

MASS NOTIFICATION INTERLOCAL COOPERATION AGREEMENT

THIS MASS NOTIFICATION INTERLOCAL COOPERATION AGREEMENT (hereinafter "Agreement"), is executed in duplicate this ____ day of _____, 2023, by and among **UTAH COUNTY**, a political subdivision of the State of Utah (hereinafter referred to as "County") and **ALPINE CITY, AMERICAN FORK CITY, CEDAR FORT TOWN, CITY OF CEDAR HILLS, EAGLE MOUNTAIN CITY, ELK RIDGE CITY, FAIRFIELD TOWN, GENOLA CITY, GOSHEN CITY, HIGHLAND CITY, LEHI CITY, LINDON CITY, MAPLETON CITY, the CITY OF OREM, PAYSON CITY, PLEASANT GROVE CITY, PROVO CITY, SALEM CITY, SANTAQUIN CITY, SARATOGA SPRINGS CITY, SPANISH FORK CITY, SPRINGVILLE CITY, VINEYARD CITY, and WOODLAND HILLS CITY**, all municipal corporations and political subdivisions of the State of Utah, (the combined group of cities to be hereinafter collectively referred to as the "Cities" or "City" when used in the singular).

RECITALS

WHEREAS, mass notification services provide an important means to notify the citizens residing in the boundaries of Utah County of disasters, emergencies, and other important matters, thereby promoting the health, safety, and welfare of the citizens residing in Utah County; and

WHEREAS, the parties to this Agreement will benefit by reduced fees for mass notification services to the citizens of their respective jurisdictions by entering into this Agreement while maintaining autonomy of notifications in their respective jurisdictions; and

WHEREAS, the parties to this Agreement desire to benefit from the mass notification services provided in accordance with the Agreement and the cost savings associated therewith; and

WHEREAS, County has entered into an agreement more particularly described below for countywide mass notification services to promote the health safety and welfare of citizens residing in Utah County; and

WHEREAS, the parties to this Agreement desire to enter into this Agreement to provide for the funding and use of the mass notification system; and

WHEREAS, the parties desire to set forth the terms of their agreement and the parties respective rights and obligations in this Agreement; and

WHEREAS, the parties and each of the Cities have approved this Agreement by resolutions adopted by their respective governing bodies;

NOW THEREFORE, in consideration of the covenants and promises contained herein, and

for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Agreement with Everbridge.** County has entered into Agreement No. 2023-211 with Everbridge, Inc., (the “Mass Notification Agreement”), in the form attached hereto as Exhibit A, allowing Cities to utilize the mass notification services provided by Everbridge. Upon entering into this interlocal agreement and payment of fees to County as provided herein, each city may participate in the Everbridge mass notification services as provided in the Mass Notification Agreement.

All Cities who are contracting with Everbridge prior to entering into this Agreement have the option to remain separate organizations within the Everbridge system as currently established and may continue to contact Everbridge directly with support needs for their organizations.

2. **Funding and Apportionment of Mass Notification Expenses.**

2.1 For the first year of the Mass Notification Agreement, each City without an existing mass notification provider will pay County their share of the Mass Notification Agreement contract price as stated in the last column of the attached Exhibit B.

In the first year of the Mass Notification Agreement, Cities with an existing mass notification provider, commencing upon the termination of their respective existing mass notification contracts will pay County their pro rata share of the Mass Notification Agreement price determined as follows: (number of days remaining in the first year of the Mass Notification Agreement/365) times the city’s yearly contract price with the previous provider, or as otherwise determined and confirmed in writing between the City and County.

2.2 In the second and subsequent years of the Mass Notification Agreement, each City’s pro rata share of the contract price of the Mass Notification Agreement will be based on the number of households in their respective jurisdictions divided by the total number of households in the jurisdictions of all parties to this Agreement, times the Mass Notification Agreement contract price. The number of households in a respective jurisdiction is determined as follows: Population divided by 2.4, multiplied by 1.1, equals total households. The population used in the formula will be determined by the most recent United States Census figures. All parties shall promptly pay County in advance for the next succeeding year for their respective shares of the Mass Notification Agreement contract price as provided in section 3.1. The percentage of the expenses due from each party will be recalculated in the event updated US Census figures are released during the term of this Agreement and will be effective for the next payment period. In the second year only, a city’s pro rata share shall not exceed the amount stated in the last column of Exhibit B.

2.3 Any additional fees incurred by County or a Participating City, including fees

listed in the Mass Notification Agreement, will be paid by the County or Participating City incurring the fee or service, including but not limited to API connections, additional ORGS and training not listed in the quote, and new ORG implementation fees.

3. **Payment.**

3.1 The County shall send an invoice to each of the Cities for the amount of each City's payment to County for their respective share of the Mass Notification Agreement contract price. The County shall include a detail calculating each party's contract price share. A City's contract price share will be allocated as provided in the preceding section. Each party shall pay the County not less than thirty (30) days prior to commencement of the next contract year or within 30 days of receipt of an invoice from the County, whichever is later.

4. **Coordination.**

4.1 The parties shall meet at least annually to coordinate use of the mass notification services and to discuss issues regarding the services.

5. **Indemnification, Insurance, and Mass Notification Agreement Compliance.**

5.1 The parties shall maintain such liability insurance as they deem prudent and appropriate. The parties anticipate that the protections of the Utah Governmental Immunity Act, 63G-7-101 *et. seq.* will apply to any claims which may be made against any or all of the parties arising out of the use of the Mass Notification System. However, notwithstanding these protections, and without in any way waiving the defenses afforded by the Utah Governmental Immunity Act, 63G-7-101 *et. seq.*, each party to this Agreement agrees to indemnify and hold harmless each and every other party from all claims for personal injuries or damage to property to the extent that such injuries or damages directly or indirectly arise out of that party's own acts or omissions. Nothing in this Agreement shall be construed as releasing, indemnifying or holding harmless any party to this agreement from liability for that party's own acts or omissions. The indemnification obligations hereunder, or as provided in any section of this Agreement, shall not be considered a waiver of the protections and immunities afforded by the Utah Governmental Immunity Act (Utah Code Section 63G-7-101, *et. seq.*) The obligation of the parties to indemnify under this section, or as provided in any section of this Agreement, is limited to the limits of liability specified in the Governmental Immunity Act (Utah Code Section 63G-7-604), or as amended by statute or the state risk manager as provided by statute.

5.2 All parties to this Agreement shall comply with all terms and conditions of the Mass Notification Agreement and will indicate their willingness to do so by signing the Mass Notification Agreement as a Participating City. By such signature as a Participating City, the city agrees to be bound by the terms and conditions of the Mass Notification Agreement only and does not make the City

a party to the Mass Notification Agreement.

5.3 In the event any party to this Agreement breaches any term or condition of the Mass Notification Agreement, and fails to timely cure any such breach, the breaching party to this Agreement shall indemnify and hold harmless all non-breaching parties to this Agreement for all claims, injuries or damages resulting from the breaching party to this Agreement's acts or omissions, including but not limited to court costs and attorney's fees incurred as a result of the breaching party to this Agreement's acts or omissions. The indemnification obligations hereunder, or as provided in any section of this Agreement, shall not be considered a waiver of the protections and immunities afforded by the Utah Governmental Immunity Act (Utah Code Section 63G-7-101, *et. seq.*). The obligation of the parties to indemnify under this section, or as provided in any section of this Agreement, is limited to the limits of liability specified in the Governmental Immunity Act (Utah Code Section 63G-7-604), or as amended by statute or the state risk manager as provided by statute.

6. **Duration.** This Agreement shall be effective immediately upon the signature hereof by at least two named parties to this Agreement and shall remain in full force and effect as to all signatories to this Agreement for a period of five (5) years including any subsequent renewal of the Mass Notification Agreement on the same terms and conditions as the original agreement, or until such time as the Mass Notification Agreement is terminated, whichever is sooner.

7. **Interlocal Cooperation Act.** The following terms are included in the Agreement to comply with the requirements of the Interlocal Cooperation Act:

7.1 **Resolution.** This Agreement shall be authorized by resolution of the legislative bodies of the signatories hereto as required by Section 11-13-202.5 of the Interlocal Act.

7.2 **Purpose.** This Interlocal Cooperation Agreement has been established and entered into by the parties to provide mass notification services within Utah County.

7.3 **No Separate Entity, Administration.** The parties to this Agreement do not contemplate nor intend to establish a separate legal entity under the terms of this Agreement. The parties hereto agree that pursuant to Section 11-13-207, Utah Code Annotated, 1953 as amended, COUNTY shall act as the administrator responsible for the administration of this Interlocal Cooperation Agreement. The parties further agree that this Interlocal Cooperation Agreement does not anticipate nor provide for any organizational changes in the parties. The administrator agrees to keep all books and records in such form and manner as the Utah County Clerk shall specify and further agrees that said books shall be open for examination by the signatories hereto at all reasonable times. The parties agree that they will not acquire, hold nor dispose of any real property pursuant to this Agreement. The parties further agree that they will not acquire, hold, or dispose of any personal property pursuant to this Agreement.

7.4 **Financing.** There shall not be a separate budget to carry out the terms of this Agreement, but each party shall fund and pay for its respective responsibilities pursuant to this Agreement. Except as otherwise specifically provided herein, each party shall be responsible for its own costs of any action done pursuant to this Agreement, and for any financing of such costs.

7.5 **Filing.** A duly executed original counterpart of this Agreement shall be filed with the keeper of records of each party, pursuant to Section 11-13-209 of the Interlocal Act.

7.6 **Legal Review.** This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each party, pursuant to Section 11-13-202.5 of the Interlocal Act.

7.7 **Termination.** Upon the termination of the Mass Notification Agreement, the parties will each pay County their pro rata share for the cost of any services due under the Mass Notification Agreement as determined in section 2.2.

7.8 **Equipment.** The parties will provide and maintain such equipment as they determine necessary for their own use of the mass notification services. Any equipment provided by a party shall remain the property of the party providing the equipment. No real or personal property shall be acquired jointly by the parties as a result of this Agreement. To the extent that a party acquires, holds, or disposes of any real or personal property for use in the joint or cooperative undertaking contemplated by this Agreement, such party shall do so in the same manner that it deals with other property of such party.

8. **Interpretation of Agreement.** Whenever the context of any provision shall require it, the singular number shall be held to include the plural number, and vice versa, and the use of any gender shall include the other gender. The paragraph and section headings in this Agreement are for convenience only and do not constitute a part of the provisions hereof.

9. **Amendments.** This Agreement may be amended, changed, modified or altered only by an instrument in writing which shall be (a) approved by Resolution of the governing or legislative body of each of the parties, (b) executed by a duly authorized official of each of the Parties, (c) submitted to an attorney for each party that is authorized to represent said party for review as to proper form and compliance with applicable law, pursuant to Section 11-13-202.5 of the Interlocal Act, and (d) filed in the official records of each party.

10. **No Presumption.** Should any provision of this Agreement require judicial interpretation, the Court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party, by reason of the rule of construction that a document is to be construed more strictly against the person who himself or through his agents prepared the same, it being acknowledged that all parties have participated in the preparation hereof.

11. **Notices.** All notices, demands and other communications required or permitted to

be given hereunder shall be in writing and shall be deemed to have been properly given if delivered by hand or by certified mail, return receipt requested, postage paid, to the parties directed to their respective County Commission Chairman or City Mayors at their respective County and City Offices, or at such other addresses as may be designated by notice given hereunder.

12. **Assignment.** The parties to this Agreement shall not assign this Agreement, or any part hereof, without the prior written consent of all other parties to this Agreement. No assignment shall relieve the original parties from any liability hereunder.

13. **Utah Law.** This Agreement shall be interpreted pursuant to the laws of the State of Utah.

14. **Time of Essence.** Time shall be of the essence of this Agreement.

15. **Lawful Agreement.** The parties represent that each of them has lawfully entered into this Agreement, having complied with all relevant statutes, ordinances, resolutions, by-laws, and other legal requirements applicable to their operation.

16. **Breach.** In the event that any party breaches this Agreement, a non-breaching party may serve the breaching party with a notice to cure the breach by certified mail, return receipt requested or personal delivery to the breaching party. The breaching party shall cure the breach within thirty days of receiving notice to cure, or if the breach is not capable of curing within thirty days, commence corrective action within thirty days and diligently pursue correction of the breach until the breach is cured. Failure to cure or diligently pursue corrective action constitutes a breach.

17. **Incorporation of Recitals.** The Recitals to this Agreement are hereby incorporated into the Covenants section of this Agreement as if fully set forth herein.

18. **Binding Agreement.** This Agreement shall be binding upon the heirs, successors, administrators, and assigns of each of the parties hereto.

19. **Mass Notification Agreement.** The parties to this Agreement shall not violate, breach or cause the violation or breach of any term, condition or provision of the Mass Notification Agreement.

20. **Conflict.** This Agreement is subject to the terms, provisions and conditions of the Mass Notification Agreement and all applicable state and federal laws, rules, and regulations. In the event of any conflict between any term of this Agreement and the Mass Notification Agreement, the Mass Notification Agreement shall govern. The parties to this Agreement shall comply with all applicable state and federal laws, rules, and regulations.

21. **Entire Agreement.** This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind proceeding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.

22. **Force of Nature.** The parties to this Agreement shall not hold any other parties liable for damages or otherwise responsible in any way if any party is prevented from the

performance of this Agreement by reason of acts of God, riot, strike, fire, weather, illness, war, lock-up, energy shortages, or illegality.

23. **Severability**. If any term or provision of this Agreement or the application thereof shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and shall be enforced to the extent permitted by law. To the extent permitted by applicable law, the parties hereby waive any provision of law which would render any of the terms of this Agreement unenforceable.

24. **Counterparts**. This Agreement may be executed in one or more counterparts, all of which together shall be considered as one agreement.

25. **Third Party Beneficiaries**. This Agreement governs the rights and liabilities of the signatories to this Agreement only. No third-party beneficiaries are created, or intended to be created by this Agreement for any person or entity not a signatory to this Agreement.

[Signatures on the following page]

SIGNED and ENTERED INTO this ____ day of _____, 2023.

BOARD OF COUNTY COMMISSIONERS,
UTAH COUNTY, UTAH

By: _____
AMELIA POWERS GARDNER
Chairman, Board of Utah County Commissioners

ATTEST:
AARON R. DAVIDSON
Utah County Clerk

By: _____
Deputy Utah County Clerk

REVIEWED AS TO PROPER FORM AND
COMPLIANCE WITH APPLICABLE LAW:
JEFFREY S. GRAY
Utah County Attorney

By: _____
Deputy Utah County Attorney

Population Calculated using 2020 US Census

City	Population	Total Households (Including Business)	% of Utah County households	Cost Share of \$118,525/Annually by households
Alpine	10251	4,698	0.016	\$1,842.59
American Fork	33337	15,279	0.051	\$5,992.24
Cedar Fort	430	197	0.001	\$77.29
Cedar Hills	10019	4,592	0.015	\$1,800.89
Draper		0	0.000	\$0.00
Eagle Mountain	43623	19,994	0.066	\$7,841.12
Elk Ridge	4874	2,234	0.007	\$876.09
Fairfield	161	74	0.000	\$28.94
Genola	1593	730	0.002	\$286.34
Goshen	982	450	0.001	\$176.51
Highland	19348	8,868	0.029	\$3,477.75
Lehi	75907	34,791	0.115	\$13,644.08
Lindon	11397	5,224	0.017	\$2,048.58
Mapleton	11365	5,209	0.017	\$2,042.83
Orem	98129	44,976	0.149	\$17,638.43
Payson	21101	9,671	0.032	\$3,792.85
Pleasant Grove	37726	17,291	0.057	\$6,781.15
Provo	115162	52,783	0.175	\$20,700.06
Salem	9298	4,262	0.014	\$1,671.29
Santaquin	13725	6,291	0.021	\$2,467.03
Saratoga Springs	37696	17,277	0.057	\$6,775.76
Spanish Fork	42602	19,526	0.065	\$7,657.60
Springville	35268	16,165	0.053	\$6,339.33
Vineyard	12543	5,749	0.019	\$2,254.57
Woodland Hills	1558	714	0.002	\$280.05
Utah County Uninc.	11308	5,183	0.017	\$2,032.58
Utah County Add-Ons				\$2,500.00
				\$121,025.93

Everbridge Formula = (Population) divided by (2.4) Multiplied by (1.1) = Households including businesses..... Multiplied by .46 = Annual Cost

Total Utah County Households (Including Business Factor) = 302,224

SIGNED and ENTERED INTO this _____ day of _____, 2023.

SANTAQUIN CITY

By: _____
Mayor

ATTEST AND COUNTERSIGN:

City Recorder

Reviewed as to proper form and
Compliance with applicable law:

City Attorney