

STATE OF GEORGIA)
)
COUNTY OF COBB)

INTERGOVERNMENTAL AGREEMENT
FOR THE SHARING AND USE OF CARES ACT FUNDING

This AGREEMENT is made and entered into on this ____ day of _____, 2020 (the “Agreement”), by and between COBB COUNTY, GEORGIA, a political subdivision of the State of Georgia, (the "County"), and the CITY OF SMYRNA, a municipal corporation of the State of Georgia (the “Municipality”).

RECITALS

WHEREAS, the World Health Organization declared COVID-19 a world health emergency and a global pandemic. A National Public Health Emergency was declared for the United States on March 13, 2020. And, the Governor of the State of Georgia declared a State Public Health Emergency in Georgia on March 14, 2020, currently extended through August 11, 2020.

WHEREAS, the Coronavirus Aid, Relief, and Economic Security (CARES) Act, passed by Congress and signed into law by President Trump on March 27, 2020, provides over \$2 trillion in economic relief for Americans adversely impacted by COVID-19;

WHEREAS, as part of the CARES Act, a \$150 billion Coronavirus Relief Fund was established to be paid directly to the States, the District of Columbia, U.S. Territories, and eligible units of local government based on populations as shown by U.S. Census Bureau data for the most recent year available;

WHEREAS, a unit of local government eligible for receipt of direct payment includes a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level with a population that exceeds 500,000;

WHEREAS, on April 24, 2020, the County received funding from the federal Coronavirus Relief Fund as an eligible unit of local government (“CARES Act Funding”);

WHEREAS, pursuant to U.S. Department of Treasury guidance on the use of such funding, the County and/or a State may transfer funds to another local government within the government’s jurisdiction provided that the transfer qualifies as a necessary expenditure incurred due to COVID-19 and meets the other criteria of section 601(d) of the Social Security Act;

WHEREAS, on June 29, 2020, the Governor of the State of Georgia drafted a letter to local governments stating that it will allocate, in phases, a portion of the State’s CARES Act allocation to local governments who did not receive direct funding on the following basis: 30% of the funding allocated for local governments will be made available with 30% of that figure available to be transferred in a lump sum and the remaining 70% available on a reimbursement basis. These

funds should be used by September 1, 2020 or may be recalled and reallocated for other uses;

WHEREAS, the Governor’s letter also encourages the four Georgia counties (Cobb, Fulton, DeKalb and Gwinnett) who received direct funding from the U.S. Treasury “to allocate funds to the cities within their county borders on the same per capita basis”;

WHEREAS, the County desires to allocate a portion of its CARES Act Funding to the Municipality for necessary expenditures incurred due to COVID-19 (the “COVID-19 Allocation”); and

WHEREAS, the Municipality desires to accept the COVID-19 Allocation and agrees that the funds shall only be used for the proper purposes as more fully described in Section 1.4.

NOW, THEREFORE, in consideration of the mutual promises and understandings made in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Municipality do hereby agree, as follows:

ARTICLE I

Section 1.1. Recitals. The County and the Municipality hereby agree that the foregoing recitals shall constitute a substantive part of this Agreement.

Section 1.2. Representations. The County and the Municipality each represent that it has the power to enter into this Agreement and perform all obligations contained herein, and has, by proper action, duly authorized the execution, delivery and performance of this Agreement.

Section 1.3. The COVID-19 Allocation Amounts. The following table sets forth the COVID-19 Allocation from the County to all Cobb Municipalities.

City	COVID-19 Allocation	Lump Sum Advance	Reimbursable Amount
Acworth	\$1,185,308.70	\$592,654.35	\$592,654.35
Austell	\$375,873.00	\$187,936.50	\$187,936.50
Kennesaw	\$1,788,904.20	\$894,452.10	\$894,452.10
Marietta	\$3,183,194.10	\$1,591,597.05	\$1,591,597.05
Powder Springs	\$805,038.30	\$402,519.15	\$402,519.15
Smyrna	\$2,968,559.10	\$1,484,279.50	\$1,484,279.50
Totals	\$10,306,877.40	\$5,153,438.70	\$5,153,438.70

If there are any additional future allocations, except as herein described, they will be handled in a separate intergovernmental agreement and will be considered only after the Municipalities have exhausted the COVID-19 Allocation and properly documented same with receipts and cancelled checks.

Section 1.4. Allowed Use of the COVID-19 Allocation. The Municipality agrees that the COVID-19 Allocation will only be used to cover those costs that:

- (a) are necessary expenditures incurred due to COVID-19;
- (b) were not accounted for in the budget most recently approved as of March 27, 2020 for the City;
- (c) were incurred during the period that begins on March 1, 2020 and ends on December 30, 2020.

The U.S. Department of Treasury continues to provide guidance on proper uses of funds under the CARES Act. The Municipality represents that it will become familiar with all guidance and will ensure that the COVID-19 Allocation only be used for proper expenditures.

Section 1.5. Distribution of the COVID-19 Allocation. The County shall forward the COVID-19 Allocation to the Municipality using the following schedule:

- (a) the lump sum advance of the COVID-19 Allocation will be wired or a check cut to the Municipality upon receipt of the approved, executed Agreement. The Municipality must provide receipts and cancelled checks to the Finance Office to support that this amount has been used for proper CARES Act expenditures.

In the event the COVID-19 Allocation is not used to cover previously unbudgeted costs of necessary expenditures incurred due to the COVID-19 public health emergency during the covered period, the Municipality agrees to return, upon demand and within three business days, all remaining funds to the County. "Incurred" shall be defined pursuant to U.S. Treasury guidance, as such may be amended from time to time.

- (b) once the lump sum advance has been expended and documented with receipts, the Municipality may begin drawing from the reimbursable amount. The reimbursement request should describe the use of the expenditure with the receipt and cancelled check attached. Reimbursement requests shall be made no more frequently than once a week. The county administrator has the right to deny any receipts which do not conform to the U.S. Treasury guidance as eligible expenditures.
- (c) The COVID-19 Allocation (the lump sum advance and the reimbursable amount combined) shall be used to cover costs that were incurred by December 30, 2020.

Section 1.6. Hazard Pay. Depending on the role of the employee, hazard pay may or may not be an eligible expense under the CARES Act. The current guidance from the U.S. Treasury Department regarding usage of the COVID-19 Allocation states "...as a matter of administrative convenience in light of the emergency nature of this program, a...local...government may presume that payroll costs for...public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency..."

In order to address this issue and in the event the Municipality elects to pay any of its employees hazard pay, the cost must be covered through the Municipality's existing budget with the exception of firefighters who are 56-hour personnel, response division. Reimbursement to the Municipality for hazard pay expenses (other than 56-hour firefighters, response division) will only be

made once the County's external auditors have cleared the expenditure as CARES Act eligible.

Section 1.7. Progress Report. The Municipality agrees to submit a progress report to the County Finance Department which shall include reporting on all finished, pending, and planned expenditures in order to account for the COVID-19 Allocation no later than October 27, 2020. Any receipts older than thirty (30) days which have not been forwarded to the County for review must also be submitted with the cancelled checks by October 27, 2020. The County and the Municipality agree to engage in further discussions on the proper use of the COVID-19 Allocation which may include a re-allocation of unused funds in the event the Municipality has not expended and has no or limited plans for expenditures by December 30, 2020.

Section 1.8. Record Retention. The Municipality agrees to maintain records of all expenditures covered with the COVID-19 Allocation and supporting material for a period of five (5) years and agrees to provide such records to the County within five (5) days of any request.

ARTICLE II

Section 2.1. Governing Law. This Agreement and the rights and obligations of the parties hereto (including third party beneficiaries) shall be governed, construed, and interpreted according to the laws of the State of Georgia.

Section 2.2. Jurisdiction. This Agreement shall be construed and enforced in accordance with the laws of the State of Georgia. The Parties hereby submit to the exclusive jurisdiction of the Superior Court of Cobb County, Georgia for the purposes of all legal proceedings arising out of or relating to this Agreement, and the parties irrevocably waive, to the fullest extent permitted by law, any objection which they may now or hereafter have to the venue of any such proceeding which is brought in such a court.

Section 2.3. Entire Agreement. This Agreement expresses the entire understanding and all agreements between the Parties hereto with respect to the matters set forth herein.

Section 2.4. Severability. If any provision of this Agreement shall be held or deemed to be or shall, in fact, be inoperative or unenforceable under any particular circumstances because it conflicts with any provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses, or sections contained in this Agreement shall not affect the remaining portions of this Agreement.

Section 2.5. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

Section 2.6. Amendments in Writing. No waiver, amendment, release, or modification of this Agreement shall be established by conduct, custom, or course of dealing, but solely by a document in writing duly executed and delivered by the County and the City.

Section 2.7. Notices. Except as otherwise specifically provided herein, all notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by certified mail, return receipt requested, postage prepaid or when personally delivered or when sent by registered overnight mail or delivery service charges prepaid, or when so specified herein by Electronic Means, to the Parties hereto at the following addresses or such other address designated by such Party in writing:

County: Cobb County, Georgia
100 Cherokee Street
Marietta, Georgia 30090-9610
Attention [each a separate written notice]: (a) Finance Director,
(b) County Manager and (c) County Attorney
Telephone: (a) 770-528-1505, (b) 770-528-2612, and
(c) 770-528-4000
Email: (a) William.volckmann@cobbcounty.org,
(b) Jackie.McMorris@cobbcounty.org, and
(c) H.William.Rowling@cobbcounty.org

Municipality: City of Smyrna
2800 King Street
Smyrna, Georgia 30080
Attention: Kristin Robinson, Finance Director
Telephone: 678-631-5319
Email: KRobinson@SmyrnaGa.gov

IN WITNESS WHEREOF, the County and the Municipality have read and understand the terms of this Intergovernmental Agreement for the Sharing and Use of CARES Act Funding and do hereby agree to such terms by execution of their signatures below, all as of the date set forth above.

COBB COUNTY, GEORGIA

CITY OF SMYRNA

By: _____
Michael H. Boyce
Chairman, Board of Commissioners

By: _____
Derek Norton
Mayor

By: _____
Pamela Mabry
County Clerk

By: _____
City Clerk

(Seal)

(Seal)