

**CARES ACT FUNDING
INTERLOCAL AGREEMENT BETWEEN
THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
AND
WAYNE IVEY, SHERIFF OF BREVARD COUNTY, FLORIDA**

THIS INTERLOCAL AGREEMENT is made and entered into by and between the BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY;" and WAYNE IVEY, in his official capacity as the Sheriff of Brevard County, Florida, a County Constitutional Officer and a County Charter Officer; (hereinafter referred to as "SHERIFF" or collectively the "PARTIES").

RECITALS:

WHEREAS, the United States Congress passed and the President signed on March 27, 2020, the "Coronavirus Aid, Relief, and Economic Security Act (CARES Act) Act" to appropriate funding for a wide variety of needs and tremendous costs related to the coronavirus pandemic response to include an appropriation of \$150 billion to States, Tribal governments, and units of local government;

WHEREAS, funds were authorized to be allocated as a direct payment from the Department of the Treasury to certain units of local governments of a State that submit a certification for the purpose of receiving a direct payment;

WHEREAS, by relative population Brevard County was an eligible unit and submitted a certification and has received an appropriation of \$105 Million Dollars;

WHEREAS, in order to receive the allocation, the COUNTY was required to certify the funds will be used only in the COUNTY's response to COVID-19 and as further set forth herein;

WHEREAS, Florida Statute section 30.49 directs the SHERIFF to annually prepare and submit a proposed budget to the COUNTY and sets forth the requirements for the County to review and approve the proposed budget;

WHEREAS, the County is required to fund the Sheriff's budget from revenues as authorized under Florida Statutes sections 125.01(r) and pursuant to 129.01(1);

WHEREAS, Florida Statute section 30.53 preserves the SHERIFF'S independence as a constitutional officer concerning the purchase of supplies and equipment necessary for the SHERIFF to carry out the duties and responsibilities of office;

WHEREAS, the COUNTY sets aside Operating Reserves to provide options for responding to unexpected issues and risks and has established a goal of maintaining an operating reserve of no less than ten (10) percent of projected operating revenues;

WHEREAS, the COUNTY allocates to the SHERIFF its annual revenue in monthly installments; the SHERIFF is not a Taxing Authority; the SHERIFF does not carry reserve operating funds; and the SHERIFF has no statutory or constitutional authority to acquire loans or indebted his Office.

WHEREAS, Fla. Stat. sec. 30.49 (10) provides that “[i]f in the judgment of the sheriff an emergency should arise by reason of which the sheriff would be unable to perform his or her duties without the expenditure of larger amounts than those provided in the budget, he or she may apply to the board of county commissioners for the appropriation of additional amounts ...[and] [s]uch budget shall be brought into balance, if possible, by application of excess receipts in such county fund or funds. If such excess receipts are not available in sufficient amount, the county fund budget or budgets shall be brought into balance by adding an item of ‘Vouchers unpaid’ in the appropriate amount to the receipts side of the budget, and provision for paying such vouchers shall be made in the budget of the county fund for the next fiscal year.”

WHEREAS, the COUNTY recognizes that the SHERIFF will incur many of the same costs and needs that the COUNTY will incur in responding to the COVID-19 pandemic, some costs specific to law enforcement and wishes to provide assistance to the SHERIFF, in compliance with the CARES Act (including Guidance issued by the Department of Treasury) and as otherwise authorized by the Board of County Commissioners, as set forth herein; and

WHEREAS, this assistance will be of great benefit to the health, safety and welfare of the public and will support the critical needs of the citizens of the County and the Brevard County Sheriff's Office.

NOW THEREFORE, COUNTY and SHERIFF covenant and agree that they have full power and authority to enter into this Agreement:

SECTION 1. RECITALS.

The above recitals are true and correct and by this reference are hereby incorporated into and made an integral part of this Agreement.

SECTION 2. STATUTORY AUTHORITY. This Agreement shall be considered an Interlocal Agreement pursuant to the authority of Florida Statutes, Chapter 163, Part 1, 2020.

SECTION 3. CARES ACT REQUIREMENTS.

CARES Act funds may only be used to cover SHERIFF's expenses that:

- (a) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; and

(b) were not accounted for in SHERIFF's Budget most recently approved, effective as of March 27, 2020; and

(c) were or will be incurred during the period that began on March 1, 2020, and ends on December 30, 2020. The expense is incurred when the COUNTY has expended the funds to cover the expense or reimbursed the SHERIFF for the expense.

The expenditure or reimbursement for expenditure must comply with the CARES Act and the Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments (and Answers to Frequently Asked Questions which supplement the Guidance) issued by the Department of Treasury.

Revenue replacement is not a permissible use of CARES Act funds under the terms of this Agreement.

SHERIFF will not receive any CARES Act funding for any expense or cost that is paid for or reimbursed by another source.

SECTION 4. RESPONSIBILITY FOR EXPENDITURE OF CARES ACT FUNDS.

- (a) The COUNTY, as the recipient of \$105 million dollars of CARES Act funds, is responsible for ensuring that all expenditures, including those made or incurred on behalf of SHERIFF, meet the requirements set forth in Section 3 above.
- (b) The COUNTY has no legal obligation to appropriate or set aside any CARES Act funding for SHERIFF, COUNTY department, entity or organization (private or public).
- (c) This Agreement does not create a contractual right to any expenditure for SHERIFF.
- (d) SHERIFF, by submitting a request for expenditure of CARES Act funds, represents to the COUNTY that the request, relevant budgetary background for the budget most recently approved, effective as of March 27, 2020, and associated documentation has been appropriately reviewed by SHERIFF and determined that the expenditures meets the requirements set forth in Section 3 above.
- (e) SHERIFF understands that the COUNTY will be audited in the future both internally and by the federal government to evaluate the eligibility of expenditures.
- (f) Further, SHERIFF understands that if an expenditure made to or on behalf of SHERIFF is determined to be ineligible, the COUNTY may be required to reimburse or pay the federal government back for ineligible expenditure(s).
- (g) Accordingly, should the COUNTY be required to return funds expended on behalf of the SHERIFF, the SHERIFF agrees to collaborate with the COUNTY to determine to

what extent and on what terms the COUNTY should reimburse such funds determined ineligible.

- (h) The PARTIES agree that the COUNTY may only seek redress regarding ineligible expenditures, and the COUNTY will notify the SHERIFF, in writing, that the federal government has demanded the reimbursement of such CARES Act funds.
- (i) Upon receipt of written notification, SHERIFF will engage in discussion and collaboration with COUNTY for terms of repayment of CARES Act funds the federal government has determined ineligible and demanded to be returned.
- (j) The PARTIES agree that no repayment shall be required from the SHERIFF unless the SHERIFF has an actual ability to pay without impacting SHERIFF's critical and statutory services, and the recall of such funds results solely from disqualified expenses.
- (k) All decisions by the COUNTY for the expenditure of funds under this Agreement, from the COUNTY's CARES Act appropriation, are final and not subject to any grievance, appeal, or litigation administratively or otherwise.

SECTION 5. COUNTY GUIDELINES; PROCEDURE FOR REQUESTING FUNDS.

- (a) The Board of County Commissioners of Brevard County approved the use of CARES Act funds for certain Public Health and Safety programs at its regular meeting on May 5, 2020. It is the COUNTY's intent to reimburse the SHERIFF for SHERIFF's expenditures for the same types of programs as approved by the Board at the May 5, 2020, meeting, which are eligible for CARES Act funding, or as may otherwise be approved by the Board in the near future.
- (b) The COUNTY will provide SHERIFF with the procedures for requesting CARES Act funds, no later than five (5) business days from SHERIFF's execution of this Agreement, which may be adjusted from time to time. Any changes to the procedures provided by the COUNTY shall be transmitted to SHERIFF as soon as approved by the County Manager. SHERIFF agrees to provide documentation requested by the COUNTY in order to justify requested expenditures incurred due to the public health emergency with respect to COVID-19.
- (c) As of the date of SHERIFF's execution of this Agreement, the SHERIFF will coordinate with the COUNTY regarding any purchase for which SHERIFF requests CARES Act funding. The COUNTY may elect to make the purchase directly and distribute the purchased supplies, commodities, etc., to SHERIFF.
- (d) All purchase orders or contracts, whether issued by SHERIFF or COUNTY, shall include the OMB Uniform Guidance contract clauses and FEMA required contract clauses.

SECTION 6. NOTICES.

All Notices required under this Agreement, and as not otherwise directed herein, shall be in writing and delivered to the parties by United States mail, hand delivery, express mail or electronic mail (email) as follows:

(a) SHERIFF Representative:

William Spinelli, Chief Financial Officer
Brevard County Sheriff's Office
700 S. Park Ave.
Titusville, FL 32780
Bill.spinelli@bcso.us
(321) 264-5201

(b) COUNTY Representative:

Jill Hayes, Director, Budget Office
Brevard COUNTY Board of COUNTY Commissioners
2725 Judge Fran Jamieson Way
Bldg C
Viera, FL 32940
jill.hayes@brevardfl.gov
(321) 633-2153

SECTION 7. DEFAULT.

Either Party to this Agreement, in the event of any act of default by the other, shall have all remedies available to it under the laws of the State of Florida.

SECTION 8. SEVERABILITY

If any part of this Agreement is found to be invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties contained herein are not materially prejudiced and if the intentions of the parties can still be accomplished.

SECTION 9. EFFECTIVE DATE.

Pursuant to Chapter 163, Florida Statutes, the effective date of this Agreement shall be the date on which it is recorded with the Clerk of the Circuit Court in and for Brevard County.

SECTION 10. RECORDING.

Upon execution of this Agreement, the COUNTY shall record a fully executed original of this Agreement in the Public Records of Brevard County, Florida, and shall return a recorded original of the Agreement to the SHERIFF's Representative listed in Section 6.

SECTION 11. TERMINATION.

Either party to this Agreement can terminate this Agreement, with or without cause, by furnishing thirty days prior written notice as provided for in Section 6.

SECTION 12. ATTORNEYS FEES.

In the event of any legal action to enforce the terms of this Agreement, each party shall bear its own attorney's fees and costs.

SECTION 13. VENUE AND NON-JURY TRIAL.

Any legal action to enforce, interpret, or construe the terms of this Agreement, shall be in a court of competent jurisdiction in and for Brevard County, Florida and any trial shall be a non-jury trial.

SECTION 14. COMPLIANCE WITH STATUTES.

It shall be each party's responsibility to be aware of and comply with all federal, state, and local laws.

SECTION 15. ENTIRETY.

This Agreement represents the understanding and agreement of the parties in its entirety. There shall be no amendments to this Agreement unless such amendments are in writing and signed by both parties

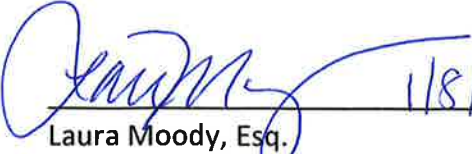
In witness whereof, the parties hereto have set their hands and seals on the date and year written below.

ATTEST:

BREVARD COUNTY SHERIFF'S OFFICE


Wayne Ivey, Sheriff

Approved as to legal form and content:

 1/8/21

Laura Moody, Esq.
Attorney for SHERIFF

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA**

Rachel Sadoff, Clerk to the Board

Rita Pritchett, Chairperson

As approved by the Board on: _____

Approved as to legal form and content:

 1/11/21

Attorney for the COUNTY