

ORDER NO. 200401-01

AN ORDER OF THE COMMISSIONERS COURT OF GAINES COUNTY, TEXAS: (1) APPROVING AND ADOPTING THE GAINES COUNTY, TEXAS DISASTER DECLARATION NO. 2 REGARDING THE PENDING COVID-19 PUBLIC HEALTH EPIDEMIC AND EMERGENCY, AND THE EXECUTION AND IMPLEMENTATION THEREOF BY THE COUNTY JUDGE; AND (2) ESTABLISHING AN EFFECTIVE DATE AND COMPLIANCE WITH THE TEXAS OPEN MEETING ACT.

WHEREAS, Gaines County, Texas (“County”) is a county of the State of Texas, having been duly created and organized under the constitution and laws of Texas, and further, the Gaines County Commissioners Court (“Commissioners Court”) is the governing body of said County; and

WHEREAS, it is recognized by the national and international public health professions that a novel coronavirus currently exists called Severe Acute Respiratory Syndrome Coronavirus 2 (currently designated in those professions as SARS-CoV2) which causes the disease now recognized worldwide as “COVID-19;” and

WHEREAS, the symptoms of COVID-19 can range from mild to severe illness and cause further complications including death, and further, the COVID-19 virus is highly contagious and primarily is transmitted between people in close contact through respiratory droplets produced when an infected person coughs or sneezes; and

WHEREAS, COVID-19 has been declared an epidemic and global pandemic by the World Health Organization, and further, the Centers for Disease Control and Prevention (“CDC,” an administrative agency of the United States Department of Health and Human Services) advised that person to person contact presents great risk of COVID-19 transmission between humans; and

WHEREAS, on March 31, 2020, and earlier the Governor of Texas issued disaster declarations pursuant to Chapter 418 of the Texas Government Code and other authority, containing among other things (1) provisions stating that COVID 19 is recognized globally as a contagious respiratory virus and is an imminent threat to all counties in Texas, (2) provisions stating that COVID-19 was recognized on March 19, 2020 by the Texas Department of Health Services as public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code, and (3) certain conduct restrictions and prohibitions designed to improve public health and prevent or decrease the transmission of COVID-19 in Texas; and

WHEREAS, the Commissioners Court by this order, and pursuant to Chapter 418 and other applicable authority, desires in the public interest to approve, adopt, implement, and enforce the County’s proposed Disaster Declaration No. 2 regarding the pending COVID-19 epidemic and public health emergency, in the form and scope as described in the attached **Exhibit A** (“Disaster Declaration No. 2”), among other things to (1) prevent or decrease the

GAINES COUNTY TEXAS
DECLARATION OF LOCAL DISASTER DUE TO
PUBLIC HEALTH EMERGENCY REGARDING COVID-19 EPIDEMIC,
ORDER NO. 2

(Effective at 12:01 a.m. Local Time on April 2, 2020)

WHEREAS, it is recognized by the national and international public health professions that a novel coronavirus currently exists called Severe Acute Respiratory Syndrome Coronavirus 2 (currently designated in those professions as SARS-CoV2) which causes the disease now recognized worldwide as “COVID-19;” and

WHEREAS, the symptoms of COVID-19 can range from mild to severe illness and cause further complications including death, and further, the COVID-19 virus is highly contagious and primarily is transmitted between people in close contact through respiratory droplets produced when an infected person coughs or sneezes; and

WHEREAS, COVID-19 has been declared an epidemic and global pandemic by the World Health Organization, and further, the Centers for Disease Control and Prevention (“CDC,” an administrative agency of the United States Department of Health and Human Services) advised that person to person contact presents great risk of COVID-19 transmission between humans; and

WHEREAS, on March 16, 2020, the CDC requested the public to decrease the spread of COVID-19, among other things, by (1) avoiding social gatherings in groups of more than ten (10) people, (2) using drive-through, pick-up or delivery options at restaurants and bars, and (3) avoiding visitation at nursing homes and other facilities; and

WHEREAS, the Governor of Texas recently issued disaster declaration proclamations and/or executive orders regarding the COVID-19 epidemic and public health emergency in Texas, pursuant to Chapter 418 of the Texas Government Code (“Chapter 418”) and other authority, therein recognizing among other things that (1) COVID-19 is an existing or imminent threat of disaster for all counties in Texas, (2) COVID 19 is recognized globally as a contagious respiratory virus, (3) COVID-19 is recognized by the Texas Department of Health Services as a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code, and (4) the COVID-19 epidemic and emergency requires certain conduct restrictions and prohibitions to be ordered by the Governor to improve public health and prevent or decrease the transmission of COVID-19 in Texas; and

WHEREAS, on March 31, 2020, the Governor of Texas issued Executive Order No. GA-14 (“EO-GA-14”), pursuant to Chapter 418 and other authority, a copy of which is attached as **Exhibit 1** and incorporated by reference, said order being effective on a statewide basis beginning 12:01 a.m. on April 2, 2020 and continuing through April 30, 2020, and certifying among other things that:

- (1) the COVID-19 epidemic and public health emergency is an imminent threat of disaster for all counties in Texas;

- (2) according to certain federal public health resources, hundreds of thousands of deaths could occur in the United States due to COVID-19 if restrictive social-distancing guidelines did not remain in place through April 30, 2020;
- (3) on March 28, 2020 the United States Department of Homeland Security issued a guidance document regarding essential critical infrastructure workforce and provided an advisory list of critical infrastructure sectors, workers, and functions (hereafter “Essential Services”) that should continue during the COVID-19 emergency, and the contents of said guidance document is incorporated by reference;
- (4) all government entities and businesses should be allowed to continue providing Essential Services during the COVID-19 disaster, and all critical infrastructure should be allowed to remain operational, pursuant to the public health guidance standards described in EO-GA-14 and the aforesaid March 28, 2020 guidance document issued by the United States Department of Homeland Security;
- (5) pursuant to the Texas Governor’s powers under Chapter 418 and other authority, the provisions of § 418.101(5) of the Texas Government Code (regarding the designation of the presiding officer of a city or county as the emergency management director for the political subdivision), and § 418.108 of the Texas Government Code (regarding the power of the presiding officer of the governing body of a political subdivision to declare a local state of disaster), and other relevant statutes, were suspended by the Governor in EO-GA-14 to the extent necessary to ensure that local officials do not impose restrictions inconsistent with EO-GA-14; and
- (6) local officials may enforce EO-GA-14, and may enforce local restrictions that are consistent with EO-GA-14; and

WHEREAS, Gaines County, Texas (“County”) desires by this instrument (“Declaration”) to take extraordinary measures as allowed by law, including without limitation all applicable provisions of Chapter 418 not inconsistent with EO-GA-14, in order to:

- (1) declare that a local state of disaster exists in Gaines County, Texas due to the threat and existence of COVID-19;
- (2) declare that COVID-19 constitutes an epidemic, public health emergency, and local disaster pursuant to Chapter 418;
- (3) prevent or decrease the transmission of COVID-19 in Gaines County, Texas through approval and adoption of EO-GA-14, a copy of which is attached as **Exhibit 1**, as well as other conduct restrictions and prohibitions, not inconsistent with EO-GA-14, designed to improve public health in Gaines County, Texas and prevent or decrease the transmission of COVID-19;

- (4) protect the public, including County staff, from the devastating effects of COVID-19 on public health, community welfare, and the local economy; and
- (5) implement and/or reserve all powers, actions, rights, and remedies afforded the County, including its elected or appointed public officials, pursuant to all applicable legal authority not inconsistent with EO-GA-14, in order to deal with, defeat, and recover from the effects of COVID-19.

NOW, THEREFORE, BE IT DECLARED, RESOLVED, AND ORDERED BY THE COUNTY JUDGE OF GAINES COUNTY, TEXAS, FOR AND ON BEHALF OF SAID COUNTY AND IN THE PUBLIC INTEREST, AS FOLLOWS:

Interpretation

SECTION 1. Unless otherwise designated, the past, present, or future tense shall each include the other, the masculine, feminine, or neuter gender shall each include the other, and the singular and plural number shall each include the other where necessary for a correct meaning in this Declaration.

SECTION 2. All statements made in the preliminary recitals of this Declaration and all attached documents are incorporated by reference and constitute fact findings to support this Declaration.

Effective Date, Duration, and Amendment

SECTION 3. This Declaration shall take effect at 12:01 a.m. local time on April 2, 2020, and thereafter shall supersede all previous declarations or orders regarding this matter that are in conflict or inconsistent with its terms and provisions.

SECTION 4. This Declaration shall not be continued or renewed for more than seven (7) days from its effective date, subject to being extended, revised, or terminated as allowed by law.

**Disaster Declaration, Activation of Emergency Management Plan,
Prohibited Conduct, and Enforcement**

SECTION 5. The following matters are approved and adopted for use and implementation in this Declaration: (a) the provisions of EO-GA-14 as described in **Exhibit 1**, including all Essential Services approved by the Texas Department of Emergency Management (“TDEM”); (b) the provisions of the guidance document, dated March 28, 2020, of the United States Department of Homeland Security regarding essential critical infrastructure workforce, including the advisory list of critical infrastructure sectors, workers, and functions (Essential Services) that should continue during the COVID-19 emergency, the contents of which are incorporated by reference.

SECTION 6. A local state of disaster for a public health emergency is hereby declared and exists for Gaines County, Texas pursuant to the authority granted in Chapter 418 and other

applicable authority, not inconsistent with EO-GA-14, due to the existence and threat of the COVID-19 epidemic as herein described.

SECTION 7. This disaster Declaration activates the emergency management plan of Gaines County, Texas and authorizes the furnishing of aid and assistance pursuant to this Declaration, as well as Chapter 418 and other applicable authority.

SECTION 8. Pursuant to the applicable provisions of Chapter 418 and other authority, this Declaration authorizes the County to take action authorized by law, not inconsistent with EO-GA-14, and deemed necessary or advisable to protect public health and suppress the transmission of COVID-19 including the: (a) establishment of quarantine stations or centers; (b) quarantine of persons and occupied structures or areas; (c) regulation of ingress and egress to occupied structures or areas; (d) regulation of medical and healthcare facilities to insure compliance with the state and County regulations and directives relating to the declared COVID-19 disaster; (e) evacuation of persons and the regulation of ingress and egress of persons to or from the County or parts thereof where COVID-19 or its related virus are reasonably suspected to exist; (f) prohibition of certain conduct and activities to prevent or decrease the transmission of COVID-19; and (g) all matters stated in this Declaration and their lawful enforcement.

SECTION 9. Pursuant to EO-GA-14 and the applicable authority granted to the County by Chapter 418, the following conduct and activity prohibitions are hereby enacted for Gaines County, Texas in order to protect public health and prevent or decrease the transmission of COVID-19:

- (a) In accordance with the authority and references cited in said order, every person in Gaines County, Texas shall, except where necessary to provide or obtain Essential Services, avoid social gatherings of more than 10 people, and minimize in-person contact with people who are not in the same household.
- (b) Pursuant to the authority and references recited in said order, Essential Services shall consist of: (i) everything listed in the aforesaid guidance document, dated March 28, 2020, of the United States Department of Homeland Security regarding Essential Services and critical infrastructure workforce, the contents of which are incorporated by reference, including the advisory list of critical infrastructure sectors, workers, and functions that should continue during the COVID-19 emergency; (ii) religious services conducted in churches, congregations, and houses of worship; and (iii) Essential Services listed by TDEM on its agency website pages.
- (c) In providing or obtaining Essential Services, people and businesses should follow the authority and references recited in EO-GA-14 by practicing good hygiene, environmental cleanliness, and sanitation, implementing social distancing, and working from home if possible. In particular, all services should be provided through remote telework from home unless they are Essential Services that cannot be provided through remote telework.

- (d) If religious services cannot be conducted from home or through remote services, they should be conducted consistent with the authority and references recited in EO-GA-14 by practicing good hygiene, environmental cleanliness, and sanitation, and by implementing social distancing to prevent the spread of COVID-19.
- (e) In accordance with the authority and references recited in said order, people shall avoid eating or drinking at bars, restaurants, and food courts, or visiting gyms or massage establishments, tattoo studios, piercing studios, or cosmetology salons; provided, however, that the use of drive-through, pickup, or delivery options for food and drinks are allowed and highly encouraged throughout the limited duration of this Declaration.
- (f) This Declaration does not prohibit people from accessing Essential Services or engaging in essential daily activities, such as going to the grocery store or gas station, providing or obtaining other Essential Services, visiting parks, hunting or fishing, or engaging in physical activity like jogging or bicycling, so long as the necessary precautions are maintained to reduce the transmission of COVID-19 and to minimize in-person contact with people who are not in the same household.
- (g) In accordance with the authority and references recited in said order, people shall not visit nursing homes, state supported living centers, assisted living facilities, or long-term care facilities unless to provide critical assistance as determined through guidance from the Texas Health and Human Services Commission.
- (h) In accordance with the authority and references recited in said order, schools shall remain temporarily closed to in-person classroom attendance and shall not recommence before May 4, 2020.

SECTION 10. This Declaration does not constitute a Shelter in Place or Stay at Home order, and does not mandate sheltering in place.

SECTION 11. Regarding the provision of essential government services by Gaines County, Texas to the public during the COVID-19 disaster, the following procedures are enacted:

- (a) The County will continue to provide Essential Services to the public, but will do so pursuant to an action plan for limited or reduced public access to certain County services, offices, and staff due to the COVID-19 emergency, using public health guidelines described in EO-GA-14, this Declaration, and the action plan. The action plan will be posted on the County's website at www.gaines.co.tx.us and may be amended or revised at County discretion.

- (b) Some of the County's public offices and properties will be closed for unlimited public access, and the scheduling for the provision of Essential Services by appointment will be required.
- (c) The scheduling and holding of the public meetings of the Commissioners Court will continue pursuant to Chapter 551 of the Texas Government Code (the Texas Open Meetings Act), including telephonic or videoconference public meetings to be conducted at the discretion of said Court.
- (d) The provision and/or coordination by the County of law enforcement and emergency services to the public will be continued and maintained, including law enforcement services, jail operation services, and fire, ambulance, EMS, and 911 emergency call operations.
- (e) For the safety of the public, all authorized interaction occurring between the public and the elected officials, appointed officials, employees, and representatives of the governmental entities herein described, for or relating to the provision of government services, will occur in compliance with the public health guidance references described by EO-GA-14, this Declaration, and the County action plan. The denial of public access to government services will occur if an unreasonable risk of COVID-19 transmission or exposure exists pursuant to the public health guidance policies described in EO-GA-14, this Declaration, or the County action plan, including the guidance documents of the South Plains Public Health District ("SPPHD") provided to the County regarding the practice of good workplace hygiene, environmental cleanliness and sanitation, social distancing, and screening protocol.

Filing and Posting

SECTION 12. This Declaration shall be given prompt and general publicity by: (a) prompt filing with the County Clerk of Gaines County, Texas; (b) posting at the Gaines County Courthouse at the physical location where Commissioners Court meeting agendas are posted; (c) posting on the County's internet website at www.gaines.co.tx.us; and (d) submission to all state and/or local governmental entities, or agencies thereof, if required by law.

Conditions Precedent

SECTION 13. All conditions precedent and notice for the lawful approval and adoption of this Declaration have been accomplished, and the form, scope, and content of the Declaration is in compliance with the applicable provisions of Chapter 418.

Notice

SECTION 14. Any necessary or desired notice or document submission to the County Judge of Gaines County, Texas regarding or related to this Declaration shall be sent to: Hon. Tom

Keyes, County Judge, Gaines County, Texas, Gaines County Courthouse, 101 South Main Street, Room 201, Seminole, Texas 79360; telephone (432) 758-5411; facsimile (432) 758-4031; e-mail tom.keyes@co.gaines.tx.us.

Partial Invalidity

SECTION 15. Should any part of this Declaration, or the application or enforcement thereof, be determined or adjudged invalid by any court, tribunal, administrative agency, or governmental office, the remainder of the Declaration shall remain fully effective and operable.

Headings

SECTION 16. The separate headings contained in this Declaration are for reference and convenience only, and shall not limit or otherwise affect in any way the meaning of this Declaration.

Adopted Authority

SECTION 17. The following legal authority, as amended, including the express and implied powers and authority therein granted to the County, its Commissioners Court, and/or its County Judge, are hereby approved and adopted to support the enactment, interpretation, implementation, and enforcement of this Declaration: the applicable provisions of Chapter 418 and other applicable authority.

Enforcement

SECTION 18. The following enforcement provisions are approved and adopted:

- (a) The County reserves all rights to pursue, and shall implement and pursue, all actions and remedies allowed by law or equity to address a violation or threatened violation of this Declaration, the Gaines County emergency management plan, or a rule, order, or ordinance adopted under said plan, including without limitation civil litigation and criminal prosecution.
- (b) A person who knowingly or intentionally violates or fails to comply with this Declaration, the Gaines County emergency management plan, or a rule, order, or ordinance adopted under said plan commits an offense which is punishable by a fine not to exceed \$1,000.00 or confinement in jail for a term not to exceed one hundred-eighty (180) days.

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Execution

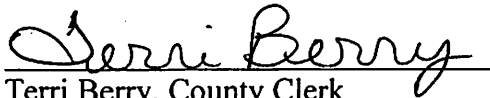
EXECUTED at 1:25 o'clock p.m. local time on the 1st day of April, 2020.

EFFECTIVE at 12:01 o'clock a.m. local time on the 2nd day of April, 2020.




Tom Keyes, County Judge
Gaines County, Texas.

ATTEST:



Terri Berry, County Clerk
Gaines County, Texas



Printed Name: Jackie Smith
Deputy County Clerk
Gaines County, Texas

EXHIBIT 1
(EO-GA-14, Dated March 31, 2020)