

Midway City Council
1 December 2020
Regular Meeting

Resolution 2020-32 /
Law Enforcement Agreement

AGREEMENT FOR LAW ENFORCEMENT SERVICES

This is an Agreement between Wasatch COUNTY (hereinafter referred to as the “COUNTY”), and MIDWAY City (hereinafter referred to as “MIDWAY”), to provide law enforcement services to MIDWAY for the period commencing **January 1, 2021**.

WHEREAS, the COUNTY and MIDWAY may, but are not required, to enter into contracts for law enforcement services; and

WHEREAS, a Sheriff of a COUNTY that enters into an contract for law enforcement shall provide law enforcement services as provided in the contract (UCA 17-22-2(1)(o) & State v. Graham, 2011 UT App 332, ¶ 22, 263 P.3d 569); and

WHEREAS, COUNTY intends to treat all municipalities who contract for law enforcement services equitably; and

WHEREAS, MIDWAY has determined that it would like to contract with the COUNTY for law enforcement services in accordance with the terms and conditions set forth below; and

WHEREAS, the COUNTY has determined it would like to provide such law enforcement services on the terms and conditions hereinafter set forth; and

WHEREAS, such contracts are authorized and provided for by the provisions of Utah Code §§ 11-13-202, 11-13-203.5.

NOW, THEREFORE, IN CONSIDERATION OF the mutual undertakings set forth herein, the COUNTY and MIDWAY agree as follows:

A. SCOPE OF SERVICES

1. The COUNTY will fulfill the general duties of the Sheriff throughout the COUNTY, including in the municipal boundaries of MIDWAY, as required under Utah Code 17-22-2(1) without any direct charge to MIDWAY (“General Duties”). These General Duties include preserving the peace, and making lawful arrests. The Sheriff will channel the limited resources of the Wasatch COUNTY Sheriff’s Office as matter of priority, in the Sheriff’s sole discretion, based on fulfilling its duties throughout the COUNTY. State v. Lopez, 873 P.2d 1127, 1135 (Utah Sup.Ct. 1994).
2. The COUNTY is only obligated to provide law enforcement services in MIDWAY beyond those General Duties outlined in Utah Code 17-22-2(1) if MIDWAY enters into an interlocal agreement with Wasatch COUNTY. Utah Code 17-22-2(1)(o), 11-13-202, and 11-13-203.5; State v. Graham, 2011 UT App 332, ¶ 22, 263 P.3d 569. As a matter of course, the COUNTY provides law enforcement services throughout the COUNTY, in

the Sheriff's discretion. These discretionary law enforcement services will not be increased or diminished as a result of entering into this Agreement. However, through this Agreement, the COUNTY agrees, through the Wasatch COUNTY Sheriff, to continue to provide discretionary law enforcement services, and to provide an additional 240 hours of deputies' time providing Law Enforcement Services to MIDWAY per month, which law enforcement services include:

- a. Enforcement of Utah State Statutes;
 - b. Criminal investigative and crime lab services;
 - c. Follow up on reported crimes with persons who reported the crime, including routine notification by telephone or mail as to the status of the investigation;
 - d. Responses to medical, fire, and other emergencies that require police presence;
 - e. Minimum Patrol services with random patrolling of residential areas, businesses, parks, and other public property areas;
 - f. Driver's license inspections, background checks and license enforcement services as called for under applicable state law and municipal ordinances;
 - g. Traffic enforcement including the regular use of radar or Lidar as a speed deterrent; and
 - h. Periodic attendance at Public Safety or City Council meetings as requested by MIDWAY;
 - i. Citizen assist calls (at the discretion of the Sheriff);
 - j. Crime prevention programs such as Neighborhood Watch, as well as other business and residential crime prevention programs agreed to by the Sheriff and MIDWAY;
 - k. Enforcement of the following criminal provisions of the MIDWAY City Code:
 - i. MIDWAY traffic ordinances, including parking ordinances;
 - ii. Burning ordinances (not including International Fire Code or International Building Code);
 - iii. Noise ordinances; and
 - l. Any other services the parties may agree upon in writing.
3. The COUNTY'S agreement to provide Law Enforcement Services under this Agreement does not lessen the COUNTY'S obligation to provide the General Duties. The COUNTY'S contractual obligations under this Agreement recognize the underlying statutory obligations that Wasatch COUNTY has to provide the General Duties throughout the COUNTY, including in MIDWAY.
4. Deputies' duty times will be staggered to spread out the law enforcement services in a reasonable manner, so as to maximize the times law enforcement services are provided in MIDWAY.
5. The priority and performance of Law Enforcement Services will be under Section 2 will be under the direction of the Sheriff with input from the MIDWAY City Mayor.
6. Dispatch Services: Under Utah Code, a dispatch center may be funded from funds from the state or federal government, from local taxing entities, and from gifts, donations, and

grants. Utah Code 69-2-201(3). By agreeing to contract for law enforcement services, MIDWAY agrees to pay for the additional dispatching necessary to support the additional 240 hours of Law Enforcement Services, or such amount as may be agreed upon from time to time in accordance with this Agreement. The charge for Additional Dispatch Services will be calculated using a population based formula detailed in Addendum A.

7. Special Event Services: Special Event services (i.e. traffic control, road closures, pedestrian safety) for community festivals or other special events are not included in the Law Enforcement Services. Costs to provide these services are normally addressed through the COUNTY's special event permitting process. If services are needed that have not been addressed through the permitting process, MIDWAY may request Additional Services as set forth above and enter into an agreement with the Sheriff to pay for the scope of services needed.
8. It is agreed that prosecution of criminal activities within the MIDWAY will be provided by the office of the Wasatch COUNTY Attorney and will be charged under the applicable MIDWAY or COUNTY ordinances, and state statutes, as the COUNTY Attorney may, in his discretion, deem appropriate. It is further understood that all arrests made in MIDWAY shall be referred to the appropriate court as allowed and provided for by applicable law. Matters that would be referred to the MIDWAY Justice Court, if any, will be referred to the Wasatch COUNTY Justice Court. These prosecution and justice court services were not negotiated separately under this Agreement, and the intent of this section is to maintain the status quo till such time as either party desires to negotiate these services. MIDWAY or COUNTY may terminate prosecution and court services with three months written notice without effecting other provisions of this Agreement.
9. The manner and standards of officer performance, the discipline of officers, and other matters incident to the provision of services under this Agreement, and the control of personnel so employed, shall be subject solely to the control of the Sheriff.
10. In the event that MIDWAY, through its elected body or authorized agent, notifies the COUNTY that MIDWAY is dissatisfied with the Law Enforcement Services contracted for, the Sheriff shall meet with MIDWAY to discuss issues and resolve problems.
11. To facilitate the COUNTY'S performance pursuant to this Agreement, MIDWAY agrees that the COUNTY shall have full cooperation and assistance from MIDWAY, its officers, agents and employees. MIDWAY designates its Mayor as the liaison for any issues arising under this Agreement. COUNTY designates the Sheriff as the liaison for any issues arising under this Agreement. The liaisons shall meet as reasonably requested. The purpose of these meetings is to develop short-term and long range plans and to coordinate and analyze law enforcement services and to plan for future budget parameters, and other related public service issues.
12. The COUNTY shall furnish and supply, according to the terms detailed herein, all necessary labor, supervision, equipment, communication facilities and supplies necessary to provide services pursuant to this Agreement, in the Sheriff's reasonable discretion.

13. All deputy sheriffs, dispatchers, corrections officers, record's clerks, administrators, and all other COUNTY personnel performing duties pursuant to this Agreement shall at all times be considered employees of the COUNTY for all purposes.

B. ASSUMPTION OF LIABILITIES/INSURANCE

1. Except as otherwise provided, MIDWAY shall not be called upon to assume any liability for the direct payment of any salaries, wages, or other compensation to any COUNTY personnel performing services pursuant to this Agreement for MIDWAY, and the COUNTY hereby assumes said liabilities.
2. The COUNTY and the MIDWAY are governmental entities under the "Utah Governmental Immunity Act" (UTAH CODE ANN. § 63G-7-101, *et seq.*) (the "**Immunity Act.**") Consistent with the terms of the Immunity Act, and as provided herein, it is mutually agreed that each are responsible and liable for its own wrongful or negligent acts which are committed by it or by its agents, officials, or employees. The COUNTY and the MIDWAY do not waive any defenses otherwise available under the Immunity Act nor does any MIDWAY or the COUNTY waive any limits of liability currently provided by the Immunity Act. The COUNTY shall defend, indemnify, save and hold harmless the MIDWAY (including their respective elected and appointed officers and employees) from and against any and all demands, liabilities, claims, damages, actions and/or proceedings, in law or equity (including reasonable attorney's fees and costs of suit) relating to or arising from the law enforcement services provided, or to be provided, by the COUNTY hereunder, except where such demands, claims, actions or proceedings resulting from the negligence or misconduct of the MIDWAY, or their respective elected or appointed officers or employees. Similarly, each MIDWAY shall defend, indemnify, save and hold harmless the COUNTY (including their respective elected and appointed officers and employees) from and against any and all demands, liability, claims, damages, actions and/or proceedings, in law or equity (including reasonable attorney's fees and costs of suit) relating to or arising from the actions or failure to act of a MIDWAY, except to the extent where such demands, claims, actions or proceedings may result from the negligence or misconduct of one or more other MIDWAY or by the COUNTY, or their respective elected or appointed officers or employees. Finally, MIDWAY shall indemnify the COUNTY (including its elected and appointed officers and employees) from and against demands, claims, actions and/or proceedings, in law or equity (including reasonable attorney's fees and costs of suit) relating to or arising from actions of that MIDWAY's elected and appointed officers or employees; the COUNTY's enforcement of any ordinances of that MIDWAY that is alleged to be unconstitutional; or improper disclosure by that MIDWAY of private, controlled, or protected information under the provisions of GRAMA. The COUNTY is considered a governmental entity for purposes of the Act, including the defense and indemnification of employees, volunteers and officials.

C. TERM OF AGREEMENT/TERMINATION

1. The term of this Agreement shall commence on **January 1, 2021**, and shall continue through **December 31, 2025** (“Term”).
2. If either party intends not to renew this Agreement at the end of its Term, the party must notify the other party in writing at least eleven (11) calendar months prior to the end of the contract Term. If either party has not approved a successor agreement at the end of the Term, the COUNTY will continue to provide Law Enforcement Services in accordance with this Agreement, and MIDWAY will pay in accordance with this Agreement.
3. Either party may terminate this Agreement at the end of a calendar year and prior to the end of the Term of the Agreement by notifying the other party to this Agreement and the other MIDWAY in writing of their intent to terminate the Agreement at least eleven (11) calendar months prior to the end of the calendar year.
4. Notice to the COUNTY shall be given to the Wasatch COUNTY Sheriff, and Notice to the MIDWAY shall be given to its Mayor.

D. COST AND PAYMENT

1. The General Duties provided for in this Agreement shall not be paid for by MIDWAY. The COUNTY is responsible to ensure these General Duties are paid for in a lawful manner, in its discretion.
2. Payment for Law Enforcement Services and Additional Dispatch Services shall be paid in monthly payments payable thirty days after the date of the invoice. The payment for Law Enforcement Services and Additional Dispatch Services shall be as outlined in Addendum A to this Agreement.
3. The Sheriff shall submit a Budget Estimate for the next fiscal year for Law Enforcement Services and Additional Dispatch Services to MIDWAY no later than **March 1** of each year. Said Budget Estimate will be for the limited purpose of better enabling MIDWAY to estimate its annual budget and tax levy. The initial year will be for a minimum of 240 hours of deputies’ time per month providing Law Enforcement Services above the level of service the COUNTY would provide without this Agreement. If MIDWAY wishes to change this 240 hours, the COUNTY will need time to adjust its personnel needs based on MIDWAY’s request for Law Enforcement Services. Hence, COUNTY may allow or deny requests for annual changes from the 240 hours at COUNTY discretion.
4. If MIDWAY does not make necessary payments for its obligations under this Agreement, MIDWAY will be in breach of the terms of this Agreement, and the COUNTY may take any other lawful measures to collect necessary funding from MIDWAY. Similarly, if COUNTY fails to provide Law Enforcement Services or Additional Dispatch Services, COUNTY will be in breach of the terms of this Agreement, and MIDWAY may take any other lawful measures to enforce the Agreement.

E. GENERAL PROVISIONS

1. Notice to the COUNTY shall be given to the COUNTY Manager and Wasatch COUNTY Sheriff, and Notice to MIDWAY shall be given to either the Mayor.
2. It is understood that prosecutions for violations of ordinances or state statutes, together with disposition of all fines collected pursuant thereto, shall be in accordance with state statutes, state rules, and judicial orders.
3. MIDWAY may contract with the COUNTY for additional Law Enforcement Services above and beyond those provided in this Agreement, through a written agreement or addendum to this Agreement.
4. Any alterations, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, signed by authorized representatives of the COUNTY and MIDWAY and attached to the original of this Agreement.
5. **FORCE MAJEURE.** Any failure or delay by a party in the performance of its obligations under this Agreement is not a default or breach of the Agreement or a ground for termination under this Agreement to the extent the failure or delay is due to elements of nature or acts of God, acts of war, terrorism, riots, revolutions, or strikes or other factor beyond the reasonable control of a party (each, a "*Force Majeure Event*"). The party failing or delaying due to a Force Majeure Event agrees to give notice to the other party which describes the Force Majeure Event and includes a good faith estimate as to the impact of the Force Majeure Event upon its responsibilities under this Agreement, including, but not limited to, any scheduling changes. However, should any failure to perform or delay in performance due to a Force Majeure Event last longer than thirty (30) days, or should three (3) Force Majeure Events apply to the performance of a party during any calendar year, the party not subject to the Force Majeure Event may terminate this Agreement by notice to the party subject to the Force Majeure Event.
6. No third party is a beneficiary of this Agreement.
7. This Agreement shall be governed and enforced according to the laws of the State of Utah. Any disputes that cannot be resolved between the parties shall be resolved through the District Court in Wasatch COUNTY.
8. **Interlocal Cooperation Act Requirements:** In satisfaction of the requirements of the Utah Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Ann. 1953, as amended, the MIDWAY and the COUNTY agree as follows:
 - a. This Agreement shall be conditioned upon the approval and execution of this Agreement by the MIDWAY and the COUNTY.
 - b. This Agreement shall be administered by the MIDWAY City Mayor and the Wasatch COUNTY Sheriff. Under this Agreement, the Wasatch COUNTY

Sheriff shall provide Law Enforcement Services in the incorporated area of MIDWAY City.

- c. The respective budgets for this Agreement shall be financed, established, and maintained by the MIDWAY and the COUNTY.
- d. This Agreement shall be submitted to the attorneys authorized to represent MIDWAY and the COUNTY for review as to proper form and compliance with applicable law, as established by the respective attorneys affixing their signatures to this Agreement before this Agreement may take effect.
- e. A duly executed copy of this Agreement shall be immediately filed with the keeper of records for both MIDWAY and the COUNTY.
- f. This Agreement shall not take effect until it is filed with the keeper of the records of MIDWAY and the COUNTY.

9. Prior Agreements. This Agreement between the parties, and upon the date of the approval of this Agreement by both parties, and starting January 1, 2021, supersedes and replaces all prior agreements between the parties for the provision of Law Enforcement Services to MIDWAY by the COUNTY.

IN WITNESS WHEREOF, MIDWAY City, as set forth below, by resolution duly adopted by its Council has caused this Agreement to be signed by its Mayor, and the seal of the MIDWAY to be affixed hereto on the _____ of _____, 2020, and the COUNTY, by resolution of the COUNTY Council, has caused this Agreement to be signed by the COUNTY Manager on the ____ day of _____.

COUNTY OF WASATCH

MIDWAY CITY

By: _____
Michael K. Davis
COUNTY Manager

By: _____
Celeste Johnson
MIDWAY Mayor

APPROVAL RECOMMENDED:

APPROVED AS TO FORM:

By: _____
Jared W. Rigby
Wasatch COUNTY Sheriff

By: _____
Corbin Gordon
MIDWAY City Attorney

APPROVED AS TO FORM:

By: _____
Jon Woodard

Deputy Wasatch COUNTY Attorney

**AGREEMENT FOR
LAW ENFORCEMENT SERVICES**

This is an Agreement between Wasatch ~~COUNTY~~County (hereinafter referred to as the "COUNTY"), and ~~MIDWAY~~Midway City (hereinafter referred to as "MIDWAY"), to provide law enforcement services to MIDWAY for the period commencing January 1, 2021.

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WHEREAS, the COUNTY ~~and MIDWAY may, but are not required, to enter into contracts for law enforcement services~~has a statutory obligation to provide police protection within Wasatch County; and

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WHEREAS, ~~a Sheriff of a the~~ COUNTY that enters into an contract for ~~is currently providing~~ law enforcement ~~shall provide law enforcement services to citizens of the County as provided in the contract (UCA 17-22-2(1)(c) & State v. Graham, 2011 UT App 332, ¶ 22, 263 P.3d 569);~~well as Midway City, and the towns of Charleston, Daniel, Hideout, Independence, Interlaken, and Wallsburg (hereinafter collectively referred to as the "MUNICIPALITIES"); and

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~~WHEREAS, COUNTY intends to treat all municipalities who contract for law enforcement services equitably; and~~

WHEREAS, the COUNTY provides a Base Level of Service (as this term is defined below) to each of these MUNICIPALITIES that is covered by property taxes paid by the citizens of each of these MUNICIPALITIES and given to Wasatch County to fund the Sheriff's Department; and

WHEREAS, the COUNTY will continue to provide this Base Level of Service at no additional charge to MIDWAY; and

WHEREAS, if the Base Level of Service requires additional contributions the COUNTY will assure that each of the MUNICIPALITIES (including the County) will pay its pro rata share of these costs so that the burden does not unfairly fall on any one MUNICIPALITY; and

WHEREAS, HEBER CITY provides its own police force, but also uses COUNTY staff, dispatch, and facilities which the COUNTY will assure is paid for by HEBER CITY in a fair and equitable way so that the MUNICIPALITIES are not bearing the burden of providing services HEBER CITY is not paying for; and

WHEREAS, MIDWAY has determined that it would like to also contract with the COUNTY for ~~law enforcement services~~"Additional Services" (as this term is defined below), in accordance with the terms and conditions set forth below; and

WHEREAS, the COUNTY ~~has determined it would like~~is agreeable to ~~provide~~rendering such ~~law enforcement~~ services on the terms and conditions hereinafter set forth; and

WHEREAS, such contracts are authorized and provided for by the provisions of Utah Code §§ 11-13-202, 11-13-203.5.

NOW, THEREFORE, IN CONSIDERATION OF the mutual undertakings set forth herein, the COUNTY and MIDWAY agree as follows:

A. SCOPE OF SERVICES

~~1. The COUNTY will fulfill the general duties of the Sheriff throughout the COUNTY, including in the municipal boundaries of MIDWAY, as required under Utah Code 17-22-2(1) without any direct charge to MIDWAY (“General Duties”). These General Duties include preserving the peace, and making lawful arrests. The Sheriff will channel the limited resources of the Wasatch COUNTY Sheriff’s Office as matter of priority, in the Sheriff’s sole discretion, based on fulfilling its duties throughout the COUNTY. State v. Lopez, 873 P.2d 1127, 1135 (Utah Sup.Ct. 1994).~~

Commented [JR1]: Insert List from 2(a) here

1. Base Level of Service (that all MUNICIPALITIES receive as a function of paying taxes to Wasatch County):

a. The COUNTY agrees, through the Wasatch County Sheriff’s Office, to provide the following Base Level of law enforcement service to each MUNICIPALITY, which will include, but will not be limited to:

i. Within the Sheriff’s office there is a designation of “Obligated Time” which is highest priority and performed on demand, which includes the following duties:

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~~2. The COUNTY is only obligated to provide law enforcement services in MIDWAY beyond those General Duties outlined in Utah Code 17-22-2(1) if MIDWAY enters into an interlocal agreement with Wasatch COUNTY. Utah Code 17-22-2(1)(o), 11-13-202, and 11-13-203.5; State v. Graham, 2011 UT App 332, ¶ 22, 263 P.3d 569. As a matter of course, the COUNTY provides law enforcement services throughout the COUNTY, in the Sheriff’s discretion. These discretionary law enforcement services will not be increased or diminished as a result of entering into this Agreement. However, through this Agreement, the COUNTY agrees, through the Wasatch COUNTY Sheriff, to continue to provide discretionary law enforcement services, and to provide an additional 240 hours of deputies’ time providing Law Enforcement Services to MIDWAY per month, which law enforcement services include:~~

- ~~a.~~1. Enforcement of Utah State Statutes;
- ~~b.~~2. Criminal investigative and ~~crime~~crimes lab services;
- ~~c.~~3. Follow up on reported crimes with persons who reported the crime, including routine notification by telephone or mail as to the status of the investigation;
- ~~d.~~4. Responses to medical, fire, and other emergencies that require police presence;

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5. ~~Minimum~~ Providing communication facilities and dispatch services.

ii. When an officer is not performing a duty under "Obligated Time" the officer performs duties as he/she sees fit, which is called "Unobligated Time" and includes the following:

- e.1. Patrol services with random patrolling of residential areas, businesses, parks, and other public property areas;
- f.2. Driver's license inspections, background checks and license enforcement services as called for under applicable state law and municipal ordinances;
- g.3. Traffic enforcement including the regular use of radar or ~~Lidar~~ laser as a speed deterrent; and
- h.4. ~~Periodic attendance~~ Attendance at Public Safety or City Council meetings as requested by ~~MIDWAY~~ the municipality;
- 5. Citizen assist calls (at the discretion of the Sheriff's Office).

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b. Base Level Services shall be provided 24 hours per day and shall be performed by the number of deputies and other personnel budgeted for in the COUNTY'S Approved Budget for these services to the MUNICIPALITIES.

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c. The priority and performance of duties under both "Obligated Time" and "Unobligated Time" is under the direction and at the sole discretion of the Sheriff's Office.

2. Additional Services (that each MUNICIPALITY will be required to pay for should it request the services):

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a. The COUNTY Sheriff); through the Wasatch County Sheriff's Office, may agree to provide the following additional law enforcement services to any MUNICIPALITY that requests the services:

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- i. Enforcement of the municipal ordinances;
- j.ii. Crime prevention programs such as Neighborhood Watch, as well as other business and residential crime prevention programs ~~agreed to by the Sheriff and MIDWAY;~~
- k. Enforcement of the following criminal provisions of the MIDWAY City Code:
 - i. MIDWAY traffic ordinances, including parking ordinances;
 - ii. Burning ordinances (not including International Fire Code or International Building Code);
 - iii. Noise ordinances; and
 - iii. Coordination of volunteer programs such as the Community Affairs Officer and Reserve Programs;
 - iv. Animal control services;
 - v. Traffic patrol and ticket issuance beyond what is provided in the Base Level of Service;

~~4.vi.~~ Any other services the parties may agree upon ~~in writing.~~

~~3. The COUNTY'S agreement to provide Law Enforcement Services under this Agreement does not lessen the COUNTY'S obligation to provide the General Duties. The COUNTY'S contractual obligations under this Agreement recognize the underlying statutory obligations that Wasatch COUNTY has to provide the General Duties throughout the COUNTY, including in MIDWAY.~~

~~b. Deputies' duty times will be staggered to spread out the law enforcement services in a reasonable manner, so as to maximize the times law enforcement services are provided in MIDWAY. Costs for Additional Services shall be as established by the Wasatch County Sheriff's Office, and shall include any costs associated with increased administrative, management, or supervisory costs incurred due to the Additional Services.~~

~~c. As Needed Requests: The parties recognize that there may be situations where a need for Additional Services arises for a particular event or temporary concern. The parties agree that these do not need to be formalized in Exhibit A. The parties will agree on an hourly rate in Addendum A for As Needed Requests and the Sheriff's office will invoice Midway City accordingly.~~

~~d. The scope of the Additional Services and payment for Additional Services shall be as set forth in Addendum A.~~

~~4.a.~~

~~5. The priority and performance of Law Enforcement Services will be under Section 2 will be under the direction of the Sheriff with input from the MIDWAY City Mayor.~~

~~6. Dispatch Services: Under Utah Code, a dispatch center may be funded from funds from the state or federal government, from local taxing entities, and from gifts, donations, and grants. Utah Code 69-2-201(3). By agreeing to contract for law enforcement services, MIDWAY agrees to pay for the additional dispatching necessary to support the additional 240 hours of Law Enforcement Services, or such amount as may be agreed upon from time to time in accordance with this Agreement. The charge for Additional Dispatch Services will be calculated using a population based formula detailed in Addendum A.~~

~~7.3. Special Event Services: Special Event traffic patrol and patrol services (i.e. traffic control, road closures, pedestrian safety) for community festivals or other special events are not included in the Law Enforcement Services. Base Level Service. Costs to provide these services are normally addressed through the COUNTY's special event permitting process, with the County. If services are needed that have not been addressed through the permitting process, MIDWAY Midway City may request Additional Services as set forth above and enter into an agreement with the Sheriff to pay for the scope of services needed.~~

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~~8. It is agreed that prosecution of criminal activities within the MIDWAY will be provided by the office of the Wasatch COUNTY Attorney and will be charged under the applicable MIDWAY or COUNTY ordinances, and state statutes, as the COUNTY Attorney may, in his discretion, deem appropriate. It is further understood that all arrests made in MIDWAY shall be referred to the appropriate court as allowed and provided for by applicable law. Matters that would be referred to the MIDWAY Justice Court, if any, will be referred to the Wasatch COUNTY Justice Court. These prosecution and justice court services were not negotiated separately under this Agreement, and the intent of this section is to maintain the status quo till such time as either party desires to negotiate these services. MIDWAY or COUNTY may terminate prosecution and court services with three months written notice without effecting other provisions of this Agreement.~~

Commented [JW2]: Jared – I keep cutting the “City” in MIDWAY City because we (Corbin) set a defined term “MIDWAY” to mean “MIDWAY City.”

~~9.4. The manner and standards of ~~officer~~ performance, the discipline of officers, and other matters incident to the provision of services under this Agreement, and the control of personnel so employed, shall be subject solely to the control of the Sheriff/COUNTY.~~

~~10.5. In the event that MIDWAY a MUNICIPALITY, through its elected body or authorized agent, notifies the COUNTY that MIDWAY the MUNICIPALITY is dissatisfied with the Law Enforcement Base Level of Service or the level of Additional Services contracted for, the Sheriff/SHERIFF'S OFFICE shall meet with MIDWAY the MUNICIPALITY to discuss issues and resolve problems.~~

~~6. The COUNTY'S agreement to provide “Additional Services” under this Agreement does not lessen the COUNTY'S obligation to provide the Base Level of Service to each MUNICIPALITY within Wasatch County. The COUNTY'S contractual obligations under this Agreement recognize the underlying statutory obligations that Wasatch County has to provide the Base Level of Service to the MUNICIPALITIES.~~

~~11.7. To facilitate the COUNTY'S performance pursuant to this Agreement, MIDWAY each MUNICIPALITY agrees that the COUNTY shall have full cooperation and assistance from MIDWAY the MUNICIPALITY, its officers, agents and employees. MIDWAY designates Each MUNICIPALITY shall designate its Mayor, or one of its City Council members as the liaison for any issues arising under this Agreement. COUNTY designates the Sheriff as the to the Wasatch County Sheriff's Office. The liaison for any issues arising under this Agreement. The liaisons shall meet shall attend meetings with the Wasatch County Sheriff's Office as deemed necessary by the Wasatch County Sheriff's Office, or as reasonably requested, by a MUNICIPALITY and shall represent the MUNICIPALITY at the meetings. The purpose of these meetings is to develop short-term and long range plans and to coordinate and analyze law enforcement services and to plan for future police service, to develop budget parameters for distributing costs among the MUNICIPALITIES, and other related public service issues.~~

~~12.8. The COUNTY shall furnish and supply, according to the terms detailed herein, all necessary labor, supervision, equipment, communication facilities and supplies necessary to provide services pursuant to this Agreement, in the Sheriff's reasonable discretion.~~

~~13.9.~~ All deputy sheriffs, ~~dispatchers, corrections officers, record's clerks, administrators,~~ and all other COUNTY personnel performing duties pursuant to this Agreement shall at all times be considered employees of the COUNTY for all purposes.

B. ASSUMPTION OF LIABILITIES/INSURANCE

1. Except as otherwise provided, ~~MIDWAY MUNICIPALITIES~~ shall not be called upon to assume any liability for the direct payment of any salaries, wages, or other compensation to any COUNTY personnel performing services pursuant to this Agreement for ~~MIDWAY MUNICIPALITIES~~, and the COUNTY hereby assumes said liabilities.
- ~~2. The COUNTY and the MIDWAY are governmental entities under the "Utah Governmental Immunity Act" (UTAH CODE ANN. § 63G-7-101, et seq.) (the "Immunity Act.") Consistent with the terms of the Immunity Act, and as provided herein, it is mutually agreed that each are responsible and liable for its own wrongful or negligent acts which are committed by it or by its agents, officials, or employees. The COUNTY and the MIDWAY do not waive any defenses otherwise available under the Immunity Act nor does any MIDWAY or the COUNTY waive any limits of liability currently provided by the Immunity Act. The COUNTY shall defend, indemnify, save and hold harmless the MIDWAY (including their respective elected and appointed officers and employees) from and against any and all demands, liabilities, claims, damages, actions and/or proceedings, in law or equity (including reasonable attorney's fees and costs of suit) relating to or arising from the law enforcement services provided, or to be provided, by the COUNTY hereunder, except where such demands, claims, actions or proceedings resulting from the negligence or misconduct of the MIDWAY, or their respective elected or appointed officers or employees. Similarly, each MIDWAY shall defend, indemnify, save and hold harmless the COUNTY (including their respective elected and appointed officers and employees) from and against any and all demands, liability, claims, damages, actions and/or proceedings, in law or equity (including reasonable attorney's fees and costs of suit) relating to or arising from the actions or failure to act of a MIDWAY, except to the extent where such demands, claims, actions or proceedings may result from the negligence or misconduct of one or more other MIDWAY or by the COUNTY, or their respective elected or appointed officers or employees. Finally, MIDWAY shall indemnify the COUNTY (including its elected and appointed officers and employees) from and against demands, claims, actions and/or proceedings, in law or equity (including reasonable attorney's fees and costs of suit) relating to or arising from actions of that MIDWAY's elected and appointed officers or employees; the COUNTY's enforcement of any ordinances of that MIDWAY that is alleged to be unconstitutional; or improper disclosure by that MIDWAY of private, controlled, or protected information under the provisions of GRAMA. The COUNTY is considered a governmental entity for purposes of the Act, including the defense and indemnification of employees, volunteers and officials.~~
2. Except as herein otherwise specified, MUNICIPALITIES shall not be liable for compensation or indemnity to any COUNTY employee for injury or sickness arising out of the performance of services pursuant to this Agreement, and the COUNTY hereby agrees to hold MUNICIPALITIES harmless against any such claim.

3. The MUNICIPALITIES, their officers, and employees, shall not be deemed to assume any liability for the intentional or negligent acts of the COUNTY or the COUNTY'S employees performing services pursuant to this Agreement, and the COUNTY shall hold the MUNICIPALITIES, their officers, and employees harmless from and shall defend and indemnify the MUNICIPALITIES, their officers, and employees against any claim for damages arising out of the COUNTY'S performance of services pursuant to this Agreement.

4. The COUNTY, its officers, and employees shall not be deemed to assume any liability for intentional or negligent acts of the MUNICIPALITIES or of any other officers, agent or employee thereof, and the MUNICIPALITIES shall hold the COUNTY and its officers and employees harmless from, and shall defend and indemnify the COUNTY and its officers and employees against any claim for damages arising out of the MUNICIPALITIES' performance of its obligations pursuant to this Agreement.

C. TERM OF AGREEMENT/TERMINATION

1. The term of this Agreement shall commence on January 1, 2021, and shall continue through December 31, 2025 ("Term").

2. If either party intends not to renew this Agreement at the end of its Term, the party must notify the other party and other MUNICIPALITIES in writing at least eleven (11) calendar months prior to the end of the contract Term. If either party has not approved a successor agreement at the end of the Term, the COUNTY will continue to provide Law Enforcement Services in accordance with this Agreement, and MIDWAY will pay law enforcement services in accordance with this Agreement.

3. Either party may terminate this Agreement at the end of a calendar year and prior to the end of the Term of the Agreement by notifying the other party to this Agreement and the other MIDWAY MUNICIPALITIES in writing of their intent to terminate the Agreement at least eleven (11) calendar months prior to the end of the calendar year.

4. Notice to the COUNTY shall be given to the County Manager and Wasatch COUNTY County Sheriff, and Notice to the MIDWAY MUNICIPALITIES shall be given to its Mayor/City Manager.

D. COST AND PAYMENT

1. The General Duties Base Level of Service provided for in this Agreement shall ~~not~~ be paid for by MIDWAY. The COUNTY is responsible to ensure these General Duties are paid for in a lawful manner, in its discretion, the MUNICIPALITIES' county taxes.

2. Payment for Law Enforcement Services and Additional Dispatch Services shall be paid in monthly payments payable thirty days after the date of the invoice. The payment for Law

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~~Enforcement Services and Additional Dispatch~~ Services shall be as ~~outlined~~set forth in Addendum A to this Agreement.

~~3. The Sheriff shall~~ During the term of this Agreement, the COUNTY shall annually submit a Budget Estimate for the ~~next fiscal~~following year for ~~Law Enforcement Services and Additional Dispatch Services to MIDWAY~~of services to the MUNICIPALITIES no later than ~~March 1~~August 1 of ~~each~~the current year. Said Budget Estimate will be for the limited purpose of better enabling ~~MIDWAY~~the MUNICIPALITIES to estimate its annual budget and tax levy. ~~The initial year will be for a minimum of 240 hours of deputies' time per month providing Law Enforcement Services above the level of service the COUNTY would provide without this Agreement.~~

~~3.4. If MIDWAY wishes to change this 240 hours, the COUNTY will need time to adjust its personnel needs based on MIDWAY's request for Law Enforcement Services. Hence, COUNTY may allow or deny requests for annual changes from the 240 hours at COUNTY discretion. a MUNICIPALITY does not allocate the necessary funding for its proportionate share of the COUNTY'S Approved Budget to the MUNICIPALITIES for a given year, the MUNICIPALITY and the COUNTY must meet by January 31 of the budget year in question to review and reach agreement on modifications to service levels provided by the COUNTY that are consistent with the MUNICIPALITY'S budget and that recognize the impact of these service level changes to other MUNICIPALITIES that contract with the COUNTY for these services.~~

~~4. If MIDWAY does not make necessary payments for its obligations under this Agreement, MIDWAY will be in breach of the terms of this Agreement, and the COUNTY may take any other lawful measures to collect necessary funding from MIDWAY. Similarly, if COUNTY fails to provide Law Enforcement Services or Additional Dispatch Services, COUNTY will be in breach of the terms of this Agreement, and MIDWAY may take any other lawful measures to enforce the Agreement.~~

E. GENERAL PROVISIONS

1. Notice to the COUNTY shall be given to the ~~COUNTY~~County Manager and Wasatch ~~COUNTY~~County Sheriff, and Notice to ~~MIDWAY~~the MUNICIPALITIES shall be given to either the Mayor or the City Manager.
2. It is understood that prosecutions for violations of ordinances or state statutes, together with disposition of all fines collected pursuant thereto, shall be in accordance with state statutes, state rules, and judicial orders.
3. ~~MIDWAY~~A MUNICIPALITY may contract with the COUNTY for additional ~~Law Enforcement Services~~law enforcement services above and beyond those provided in this Agreement, ~~through a written agreement or addendum to this Agreement~~as set forth in Addendum A.

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4. Any alterations, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, signed by authorized representatives of the COUNTY and ~~MIDWAY~~ the MUNICIPALITY and attached to the original of this Agreement.

5. ~~FORCE MAJEURE. Any failure or delay by a party in the performance of its obligations under this Agreement is not a default or breach of the Agreement or a ground for termination under this Agreement to the extent the failure or delay is due to elements of nature or acts of God, acts of war, terrorism, riots, revolutions, or strikes or other factor beyond the reasonable control of a party (each, a "Force Majeure Event"). The party failing or delaying due to a Force Majeure Event agrees to give notice to the other party which describes the Force Majeure Event and includes a good faith estimate as to the impact of the Force Majeure Event upon its responsibilities under this Agreement, including, but not limited to, any scheduling changes. However, should any failure to perform or delay in performance due to a Force Majeure Event last longer than thirty (30) days, or should three (3) Force Majeure Events apply to the performance of a party during any calendar year, the party not subject to the Force Majeure Event may terminate this Agreement by notice to the party subject to the Force Majeure Event.~~

6. ~~No third party is a beneficiary of this Agreement.~~

7. ~~This Agreement shall be governed and enforced according to the laws of the State of Utah. Any disputes that cannot be resolved between the parties shall be resolved through the District Court in Wasatch COUNTY.~~

8. ~~Interlocal Cooperation Act Requirements: In satisfaction of the requirements of the Utah Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Ann. 1953, as amended, the MIDWAY and the COUNTY agree as follows:~~

- a. ~~This Agreement shall be conditioned upon the approval and execution of this Agreement by the MIDWAY and the COUNTY.~~
- b. ~~This Agreement shall be administered by the MIDWAY City Mayor and the Wasatch COUNTY Sheriff. Under this Agreement, the Wasatch COUNTY Sheriff shall provide Law Enforcement Services in the incorporated area of MIDWAY City.~~
- c. ~~The respective budgets for this Agreement shall be financed, established, and maintained by the MIDWAY and the COUNTY.~~
- d. ~~This Agreement shall be submitted to the attorneys authorized to represent MIDWAY and the COUNTY for review as to proper form and compliance with applicable law, as established by the respective attorneys affixing their signatures to this Agreement before this Agreement may take effect.~~
- e. ~~A duly executed copy of this Agreement shall be immediately filed with the keeper of records for both MIDWAY and the COUNTY.~~
- f. ~~This Agreement shall not take effect until it is filed with the keeper of the records of MIDWAY and the COUNTY.~~

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~~9. Prior Agreements. This Agreement between the parties, and upon the date of the approval of this Agreement by both parties, and starting January 1, 2021, supersedes and replaces all prior agreements between the parties for the provision of Law Enforcement Services to MIDWAY by the COUNTY.~~

IN WITNESS WHEREOF, ~~MIDWAY City~~ the MUNICIPALITY, as set forth below, by resolution duly adopted by its Council has caused this Agreement to be signed by its Mayor/ City Manager, and the seal of the ~~MIDWAY MUNICIPALITY~~ to be affixed hereto on the _____ of _____, 2020, and the COUNTY, by resolution of ~~the COUNTY Council~~ its Board of County Commissioners, has caused this Agreement to be signed by the ~~COUNTY~~ County Manager on the ____ day of _____.

COUNTY OF WASATCH

MIDWAY CITY

By: _____ By: _____
~~Michael K. Davis~~ MIKE DAVIS
Celeste Johnson
~~COUNTY~~ County Manager MIDWAY Mayor

APPROVAL RECOMMENDED: ~~APPROVED AS TO FORM~~

By: _____ By: _____
Jared ~~W.~~ Rigby Corbin Gordon
Sheriff of Wasatch County

APPROVED AS TO FORM: ~~COUNTY Sheriff~~ MIDWAY City

By: _____
Scott Sweat
Wasatch County Attorney

~~APPROVED AS TO FORM~~:

By: _____
~~Jon Woodard~~
~~Deputy Wasatch COUNTY~~ Attorney

