

6000

RESOLUTION NO. 20-247

BOARD OF COUNTY COMMISSIONERS  
COUNTY OF EL PASO, STATE OF COLORADO

**RESOLUTION APPROVING INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE COUNTY OF EL PASO AND THE TOWN OF CALHAN  
REGARDING THE CARES ACT LOCAL GOVERNMENT DISTRIBUTION**

WHEREAS, pursuant to C.R.S. §§ 30-11-101(1), 30-11-103 and 30-11-107(1), the Board of County Commissioners of El Paso County, Colorado (hereinafter "Board" or "County"), has the legislative authority to make all contracts and to exercise such other and further powers as are conferred by law; and

WHEREAS, C.R.S. § 29-1-203, provides authority for El Paso County to cooperate or contract with other governmental entities to provide any function, service or facility lawfully authorized to each of the cooperating or contracting government units, when deemed by the Board to be beneficial to the citizens of El Paso County; and

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak as a pandemic; and

WHEREAS, on March 11, 2020, the Governor of the State of Colorado, declared a State of Emergency by and through a verbal order and subsequent written Executive Order D 2020 003, allowing subsequent State emergency rulemaking regarding specific industries; and

WHEREAS, on March 13, 2020, the President of the United States declared the COVID-19 outbreak a national emergency; and

WHEREAS, on March 14, 2020, pursuant to C.R.S. § 24-33.5-709(1), the Chair of the El Paso County Board of County Commissioners issued a Local Disaster Declaration for El Paso County which was ratified by the Board on March 19, 2020; and

WHEREAS, the Board approved extensions of the Local Disaster Declaration on April 14, 2020, and again on May 12, 2020, effective up to and including August 17, 2020; and

WHEREAS, on March 27, 2020, the United States Congress adopted the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, Div. A, Title V (the "CARES Act"), which established a \$150 billion Coronavirus Relief Fund (the "Fund"); and

WHEREAS, pursuant to the CARES Act, the United States Treasury ("Treasury")

Chuck Broerman  
07/14/2020 02:59:13 PM  
Doc \$0.00 15  
Rec \$0.00 Pages

El Paso County, CO



220101337

RESOLUTION NO. 20- 247

Page 2

will make payments from the Fund to States and eligible units of local government; and

WHEREAS, El Paso County has a population in excess of 500,000 people and therefore is an eligible unit of local government under the CARES Act, and, as a result, the County may request direct payments from the Treasury of its portion of the Fund; and

WHEREAS, El Paso County elected to request direct payment of its share of the Fund from the Treasury on April 15, 2020, and on April 23, 2020, El Paso County received its CARES Act Funds from the Treasury; and

WHEREAS, the Town of Calhan is a governmental entity with authority to provide resources and services to citizens contemplated under the CARES Act as a result of public health emergencies within its respective boundaries; and

WHEREAS, on May 5, 2020, the County voted to disburse to local governments in El Paso County, a portion of the CARES Act Fund pursuant and subject to the terms of this Intergovernmental Agreement ("IGA"), attached hereto as Exhibit 1; and

WHEREAS, it is necessary that this IGA be approved by the Board in order to effectuate the transaction described herein.

NOW, THEREFORE, BE IT RESOLVED, the Board of County Commissioners hereby approves the Intergovernmental Agreement between the County of El Paso and the Town of Calhan regarding the CARES Act Local Distribution which commences upon full execution of the Intergovernmental Agreement by the parties and expires on June 30, 2021, as further detailed in the agreement.

BE IT FURTHER RESOLVED, that Mark Waller, Chair of the Board of County Commissioners, or Longinos Gonzalez, Jr., be and is hereby appointed and authorized to execute all reasonable and necessary documents on behalf of the Board in order to complete the transaction described herein.

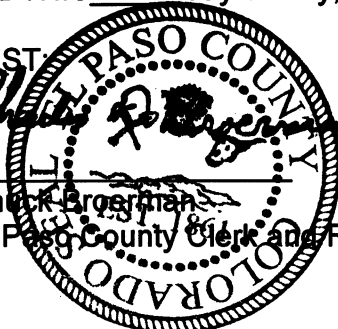
DONE THIS 14th day of July, 2020, at Colorado Springs, Colorado.

ATTEST:

By:   
Chuck Brosnan  
El Paso County Clerk and Recorder

BOARD OF COUNTY COMMISSIONERS  
OF EI PASO COUNTY, COLORADO

By:   
Mark Waller, Chair



**INTERGOVERNMENTAL AGREEMENT  
CARES ACT LOCAL GOVERNMENT DISTRIBUTIONS**

THIS INTERGOVERNMENTAL AGREEMENT – CARES ACT LOCAL GOVERNMENT DISTRIBUTIONS (the “Agreement”), dated for reference purposes only this \_\_\_\_ day of May, 2020, is made by and between the COUNTY OF EL PASO, STATE OF COLORADO, a body politic and corporate (the “County”) and the TOWN OF CALHAN, STATE OF COLORADO a quasi-municipal corporation and political subdivision of the State of Colorado] (the “Local Government”). The County and the Local Government shall be referred to herein, individually, as a “Party” and, collectively, as the “Parties.”

**I. RECITALS**

- A. On March 11, 2020, the World Health Organization declared the COVID-19 outbreak as a pandemic; and
- B. On March 11, 2020, the Governor of the State of Colorado, Jared Polis, declared a State of Emergency by and through a verbal order and subsequent written Executive Order D 2020 003, allowing subsequent State emergency rulemaking regarding specific industries; and
- C. On March 13, 2020, the President of the United States declared the COVID-19 outbreak a national emergency; and
- D. On March 14, 2020, pursuant to C.R.S. § 24-33.5-709(1), El Paso County Chairman Mark Waller issued a Local Disaster Declaration; and
- E. On March 19, 2020, El Paso County Board of County Commissioners ratified the Local Disaster Declaration for a period of 30 days; and
- F. On March 28, 2020, President Trump approved Colorado’s Disaster Declaration; and
- G. On April 14, 2020, El Paso County adopted a Resolution extending its previously issued Local Disaster Declaration for an additional 30 days; and
- H. On May 12, 2020, El Paso County adopted a Resolution extending its previously issued Local Disaster Declaration for an additional period of time, up to and including, December 31, 2020; and
- I. The effect of a declaration of local disaster emergency is to activate the response and recovery aspects of any and all applicable local and interjurisdictional disaster and emergency plans and to authorize the furnishing of aid and assistance under such plans, as set forth in C.R.S. § 24-33.5-709(2); and
- J. The conditions that spurred the local disaster emergency declaration have not abated, as the virus continues to spread within the community and the virus has created a myriad of economic distresses and unanticipated costs in American

society to individuals and families, to businesses, and to state and local governments addressing the pandemic's effects; and

- K. On March 27, 2020, the United States Congress adopted the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, Div. A, Title V (the "CARES Act"), which established a \$150 billion Coronavirus Relief Fund (the "Fund"); and
- L. Pursuant to the CARES Act, the United States Treasury ("Treasury") will make payments from the Fund to States and eligible units of local government; and
- M. El Paso County has a population in excess of 500,000 people and therefore is an eligible unit of local government under the CARES Act, and, as a result, the County may request direct payments from the Treasury of its portion of the Fund; and
- N. El Paso County elected to request direct payment of its share of the Fund from the Treasury on April 15, 2020; and
- O. On April 23, 2020, El Paso County received its CARES Act Funds from the Treasury; and
- P. Pursuant to Section 18(2) of Article XIV of the Colorado Constitution and C.R.S. § 29-1-203, as amended, the Local Government and the County have the authority to enter into intergovernmental agreements and authorizes governments to cooperate by contracting with one another for their mutual benefit; and
- Q. The Local Government and the County are governmental entities, each with authority to provide resources and services to citizens contemplated under the CARES Act as a result of public health emergencies within their respective boundaries; and
- R. On May 5, 2020, County voted to disburse to the Local Government a portion of the CARES Act Fund pursuant and subject to the terms of this Agreement, as noted in Exhibit A.

## **II. AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants and promises herein contained, the Parties agree as follows:

1. The County's Funding. The County has requested and received its share of the Fund from the Treasury pursuant to the CARES Act. The County desires to distribute to local governments within El Paso County a portion of the Fund as more particularly set forth herein.

2. The Local Government's Share of the Fund. The County and the Local Government hereby agree that the Local Government's share of the Fund shall be \$65,800.00 (the "Local Fund Distribution Amount").

3. **Fund Distribution.** Within 10 calendar days of receipt of a fully executed Agreement and wiring instructions from the Local Government or other mutually agreeable instructions for distribution of the funds, the County will disburse the Local Fund Distribution Amount to the Local Government. The Local Government shall coordinate wiring instructions with the El Paso County Treasurer's Office. This Agreement affects only the Local Fund Distribution Amount; no El Paso County funds shall be encumbered or involved in this Agreement.

4. **The Local Government's Obligation.** By signing this Agreement, the Local Government hereby certifies that the Local Fund Distribution Amount will be used by the Local Government only to cover those costs and expenses that are eligible expenses in compliance with the CARES Act and:

- a. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
- b. were not accounted for in the budget most recently approved as of March 27, 2020, for the Local Government; and
- c. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020 (collectively, "Eligible Expenses").

5. **Use of Funds and Reporting.**

- a. **Use of Funds.** On or before December 30, 2020, the Local Government shall use the Local Fund Distribution Amount for Eligible Expenses in accordance with local, state and federal law, including all current and future Treasury guidance relating to the CARES Act. Because the CARES Act is recent legislation, the Parties anticipate that additional federal legislation, rules, and regulations may be promulgated regarding the expenditure and accounting requirements. All such laws, regulations, and guidance shall be collectively referred to as the "Cares Act Requirements". Further, as detailed in in Section 5.e below, the Local Government agrees to return to the County by September 1, 2020, any amount it reasonably anticipates will be unused as of December 30, 2020, and it agrees to return to the federal government all unused amounts of the Local Fund Distribution Amount in its possession as of December 30, 2020.
- b. **Expenditures and Accounting.** The CARES Act imposes expenditure and accounting obligations upon local governments receiving CARES Act funds. The Local Government is responsible for ensuring that it spends, documents, and accounts for its portion of the CARES Act Fund received from the County in strict compliance with the CARES Act Requirements. Further, to the extent permitted by the CARES Act, if the Local Government distributes CARES Act Funds to a separate entity, enterprise, agency, or

any other public, private, or non-profit entity ("Third-Party"), Local Government is responsible for itself and Third-Party meeting all Cares Act Requirements and the provisions in this Agreement. The Local Government agrees to familiarize itself with all provisions of the CARES Act Requirements:

**The Local Government shall:**

- 1) maintain an effective system of internal fiscal control and accountability for all CARES Act Funds and property acquired or improved with CARES Act Funds, and make sure the same are used solely for authorized purposes.
- 2) keep a continuing record of all disbursements by date, check number, amount, vendor, description of items purchased and line item from which the money was expended, as reflected in the Subrecipient's accounting records.
- 3) maintain payroll, financial, and expense reimbursement records for a period of five (5) years after receipt of final payment under this Agreement.
- 4) permit inspection and audit of its records with respect to all matters authorized by this Agreement by representatives of the County or Federal Government at any time during normal business hours and as often as necessary.
- 5) inform the County concerning any funds allocated to the Local Government, that the Subrecipient anticipates will not be expended during the term of this Agreement and permit the reassignment of the same by the County to other Subrecipients.
- 6) maintain complete records concerning the receipt and use of all CARES Act Funds.

c. **Reporting.** The Parties anticipate that the Office of Inspector General ("OIG") will audit the use of CARES Act Funds beginning in January 2021, or thereafter. In anticipation of the upcoming audit, the Local Government agrees to provide to the County, regular reporting of its use of the Local Fund Distribution Amount, including the following minimum requirements:

- 1) Beginning June 20, 2020, on or before the 20<sup>th</sup> of each month, the Local Government will provide a monthly accounting of funds spent and provide all related documentation to the County, accounting for all funds spent through the prior month.
- 2) On or before January 20, 2021, the Local Government shall review its records and ensure that the submitted records contain a complete record of all expenditures from the Local Fund Distribution Amount, including, but not limited to, date of expenditure, amount, vendor, description of expense, explanation of expense's connection to COVID-19.

