TOWN OF BRIGHTON

RESOLUTION NO. 2023-R-4-2 DATE: April 11th, 2023

A RESOLUTION ESTABLISHING POLICY AND PROVIDING DIRECTION REGARDING THE IMPLEMENTATION OF H.B. 374 ("COUNTY SHERIFF AMENDMENTS")

WHEREAS, the Town of Brighton ("**Municipality**") is a municipal corporation and political subdivision of the State of Utah and, with few exceptions, has the same powers and duties as a city or town pursuant to Utah Code § 10-3c-103; and

WHEREAS, the Unified Police Department ("**UPD**") was created pursuant to an interlocal agreement and currently provides law enforcement services to the Metro Townships of Copperton, Emigration Canyon, Kearns, Magna, and White City (the "**Metro Townships**") as well as the Town of Brighton, unincorporated Salt Lake County (the "**County**"), and the Cities of Holladay, Midvale, and Millcreek (collectively, the "**UPD Members**"); and

WHEREAS, the Municipality, the other Metro Townships, the Town of Brighton, and the County are also members of the Salt Lake Valley Law Enforcement Service Area ("**SLVLESA**"), a special district (previously known as a local district)[1] that levies taxes within its jurisdiction for law enforcement services and contracts with UPD to provide law enforcement services to the Municipality and the other areas within SLVLESA's service area; and

WHEREAS, the Salt Lake County Sheriff (the "**Sheriff**") has served as the chief executive officer of UPD and SLVLESA since their inception; and

WHEREAS, during the 2022 Legislative Session, the Utah Legislature passed H.B. 374 with the intended purpose of dissolving UPD, raising questions about the provision of law enforcement services within the Municipality and the other UPD Members; and

WHEREAS, H.B. 374 sought to address concerns that the County Sheriff's current role as the chief executive officer of UPD and SLVLESA creating a perceived conflict of interest and possible double taxation for non-UPD Members with respect to the county-wide services the Sheriff is required by law to provide to all municipalities within the County; and

WHEREAS, to accomplish its objectives, H.B. 374 effectively removes the Sheriff as the chief executive officer of UPD and SLVLESA, among other things; and

WHEREAS, effective July 1, 2025, H.B. 374 will repeal Subsection 11-13-202(4) of the Interlocal Cooperation Act (the "**Title 11 Provision**"), which requires the Sheriff "to provide or direct the law enforcement services provided under the [UPD interlocal] agreement;" and

[1] Effective February 27, 2023, all local districts in Utah were renamed "special districts" pursuant to H.B. 22 ("Local District Amendments").

WHEREAS, effective July 1, 2025, H.B. 374 will also repeal Subsections 17-22-2(1)(o) and 17-22-2(3) (the "**Title 17 Provisions**") within Title 17 of the Utah Code, which collectively: (1) authorize the Sheriff to serve as UPD's chief executive officer as allowed under the UPD interlocal agreement; and (2) the role of the Sheriff to serve in SLVLESA; and

WHEREAS, because UPD and its related statutory provisions are unique to the County as a county of the first class, the anticipated effect of H.B. 374 is to require the Municipality and the other UPD Members to receive law enforcement services in the same manner as municipalities located outside of the County; namely, through the creation of their own police forces, contracts with the Sheriff or another municipality for law enforcement services, or the formation of an interlocal policing service; and

WHEREAS, in the near-term, however, the other Metro Townships lack the statutory authority to impose property taxes or otherwise fund law enforcement services outside of SLVLESA, which may limit their ability to fund and receive law enforcement services in the same way as municipalities do that are not Townships which will impact their ability to fund the service area alongside the Municipality; and

WHEREAS, while H.B. 374 presents an opportunity for the Municipality and the other UPD Members to build and improve upon the law enforcement services they have received through UPD, implementing this goal will likely require more time than H.B. 374 affords, particularly if additional legislation is needed to provide the other Metro Townships with the same authority as other municipalities to fund law enforcement services; and

WHEREAS, to ensure an orderly implementation of H.B. 374 and to provide certainty to its citizens and its law enforcement officers, the Town of Brighton Council finds that it is necessary to adopt certain positions and provide direction regarding the Council's goals and priorities for the implementation of H.B. 374; and

NOW, THEREFORE, BE IT RESOLVED, by the Town of Brighton Council that:

1. Direction to City Attorney: The Council directs the City Attorney as follows:

   a. The City Attorney is authorized and instructed to engage in negotiations with UPD, the other UPD Members, SLVLESA and its members, and all other relevant persons or entities needed to implement H.B. 374 consistent with this Resolution; and

   b. In consultation with the Mayor, the City Attorney is authorized to secure the services of any subcontractors that may be needed for the City Attorney to carry out their duties under this Resolution, including but not limited to the hiring of facilitators and economic experts to assist the City Attorney; and

   c. The Mayor shall oversee and direct the City Attorney with respect to the implementation of this Resolution.

2. Near-Term Objectives: It is the Council's position that the development and implementation of an adequate successor to the current UPD law enforcement model will likely require more time than H.B. 374 affords, in which case:

a. The City Attorney is authorized and directed to negotiate a near-term law enforcement agreement or other arrangement that: (1) complies with H.B. 374 and the current statutory framework so that the Municipality will continue to receive law enforcement services following the implementation of the Title 11 Provision and the Title 17 Provisions; but (2) does not preclude the Municipality from considering and implementing other law enforcement arrangements in the long-term; and

b. Notwithstanding the apparent intent of H.B. 374, the Council finds that the Title 11 Provision and the Title 17 Provisions do not necessarily require the dissolution of UPD because they are specific to the Sheriff and do not modify the authority of the Municipality and the other UPD Members under Utah Code § 11-13-202 to execute interlocal agreements for law enforcement services, in which case reconstituting UPD as an interlocal policing service through a restatement of the current UPD interlocal agreement may represent the most available option for a near-term law enforcement model.

2. SLVLESA: Because the Municipality and the other Metro Townships may lack the ability to fund law enforcement services outside of SLVLESA, the Council adopts the following positions and polices related to SLVLESA:

a. Any law enforcement arrangement the Municipality may execute in the near-term under the current statutory framework will likely require compliance with the current SLVLESA funding model; and

b. The Council recognizes that H.B. 374 may require the County to develop a new funding model for the countywide services the Sheriff provides, but because such funding will benefit all municipalities within the County, it is therefore separate and distinct from the property taxes SLVLESA collects and manages to fund the law enforcement services that benefit the specific unincorporated lands within SLVLESA, in which case the Council supports the development of an agreement between SLVLESA and the County to fund the policing of such lands by the Sheriff or another law enforcement agency; and

c. While the Title 17 Provisions of H.B. 374 may require the removal of the Sheriff as SLVLESA's chief executive officer, it is the Council's position that the bill does not otherwise impact or modify SLVLESA nor does it allow the County to withdrawal from or dissolve SLVLESA because: (1) the bill did not modify the withdrawal provisions that apply to special districts that provide law enforcement services; namely, Utah Code § 17B-1-505 and 17B-1-505.5; (2) those provisions only allow municipalities to withdraw from such special districts; and (3) unlike a "special service district," SLVLESA is a fully independent political subdivision of the State of

Utah pursuant to Utah Code § 17B-1-103, and therefore cannot be dissolved by the unilateral action of any one of its member entities pursuant to Utah Code § 17B-1-1301, et seq.;[2] and

d. It is the Council's position that the funding SLVLESA collects from the County's unincorporated lands does not constitute double taxation nor qualify as a subsidy that unduly benefits the municipal members of SLVLESA because: (1) the property taxes collected from the unincorporated areas of the County are not used to provide countywide services but rather to fund the policing services the unincorporated lands require, are proportionate to the large size of the unincorporated lands, and must remain with those lands and communities rather than be comingled with the funding the County provides to the Sheriff for countywide services; (2) the municipal members of SLVLESA also contribute property taxes to SLVLESA for the law enforcement services they receive that are proportionate to their respective sizes; and (3) while the SLVLESA funding model may allow SLVLESA's member entities to reduce costs by pooling their collective resources, municipal participation in SLVLESA is voluntary and any municipality in the County, including the other UPD Members, can join SLVLESA to realize these cost savings if they so choose; and

e. Because of the key role that SLVLESA will play in funding law enforcement services to the Metro Townships, the Municipality calls on the SLVLESA Board of Trustees to hire a general manager and/or legal counsel as soon as possible; and

f. For the reasons stated above, the Council opposes any effort to withdraw or remove the County from SLVLESA or to dissolve SLVLESA; and

g. To provide the Metro Townships with maximum flexibility in developing a long-term successor to the current UPD law enforcement model, the Council supports the development and passage of legislation that authorizes the Metro Townships to fund law enforcement services in a manner that is similar to other municipalities, in addition to the SLVLESA funding model; and

h. Because of the key role that SVLESA will likely play in the provision of near-term and long-term law enforcement services to Municipality and the other members of SLVLESA, the Municipality's representative to SLVLESA is directed to: (1) to work with other members of the SLVLESA Board of Trustees to jointly request and participate in training from the Utah Association of Local Districts ("**UASD**") on the operation of local districts generally and the specific laws and regulations that

[2] As a special district, SLVLESA is separate and distinct from "special service districts," which are governed by Title 17D of the Utah Code. Unlike a special district, a special service district is not fully independent and is ultimately under the control of the municipality or county that created it. *Cf.* Utah Code § 17D-1-603(1) (authorizing counties to adopt resolutions "approving…the dissolution of a special service district.").

apply to SLVLESA specifically; and (2) if a joint training from the UASD is not possible, to request and participate in individual training from the UASD or the City Attorney on the operation of local districts generally and the specific laws and regulations that govern SLVLESA.

3. Direction to Representatives of the Municipality:

a. The Municipality's representatives to the UPD Board of Trustees and the SLVLESA Board of Trustees are directed to vote in accordance with this Resolution; and

b. In consultation with the Mayor and subject to the Mayor's oversight and direction, all staff and agents of the Municipality are authorized and instructed to provide the City Attorney with any assistance the City Attorney may direct or otherwise require.

4. Dissemination and Coordination:

a. If one or more of the other Metro Townships and the Town of Brighton adopt similar resolutions, the Mayor is authorized to execute and send the joint letter attached to this Resolution to the County Mayor, the Chair of UPD, and the Chair of SLVLESA; and

b. The Mayor and the City Attorney are authorized to provide copies of this Resolution to UPD, SLVLESA, the respective members of those entities, and to the public as they deem necessary and prudent; and

c. The Mayor and the City Attorney are authorized to develop and distribute any other joint communications or other strategies with the other UPD Members and members of SLVLESA as they deem necessary and prudent to implement this Resolution if such communications and strategies comply with this Resolution; and

d. The Mayor and the City Attorney are authorized to work with the Municipality's elected representatives and any other members of the Utah Legislature to develop and pass any legislation that may be needed to implement this Resolution.

5. Coordination with the Council: The Mayor and/or the City Attorney shall update the Council on the implementation of this Resolution at each regular Council meeting until further notice.

6. Effective Date: This Resolution will take effect immediately upon its adoption and execution.

TOWN OF BRIGHTON COUNCIL

By: _____
Dan Knopp, Mayor

ATTEST

_____
Kara John, Town Clerk

VOTING

Council Member	Dan Knopp	voting	Aye
Council Member	Jenna Malone	voting	Aye
Council Member	Carolyn Keigley	voting	Aye
Council Member	Jeff Bossard	voting	Aye
Council Member	Keith Zuspan	voting	Aye

April 12, 2023

Mayor Jenny Wilson
Salt Lake County
2001 S. State Street
Salt Lake City, Utah 84190

Unified Police Department
Jeff Silvestrini, Chair
3365 South 900 West
Salt Lake City, Utah 84119

Salt Lake Valley Law Enforcement Service Area
Jim Bradley, Chair
3365 South 900 West
Salt Lake City, Utah 84119

Re: H.B. 374 Implementation

Dear Colleagues:

Attached please find a resolution that sets forth the joint position of the Metro Townships of Copperton, Emigration Canyon, Kearns, Magna, and White City, as well as the Town of Brighton regarding the implementation of H.B. 374 (County Sheriff Amendments), which the Utah Legislature passed during the 2023 legislative session. Although the attached resolution was adopted by Town of Brighton, the other undersigned municipalities adopted nearly identical resolutions.

Notwithstanding our initial questions and concerns about H.B. 374, we recognize that the bill provides an opportunity to improve upon the current law enforcement model with the Unified Police Department ("**UPD**") that has served our communities well. As the resolution explains, however, developing a long-term successor to the current model that will stand the test of time will likely require more time than H.B. 374 provides. As a result, we support the development of a short-term law enforcement arrangement that will comply with H.B. 374 and the current statutory framework. Such a near-term arrangement should ensure that UPD's member entities receive law enforcement services beyond the bill's 2025 effective date, but should not preclude any of UPD's member entities from considering or implementing other long-term law enforcement models. To begin the process of developing a near-term law enforcement arrangement, we believe the current UPD interlocal agreement could be restated to comply with the requirements of H.B. 374 and have directed our city attorneys to explore the feasibility of this option.

We also believe that the Salt Lake Valley Law Enforcement Service Area ("**SLVLESA**") is likely the only legal mechanism by which the metro townships can fund law enforcement services. In addition, as a fully independent special district, SLVLESA cannot be unilaterally dissolved pursuant to Utah Code §§ 17B-1-103 and 17B-1-501, et seq. Similarly, the withdrawal provisions that apply to law enforcement service districts – Utah Code §§ 17B-1-505 and -505.5 – only allow municipalities to withdraw and do not provide a mechanism by which counties can withdraw from such districts. For these and other reasons the resolution explains in greater detail, we must oppose any effort to dissolve SLVLESA or to withdraw the County from SLVLESA.

Because SLVLESA must play a key role in funding any successor we may develop to the current UPD law enforcement model, at least in the near-term, we call on the SLVLESA Board of Trustees to hire a general manager and/or legal counsel as soon as possible. We also ask the SLVLESA Board of Trustees to request training from the Utah Association of Special Districts on the laws and regulations that apply to special districts generally and, on the laws and regulations that apply to SLVLESA specifically.

To help coordinate our respective efforts, our respective councils have designated Nathan Bracken, the city attorney for Copperton and Kearns, to serve as our spokesperson on matters related to H.B. 374. You can contact Nathan at (801) 413-1600 and nbracken@shutah.law.

We look forward to working with you to implement H.B. 374.

Sincerely,

Sean Clayton, Mayor
Copperton Metro Township

Joe Smolka, Mayor
Emigration Canyon Metro Township

Kelly Bush, Mayor
Kearns Metro Township

Dan Peay, Mayor
Magna Metro Township

Paulina Flint, Mayor
White City Metro Township

Daniel E. Knopp
Town of Brighton

Enclosure

cc: Rep. Jordan Teuscher, sponsor of H.B. 374
Mayor Robert Dahle, Holladay
Mayor Marcus Stevenson, Midvale