

Mayor
Kenneth Romney

WEST BOUNTIFUL CITY

City Administrator
Duane Huffman

City Council
James Ahlstrom
James Bruhn
Kelly Enquist
Mark Preece
Rodney Wood

550 North 800 West
West Bountiful, Utah 84087

Phone (801) 292-4486
FAX (801) 292-6355
www.WBCity.org

City Recorder
Cathy Brightwell

City Engineer
Kris Nilsen

Public Works Director
Steve Maughan

THE WEST BOUNTIFUL CITY COUNCIL WILL HOLD ITS REGULAR MEETING at 7:30 PM ON TUESDAY, SEPTEMBER 15, 2020

Mayor Romney has determined that due to the current COVID-19 pandemic and the physical distancing required to prevent the spread of infection, public meetings present a substantial risk to the health and safety of those who may be present at the meetings. That risk can be substantially mitigated by holding City Council meetings through electronic means that allow for public participation without an anchor location. A copy of the Mayor's determination and order in this regard is available at www.wbcity.org

Meeting will be held ONLY electronically via Zoom (see info below)

AGENDA: Invocation/Thought – James Bruhn; Pledge of Allegiance – Kelly Enquist

1. Approve Agenda.
2. Public Comment - two minutes per person, or five minutes if speaking on behalf of a group.
3. Ordinance 434-20, An Ordinance Amending WBMC Title 17 Regarding Medical Cannabis Pharmacy Signage Regulations.
4. West Bountiful City-Davis Education Foundation Child Care Assistance Grant.
5. Resolution 479-20, a Resolution Authorizing an Interlocal Agreement with Davis County for Placement of a Permanent Ballot Drop Box on City Property.
6. Staff Reports – Police, Public Works, Community Development, Administrative
7. Mayor/Council Reports.
8. Closed Session for the Purpose of Discussing Items Allowed Pursuant to UCA § 52-4-205.
9. Adjourn.

This agenda was posted on the State Public Notice website, the City website, emailed to the Mayor and City Council, and sent to the Clipper Publishing Company on September 11, 2020.

Join Zoom Meeting:

<https://us02web.zoom.us/j/89031425473>

Meeting ID: **890 3142 5473**

One tap mobile

+16699006833,,89031425473# US (San Jose) +12532158782,,89031425473# US (Tacoma)

Dial by your location

+1 669 900 6833 US (San Jose)

+1 346 248 7799 US (Houston)

+1 646 876 9923 US (New York)

+1 253 215 8782 US (Tacoma)

+1 408 638 0968 US (San Jose)

+1 312 626 6799 US (Chicago)

WEST BOUNTIFUL CITY

ORDINANCE #434-20

AN ORDINANCE AMENDING WBMC TITLE 17 REGARDING MEDICAL CANNABIS PHARMACY SIGNAGE REGULATIONS

WHEREAS, Utah Code Annotated § 10-9a-101 *et seq.*, also known as the “Municipal Land Use, Development, and Management Act,” grants authority to the West Bountiful City Council to make changes to its land use ordinances; and

WHEREAS, pursuant to U.C.A. § 10-9a-528 the city adopted land use regulations related to a medical cannabis pharmacy on July 7, 2020; and

WHEREAS, WholesomeCo Cannabis filed a petition with West Bountiful City on August 20, 2020 for a text change regarding signage restrictions for a medical cannabis pharmacy;

WHEREAS, the West Bountiful Planning Commission held a properly noticed public hearing on September 10, 2020 to consider the petition and appropriate modifications to Title 17; and,

WHEREAS, the West Bountiful Planning Commission has provided a positive recommendation for the proposed amendments to WBMC 17.62.030 regarding medical cannabis pharmacy signage regulations.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF WEST BOUNTIFUL THAT WBMC 17.62.030 BE MODIFIED AS SHOWN BELOW:

17.62.030 Medical Cannabis Pharmacies

2. Advertising. A medical cannabis pharmacy may not advertise in any medium, except as provided in this section.
 - a. A medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy that includes only:
 - i. the medical cannabis pharmacy’s name and hours of operation; and
 - ii. a green cross; and
 - iii. ~~does not exceed four feet by five feet in size; and~~
 - iv. complies with city signage regulations.

This ordinance will become effective upon signing and posting.

Adopted this 15th day of September 2020.

By:

Ken Romney, Mayor

<u>Voting by the City Council:</u>	<u>Aye</u>	<u>Nay</u>
Councilmember Ahlstrom	_____	_____
Councilmember Bruhn	_____	_____
Councilmember Enquist	_____	_____
Councilmember Preece	_____	_____
Councilmember Wood	_____	_____

Attest:

Cathy Brightwell, City Recorder

MEMORANDUM



TO: Planning Commission

DATE: September 15, 2020

FROM: Staff

RE: Medical Cannabis Pharmacy Signage Restrictions

Wholesome Therapy, dba WholesomeCo Cannabis, has requested a text change to the city's medical cannabis pharmacy ordinance related to the specific size limitations on signage.

Background

West Bountiful's recently adopted cannabis ordinance, WBMC 17.62.030.3, restricts the size of signs for Medical Cannabis Pharmacies to 4 ft. X 5 ft. For other businesses within the C-H zone, code allows wall signs to be up to 15% of aggregate area of building elevation on which the signs are installed.

The city's medical cannabis code was modeled after state code; however, state code removed this specific size restriction in March 2020. State code also restricted the language on signage to be limited to name, hours of operation, a green cross, and compliance with city signage regulations.

Request

WholesomeCo has proposed two signs: one 3-sided rectangular cube measuring 16 ft. by 4 ft. (total 188 sq.ft.) on the freeway side of the Carr building with sign face displayed on the south, west and north sides, and another sign is proposed to go over the front entrance of the business. Both signs comply with the general provisions West Bountiful's sign ordinance, but do not comply with the size restrictions specific to medical cannabis pharmacies.

WholesomeCo's attached application for a text change includes their justification for their request. Perhaps their primary argument for removing the restriction is the claim that the legislature struck the statewide restriction "to provide for an equitable and fair approach to signage that is consistent with other similarly situated commercial establishments."

Staff Analysis

Staff notes that beyond the size restriction, state code and city code both have other signage restrictions specific to medical cannabis pharmacies that differentiate them from other commercial establishments, such as the state prohibition that limits what can be on the sign, and the city requirement that the exterior façade of the building avoid drawing attention.

Staff also notes that both city and state code limit the content of the sign to a medical cannabis pharmacy's name, hours of operation, a green cross, and compliance with city signage regulations. Staff interprets this language to restrict placing logos on signage as proposed by WholesomeCo. On September 8, 2020, a letter was submitted from Richard Oborn, the Director of the Center for Medical Cannabis with Utah Department of Health clarifying how the department interprets the restrictions established in the Utah Medical Cannabis Act that apply to outdoor signage used by a licensed medical cannabis pharmacy. Its interpretation of the Act

allows a medical cannabis pharmacy to include a logo for outdoor signage as it considers the logo to be a part of a medical cannabis pharmacy's name. The department has authorized a logo to appear on outdoor signage at Utah's five other operating medical cannabis pharmacies located in Logan, Ogden, Salt Lake City, Lehi, and Provo and stated that these municipalities have not restricted this practice.

Planning Commission Recommendation

Planning commission discussed this issue over two meetings and held a public hearing at which no member of the public presented comments. After evaluating this request using the legislative discretion and standards laid out in state code for enacting land use regulations, the planning commission unanimously voted to recommend city council approve the request to remove the size restrictions in WBMC 17.62.030 as shown below.

17.62.030 Medical Cannabis Pharmacies

2. Advertising. A medical cannabis pharmacy may not advertise in any medium, except as provided in this section.
 - a. A medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy that includes only:
 - i. the medical cannabis pharmacy's name and hours of operation; and
 - ii. a green cross; and
 - iii. ~~does not exceed four feet by five feet in size; and~~
 - iv. complies with city signage regulations.



APPLICATION TO REZONE/CHANGE TEXT

West Bountiful City
PLANNING AND ZONING
550 N 800 W
West Bountiful, UT 84087
(801) 292-4486
www.WBCity.org

PROPERTY ADDRESS: 580 W 100 N, Suite 1 West Bountiful, UT **DATE OF APPLICATION:** 8/20/20

PARCEL NUMBER: 060390128 **CURRENT ZONE:** Commercial Highway **PROPOSED ZONE:**

LEGAL DESCRIPTION ATTACHED: ☒ YES ☐ NO

Applicant Name(s): Wholesome Therapy, llc (DBA WholesomeCo Cannabis) Alex Iorg, Chris Jeffery, DJ Schanz

Applicant Address (if different than above):

Primary phone: 814-574-7770 **E-mail address:** Chris@wholesome.co; Alex@wholsome.co

Describe in detail the request for which this application is being submitted and the reasons why the change will benefit the people of West Bountiful. A separate sheet with additional information may be submitted if necessary.

WholesomeCo Therapy, llc is submitting an Application for Text Change to Municipal Code 17.62.030 Medical Cannabis Pharmacies, Section #3a(ii).

This particular section, having to do with Advertising Medical Cannabis Pharmacies, limits the dimensions of signage to not exceed 4ft x 5ft in size.

This size limitation, seemingly pulled from the original, but now stricken language in HB-425, presents a significant challenge for the Pharmacy in terms of patient visibility.

Furthermore, with the limited opportunities in marketing and communications to patients under current State regulations that WholesomeCo has to follow,

signage visibility becomes a much more important aspect of the business. For these reasons, as well as others outlined in the attached document, we respectfully

request a Text Change to Municipal Code 17.62.030 to be consistent with other similarly situated commercial establishments.

I hereby apply to change text in the West Bountiful Municipal Code, or rezone the property identified above in accordance with the provisions of Utah State Code 10-9a-503. I certify that the above information is true and correct to the best of my knowledge.

Date: 8/20/2020

Applicant Signature: 

FOR OFFICIAL USE ONLY

Application & \$150 Fee Received Date: **Public Hearing Date:** 9/8/2020

Letters sent to affected neighbors: 8/28/2020

Planning Commission Approval: **City Council Approval:**

State Regulations

House Bill 425 (<https://le.utah.gov/~2020/bills/static/HB0425.html>), sponsored by Senator Vickers and signed into law by the Governor in March 2020, struck the size restrictions on Medical Cannabis Pharmacies signage. The intent of this change was to provide for an equitable and fair approach to signage that is consistent with other similarly situated commercial establishments, whether that similarity be by building size and/or zone.

Below are the relevant provisions of HB 425, with the original language stricken (highlighted).

- 1025 26-61a-505. Advertising.
- 1026 (1) Except as provided in Subsections (2) and (3), a medical cannabis pharmacy
may
- 1027 not advertise in any medium.
-
- 1028 (2) Notwithstanding any municipal or county ordinance prohibiting signage, a medical
1029 cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy
that:
- 1030 (a) includes only:
- 1031 (i) the medical cannabis pharmacy's name and hours of operation; and
- 1032 (ii) a green cross; and
- 1033 ~~[(b) does not exceed four feet by five feet in size; and]~~
- 1034 ~~[(e)]~~ (b) complies with local ordinances regulating signage.
- 1035 (3) A medical cannabis pharmacy may maintain a website that includes information
1036 about:
- 1037 (a) the location and hours of operation of the medical cannabis pharmacy;
- 1038 (b) a product or service available at the medical cannabis pharmacy;
- 1039 (c) personnel affiliated with the medical cannabis pharmacy;
- 1040 (d) best practices that the medical cannabis pharmacy upholds; and
- 1041 (e) educational material related to the medical use of cannabis.

Proposed Language Change

In drafting Municipal Code 17.62.030, it seems as though the intent was to mirror HB425 as it relates to Medical Cannabis Pharmacies and Advertising. As such, WholesomeCo proposes West Bountiful City Council amend the current text to remain consistent with the updated text of HB425, relating to size restrictions on signage. WholesomeCo proposes West Bountiful adopts new text for Medical Cannabis Pharmacy sign restrictions that are consistent with current city code for similarly situated commercial establishments (e.g. Carr Printing).

Proposed Signage Design

The following are renderings created to provide signage for our business that we paid for and designed based on the law as it was stated when designing the building. These were approved by the State (Department of Health) and meet our own standard of quality, improving the aesthetic of the building, while also providing easy visibility to patients.

Furthermore, the existing business in this building, Carr Printing, has signage that is well beyond the size and scope of the proposed WholesomeCo signage, and has been in place for many years. Some of the existing Carr Printing signage can be seen in the images below.



identity signs

14941 NE 95th St.
Redmond, WA 98052
425.655.7727
sales@identitysigns.com

Project #42579

Project Name:
Wholesome Co

Address:
580 W 100 N.

City/State:
West Bountiful Utah

84010

Date | Revision | Drawn By

Client Approval:

Date:

Landlord Approval:

Date:

Project Manager

Designer
Christi Zirkel

Sheet Description

Scale

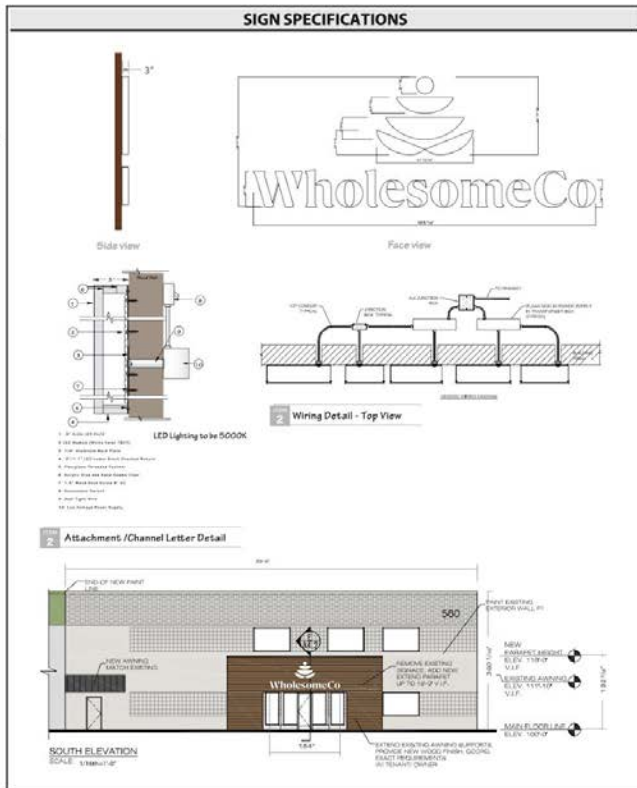
DESIGN DRAWING

Page 1 of 3

© 2019 Identity Signs

ITEM 2	ITEM DESCRIPTION
Sign Type	Flexiglass 3" Deep Channel Letters/ Letter Block Sign LED Layers
Voltage:	120 Volt 20 AMP
Sq Ft:	89

EXISTING CONDITION
2 SOUTH Site Notes/Prep South Fascia - No Removal Needed



identity signs
14941 NE 95th St,
Redmond, WA 98052
425.655.7727
sales@idsignco.com

Project #42579

Project Name:
Wholesome Co
Address:
580 W 100 N,
City/State:
West Bountiful Utah
84010

Date / Revision / Drawn By

Client Approval:

Date:
Landlord Approval:

Date:

Project Manager

Kim E.

Designer

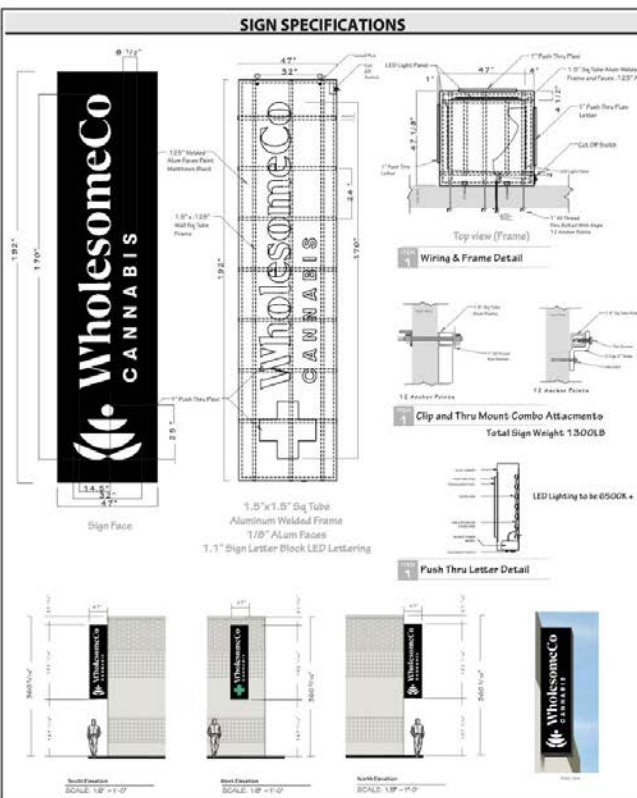
Brent A.

Sheet Description

Scale
DESIGN DRAWING
Page 3 of 3
© 2019 Identity Signs

ITEM 1	ITEM DESCRIPTION
Sign Type	16"x4'x4' Wall Mounted Sign - 3 Sided - 1.5" Alum Sq Tube Frame - 1/8" Alum Faces - 1" Sign LED Plexiglass
Voltage:	120 Volt 20 Amp Supplied By Client
Sq Ft:	64

EXISTING CONDITION
1 WEST Site Notes/Prep West Facia - No Removal Needed



identity signs
14941 NE 95th St,
Redmond, WA 98052
425.655.7727
sales@idsignco.com

Project #42579

Project Name:
Wholesome Co
Address:
580 W 100 N,
City/State:
West Bountiful Utah
84010

Date / Revision / Drawn By

Client Approval:

Date:
Landlord Approval:

Date:

Project Manager

Kim E.

Designer

Brent A.

Sheet Description

Scale
DESIGN DRAWING
Page 2 of 3
© 2019 Identity Signs



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Utah Department of Health

Joseph K. Miner, M.D., M.S.P.H., F.A.C.P.M.
Executive Director

Marc E. Babitz, MD
Deputy Director

Richard J. Oborn, MPA
Director, Center for Medical Cannabis

West Bountiful City
550 North 800 West
West Bountiful UT, 84087

September 8, 2020

RE: Medical Cannabis Pharmacy Signage Restrictions

To Whom It May Concern,

WholesomeCo Cannabis, LLC has asked that the Utah Department of Health ("department") send a letter to the West Bountiful City Council for the purpose of clarifying how the department interprets the restrictions established in the Utah Medical Cannabis Act (Utah Code 26-61a) that apply to outdoor signage used by a licensed medical cannabis pharmacy.

The Department interprets the Utah Medical Cannabis Act to allow a medical cannabis pharmacy to include a logo in their outdoor signage. The applicable law and the basis for department's interpretation of the law are provided in the paragraphs below.

26-61a-505 Advertising.

- (1) Except as provided in this section, a medical cannabis pharmacy may not advertise in any medium.
- (2) A medical cannabis pharmacy may advertise an employment opportunity at the medical cannabis pharmacy.
- (3) Notwithstanding any municipal or county ordinance prohibiting signage, a medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy that:
 - (a) includes only:
 - (i) the medical cannabis pharmacy's name and hours of operation; and
 - (ii) a green cross; and
 - (b) complies with local ordinances regulating signage.

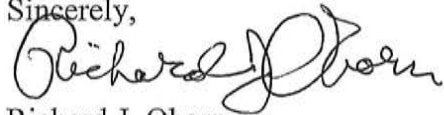
The department considers a medical cannabis pharmacy's logo to be a part of a medical cannabis pharmacy's name, which is allowed to be included on outdoor signage under 26-61a-505 (3). Based on this interpretation of the statute, the department authorized WholesomeCo Cannabis to include its logo with its name on its outdoor signage. The department has authorized a logo to appear on outdoor signage at Utah's five other operating medical cannabis pharmacies located in Logan, Ogden, Salt Lake City, Lehi, and Provo and these municipalities have not restricted them from this practice.

The department agrees the language in the statute should more clear in regard to allowing a medical cannabis pharmacy's logo to be included on outdoor signage. For this reason, the department plans to clarify how it interprets 26-61a-505 (3) in department's administrative rules to be published before January 1, 2021.

Since a medical cannabis pharmacy is medicinal in nature, the department takes the position that any restrictive local ordinance that treats the medical cannabis pharmacy differently than other regular pharmacies should have an underlying rational basis for doing so that does not conflict with state law.

If there are any questions for the department about this letter, please contact me at roborn@utah.gov or (385) 232-4259.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard J. Oborn". The signature is fluid and cursive, with the first name "Richard" and last name "Oborn" clearly distinguishable.

Richard J. Oborn

West Bountiful City-Davis Education Foundation CHILD CARE ASSISTANCE GRANT

Memorandum of Understanding

This Memorandum of Understanding (“**MOU**”) is between WEST BOUNTIFUL CITY, a Utah municipal corporation (the “**City**”), and DAVIS EDUCATION FOUNDATION, a Utah non-profit corporation (“**DEF**”).

The City has received certain federal funding under the Coronavirus Aid, Relief, and Economic Security Act (the “**CARES Act**”), to be used in connection with the COVID-19 pandemic. This MOU is intended to outline the terms on which the City is willing to grant a portion of the CARES Act funds to DEF to assist qualified families with child care costs as a result of the pandemic.

1. The grants to be distributed under this MOU are to assist City residents with pre-K/elementary students enrolled in Davis School District in defraying child care costs incurred on remote learning school days that have been imposed due to COVID-19 restrictions. The City has committed \$25,000 from tranche one of CARES Act funding to cover the cost of the grants.

2. DEF will be responsible to receive grant applications, determine eligibility, and disburse funds to qualified applicants.

3. If funds remain after all grant requests have been filled, DEF will use the remaining funds to contract with Davis School District family service workers to do social/emotional learning “well checks” for City resident-students who have no in-person contact with counselors or teachers due to exclusive online learning.

4. DEF will attempt to disburse all CARES Act funds in accordance with this MOU by December 30, 2020. DEF will return any unused funds to the City by January 29, 2021.

5. DEF will verify that applicants for grants to be awarded under this MOU meet the following requirements:

- a. Applicants must provide employer verification for all household parents/guardians/responsible adults that demonstrates employment away from home during elementary school hours.
- b. Applicants must provide names and student ID numbers for all students in the household enrolled in Davis School District Pre-K and elementary schools.
- c. Applicants must have no secondary school students residing in the household.
- d. Applicants must meet the household income guidelines provided in the grant application.

6. If for any reason DEF ceases to exist, any remaining funds will be transferred back to the City. The City may authorize the transfer of the funds to another organization that accepts the terms of this MOU, at the City’s discretion.

7. The CARES Act funds DEF receives are subject to audit by state and federal authorities. Accordingly, the City must ensure that all funds are distributed in accordance with the CARES Act. DEF will maintain an accounting of all disbursements of funds received from the City, along with all documentation provided by applicants benefitted by those funds, for at least three years following the expiration of this MOU. DEF will allow the City and its auditors to inspect the accounting and all supporting documentation upon reasonable notice. If the City or its auditors inspect those documents, DEF may choose to redact the names and street addresses of the applicants, at DEF's discretion, as long as the City is otherwise able to verify the proper use of the funds. This paragraph shall survive the expiration or termination of this MOU for a period of three years.

8. This MOU represents the complete understanding of the parties with respect to its subject matter and supersedes all oral understandings or agreements in that regard. This MOU can only be modified in writing by the mutual assent of the parties or their legally-designated successors.

9. DEF may not assign this MOU without the City's prior written consent. Subject to this limitation, this MOU will be binding upon and inure to the benefit of the parties' respective successors, affiliates, agents, and assigns.

10. This MOU will be effective upon the date it is signed by both parties.

11. Either party may terminate this MOU upon seven (7) days' written notice. If not sooner terminated, this MOU will expire (1) upon the termination of CARES Act funding, or (2) when Davis School District returns to a five-day per week in-person school schedule, whichever occurs first. Upon expiration or termination of this MOU, DEF will return to the City within 30 days any funds that DEF has not disbursed or obligated.

12. Funds identified by the City in this MOU are subject to appropriation by the City Council. If the funds are not appropriated by the Council for any reason, DEF acknowledges that the City is under no obligation to provide funds.

13. DEF will be fully liable for the actions of its agents, employees, officers, partners, and subcontractors, and will fully indemnify, defend, and hold harmless the City, its elected and appointed officials, employees, and agents from all claims, losses, suits, actions, damages, and costs (including reasonable attorney fees) arising out of DEF's performance of this MOU caused by any act or omission of DEF, its agents, employees, officers, partners, or subcontractors, except to the extent arising out of fault attributable solely to the City. This provision will survive the expiration or termination of this MOU.

14. The City is a body corporate and politic of the State of Utah, subject to the Governmental Immunity Act of Utah, *Utah Code Ann.* § 63G-7-101, *et seq.*, as amended (the "**Act**"). The parties agree that the City's liability, if any, will be limited to the parameters of the Act. Nothing in this MOU shall be construed in any way, to modify the limits of liability set forth in that Act or the basis for liability established in the Act.

15. The provisions of this MOU are for the exclusive benefit of the parties. No third party shall have any rights under this MOU.

16. Each party represents that the person signing below on its behalf has been duly authorized to do so, and this MOU is binding upon such party. This MOU may be signed in counterparts. A signature delivered by electronic means will be just as valid as an original.

DATED _____, 2020.

WEST BOUNTIFUL CITY

DAVIS EDUCATION FOUNDATION,
INC.

Kenneth Romney, *Mayor*

Jodi Lunt, *Executive Director*

ATTEST:

Cathy Brightwell, *City Recorder*

WEST BOUNTIFUL CITY

RESOLUTION #479-20

A RESOLUTION AUTHORIZING AN INTERLOCAL AGREEMENT WITH DAVIS COUNTY FOR PLACEMENT OF A PERMANENT BALLOT DROP BOX ON WEST BOUNTIFUL CITY PROPERTY

WHEREAS, local government entities are authorized by the Utah Interlocal Cooperation Act, *Utah Code Ann.* § 11-13-101, *et seq.*, to enter into agreements with each other, upon a resolution to do so by respective governing bodies; and

WHEREAS, the Davis County Clerk/Auditor administers state and federal elections, and regularly assists cities within the County to administer local elections; and

WHEREAS, the Clerk/Auditor, as the County election officer, may designate ballot drop boxes within the County pursuant to Utah Code Ann. § 20A-5-403.5; and

WHEREAS, the City and County desire to enter into this Agreement for their mutual benefit and for the further benefit of placing a ballot drop box within the City to be utilized in federal, state, and local elections.

NOW THEREFORE, BE IT RESOLVED by the City Council of West Bountiful City that the Mayor is authorized to Execute the agreement attached as Exhibit A.

EFFECTIVE DATE. This resolution shall take effect immediately upon passage.

Passed and approved by the City Council of West Bountiful City this 15th day of September 2020.

Ken Romney, Mayor

Voting by the City Council:	<u>Aye</u>	<u>Nay</u>
Councilmember Ahlstrom	___	___
Councilmember Bruhn	___	___
Councilmember Enquist	___	___
Councilmember Preece	___	___
Councilmember Wood	___	___

ATTEST:

Cathy Brightwell, Recorder

INTERLOCAL COOPERATION AGREEMENT FOR PLACEMENT OF BALLOT DROP BOX

THIS AGREEMENT (“Agreement”) is made and entered into by and between DAVIS COUNTY, a political subdivision of the State of Utah (“County”), and WEST BOUNTIFUL CITY (“City”), a municipal corporation of the State of Utah. County and City may also be referred to collectively in this Agreement as the “Parties.”

RECITALS

A. County and City are public agencies, as defined by the *Utah Interlocal Cooperation Act*, Utah Code Ann. § 11-13-101 *et seq.* (the “Act”), authorized by the Act to enter into this Agreement;

B. The Davis County Clerk/Auditor administers state and federal elections, and regularly assists cities within the County to administer local elections;

C. The Clerk/Auditor, as the County election officer, may designate ballot drop boxes within the County pursuant to Utah Code Ann. § 20A-5-403.5;

D. The Parties desire to enter into this Agreement for their mutual benefit and for the further benefit of placing a ballot drop box within the City to be utilized in federal, state, and local elections.

NOW, THEREFORE, the Parties agree as follows:

1. **Ballot Drop Box.** City agrees to allow the County to place a permanent ballot drop box at a mutually agreed upon location, as set forth in Exhibit A herein. City, through this Agreement, hereby authorizes County ingress and egress to the ballot drop box, as necessary for the administration of the elections at the discretion of the County.

2. **Obligations of County.** County shall be solely responsible for maintaining the ballot drop box and all costs associated with upkeep and repairs to the ballot drop box.

3. **No Separate Legal Entity.** No separate legal entity is created by the terms of this Agreement.

4. **Property Acquisition.** There shall be no real or personal property acquired jointly by the Parties as a result of this Agreement.

5. **Effective Date of Agreement.** The effective date of this Agreement shall be the earliest date after all of the following are completed (the “Effective Date”):

A. This Agreement is approved by the legislative body of County through, if necessary, a resolution or ordinance that, among other things, specifies the effective date of this Agreement;

B. This Agreement is approved by the legislative body of City through, if necessary, a resolution or ordinance that, among other things, specifies the effective date of this Agreement;

C. This Agreement is approved as to proper form and compliance with applicable law by an attorney authorized to represent County;

D. This Agreement is approved as to proper form and compliance with applicable law by an attorney authorized to represent City;

E. This Agreement is filed with the keeper of records for County; and

F. This Agreement is filed with the keeper of records for City.

6. Term of Agreement. The term of this Agreement shall begin upon the Effective Date of this Agreement and shall, with the exception of any and all warranties, promises of indemnification, guarantees, or as otherwise expressly set forth herein, automatically terminate 50 calendar years after the Effective Date of this Agreement (the “Term”), unless terminated earlier pursuant to the terms and/or provisions of this Agreement. Either party may terminate this Agreement, with or without cause, upon giving 90 days written notice to the other party.

7. Review by Authorized Attorney. In accordance with the provisions of the Act (specifically Utah Code Ann. § 11-13-202.5(3), as amended), this Agreement shall be submitted to the attorney authorized to represent each party for review as to proper form and compliance with applicable law before this Agreement may take effect.

8. Governmental Approval, Execution and Resolution. This Agreement is conditioned upon the approval and execution of this Agreement by the Parties pursuant to and in accordance with the provisions of the Act, including, but not limited to, the adoption of resolutions of approval, but only if such resolutions are required by the Act of the legislative bodies of the Parties.

9. Record of Agreement. Executed duplicate copies of this Agreement shall be filed with the keeper of records of each of the Parties.

10. Relief of Obligation. This Agreement does not in any way relieve either party, as a public agency, of any obligation, duty or responsibility imposed upon it by law.

11. Indemnification and Hold Harmless.

A. County agrees to indemnify, defend and hold City and its officers, employees, agents and representatives harmless from and against any and all losses, liabilities, expenses, claims, cost, suits and damages, including attorney’s fee, arising out of any fault attributable to County and its officers, agents or employees related to the performance of this Agreement; and

B. City agrees to indemnify, defend and hold County and its officers, employees, agents and representatives harmless from and against any and all losses, liabilities, expenses, claims, costs, suits and damages, including attorney’s fees, arising out

of any fault attributable to City and its officers, agents or employees related to the performance of this Agreement.

12. Governmental Immunity Act. Because both Parties are governmental entities under the *Government Immunity Act of Utah* (Utah Code Ann. § Section 63G-7-101, *et seq.*, as amended), each party is responsible and liable for any wrongful acts or negligence committed by its own officers, employee or agents and neither party waives any defense available to it under the *Governmental Immunity Act of Utah*.

13. Other Agreements. This Agreement does not abrogate or supersede any existing agreement between the Parties unless specifically so provided in this Agreement and except to the extent that the provisions of this Agreement are in conflict with the provisions of any such existing agreement.

14. Binding Effect; Entire Agreement; Amendment. This Agreement is binding upon and shall inure to the benefit of the Parties and their respective successors, assigns, officers, directors, employees, agents, representatives, subrogees and all persons or entities claiming by, through or under them. This Agreement represents the entire understanding between the Parties with respect to the subject matter herein, and there are no written or oral agreements between them which are not set forth herein. Neither this Agreement nor any provisions hereof may be changed, discharged or terminated verbally, and may be modified or amended only by an instrument in writing, signed by the Parties.

15. Governing of Law; Exclusive Jurisdiction. Utah law governs any Proceeding brought by one party against the other party arising out of this Agreement. If either party brings any Proceedings against the other party arising out of this Agreement, that party may bring that Proceeding only in a state court located in Davis County, Utah (for claims that may only be resolved through the federal courts, only in a federal court located in Salt Lake City, Utah), and each party hereby submits to the exclusive jurisdiction of such courts for purposes of any such proceeding.

16. Authorization. The individuals executing this Agreement on behalf of the Parties confirm that they are duly authorized representatives of the Parties and are lawfully enabled to execute this Agreement on behalf of the Parties.

17. Assignment Restricted. The Parties agree that neither this Agreement nor the privileges granted herein may be assigned without the prior written consent of the Parties.

18. Waiver. No waiver of satisfaction of a condition or nonperformance of an obligation under this Agreement will be effective unless it is in writing and signed by the party granting the waiver.

19. Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction only, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any

such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

20. Counterparts; Electronically Transmitted Signatures. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same Agreement. Signatures transmitted by facsimile and/or e-mail shall have the same force and effect as original signatures.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date stated above.

DAVIS COUNTY

Lorene M. Kamalu, Chair
Davis County Board of County Commissioners

ATTEST:

Curtis Koch
Davis County Clerk/Auditor

The undersigned, being an authorized attorney for Davis County, reviewed this Agreement and found it to be in proper form and compliance with applicable law.

Davis County Attorney

WEST BOUNTIFUL CITY

Ken Romney, City Mayor

ATTEST:

Cathy Brightwell,
West Bountiful City Recorder

The undersigned, being an authorized attorney for City, reviewed this Agreement and found it to be in proper form and compliance with applicable law.

City Attorney

Exhibit A

The ballot drop box will be located on the west side of the building under the light post near the flag pole, just south and east of the flag pole.

