

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

COUNCIL BILL NUMBER: CB12

ORDINANCE NUMBER: 2018-12

TITLE: AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT FOR THE 2018 GENERAL ELECTION BETWEEN THE CITY OF BLACK HAWK AND GILPIN COUNTY BY THE GILPIN COUNTY CLERK AND RECORDER

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLACK HAWK, GILPIN COUNTY:

Section 1. The City of Black Hawk hereby approves the Intergovernmental Agreement for the 2018 General Election between the City of Black Hawk and Gilpin County, Colorado by the Gilpin County Clerk and Recorder, as more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference, and authorizes the Mayor to execute the same on behalf of the City.

Section 2. Safety Clause. The Board of Aldermen hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Black Hawk, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Aldermen further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

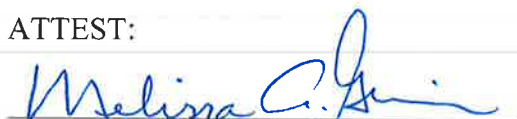
Section 3. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. Effective Date. The City Clerk is directed to post the Ordinance as required by the Charter. This Ordinance shall become effective upon posting by the City Clerk.

READ, PASSED AND ORDERED POSTED this 11th day of July, 2018.


David D. Spellman, Mayor

ATTEST:


Melissa A. Greiner, CMC, City Clerk



INTERGOVERNMENTAL AGREEMENT FOR 2018 GENERAL ELECTION

THIS AGREEMENT is entered into by and between Gilpin County (County) by the Gilpin County Clerk and Recorder, hereinafter referred to as County Clerk, and the City of Black Hawk, hereinafter referred to as Black Hawk. Black Hawk desires to conduct an election on November 6, 2018 pursuant to its statutory authority and a coordinated election is required pursuant to C.R.S. §§1-7-116 *et seq*; such election to occur on November 6, 2018 as a General Election pursuant to a resolution adopted by the Gilpin County Board of County Commissioners on June 26, 2018.

RECITALS:

The County Clerk has agreed to perform the coordinated election services set forth herein in consideration for the performance by Black Hawk of its obligations and payment of election expenses, costs and fees as set forth herein; and

This Agreement is authorized by C.R.S. §29-1-203, and § 1-1-111, and §1-7-116(2); and

C.R.S. §1-1-111(2) authorizes Black Hawk to contract with the County Clerk to perform all duties of the City Clerk of Black Hawk, in connection with the conduct of the 2018 General Election.

NOW, THEREFORE, in consideration of their mutual promises contained herein, the parties agree as follows:

1. **Purpose.** Pursuant to the terms of this Agreement, the County Clerk and Black Hawk agree to the scheduling of a coordinated election on November 6, 2018. Such coordinated election involves more than one political subdivision with overlapping boundaries, and the County Clerk shall serve as the Coordinated Election Official for the political subdivisions involved in this election. This election shall be held under the provision of Title 1 of the Colorado Revised Statutes, hereafter identified as "the Code".
2. **Designation of Officials.** The County Clerk will serve as the "Election Official" to act as the primary liaison between Black Hawk and the County for the Coordinated Election. Black Hawk has or will designate Melissa Greiner, City Clerk, as Black Hawk's election representative for purposes of this Agreement, to the extent required by the Code, who shall act as the primary liaison between Black Hawk and the County Clerk as Coordinated Election Official.
3. **Election responsibilities**
 - (a) **County Clerk** Except as otherwise specifically provided in this Agreement, the County Clerk will perform all duties, provide all services and supplies and render all decisions required under the Code which otherwise would have been the responsibility of the City Clerk, as District Election Official and Officer in a non-coordinated election for the City of Central.
 - (b) **Black Hawk** Black Hawk is responsible for the accuracy and legality of the information which it furnishes to the County Clerk, and shall defend and indemnify the County and the County Clerk, from and against any claims or liability arising therefrom. Prior to the submission of the prepared ballot to the printer, the County Clerk will provide a proof of the ballot to Black Hawk. Black Hawk shall then proofread the ballot and advise the County Clerk in writing of any changes or corrections within the time required by the County Clerk. Black Hawk shall certify its portion of the consolidated ballot to the County Clerk. The ballot content must be provided in Microsoft Word or in Notepad document format, attached in an email to the County Clerk at gcclerk@co.gilpin.co.us. The content must be formatted exactly as Black Hawk wishes it to appear on the ballot.



- 4. Ballot Issue Notices.** If a ballot issue is being submitted by Black Hawk, public comments pertaining to the ballot issue must be filed with Black Hawk no later than September 21, 2018, as required pursuant to Article X Section 20 (3) (b) (v) of the Colorado Constitution and C.R.S. §1-7-901(4). The District shall provide such notice, including pro and con summaries and fiscal information, to the County Clerk no later than 12:00 o'clock noon on September 25, 2018, pursuant to C.R.S. §1-7-904. Black Hawk shall be solely responsible for the notice's preparation, accuracy, and the language contained therein. The pro and con summaries must be provided in Microsoft Word document format, attached in an e-mail to the County Clerk at gcclerk@co.gilpin.co.us. The County Clerk shall be responsible for combining Black Hawk's text of the notice for all participating political subdivisions. At least thirty (30) days before the election, the County Clerk as Coordinated Election Official shall mail the ballot issue notice to each address of active registered electors who reside in the County as required by law pursuant to C.R.S. §1-7-906(1), but in any case, not later than October 5, 2018, as required pursuant to Article X Section 20 (3) (b) of the Colorado Constitution. The County Clerk shall be responsible for requesting and obtaining a list of out-of-county voters from the Gilpin County Assessor's Office, and for mailing the required notice to each address of active registered electors who do not reside within the county where Black Hawk is located pursuant to C.R.S. §1-7-906(2).
- 5. Canvass of Votes.** The County Clerk shall select and appoint a board of canvassers to canvass the votes; provided that Black Hawk at its option may designate one of its members or one eligible elector from Black Hawk to assist the County Clerk in the survey of the returns for Black Hawk. If Black Hawk desires to appoint one of its members or an eligible elector to assist, it shall make the appointment and notify the County Clerk no later than thirty (30) days prior to the election. The canvass of votes will be conducted by the County Clerk and will be completed no later than seventeen (17) days after the election. Official results of the canvass will be provided to Black Hawk. Any certificates of election, which are required by law to be forwarded to another division of government, shall be the responsibility of Black Hawk. If Black Hawk determines that a separate canvass board is necessary, Black Hawk shall arrange for such board at Black Hawk's expense. The County Clerk will be present at such canvass and in no event will the election records leave the premises. In the event a recount of the Black Hawk's election is necessary, such recount will be conducted by the County Clerk under the provisions provided by law at the expense of Black Hawk.
- 6. Cancellation of Election.** If all or any portion of Black Hawk's portion of the election is cancelled under the provision of C. R. S. §1-5-208(1.5), Black Hawk shall notify the County Clerk in writing by 4:30 o'clock PM, September 4, 2018. If all or any portion of Black Hawk's portion of the election is cancelled under the provisions of C.R.S. §1-5-208(2), Black Hawk shall notify the County Clerk in writing by 4:30 o'clock PM, October 12, 2018. Black Hawk will still be liable for all costs payable by Black Hawk under this Agreement up to the point of cancellation of the election. Black Hawk shall provide notice by publication of the cancellation of the election and a copy of the notice shall be posted in the office of the County Clerk as the Coordinated Election Official.
- 7. Payment of Costs.** Without limiting the obligations of Black Hawk under paragraphs 6, 8, 9, and 10 of this Agreement, Black Hawk shall pay the County Clerk for Black Hawk's portion of the actual costs of services and supplies, whether or not a cancellation has occurred under Cancellation of Election. Black Hawk shall pay the actual costs within twenty (20) days of receipt of the County Clerk's invoice therefore. The estimated costs for the conduct of the Election by the County Clerk under this Agreement, including the cost of preparing this Agreement, are set forth in **Exhibit A** attached hereto. Black Hawk acknowledges that actual costs of services and supplies are unknown at this time and that such costs may exceed the estimated costs.
- 8. Colorado Open Records Act. (CORA).** Black Hawk shall be responsible for responding to requests under C.R.S. §24-72- 200.1 *et seq.* for inspection of public records in the custody or control of the County Clerk relating to Black Hawk's election conducted pursuant to this Agreement. Any such



requests received by the County Clerk shall be forwarded immediately to the City Clerk. Black Hawk will cooperate with the County Clerk in the collection and copying of records in the custody or control of the County Clerk. Black Hawk shall be responsible for any determination required as to whether the election records requested, and in the custody or control of the County Clerk may be inspected under CORA. Black Hawk shall be responsible for all costs incurred by the County Clerk including without limitation costs in assembling and duplicating election records requested, to the extent not paid by requesting parties, and attorney's fees. Black Hawk shall be responsible for all costs and fees of Black Hawk or the County associated with defending any claim arising out the denial by Black Hawk of a CORA request.

9. Election Challenges. In the event of any challenge or other legal action contesting the election or the conduct of the election, Black Hawk shall bear all costs of Black Hawk and the County Clerk in defending such challenge or other legal action, and of any liability resulting therefrom. If a new election or other procedure must be conducted as a result of such challenge or recount or other legal action, Black Hawk shall pay its proportional share of actual costs of the new election or other procedure. Notwithstanding the foregoing, if a court determines that an act or omission of only the County Clerk or of only Black Hawk made necessary the new election or other procedure, the responsible party shall pay the entire cost of any liability resulting therefrom and of any new election or other procedure ordered by a court.

10. Indemnification. Any indemnification of the County Clerk or County of Gilpin to be provided by Black Hawk under the terms of this Agreement shall include all costs and expenses and reasonable attorney fees incurred by the County Clerk and/or County in defending any matter subject to the indemnification.

11. General Provisions This Agreement may be amended only in writing and following the same formality as the execution of this initial Agreement. If any provision of the Agreement is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, such holdings shall not affect the validity, legality, or enforceability of the remaining provisions.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement to be effective this 26th day of June, 2018.

GILPIN COUNTY

By: Colleen Stewart

Colleen Stewart

Gilpin County Clerk and Recorder

Date: June 26, 2018

Ron Engels
Chair
Board of County Commissioners

Date: June 26, 2018
Attest: Sharon E. Cate

CITY OF BLACK HAWK

By: [Signature]

Name Mayor

Title

Date: July 11, 2018

Attest: Melissa C. Steiner

EXHIBIT A

Estimated Costs of Coordinating the General Election

Gilpin County

November 2018

\$13.15 per voter (based on 2016 Election costs)

Ballot set up fee = \$150.00 per candidate or ballot issue

TABOR Notice = Printing costs + mailing cost per vendor (Response Technologies) plus staff time for set up @ \$50.00 hour.

Verify petitions = \$50.00 per hour

Additional staff time = \$50.00 per hour (i.e. counseling with possible candidates or their representatives)

Write in candidate processing fee = \$100.00 per hour (election judges)

Contested race = staff time, plus election judge time @\$100.00 ea. Plus attorney fees.