

Original

INTERGOVERNMENTAL AGREEMENT CONCERNING THE IMPLEMENTATION
IF AN "E911" "EMERGENCY TELEPHONE SERVICE"

THIS AGREEMENT, made and entered into this First day of February, 19 92, by and between the following parties: The Board of County Commissioners of the County of "Las Animas"; a body politic and corporate, hereinafter referred to as "County"; the Town of Cokedale, a municipal corporation, hereinafter referred to as "Cokedale"; the Town of Starkville, a municipal corporation, hereinafter referred to as "Starkville"; the Town of Aguilar, a municipal corporation, hereinafter referred to as "Aguilar"; the Town of Kim, a municipal corporation, hereinafter referred to as "Kim"; the Town of Branson, a municipal corporation, hereinafter referred to as "Branson"; the City of Trinidad, a municipal corporation, hereinafter referred to as "Trinidad"; the Fisher's Peak Fire Protection District, a special taxing district, hereinafter referred to as "Fisher's Peak Fire Protection"; the Trinidad Ambulance District, a special taxing district, hereinafter referred to as "Trinidad Ambulance District".

WITNESSETH

WHEREAS, pursuant to Article 11 of Title 29, C.R.S., as amended, the above listed parties are delegated the power to enter into agreements for the purpose of providing emergency telephone service; and,

WHEREAS, Part 2 of Article 1 of title 29, C.R.S., as amended, encourages and authorizes agreements of this nature; and,

WHEREAS, it would serve the public welfare and be in the best interest of all of the above referenced parties to participate in the organization, administration and common use of a central emergency telephone service authority; and

WHEREAS, the parties desire to enter into this Intergovernmental Agreement for the following purposes: (1) to establish a separate legal entity to be known as the "Emergency Telephone Service Authority" (hereinafter referred to as the "Authority") which shall be responsible for administering the operation of the emergency telephone service program; and (2) to define the manner in which each of the parties will participate in the Authority;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, the parties agree as follows:

I. DEFINITIONS

The definitions for the terms "emergency telephone charge", "emergency telephone service", "exchange access facilities", "governing body", "public agency", "service supplier", "service user", and "tariff rates" as used in this Intergovernmental Agreement shall be the same as the definitions provided for those terms in Section 29-11-101, C.R.S., as amended.

II. GENERAL PROVISIONS

The parties hereby support a separate legal entity to be known as the "Emergency Telephone Service Authority", (hereinafter referred to as the "Authority") which shall be responsible for administering the operation of the emergency telephone service program as described below. The operation of said emergency telephone service shall be as herein set forth.

III. EMERGENCY TELEPHONE SERVICE AUTHORITY BOARD

The governing board for the Authority shall consist of seven (7) members to be selected in the following manner:

1. The Las Animas County Board of Commissioners shall select three (3) members from nominees presented to the Commissioners by the towns and districts within Las Animas County as set forth in the initial Agreement paragraph. This shall not include the City of Trinidad.
2. The City of Trinidad through its' City Council shall select four (4) members to this Authority Board in any manner they so choose.
3. The members of this Authority Board shall be chosen to serve a three (3) year term. Initially, The Board of Commissioners will stagger the first appointees to a one, two, and three year term, with reappointments made for three year terms.

The Trinidad City Council will also stagger its' initial appointments to two one year terms, and one two year term, and one three year term. Reappointments will thereafter be made on a three year basis.

IV. RULES AND REGULATIONS

The governing board for the Authority may pass supplementary rules and regulations as it deems necessary provided the supplementary rules and regulations are in compliance with Articles 1 and 11 of Title 29, R.C.S., as amended, and this Intergovernmental Agreement.

V. POWERS OF THE CORPORATION

The parties hereto agree that the Authority shall be empowered with the authority to contract for the installation and operation of an emergency telephone service and may pay such costs by collecting an emergency telephone charge for such service in the service area which is within its jurisdiction and authorized by this Intergovernmental Agreement. The Emergency Telephone Service Authority is hereby authorized to collect an emergency telephone charge as provided by C.R.S. 29-11-103 (1) in an amount of seventy cents (\$ 70) per month not to exceed .70 cents per month for each phone subscriber for those portions of the service area for which emergency telephone service is to be provided.

The funds so collected shall be spent solely to pay for the equipment costs, installation costs, costs directly related to the continued operation of an emergency telephone service and for the monthly recurring charges billed by the service supplier for the emergency telephone service. The funds so collected shall be credited to a cash fund separate and apart from the general fund of any of the public agency parties or the Authority under this Intergovernmental Agreement. Any funds remaining in the account at year end shall be carried over to the next succeeding year for the same purposes in supplying emergency telephone service. If this Agreement is ever discontinued by all parties hereto, any balance in the account shall be transferred to the general fund of the public agencies on a proportionate basis as to the contributions made by each respective public agency.

In addition, the Authority may do any other act as may be necessary for the provision of initial services and for the continued operation of the emergency telephone service; including, but not limited to, the ability to negotiate with equipment vendors and service suppliers for the purpose of obtaining the benefit of technological developments which the Authority deems necessary to improve or enhance the quality and efficiency of service to be provided to the users.

VI. BASIS FOR CONTRIBUTION AND CHANGES TO BE IMPOSED BY THE AUTHORITY

The parties hereto agree that the basis for contribution and charges to be imposed on "service users" shall be in accordance with the provisions governing the same in C.R.S. 29-11-101 et seq. The parties agree that the Authority may request from the service supplier those figures required to impose a contribution or charge and to make a determination of the contribution or charge based on those figures. The parties further agree whenever those figures are required for any contribution or charge, the figures used shall be the most recent available at the time such figures are needed, unless otherwise specified herein.

VII. BUDGET AND OPERATING COSTS

Each year, in which the Authority believes funds for administrative costs not paid by the emergency telephone charge are necessary, it shall prepare a budget and submit a budget request to the Board of County Commissioners by July 15 of each year that this Agreement is in effect. The Board of County Commissioners shall consider funding the budget request in the County's annual appropriation.

Should funding from the Board of County Commissioners not be forthcoming, or if any funding so provided shall be deemed insufficient by the Authority, the Authority shall divide the administrative cost among the County, Cokedale, Starkville, Aguilar, Kim, Branson and Trinidad. These entities shall be required to pay to the Authority, within ninety (90) days of notification, an equitable percentage of the total administrative

cost. Each entity's percentage of that total administrative cost shall be based upon the number of exchange access facilities within the jurisdiction of that entity when compared with the total number of exchange access facilities within the jurisdiction of the Authority. However, no entity shall be obligated for the payment of any monies without its prior approval. Total administrative cost of the Authority may not exceed Two Thousand (\$2,000) dollars per year, excluding costs for insurance and bonding. A failure of an entity to pay its contribution pursuant to this Section VII shall constitute default in its performance and all parties hereto within the jurisdiction of the defaulting entity shall be likewise considered to be in default.

VIII. FUNDS AND OPERATIONS

The various monies paid into the Authority by the parties hereto, for administrative costs pursuant to Section VII, shall be used by the Authority solely for administrative costs. Further, the various monies paid into the Authority pursuant to the uniform charge per exchange access facility shall be collected by the service supplier and the parties hereto shall have no obligation to collect this uniform charge or to remit such monies to the authority. These monies shall be placed in a separate designated cash fund and shall be paid from said fund only for installation costs, equipment costs, costs directly related to the continued operation of an emergency telephone service, and for the monthly recurring charges billed by the service supplier for the emergency telephone service.

No disbursement shall be made from the funds of the Authority except by check and unless a verified claim for services or commodities actually rendered or delivered has been first submitted and approved for payment by the Authority, said approval being evidenced by the President and Secretary of said Authority.

The Authority shall not borrow money nor shall it approve any claims or incur any obligations for expenditure unless there is sufficient unencumbered cash to the appropriate fund, credited to the Authority, with which to pay the same.

The Authority may invest any funds paid into the Authority only in accordance with any applicable laws of the State of Colorado governing the investment of public funds.

Nothing herein, however, prevents the Authority from returning any surplus operating revenues provided by the parties hereto for the operation of this emergency telephone service to the respective parties hereto in the same proportion that said parties were originally required to contribute for operation.

IX. BOOKS AND RECORDS

The Authority shall maintain adequate and correct accounts of their funds, properties and business transactions, which accounts shall be open to inspection at any reasonable time by the parties hereto, their attorneys, or their agents. The Authority shall

cause to be conducted an annual audit, which audit shall be conducted by an independent certified public accountant licensed to practice in the State of Colorado. The Authority shall file a copy of said audit with the governing bodies of the respective parties hereto.

X. REPORTS

Within thirty (30) days after the end of each fiscal year, the Authority shall prepare and present to the respective town councils, boards of directors of the special districts, and Board of County Commissioners of Las Animas County, a Comprehensive Annual Report of the Authority's activities and finances during the preceding year.

The Authority shall also prepare and present such reports as may be required by law, regulation or contract to any authorized federal and/or state officials or to whom such report is required to be made in the course and operation of the Emergency Telephone Service Authority.

The Authority shall also render to the parties hereto, at reasonable intervals, such reports and accounting as the parties hereto may from time to time request.

XI. DEFAULT IN PERFORMANCE

In the event any party fails to pay its share of the operating or administrative costs then due, or to perform any of its covenants and undertakings under this agreement, the authority shall consider said party in default and cause written notice of the authority's intention to terminate said party from membership in the authority to be given to that party's governing body unless such default is cured within thirty (30) days from the date of such notice. Upon failure to cure said defaults within said thirty (30) day period, the membership in the Authority of the defaulting party shall thereupon terminate and said party shall thereafter have no voting rights as a member of the Authority at any annual or specific meetings thereof, nor be entitled to representation on the Authority, and said party shall thereafter be denied service by the Authority.

Furthermore, any party who is terminated under the provisions of this Section of the Agreement shall forfeit all rights, title and interest in and to any property acquired by the Authority to which said party may otherwise be entitled upon the dissolution of this Agreement. This article is not intended to limit the right of any party under this Agreement to pursue any and all other remedies it may have for breach of this Agreement.

XII. TERMINATION OF AGREEMENT

A. This Agreement shall be in full force and effect upon the execution of this Agreement by all parties listed herein, and shall continue in full force and effect, subject to amendments, or until sooner terminated by a majority of the parties hereto.

B. Any party's participation in this Agreement may be terminated by written notice from the party or parties to the Authority at least one hundred eighty (180) days prior to January 1st of any given year. Upon termination such party shall forfeit all right, title and interest in and to any property acquired by the Authority.

C. Upon termination by mutual Agreement of a majority of the parties to this Agreement, the powers granted to the Authority under this Agreement shall continue to the extent necessary to make an effective disposition of the property, equipment and monies required or held pursuant to this Agreement.

D. In the event that any party hereto elects to terminate its participation in this Agreement prior to the end of any period of this Agreement not in accordance with subsection B of this section, such party shall be considered in default of this Agreement pursuant to Article XI and accordingly shall forfeit its entire interest in the emergency telephone service.

XIII. AMENDMENT

This Agreement may be amended by the parties from time to time, but any amendment shall be in writing and executed by the majority of the parties hereto.

XIV. LIABILITY OF BOARD OF DIRECTORS, OFFICERS AND EMPLOYEES

The members of the governing board for the Authority and its officers shall not be personally liable for any acts performed or omitted in good faith. The Authority may purchase insurance to provide coverage for the governing board members and the Authority against suit or suits which may be brought against said members of the board or the Authority involving or pertaining to any of their acts or duties performed or omitted for the Authority in good faith.

The Authority may obtain a bond or other security to guarantee the faithful performance of the duties of the members of the Authority board.

It is the intent of the County Board of Commissioners to pass a resolution naming the Authority Board "agents" of the County to qualify for Directors and Officers Liability Insurance through Colorado Counties.

XIV. SEVERABILITY CLAUSE

If any provision of this Agreement or the application hereof to any party or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Agreement which can be given effect without the invalid provision or application, and to this end the provisions of the agreement are declared to be severable.

IN WITNESS WHEREOF, the parties hereto have caused their respective names and seals to be affixed hereto, as of the day and year hereinabove set forth.

ATTEST;

CLERK OF THE BOARD

BOARD OF COUNTY COMMISSIONERS
LAS ANIMAS COUNTY, COLORADO

BY *Lynn Maza*
Deputy

BY *John O. ...*
Chairman

CITY OF TRINIDAD

TOWN OF COKEDALE

BY *Beatrice Ann Lodzinski*

BY *John E. ...*

TOWN OF STARKVILLE

TOWN OF AGUILAR

BY *Sharon J. ...*

BY *Mike R. ...*

TOWN OF KIM

TOWN OF BRANSON

BY *Bud Brock (Mayor)*

BY *Ray ...*

FISHER'S PEAK FIRE
PROTECTION DISTRICT

TRINIDAD AMBULANCE DISTRICT

BY *W. H. Zidarsich*

BY *Langh. ...*