
**THIRD AMENDED AND RESTATED
INTERGOVERNMENTAL AGREEMENT CONCERNING THE
LAS ANIMAS COUNTY E-911 EMERGENCY COMMUNICATIONS AUTHORITY**

This Third Amended and Restated Intergovernmental Agreement Concerning the Las Animas County E-911 Emergency Communications Authority (this "AGREEMENT") is made as of this 17th day of March 2015 (the "EFFECTIVE DATE"), by and between the following entities: Las Animas County, a Colorado county acting by and through its Board of County Commissioners (the "COUNTY"); the City of Trinidad, a municipal corporation ("TRINIDAD"); the Town of Aguilar, a municipal corporation ("AGUILAR"); the Town of Branson, a municipal corporation ("BRANSON"); the Town of Cokedale, a municipal corporation ("COKEDALE"); the Town of Kim, a municipal corporation ("KIM"); the Town of Starkville, a municipal corporation ("STARKVILLE"); the Fisher's Peak Fire Protection District, a special taxing district ("FISHER'S PEAK"); the Hoehne Fire Protection District, a special taxing district ("HOEHNE"); the Spanish Peaks-Bon Carbo Fire Protection District, a special taxing district ("SPANISH PEAKS-BON CARBO"); the Stonewall Fire Protection District, a special taxing district ("STONEWALL"); and the Trinidad Ambulance District, a special taxing district (the "AMBULANCE DISTRICT"). The above listed parties may be referred to individually as a "PARTY" and collectively as the "PARTIES."

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RECITALS

- A. Several of the Parties entered into an intergovernmental agreement dated February 1, 1992 (the “FIRST IGA”), for the purpose of establishing an emergency telephone service authority in Las Animas County.
- B. The First IGA was amended in July 2002 to clarify the status and obligations of the emergency telephone service authority.
- C. The Parties entered into an intergovernmental agreement dated November 20, 2013 (the “SECOND IGA”), which repealed and reenacted the emergency telephone service authority in Las Animas County.
- D. The Second IGA was amended on August 5, 2014, to change the method in which Directors (defined below) are appointed.
- E. The Parties desire an amended and restated agreement to make further amendments and to incorporate, clarify, and repeal the various previous amendments.
- F. Pursuant to C.R.S. § 29-11-100.5, *et seq.*, the Parties have the authority to enter into agreements for the purpose of providing emergency telephone service.
- G. C.R.S. § 29-1-201, *et seq.*, encourages and authorized intergovernmental agreements for the joint and cooperative provision of public services.

Definitions are listed on Exhibit A and throughout this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration for the promises herein, the recitals, and other good and valuable consideration, the Parties agree as follows:

Article I. CONTINUATION OF THE AUTHORITY

Section 1.01 Continuation of Existing Authority; New Name. The Authority is a continuation of the existing governmental entity named the “Emergency Telephone Authority,” created by the First IGA and reenacted by the Second IGA, except the Authority’s name is hereby changed to the “Las Animas County E-911 Emergency Communications Authority” (the “**AUTHORITY**”). The Authority shall have the powers, authorities, duties, privileges, immunities, rights, and responsibilities set forth herein.

Section 1.02 Status of Authority.

- (a) **Public Entity.** The Authority shall be a public governmental entity pursuant to C.R.S. § 29-1-203 and § 29-11-100.5, *et seq.*
- (b) **Governmental Immunity.** The Authority shall be a public entity pursuant to the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.* (the “CGIA”) and operated in conformance with the CGIA.
- (c) **Additional Laws.** The Authority shall be operated in conformance with the Volunteer Service Act, C.R.S. § 13-21-115.5. Additionally, the Authority shall be a nonprofit organization pursuant to C.R.S. § 13-21-115.7 and C.R.S. § 13-21-116. The Authority shall operate as an enterprise pursuant to Article X, Section 20 of the Colorado Constitution.

Section 1.03 Independent Legal Entity. The Authority is an independent legal entity, separate and distinct from the Parties and their respective members, but the Authority is subject to this Agreement.

Section 1.04 Jurisdiction of the Authority. The boundaries of the Parties and their respective members, as they may from time to time be changed, shall comprise the jurisdiction of the Authority.

Section 1.05 Purpose. The purpose of the Authority is to carry out certain acts associated with the provision of an Emergency Telephone Service as authorized by C.R.S. § 29-11-100.5, *et seq.*, as may be amended from time to time, and as set forth herein.

Article II. GOVERNANCE OF THE AUTHORITY

Section 2.01 Board of Directors. All powers of the Authority shall be exercised by or under the authority of, and the business and affairs of the Authority shall be managed under the direction of, the Authority’s board of directors (the “BOARD”), in which all administrative and legislative power of the Authority is vested.

Section 2.02 Number of Directors. There shall be nine (9) directors (each a “DIRECTOR”) on the Board.

Section 2.03 Appointment of Directors. Directors shall be appointed in the following manner:

- (a) **Automatic Appointments.**
 - (i) **Persons Holding Certain CEO Positions.** The persons holding the following offices shall automatically be deemed appointed as Directors without any action required by any Party: (i) the Las Animas County Sheriff; (ii) the Chief of Police of the Trinidad Police Department; (iii) the Fire Chief of the Trinidad Fire Department; and (iv) the chief executive officer of the Trinidad Ambulance District (each position a “CEO POSITION”).
 - (ii) **Change of CEO = Change of Director.** If a Director appointed pursuant to Section 2.03(a)(i) is no longer serving in a CEO Position, such Director shall be automatically removed and the person currently serving in the CEO Position shall immediately be deemed appointed as a replacement Director.
 - (iii) **Alternate Director.** A person holding a CEO Position may designate an alternate (an “ALTERNATE”) at his or her discretion to serve as Director in place of the person holding the CEO Position, provided the appointment is consistent with the following:
 - 1) **Sheriff.** The Las Animas County Sheriff may appoint an employee of the Las Animas Sheriff’s Office as an Alternate, and such employee shall be an Alternate upon the approval of the County’s Board of County Commissioners.

- 2) **Chief of Police.** The Chief of Police of the Trinidad Police Department may appoint an employee of the Trinidad Police Department as an Alternate, and such employee shall be an Alternate upon the approval of the Trinidad City Council.
 - 3) **Fire Chief.** The Fire Chief of the Trinidad Fire Department may appoint an employee of the Trinidad Fire Department as an Alternate, and such employee shall be an Alternate upon the approval of the Trinidad City Council.
 - 4) **Ambulance District.** The chief executive officer of the Ambulance District may appoint an employee of the Ambulance District as an Alternate, and such employee shall be an Alternate upon the approval of the Ambulance District's Board of Directors.
- (b) **County Appointments.** The County's Board of County Commissioners shall appoint three (3) Directors from a pool of candidates nominated by any of the following Parties: (i) Aguilar, (ii) Branson, (iii) Cokedale, (iv) Kim, (v) Starkville, (vi) Fisher's Peak, (vii) Hoehne, (viii) Spanish Peaks-Bon Carbo, and (ix) Stonewall.
- (c) **Trinidad Appointments.** Trinidad shall appoint two (2) Directors in any manner it so chooses.

Section 2.04 Term; Term Limits; Staggered Terms.

- (a) **Term.** Each Director appointed by the County and Trinidad shall serve a term of three (3) years (each a "TERM") and thereafter until the Director's successor is appointed. Each Director's Term shall expire on January 31 of the third year of the Term, unless stated otherwise in Section 2.04(d)
- (b) **Term Limits.** Any person may serve as a Director for an unlimited number of Terms.
- (c) **Staggered Terms.** The Terms of the Directors shall be staggered by dividing the total number of Directors selected by the County and Trinidad into three (3) groups. Two groups shall each include one (1) Director appointed by the County pursuant to Section 2.03(b) and one (1) Director appointed by Trinidad pursuant to Section 2.03(c). The remaining group shall include only one (1) Director appointed by the County pursuant to Section 2.03(b).
- (d) **Initial Appointments.** Within 30 days of the Effective Date, the County and Trinidad shall make their appointments pursuant to Section 2.03(b) and Section 2.03(c), as applicable. The initial terms for the County appointments shall be one (1) Director for one (1) year, one (1) Director for two (2) years, and one (1) Director for three (3) years. The initial terms for the Trinidad appointments shall be one (1) Director for two (2) years, and one (1) Director for three (3) years. After the initial terms, all remaining terms shall operate pursuant to Section 2.04(a) and Section 2.04(c).

Section 2.05 Resignations and Vacancies.

- (a) **Resignation.** Any Director may resign for any reason or no reason at any time by giving written notice to the Board. A resignation shall take effect at the time the notice is received by the Board unless the notice specifies a later effective date. Unless specified in the notice, the Board's acceptance of the resignation shall not be necessary to make it effective.
- (b) **Vacancies.** Any vacancy on the Board may be filled by an appointment from the Party who initially appointed the Director or, in the case of automatic appointments, by the person holding the appropriate CEO Position or the properly designated Alternate. Any vacancies must be filled in compliance with Section 2.03. The Director appointed to fill a vacancy shall finish the term of the prior Director.

Section 2.06 Board Positions. The Board may elect one or more Directors to serve as the Board's chair, vice chair, secretary, and/or treasurer.

Section 2.07 No Liability for Good Faith Acts. The Directors and any officers of the Authority shall not be personally liable for any acts performed or omitted in good faith.

Article III. POWERS OF THE AUTHORITY

Section 3.01 Emergency Telephone Service. The Authority may contract for the installation, operation, and/or provision of an Emergency Telephone Service in the Authority's jurisdiction (the Authority's jurisdiction is set forth in Section 1.04).

Section 3.02 Emergency Telephone Charge.

- (a) **Imposition of the Emergency Telephone Charge.** The Authority may impose an Emergency Telephone Charge consistent with C.R.S. § 29-11-100.5, *et seq.*, in those portions of the Authority's jurisdiction for which Emergency Telephone Service is or will be provided.
- (b) **Amount of the Emergency Telephone Charge.**
 - (i) **Authorized Amount.** The Emergency Telephone Charge imposed by the Authority shall initially be set at one dollar and fifty cents (\$1.50). The Authority may decrease or increase the Emergency Telephone Charge consistent with C.R.S. § 29-11-100.5, *et seq.*
 - (ii) **Annual Determination.** In accordance with C.R.S. § 29-11-103(3)(a), and at least once each calendar year, the Authority shall establish the rate of the Emergency Telephone Charge, that together with any surplus revenues carried forward will produce sufficient revenues to fund the expenditures authorized by law.
- (c) **Use of ETC Funds.** Funds collected from the imposition of the Emergency Telephone Charge (the "ETC Funds") shall be spent solely as authorized by C.R.S. § 29-11-100.5, *et seq.*
- (d) **Handling of ETC Funds.** ETC Funds shall be handled pursuant to C.R.S. § 29-11-100.5, *et seq.* ETC Funds shall be credited to a cash account, apart from the general funds of the Authority or of any Party. Any ETC Funds remaining in such account at the end of the fiscal year shall be carried over in the account to the next succeeding year and used consistent with Section 3.02(c).

Section 3.03 Additional Authority. In order to enable the Authority to carry out its functions and provide the services described herein, the Authority hereby has the power and authority:

- (a) **Acquire Property.** To acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of any legal or equitable interest in real or personal property;
- (b) **Adopt Rules and Regulations.** To adopt rules and regulations regarding the exercise of its powers and the carrying out of its purposes;
- (c) **Apply for Grants.** To apply for and receive grants in its own name;
- (d) **Conduct Business.** To conduct its business and affairs for the benefit of the Parties and their residents;
- (e) **Contract.** To enter into, make, and perform contracts of every kind;
- (f) **Engage Agents.** To engage, employ, or appoint agents, including accountants, architects, attorneys, consultants, employees, engineers, and managers, and to pay the direct and indirect reasonable costs of such agents for services rendered to the Authority;

- (g) **Insurance.** To purchase insurance;
- (h) **Legal Process.** To litigate, arbitrate, and/or mediate in its own name;
- (i) **Receive Contributions.** To receive contributions of gifts, grants, or services; and
- (j) **Additional Powers.** To exercise any additional powers or authority, not inconsistent with this Agreement, that are reasonably necessary in the Board's reasonable determination to carry out the intent of this Agreement.

Section 3.04 Restrictions on Authority. The Authority shall not have the power or authority:

- (a) **Debt.** To incur debt or obligations, unless the Authority has sufficient unencumbered cash in its possession to pay the same; or
- (b) **Eminent Domain.** To take property by eminent domain.

Article IV. OBLIGATIONS OF THE AUTHORITY

Section 4.01 Budget. Each year, the Authority shall prepare a budget in accordance with the Local Government Budget Law of Colorado, C.R.S. § 29-1-101, *et seq.*

Section 4.02 Distribution of Funds. No distribution shall be made from the funds of the Authority, including of ETC Funds, except by check and unless a verified invoice for goods or services actually delivered or rendered has been first submitted and approved for payment by the Authority. The Board may, however, approve payment of regularly recurring expenses without considering each such recurring expense.

Section 4.03 Investments. The Authority may invest any of its funds, including ETC Funds, only in accordance with any applicable laws governing the investment of public funds.

Section 4.04 Books and Records. The Authority shall maintain adequate and correct accounts of its funds, properties, and business transactions. The Authority's accounts shall be open to inspection at any reasonable time by the Parties, their attorneys, and their authorized agents.

Section 4.05 Audit. The Authority shall cause to be made an annual audit of the financial statements of the Authority for each fiscal year, which audit shall be conducted by an independent certified public accountant licensed to practice in the state of Colorado and which shall be conducted in accordance with the Colorado Local Government Audit Law, C.R.S. § 29-1-601, *et seq.* The Authority shall file a copy of the audit with the appropriate state office or offices and provide a copy to each Party upon request.

Section 4.06 Compliance with Law. The Authority shall comply with any applicable law or regulation. If the Authority's performance of an obligation imposed by this Agreement would result in the Authority's violation of an applicable law, the Authority shall take a course of action that, in its determination, would carry out the intent of this Agreement while not violating the law.

Article V. TERM AND TERMINATION

Section 5.01 Term. This Agreement shall be in full force and effect from the Effective Date, subject to any amendments, until terminated as provided for herein.

Section 5.02 Termination. This Agreement may be terminated upon the agreement in writing of a majority of the Parties. Upon termination, the Authority shall continue to exist with the power necessary and to the extent necessary to make an effective disposition of the Authority's property.

Section 5.03 Termination of Participation by a Party. Any Party may terminate its participation in this Agreement by giving notice of termination to the Authority, provided that the notice is given at least one hundred and eighty (180) days before January 1 of any given year. Upon termination, the terminated Party shall be deemed to have forfeited all rights, title, and interest in and to any property acquired by the Authority.

Article VI. GENERAL PROVISIONS

Section 6.01 Amendments. Any amendment or addition to this Agreement will be effective only if in writing and approved and signed by the governing bodies of the County and of Trinidad and at least five (5) additional Parties to this Agreement.

Section 6.02 Further Assurances. Each Party shall execute all further documents and take all further acts reasonably necessary or appropriate to carrying out the intent of this Agreement.

Section 6.03 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, without regard to such jurisdiction's conflict of laws principles.

Section 6.04 Venue. An action brought by any Party or the Authority to interpret or enforce any provision of this Agreement may be brought only in a state court located in Colorado. Each Party submits to the jurisdiction and venue of such courts and waives any objection to which it otherwise might be entitled regarding such jurisdiction or venue.

Section 6.05 Waiver of Right to Jury Trial. EACH PARTY HEREBY WAIVES ANY RIGHT IT HAS OR MAY HAVE TO A JURY TRIAL IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

Section 6.06 Independent Contractors. The Parties are independent contractors in all matters concerning this Agreement. Nothing in this Agreement creates a joint venture, partnership, or employment relationship between the Parties or with the Authority. No Party will be liable for the debts, liabilities, or obligations of the other Parties or of the Authority. No Party is acting as the agent or partner of the other Parties or the Authority and no Party will hold itself out as such. No Party has the authority to bind the other Parties or the Authority.

Section 6.07 Force Majeure. No Party or the Authority will be considered in default under this Agreement to the extent that such performance is delayed or prevented by fire, flood, hurricane, tornado, earthquake, other natural disasters, riot, war, terrorism, labor disputes, or civil strife.

Section 6.08 Entire Agreement. This Agreement states the entire agreement between the Parties with respect to the subject matter of this Agreement and supersedes and replaces all previous discussions, negotiations, and agreements.

Section 6.09 Waiver. The failure of any Party to insist upon the performance of any provision of this Agreement or to exercise any right or privilege granted to such Party under this Agreement will not be construed as waiving such provision or any other provision of this Agreement.

Section 6.10 Severability. If any provision of this Agreement is held invalid or unenforceable, the invalidity or unenforceability will not invalidate the remaining provisions of this Agreement.

Section 6.11 Counterparts. This Agreement may be executed and delivered in counterparts (including by means of electronic signatures), all of which taken together will constitute one and the same agreement.

Section 6.12 Certain Rules of Construction.

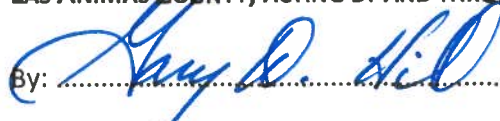
- (a) **Numbered Sections.** Unless otherwise stated, a reference to any numbered Section or subsection will be construed as a reference to the entire Section or subsection so numbered, including any subsections thereof.

- (b) **Headings.** The headings in this Agreement are for convenience of reference only and will be ignored for purposes of construing and interpreting this Agreement.
- (c) **Certain Terms.** The terms “including” and “includes” will be construed as “including, without limitation” and “includes without limitation,” respectively.

[SIGNATURE PAGES FOLLOW]

The Parties are executing this Agreement to signify their acceptance of all the terms and conditions stated above, to be effective as of the Effective Date, regardless of the date of actual signature.

LAS ANIMAS COUNTY, ACTING BY AND THROUGH ITS BOARD OF COUNTY COMMISSIONERS

By:  Date Signed: 2/17/15

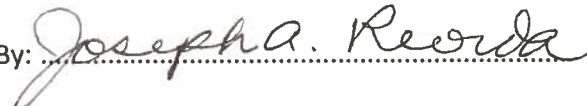
Name: Gary D. Hill

Title: Chairman

Approved as to legal form:

By:  Date Signed: 2/17/15
County Attorney

CITY OF TRINIDAD

By:  Date Signed: February 17, 2015

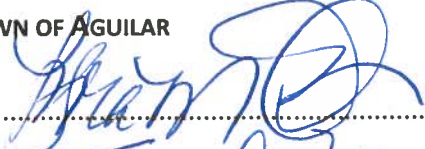
Name: Joseph A. Reorda

Title: Mayor

Approved as to legal form:

By:  Date Signed: February 17, 2015
City Attorney

TOWN OF AGUILAR

By:  Date Signed: 3/17/15

Name: Tyna Avila

Title: Town Clerk

Approved as to legal form:

By:  Date Signed: 3/17/15
Witness

TOWN OF BRANSON

By: Jackie Ward-Mock

Date Signed: 3-17-2015

Name: Jackie Ward-Mock

Title: Mayor

Approved as to legal form:

By: Melinda San Roman
Witness

Date Signed: 3-17-15

TOWN OF COKEDALE

By: Jeanne N. Lane

Date Signed: 3-18-15

Name: Jeanne N. Lane

Title: Mayor Pro-tem

Approved as to legal form:

By: Linda M. Goodson
Witness

Date Signed: 03/18/15

TOWN OF KIM

By: Bud Bruce

Date Signed: 3-26-15

Name: Bud Bruce

Title: Mayor

Approved as to legal form:

By: Linda M. Goodson
Witness

Date Signed: 03/26/15

TOWN OF STARKVILLE

By: Christopher Carlisle Date Signed: 3/18/15

Name: Christopher Carlisle

Title: Mayor

Approved as to legal form:

By: Melinda San Roman Date Signed: 3-18-15
Witness

FISHER'S PEAK FIRE PROTECTION DISTRICT

By: Bernard J. Gonzales Date Signed: 3-19-2015

Name: Bernard J. Gonzales

Title: President of F.H. Board

Approved as to legal form:

By: Melinda San Roman Date Signed: 3-17-15
Witness

HOEHNE FIRE PROTECTION DISTRICT

By: Lewis Mowatt Date Signed: 3/16/15

Name: Lewis Mowatt

Title: Board President

Approved as to legal form:

By: Melinda San Roman Date Signed: 3-16-15
Witness

SPANISH PEAKS-BON CARBO FIRE PROTECTION DISTRICT

By: Vivonne R Bilderback Date Signed: 3-27-15
Name: VIVONNE R. Bilderback
Title: President

Approved as to legal form:

By: Melinda San Roman Date Signed: 3-27-15
WITNESS

STONEWALL FIRE PROTECTION DISTRICT

By: James R Baker Date Signed: 3/16/15
Name: JAMES R BAKER
Title: CHAIRMAN, BOD

Approved as to legal form:

By: Melinda San Roman Date Signed: 3/16/15
WITNESS

TRINIDAD AMBULANCE DISTRICT

By: Daniela A. Moynihan Date Signed: 3/17/15
Name: DANIELA A. MOYNIHAN
Title: EXECUTIVE DIRECTOR

Approved as to legal form:

By: Melinda San Roman Date Signed: 3-17-15
Witness

EXHIBIT A

TERM	DEFINITION (OR CROSS-REFERENCE TO WHERE THE TERM IS DEFINED)
AUTHORITY	Section 1.01
BOARD	Section 2.01
CEO POSITION	Section 2.03(a)(i)
CGIA	Section 1.02(b)
DIRECTOR	Section 2.02
EMERGENCY TELEPHONE CHARGE	as defined in C.R.S. § 29-11-100.5, <i>et seq.</i>
EMERGENCY TELEPHONE SERVICE	as defined in C.R.S § 29-11-100.5, <i>et seq.</i>
ETC FUNDS	Section 3.02(c)
FIRST IGA	Recital A
SECOND IGA	Recital C