

Mayor and Council Session
Special Called
Video Conference Meeting

Join by URL: . <https://us02web.zoom.us/j/84430717325> Passcode: 655732
or by Dialing 877 853 5247 Webinar ID: 844 3071 7325 Passcode: 655732.

September 28, 2020 5:00 PM

Agenda

1. Call to Order
2. Roll Call
Alan Hallman
Mike Rast
Travis Horsley
Mark Adams
Chloe Alexander
3. Welcome
4. Old Business
 - 4.I. Consideration and Action on Resolution to Authorize the Mayor to Execute an Intergovernmental Agreement between Fulton County and the City of Hapeville for C.A.R.E.S. Act Municipal Reimbursement Programs
Background:
Attached is the Resolution and the Intergovernmental Agreement (Exhibit A).

Documents:

Resolution – CARES Act Funding IGA

Exhibit A – IGA with Municipalities for CARES FUND – Hapeville

5. Public Comments
Members of the public wishing to speak shall submit written comments to the City Clerk via email or telephonically by 2PM on September 28th. In order for comments to be read into the record at the meeting, all correspondence must include the sendee's name, address, and comment. All sendees must confirm receipt of their public comment with the City Clerk prior to the deadline stated above.
6. Adjourn

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Reimbursement Program, which is attached and incorporated hereto as Exhibit “A”, and execute and/or attest to any additional documents which may be necessary to effectuate this Resolution.

3. **Recordation.** The City Clerk is hereby directed to record this Resolution, declaration, certification, and/or accompanying exhibit(s) in the official minutes of the City.
4. **Severability.** To the extent any portion of this Resolution is declared to be invalid, unenforceable, or nonbinding, that shall not affect the remaining portions of this Resolution.
5. **Repeal of Conflicting Provisions.** All City resolutions are hereby repealed to the extent they are inconsistent with this Resolution.
6. **Effective Date.** This Resolution shall take effect immediately.

RESOLVED this ____ day of _____, 2020.

CITY OF HAPEVILLE, GEORGIA

Alan Hallman, Mayor

ATTEST:

Crystal Griggs-Epps, City Clerk

APPROVED AS TO FORM:

Priya M. Patel, City Attorney

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
FULTON COUNTY, GEORGIA AND
THE CITY OF HAPEVILLE, GEORGIA
FOR
C.A.R.E.S. ACT MUNICIPAL REIMBURSEMENT PROGRAM**

THIS INTERGOVERNMENTAL AGREEMENT, (hereinafter referred to as “Agreement” or “IGA”) between Fulton County, Georgia, (hereinafter referred to as the “County”), a political subdivision of the State of Georgia, and the City of Hapeville, hereinafter referred to as “the Municipality”), a non-profit corporation organized and existing in Fulton County under the laws of the State of Georgia.

WITNESSETH THAT:

WHEREAS, on June 3, 2020, the Board of Commissioners of Fulton County (the “Board”) created, a program through which Fulton County municipalities that are not eligible for direct C.A.R.E.S. Act funding may be able to receive reimbursement for some of their eligible expenditures incurred during the emergency created by COVID-19 to purchase goods, supplies and equipment; and

WHEREAS, this program is called the “C.A.R.E.S. Act Municipal Reimbursement Program” and it was initially designed to provide up to \$2,500,000 in reimbursement from Fulton County C.A.R.E.S. Act funds to support the aforementioned cities for the C.A.R.E.S. Act eligible services, projects and programs; and

WHEREAS, the Municipality indicated its desire to be reimbursed for some of its expenditures during the emergency created by COVID-19 to purchase goods, supplies and equipment; and

WHEREAS, the Board has subsequently approved additional allotments of funds from the County’s allotment of CARES Act Funding such that the total amount of the program is currently Twenty Five Million Dollars (\$25,000,000.00); and

WHEREAS, the Municipality entered into an initial MOU with the County regarding this program on _____, 2020 pursuant to which the Municipality has already received some funding; and

WHEREAS, the Municipality desires to receive additional funds that have been made available by the County on September 17, 2020 pursuant to the terms and conditions of this Agreement; and

WHEREAS, both the County and the Municipality have authorized the execution of this IGA through appropriate Resolutions adopted by their respective governing bodies.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein and other good and valuable consideration received, the parties hereby agree as follows:

ARTICLE ONE: PURPOSE AND ELIGIBLE REIMBURSEMENTS

- A. The C.A.R.E.S. Act Municipal Reimbursement Program (hereinafter referred to the “Program”) is designed to support cities located within the County that are not eligible to receive Coronavirus Aid, Relief, and Economic Security (C.A.R.E.S.) Act funding directly from the U.S. Federal Government to mitigate the financial impact of COVID-19 on their cities.
- B. Pursuant to this Program, the only costs eligible for consideration for reimbursement are:
1. 1. Costs that are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
 2. Costs that were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government;
 3. Costs that were incurred during the period that begins on March 1, 2020, and ends on November 15, 2020; and,
 4. Costs that are approved by the County’s interpretation as satisfying the above criteria.

C. This IGA shall supersede, replace and serve as a substitution for the MOU entered into by the County and the Municipality in full. Any provisions contained in the initial MOU entered into by the parties that are inconsistent with those contained herein are hereby voided in their entirety.

ARTICLE TWO: REIMBURSEMENT PROCESS

A. The County shall make reimbursement for the eligible approved costs described in Article One above based upon the review and approval of the same by the County’s Finance Department and the County Manager. The amount of any reimbursement shall be limited by the amount allocated to the Municipality based upon the ratio of its population to the population of other cities in the County which did not receive a direct allocation of CARES Act funding. The Municipality is being viewed under this program as a subgrantee of the CARES Act funds received by the County.

B. The County shall review and consider for reimbursement to the Municipality previously incurred costs upon presentation of invoices and other supporting documentation demonstrating payment for goods or services that have been previously paid for by the Municipality.

C. Such documentation shall include, but not be limited to copies of checks issued for payment, time sheets, vendors’ and suppliers’ invoices or vouchers, and a description of the purpose of the expenditure, etc.

D. This documentation, along with a written request for reimbursement and a statement of costs incurred, and a Certification Statement that all of the requested expenses qualify as eligible COVID-19 expenses under the C.A.R.E.S. Act, shall be submitted to the attention of the County’s Director of Finance. A minimum of two copies of the request and the Certification Statement shall be included with the submission along with accompanying documentation supporting the eligible costs. The County acknowledges receipt of a properly executed Certification Statement for the submittals previously transmitted by the Municipality.

- E. To be eligible for reimbursement, all invoices and supporting documentation must be presented by November 15, 2020.

- F. Any unused funds allocated to a Municipality must be returned to the County with its November 15th submission.

ARTICLE THREE: ADVANCE ON PROGRAM FUNDS

The County shall advance each eligible Municipality up to thirty percent (30%) of its pro rata allocation of the \$25,000,000 Program funds, at the next regularly scheduled County check run, upon the receipt of written confirmation of the Municipalities' intent to participate in the expanded Program. These funds must be used in accordance with the guidelines provided in Article One of this Agreement. Documentation must be provided regarding the use of these funds in a form specified by the Fulton County Finance Department. The advance will be offset against future requests for reimbursements submitted by each Municipality. The amount of the advance along with the total amount to which the Municipality is eligible to receive under this Program is described in Exhibit A

In no event will any Municipality receive more than its share of its total pro rata allocation. Any unused advanced funds must be returned to the County on or before November 15, 2020.

ARTICLE FOUR: ADDITIONAL COVID-19 SUPPORT

As an additional part of the County's effort to support its Municipalities, the County shall procure Personal Protective Equipment ("PPE") for Municipalities' Emergency Management Services Department based upon the County's analysis of needs and availability of current PPE inventory up to the Municipalities' pro rata share of the \$5 Million in inventory allocated for this purpose.

ARTICLE FIVE: COMMUNICATIONS

In an effort to improve communications with the eligible Municipalities, the County shall initiate or continue the following actions:

- A. Facilitate more communication with the Municipalities by having:
 - 1. Monthly meetings with the Mayors of the eligible Municipalities and members of the Board;
 - 2. Weekly calls with Emergency Management Administrators and City coordinators; and.
 - 3. City Managers from the eligible Municipalities invited to participate in the weekly calls with EMA/BOH and County Manager's senior staff
- B. Increase our existing reporting efforts to provide more transparency by:
 - 1. Publishing via an open government platform any available data from nonprofit partners relative to citizens served, along with the approximate costs;
 - 2. Publishing testing level data on the residence of citizens tested that is permitted due to HIPPA guidelines;
 - 3. Sending the Mayors of eligible Municipalities information published on the

County's website pursuant to sections B 1 and B2 above, once it has been summarized;

4. Sending a copy of the Board meeting Agenda and a copy of the verbatim minutes from each meeting the meeting to the Mayors of eligible Municipalities; and
5. Sending a copy of the Covid-19 Update provided to the Board to the Mayor of each Municipality.

ARTICLE SIX: TERM

A. The term of this Agreement shall be from the date the first reimbursement package was submitted to the County through November 15, 2020.

B. The completion date of this Agreement shall not extend beyond November 15, 2020, unless otherwise extended in writing, terminated by mutual agreement, or by the County, or in accordance with other terms and provisions contained herein. Any modifications to the term of the Agreement shall be documented through an amendment process.

ARTICLE SEVEN: INDEMINFICATION

A. The Municipality shall indemnify the County for any liability associated with the Municipality's noncompliance with the federal guidelines surrounding the use of CARES Act funds and shall reimburse the County for any expenditure subsequently deemed ineligible as a result of a federal or state audit of the funds subgranted to the Municipality from the County pursuant to this Agreement or the Program.

B. The indemnification provisions of this Agreement shall survive the termination or expiration of this Agreement for any claims that may be filed after the termination date or expiration of this Agreement, provided the claims are based upon actions that occurred during the performance of this Agreement.

C. It is hereby stipulated and agreed between the parties that, should a court of competent jurisdiction deem any indemnification obligation under this Agreement to be invalid, illegal or unenforceable, the parties nonetheless agree that, with respect to any claim or action brought by a third-party and arising out of the activities described in this Agreement or stemming from any matter arising out of any act or omission by the Municipality in connection to the performance of this Agreement, that the Municipality shall be liable for payment of that portion of any and all liability, costs, expenses, demands, settlements, or judgments resulting from the actions or omissions of the Municipality's own agents, officers, contractors and employees.

ARTICLE 8- WAIVER AND RELEASE

As a material inducement for the County to enter into this Agreement and provide the consideration set forth above, the Municipality irrevocably and unconditionally releases and forever discharges Fulton County and each and all of its current and former employees, officers, agents, the Board of Commissioners, any County department and/or department head, representatives, attorneys, insurers, government subsidiary (collectively "Fulton County") from any and all controversies, claims, demands, promises, actions, suits, grievances, proceedings, complaints, charges, liabilities, damages, debts,

allowances, bonuses, costs, expenses, attorneys' fees, judgments (including those entered in the lawsuit) and remedies of any type, relating to the receipt, use, and amount of any CARES Act funds, including the release of any claims for punitive damages, declaratory relief, injunctive relief, mandamus and other extraordinary remedies (individually and collectively "Other Claims") that they and/or their citizens, current and former employees, officers, agents, councils, department, department head, representatives, attorneys, insurers, government subsidiary or any other representative, may have or claim to have against Fulton County by reason of any matter, cause, act, or omission, from the beginning of time until the date of execution of this Agreement, including, without limitation, those arising out of or in connection with CARES Act funds received by or attributable to Fulton County. This release applies to Other Claims that the Municipality knows about and those the Municipality may not know about occurring or arising at any time on, or before the date of execution of this IGA and those that may arise in the future related to this Program.

The Municipality hereby warrants that it has not filed any lawsuits, claims, causes of action or charges against Fulton County and promises never to file a charge, lawsuit or other legal or administrative proceeding with any court or government agency asserting a matter, claim or cause of action against Fulton County regarding any claim or cause of action regarding CARES Act funds received by Fulton County.

ARTICLE NINE: MISCELLANEOUS

A. INDEPENDENT SUBRECIPIENT STATUS

Nothing herein contained shall be deemed to create a relationship other than that of independent subrecipient between the County and the Municipality. Under no circumstances shall the Municipality, its principals, employees, subcontractors, associates, or agents be deemed employees, agents, partners, successors, assigns, or legal representatives of the County except as specifically required herein.

B. ASSIGNMENT OF AGREEMENT

The Municipality shall not make any purported assignment of this Agreement or any part thereof, or delegate the duties herewith without prior written consent of the County. Any attempted assignment or delegation of duties by the Municipality without prior expressed written consent of the County shall at the County's sole option terminate this Agreement without any notice to the Municipality of such termination. The Municipality binds itself, its successors, assigns, and legal representatives of such other party in respect to all covenants, agreements and obligations contained herein.

C. RECORDS AND REPORTS

1. Records

The Municipality shall maintain accounts and records, (including an annual Audit) personal property and financial records, adequate to identify and account for all costs pertaining to this Agreement and such other records as may be requested by the County to assure proper accounting for all funds. Said records shall be made available for audit purposes to the County or any authorized representative thereof, upon reasonable request and within three (3) days of said request.

2. Retention

The Municipality's records and accounts shall at all times meet or exceed the applicable requirements

of federal, state, and local laws, rules, and regulations. The Municipality's duty to retain records and permit inspections and copying shall remain in force and effect even after the expiration or termination of this Agreement.

D. INSPECTION OF FILES AND RECORDS

The County shall at all reasonable times have access to the pertinent offices and books and records (including an annual Balance Sheet or Independent Audit) of the Municipality for inspection of the activities performed and expenses incurred under this Agreement. The County may perform and the Municipality shall be prepared to meet the requirements of, at least, one (1) audit per year.

E. CONFLICT OF INTEREST

No member, officer, or employee of the Municipality or its designee or agents, no member of the governing body of the Municipality, and no other official of the Municipality who exercises or has exercised any functions or responsibilities with respect to the C.A.R.E.S. Act funding program or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit in any Agreement, subcontract or agreement with respect thereto, or the proceeds there under, either for themselves or for those with whom they have family or business ties, during their tenure or for one (1) year thereafter.

F. GOVERNING LAW AND NOTICE

1. This Agreement shall be governed in all respects, as to validity, construction, capacity, and performance or otherwise, by the laws of the State of Georgia.

2. A waiver by either party of any breach or any provision, term, covenant or condition of this Agreement shall not be deemed a waiver of any subsequent breach of the same or any other provision, term, covenant or condition.

3. The parties agree that each of the provisions included in this Agreement is separate, distinct and severable from the other remaining provisions of this Agreement, and that the invalidity of any agreement provision shall not affect the validity of any other provision of this agreement.

4. The parties agree that the terms of this Agreement include the entire Agreement between the parties and as such, shall exclusively bind the parties. No other representations, either oral or written, may be used to contradict the terms of this Agreement.

5. Any notices or communications required or permitted herein shall be sufficiently given if sent by registered or certified mail, return receipt request, postage prepaid, hand delivery, email or overnight delivery addressed as follows:

As to the County:

Richard "Dick" Anderson
County Manager
141 Pryor Street, SW
10th Floor
Atlanta, GA 30303

With a concurrent copy to:

Patrise Perkins-Hooker
County Attorney
141 Pryor Street, S.W.
Suite 4038
Atlanta, Georgia 30303

As to the Municipality:

Alan Hallman
Mayor
City of Hapeville
3468 North Fulton Avenue
Hapeville, GA 30354

With a concurrent copy to:

City Attorney
Andy Welch
Smith Welch Webb & White LLC
2200 Keys Ferry Court
McDonough, Georgia 30253

Alternatively, such other addressed as shall be furnished by such notice of the other party.

G. COUNTERPARTS

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

IN WITNESS HEREOF, the parties hereunto have set their hands and seal.

MUNICIPALITY

FULTON COUNTY

Alan Hallman, Mayor
City of Hapeville

Robert L. Pitts, Chairman
Fulton County Board of Commissioners

ATTEST

ATTEST

City Clerk

Tanya Grier, Interim Clerk to the Commission

DATE:

DATE:

APPROVED AS TO FORM

APPROVED AS TO FORM

Andy Welch
City Attorney

Patrise Perkins-Hooker
County Attorney

EXHIBIT A

Pro Rata Allocation of CARES ACT MUNICIPAL REIMBURSEMENT FUNDS

\$272,604

Amount of Advance

\$81,781

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