OTHER CONSEQUENTIAL DAMAGES.

**18. Parties Responsibility.**

Each party agrees to be responsible and assume liability for its own wrongful or negligent acts and omissions, and those of its officers, agents and employees to the extent required by law. No term or condition of this Agreement shall be construed or interpreted as a waiver, either express or implied, of the notice requirements, immunities, rights, benefits, defenses, limitations and protections available to Client under Utah law.

**19. No Third-Party Beneficiary.**

Enforcement of the terms of this Agreement and all rights of action relating to enforcement are strictly reserved to the Parties. Nothing contained in this Agreement allows any claim or right of action in any third person or entity. Any person or entity other than Client or Runbeck receiving services or benefits pursuant to this Agreement is an incidental beneficiary only.

**20. Notices.**

All written notices required under this Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid as follows:

By Runbeck to:           Tooele County  
                                  47 S. Main Ste 318  
                                  Tooele, UT 84074  
                                  Attention: Marilyn Gillette  
                                  County Clerk

To Runbeck:             Runbeck Election Services, Inc.  
                                  2800 S. 36<sup>th</sup> Street  
                                  Phoenix, Arizona 85034  
                                  Attention: Rizwan Fidai  
                                  Vice President, Sales

With a copy to:         Steven H. Williams, Esq.  
                                  2323 North Central Avenue, Unit  
                                  1905  
                                  Phoenix, Arizona 85004

Notices hand delivered or sent by overnight courier are effective upon delivery; notices sent by certified mail are effective upon receipt; and notices sent by U.S. mail are

effective upon the expiration of five (5) mail delivery days from deposit (postmarked) with the U.S. Postal Service.

**21. No Construction Against Drafting Party.**

The Parties and their respective counsel have had the opportunity to review this Agreement, and the Agreement will not be construed against any party merely because this Agreement was prepared by a particular party.

**21.1 Binding Authority.**

The person signing this Agreement on behalf of each party represents and warrants that he or she has full legal power to execute this Agreement and that he or she has proper authority to bind and obligate his or her party with respect to all provisions contained in this Agreement.

**22. Successors and Assigns.**

The rights and obligations of the Parties herein set forth shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns permitted under this Agreement.

**23. Time is of the Essence.**

The Parties agree that in the performance of the terms of this Agreement, time shall be of the essence.

**24. Attorneys' Fees.**

In the event of a litigation action to enforce, or arising from, the terms of this Agreement, the prevailing party in such action shall be entitled to recover from the non-prevailing party its reasonable attorneys' fees and costs incurred in the action.

**25. Term.**

The Parties declare, acknowledge and agree that the term of this Agreement shall be **four (4)** years, subject to Runbeck's right to terminate immediately due to lack of approved appropriations as set forth in Section 9 of the Agreement; fraud; or disclosure of Runbeck Confidential Information. The Agreement will automatically renew unless Client provides Runbeck with written notice, at least ninety (90) days prior to the Agreement end date, of its intention to not renew.

**26. Obligations at Expiration.**

Upon expiration of this Agreement, Runbeck shall provide to Client an accounting of all monies due and payable to Runbeck under this Agreement. Client shall pay to Runbeck all amounts owed, if any, within thirty (30) days of the date of the invoice that Runbeck sends to Client.

IN WITNESS WHEREOF, the Parties have signed this Agreement as of the day and year first above written.

Runbeck Election Services, Inc.

Tooele County, UT

By: \_\_\_\_\_

 Tom Tripp

Title: \_\_\_\_\_

Tooele County Council, Chair

Date: \_\_\_\_\_

14 April 2021

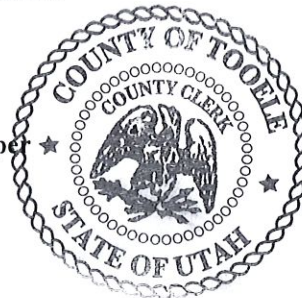
#### EXHIBIT A

ATTEST:

#### Description: Ballot Printing

- 11-14" Ballot = \$ .23 per ballot card
- Up to 18" Ballot = \$ .24 per ballot card
- Up to 22" Ballot = \$ .25 per ballot card
- Test Decks Pre-filled = \$ .40 per ballot card
- Art/Set-up Production = \$1,500
- Precinct Ballot (Poll Ballot) - Preparation to include shrink wrap and packaging = \$ .04 per ballot card
- Standard ground shipping to Tooele County Clerk's Office, 47 S. Main Street Ste 318, Tooele, UT 84074 (or designated local facility) = Included
- The county is responsible for applicable taxes

  
MARILYN K. GILLETTE  
TOOELE COUNTY CLERK



#### Description: Outgoing Process

- Insertion (up to 3 pieces) = \$ .24 per packet
- Insertion (beyond 3 pieces) = \$ .05 per additional piece
- Election Set-up = \$1,500
- Mailing Services = Included
- USPS Mailing Coordination & Statements = Included
- Postage = Actual USPS Automation rates

#### Description: Envelopes/Inserts

- Outgoing 6 1/8 X 9 7/8" White Envelope 2 color = \$ .18 per envelope
- Reply 5 7/8" x 9" White Envelope 2 color = \$ .12 per envelope
- Voter Instruction Insert 8.5" x 11" folded to 5 1/2" x 8 1/2" 2 color = \$.10 each
- Additional Inserts 5.5" x 8.5" color = \$.08 each



- Secrecy Sleeve 5-5/8" x 8-3/4" white = \$.10 each
- USPS Mail Piece Consult and Design = Included
- Initial Envelope Composition = Included

#### **Estimated Combined Cost for Standard Vote by Mail Packet**

- Up to 18" Ballot = \$ .24 per ballot card
- Insertion (up to 3 pieces) = \$ .24 per packet
- Outgoing 6 1/8 X 9 7/8" White Envelope 2 color = \$ .18 per envelope
- Reply 5 7/8" x 9" White Envelope 2 color = \$ .12 per envelope
- Secrecy Sleeve 5-5/8" x 8-3/4" white = \$.10 each

#### **Pricing Adjustment**

- For any election in which quantity or page count is not consistent with above, Runbeck will provide the County with a revised quote that reflects the actual quantity and page count.

## **EXHIBIT B**

### **Additional Scope of Services**

Runbeck must provide the following:

1. Utilize Tooele County's electronic voter export file for envelope addressing requirements. The file will be exported from the VR database into a text format. A mail file mapping layout documenting the fields in each record and also examples with voter information will be provided. The database identifies the appropriate precinct/district (ballot) style for each vote by-mail.
2. Evaluate address standardization and conformity per USPS - Coding Accuracy Support System (CASS) requirements in order to achieve the lowest non-profit bulk rate available.
3. Exercise adequate quality control measures to ensure the delivery of the correct ballot style and appropriate precinct to each vote-by-mail and mail ballot voter.
4. Provide quality control documentation to the Tooele County Office of Elections and permit "on sight" inspections of quality controls and processes during printing and inserting of materials.
5. Provide the Tooele County Office of Elections proofs of the official ballot art, one per ballot type-style or per precinct, following with one per precinct for approval prior to printing. The proof ballot shall be imprinted with a PROOF watermark to differentiate them from the official ballots. Shipping charges of any proofs (ballots, sample ballots, envelopes, inserts) are assessed to the County.
6. Receive confirmation of approval from Tooele County Office of Elections prior to proceeding with envelope printing for the mail ballot packet.
7. Print and fold all official vote-by-mail and mail ballots by precinct per mail files. Assemble the appropriate ballot packet for each individual vote-by-mail and mail ballot voter and insert the following items into the outgoing mail-in ballot envelope: official ballot, insertion materials, and appropriate reply mail envelope. Preprint the individual vote-by-mail voter's name and address information and



- information required by the US Postal service in order to mail the mail ballot packet. Tender all ballots to the U.S. Postal as requested by statutory deadlines.
8. Provide the Tooele County Office of Elections postage estimates for the mailing of mail ballot packets.
  9. Prepare a mail ballot packet. Each packet shall be mailed using the most cost-effective means available. Each mail ballot packet shall be comprised of the following items (subject to changes by County): Outgoing envelope packet is properly addressed by ink jetting the address of each voter onto the CRM; Official ballot; Insertions materials/Voter instructions; and appropriate reply mail envelope.
  10. Comply with all specifications for ballot printing and must conform to the manufacturer's specifications.
  11. Print official ballots with a barcode on ballot or on stub depending on the Tooele County Office of Elections preference.
  12. Deliver and tender mail ballot packets to the local General Mail Facility (GMF).
  13. Print additional official ballots for the Tooele County Office of Elections if ordered "in office" use by precinct. The Tooele County Office of Elections will determine quantities at the time of ordering. Print outgoing envelopes, insertion materials/voter instructions, and courtesy reply envelopes. The Tooele County Office of Elections will determine quantities at the time of ordering.
  14. Pack all official ballots by location, by precinct in order to facilitate inventory and retrieval. Shipping containers shall be labeled to identify contents. Labeling information must include: "Official Ballots", location, precinct number, and ballot style of contents. Packing information must accompany ballots. Packing specifications will be determined at the time of order.
  15. Deliver all test ballots by precinct style. The test ballot shall be imprinted with a TEST watermark to differentiate them from the official ballots.
  16. Exercise adequate quality control measures to ensure the delivery of the correct ballot style and appropriate precinct booklet to each voter receiving a sample ballot.
  17. If applicable, utilize Tooele County's electronic voter export file for envelope addressing requirements. The file will be exported from the VR database into a text format. A file layout documenting the fields in each record will be provided. The database identifies the appropriate precinct/district style for each sample ballot.
  18. If applicable, provide the Tooele County Office of Elections PDF images of official ballot art after produced for the sample ballot booklet.
  19. If applicable, provide confirmation of approval to Tooele County Office of Elections prior to proceeding with variable data printing on sample ballot (layout and voter data information).
  20. If applicable, provide the Tooele County Office of Elections postage estimates for the mailing of sample ballot booklets.
  21. If applicable, prepare a sample ballot booklet and comply with county print job specifications. Each booklet shall be mailed using the most cost-effective means

available. Each sample ballot shall be comprised of the following items (subject to changes by County): Cover properly addressed to each voter and sample ballot/copy of official ballot.

22. The Tooele County Office of Elections will determine sample ballot booklet quantities at the time of ordering.
23. Print additional sample ballot booklets for County's "in office" use by ballot style. The Tooele County Office of Elections will determine quantities at the time of ordering.
24. If the County is delayed in delivery with necessary information, or files or artwork to Runbeck, per the agreed schedule, Runbeck will need to extend its delivery dates accordingly.
25. In the event a product or service is not fully defined in the scope of work for sample ballot printing, ballot printing, insertion and mailing services or a new product or service is requested by the County from Runbeck, Runbeck will submit a quote to the County for such request. Only when the County agrees to proceed, is when execution of the quote will occur.