

## **AGREEMENT FOR THE DISTRIBUTION OF CARES ACT FUNDING TO UTAH MILITARY ACADEMY**

This agreement is made by and between Weber County (“County”), a body politic and political subdivision, and Utah Military Academy (“Utah Military”), a charter school organized under the laws of the State of Utah, individually referred to as “Party” and jointly referred to as “Parties.”

### **RECITALS**

**WHEREAS**, the State of Utah is distributing a portion of its Coronavirus Relief Fund (“CR Funds”) provided by the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) to Utah’s counties and municipalities through a population-based formula; and

**WHEREAS**, CR Funds can only be used to cover necessary expenditures and losses incurred due to the COVID-19 public health emergency; and

**WHEREAS**, necessary expenditures include direct emergency response activities, such as addressing public health needs, but also includes expenses required to respond to second-order effects of COVID-19, such as costs associated with the safe reopening of schools; and

**WHEREAS**, County and Utah Military recognize an immediate need to distribute CR Funds so the Utah Military may continue providing safe in-person learning environments and distance learning options to enable students to continue receiving a high quality education during this challenging time;

**NOW THEREFORE**, in consideration of the mutual covenants and promises contained hereafter, the Parties hereto agree as follows:

### **SECTION ONE DISTRIBUTION AND USE OF CR FUNDS**

1. County will grant \$32,000 to Utah Military in CR Funds upon execution of this agreement. The disbursement of CR Funds shall be made under the direction of the Weber County Treasurer.
2. Utah Military agrees to use funds in accordance with the requirements of the CARES Act and that payments will only be made to cover costs that are: 1) necessary expenditures due to the public health emergency with respect to COVID-19; 2) were not accounted for in the budget most recently approved as of March 27, 2020; and 3) were incurred between March 1, 2020, and December 30, 2020. Utah Military also agrees to abide by any additional federal and state requirements regarding the distribution of CR Funds.

### **SECTION TWO TERM OF AGREEMENT**

3. This agreement shall commence on the date it is signed by both Parties and shall terminate December 30, 2020. Provisions of this agreement that are expressly declared to survive termination, as well as provisions that by their nature are clearly intended to survive

termination, shall continue in effect until the need for those provisions has clearly expired. Utah Military shall immediately return any remaining CR Funds and provide an accounting of all funds upon agreement termination.

### **SECTION THREE INDEMNIFICATION**

4. Utah Military agrees to indemnify and hold County, its agents, officials, and employees harmless from and against any and all suits, claims, and proceedings for any and all loss, damages, injury, or liability arising out of the actions, omissions, or other alleged wrongdoing of Utah Military in its use of CR Funds pursuant to the terms of this agreement, including any recovery effort from federal and state authorities for use of CR Funds not permitted under the CARES Act. This provision shall survive termination of this agreement.

5. Notwithstanding the foregoing, County and Utah Military are governmental entities under the Governmental Immunity Act of Utah (Utah Code § 63G-7-101, *et seq.*) (“Governmental Immunity Act”). Neither County nor Utah Military waives any defenses or limitations of liability otherwise available under the Governmental Immunity Act, and they all maintain all privileges, immunities, and other rights granted by the Governmental Immunity Act.

### **SECTION FOUR RECORDS/AUDIT**

6. All records created or received by Utah Military in accordance with use of CR Funds shall be kept in accordance with Utah’s Government Records Access and Management Act and any other applicable state and/or federal law. Utah Military agrees to retain all necessary documentation required by federal and state authorities in order to demonstrate compliance with the CARES Act and any other applicable law related to the use of CR Funds. Utah Military also agrees to fully cooperate with and assist in complying with any federal or state auditing requirements related its use of CR Funds. Upon request, records shall be made available for examination by the County to verify compliance with this agreement. This provision shall survive the termination of this agreement.

7. Utah Military acknowledges it is a sub-recipient of federal CARES act funds, CFDA 21.019, passed through from Weber County. Utah Military asserts that it has not been suspended or debarred from doing business with the federal government. Utah Military agrees to have an annual audit conducted in accordance with the requirements of Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and to forward a copy of that audit to the County within 30 days of its completion.

### **SECTION FIVE MISCELLANEOUS**

8. **Amendment.** This agreement shall not be modified or amended except in writing, which shall be signed by duly authorized representatives of the County and Utah Military.
9. **No Third Party Beneficiary.** Nothing in this agreement shall create or be interpreted to create any rights in or obligations in favor of any person or entity not a party to this agreement. Except for the Parties to this agreement, no person or entity is an intended third party beneficiary under this agreement.
10. **Further Assurance.** Each of the Parties agrees to cooperate in good faith with the other to execute and deliver such further documents, to adopt any resolutions, to take any other official action and to perform such other acts as may be reasonably necessary or appropriate to consummate and carry into effect the transactions contemplated under this agreement.
11. **Severability.** If any provision of this agreement shall be held invalid or unenforceable by any court or as a result of future legislative action, the remaining provisions of this agreement shall remain in full force and effect and shall not be affected by the invalid or unenforceable provision or by its severance from this agreement. In lieu of such illegal, invalid or unenforceable provision, the Parties shall use commercially reasonable efforts to negotiate in good faith to insert a substitute, legal, valid, and enforceable provision that most nearly reflects the Parties' intent in entering into this agreement.
12. **Governing Law.** This agreement is made and entered into subject to the provisions of the laws of the State of Utah, which laws shall control the enforcement of this agreement. The Parties also recognize that certain federal laws may be applicable. In the event of any conflict between the terms of this agreement and any applicable state or federal law, the state or federal law shall control.
13. **Headings.** The section headings of this agreement are for the purposes of reference only and shall not limit or define the meaning thereof.
14. **Counterparts.** This agreement may be executed in any number of counterparts, all of which together shall serve as one agreement.
15. **Entire Agreement.** This document contains the entire agreement and understanding between the Parties and constitutes the entire agreement with respect to the specific issues contained herein and supersedes any and all prior written or oral representations and agreements.

*[signatures on the following pages]*

**BOARD OF COUNTY COMMISSIONERS  
OF WEBER COUNTY**

By \_\_\_\_\_  
Gage Froerer, Chair

Date \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Weber County Clerk/Auditor

UTAH MILITARY ACADEMY

By *Darren T. Beck*  
*Darren T. Beck, Superintendent / CAO*  
Date *11/2/2020*

ATTEST:

*Angie Burrey*  
*Angie Burrey, Director Finance / HR*  
*11/2/2020*

## Request for Taxpayer Identification Number and Certification

**Give Form to the  
 requester. Do not  
 send to the IRS.**

▶ Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.  
**Utah Military Academy**

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

Individual/sole proprietor or single-member LLC     C Corporation     S Corporation     Partnership     Trust/estate

Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ \_\_\_\_\_

**Note:** Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

Other (see instructions) ▶ **501 (c) 3**

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  
 Exempt payee code (if any) \_\_\_\_\_  
 Exemption from FATCA reporting code (if any) \_\_\_\_\_  
*(Applies to accounts maintained outside the U.S.)*

5 Address (number, street, and apt. or suite no.) See instructions.  
**5120 S. 1050 W**

6 City, state, and ZIP code  
**Riverdale, UT 84405**

7 List account number(s) here (optional)

Requester's name and address (optional)

Print or type.  
 See Specific Instructions on page 3.

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

				-			-				
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or

Employer identification number

4	6	-	5	0	7	1	4	8	0
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### Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

**Sign Here**

Signature of U.S. person ▶

*Kenneth A. Wells*

Date ▶ *11/2/20*

### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*