

**AGENDA for a Special Meeting
of the Board of Trustees of the Town of Fairplay, Colorado
Monday, June 29, 2020 at 6:00 p.m. at the Fairplay Town Hall Meeting Room
901 Main Street, Fairplay Colorado**

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE**
- III. ROLL CALL**
- IV. APPROVAL OF AGENDA**
- V. Should the Board Approve Adoption of Resolution No. 22, entitled, "A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FAIRPLAY, COLORADO, AUTHORIZING THE EXECUTION OF A COLLABORATIVE AGREEMENT BETWEEN PARK COUNTY, THE TOWN OF ALMA AND THE TOWN OF FAIRPLAY RELATED TO DISTRIBUTION OF CARES ACT FUNDS."?**
- VI. Other New Business**
- VII. ADJOURNMENT**

This agenda may be amended.

Posted at Fairplay Town Hall, Fairplay Public Library, Fairplay Post Office, and Town of Fairplay Website on Friday, June 25, 2020.

TOWN OF FAIRPLAY, COLORADO

RESOLUTION NO. 22

Series of 2020

A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO, AUTHORIZING THE EXECUTION OF A COLLABORATIVE AGREEMENT BETWEEN PARK COUNTY, THE TOWN OF ALMA AND THE TOWN OF FAIRPLAY RELATED TO DISTRIBUTION OF CARES ACT FUNDS.

WHEREAS, the State of Colorado has appropriated CARES Act funds to Park County Government to reimburse unbudgeted expenses due to the novel coronavirus (COVID 19) pandemic that has spread throughout the United States, Colorado and Park County; and

WHEREAS, Park County has determined it is in the best interests of the citizens of the County to work cooperatively with the Towns of Alma and Fairplay to allocate a portion of these funds to the municipalities to be used in accordance with the CARES Act; and

WHEREAS, Park County Government has requested that the Towns of Alma and Fairplay enter into a Collaborative Agreement with the County memorializing the distribution of these funds and expectations of each party associated with receipt of the funds.

NOW THEREFORE, BE IT RESOLVED THAT THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO THAT the Board of Trustees hereby authorizes the Town Administrator and/or Mayor to sign the Collaborative Agreement Related to Distribution of CARES Act Funds with Park County Government attached hereto.

RESOLVED, APPROVED, and ADOPTED this 29th day of June, 2020.

TOWN OF FAIRPLAY, COLORADO

(Seal)

Mayor

ATTEST:

Town Clerk

COLLABORATIVE AGREEMENT RELATED TO DISTRIBUTION OF CARES ACT FUNDS

This Collaborative Agreement for Funding related to the distribution of CARES act funds (“Agreement”) is made and effective on _____, 2020, by and among the Board of County Commissioners of Park County, Colorado (referred to as “County”), and the Town of Fairplay, Colorado, and the Town of Alma, Colorado (individually referred to as “Municipality” or collectively as “Municipalities”). (The County and Municipalities will jointly be referred to as the “Parties.”)

I. RECITALS

- A. The novel coronavirus referred to as COVID-19 has been declared a worldwide pandemic. National, state, and local emergencies have been declared as a result of COVID-19.
- B. All Parties, as local governmental entities, have expended significant effort and funds to protect the community from the impacts of COVID-19 and to slow its spread.
- C. Efforts to slow the spread and protect the community are ongoing and will require continued time and funding. Recovery efforts are also ongoing and will require the additional expenditure of time and funds.
- D. The emergence and rapid spread of COVID-19 was unexpected and unable to be predicted. Therefore, local governments could not have adequately budgeted for such expenses.
- E. The State of Colorado is appropriating \$1,616,658 of CARES funding to the Parties to reimburse these unbudgeted expenses through the Department of Local Affairs.
- F. The State of Colorado has designated DOLA as the fiscal agent for the funding which will be administered as a reimbursement program following eligibility verification performed by DOLA for the expenses
- G. All parties recognize that it is in the best interest of the Park County community to work cooperatively to ensure that all of the Park County allocation is applied to the benefit of Park County residents rather than allowing the funds to remain unspent and revert to the state-wide reserve fund pool for reallocation elsewhere in the state.
- H. The purpose of this Agreement is to provide the structure for how the Parties become eligible and obtain access to funds authorized by Title V, Section 5001(d) of the CARES Act and specifically allows the Parties to request reimbursement for program payments that: 1) are necessary expenditures incurred due to the public health emergency with respect to the COVID-19 pandemic; 2) were not accounted for in the

budget most recently approved as of March 27, 2020 by the Party requesting reimbursement; and 3) were incurred during the period that begins on March 1, 2020 and ends on December 30, 2020. Eligible expenditure guidance is provided by the U.S. Treasury (attached as Exhibit A)..

- I. The Parties wish to agree on an equitable distribution of the appropriated funds for the good of the community.
- J. The Parties have a successful history of working together for the benefit of the community.
- K. County and Municipalities are authorized pursuant to Article XIV, Section 18 of the Colorado Constitution and Section 29-1-201, et seq., Colorado Revised Statutes, to enter into agreements for the purpose of providing any service or performing any function which they can perform individually.

II. CONSIDERATION

NOW, THEREFORE, in consideration of the covenants and obligations herein expressed, the County and Municipalities agree as follows.

III. TERMS AND CONDITIONS

- A. Commencing on 7/7/2020 and continuing until 12/31/2020 the Parties agree to the following in relation to the CARES Act funds.
- B. The obligations of the County and Municipalities to commit or expend funds are subject to and conditioned on the receipt of the CARES Act funds.
- C. The funds will be distributed among the parties as outlined in Exhibit B, which is attached hereto and incorporated herein. Exhibit B contains the total estimated current and projected expenses by each unit of local government in order to establish “drawdown” of funds.
- D. Parties agree to the following formula which is the basis for Exhibit B:
 - a. Approximately 10% reserve of the total allocation to Park County and Municipalities for contingency (\$161,666.000).
 - b. The allocation to the County for direct expenditure in county-wide Public Health and Emergency Management and Recovery to benefit both incorporated and unincorporated regions of the county (\$1,454,992.00).
 - c. Approximately 62% allocated to the County (\$1,018,494.00).
 - d. Approximately 27% allocated to the Municipalities (\$436,498.00) (the “Municipal Allocation”).

- e. The Municipal Allocation shall be distributed to the Municipalities based on their respective population bases. Fairplay allocated approximately 71% of the Municipal Allocation (\$309,914.00). Alma allocated approximately 29% (\$126,584.00) of the Municipal Allocation.
- E. By this agreement, each Party will separately apply for the funds allocated to them as allocated in Exhibit B and shall complete a one-time opt-in web-based form which will be submitted via DOLA's Grant Portal no later than July 7, 2020.
- F. The Parties understand they will need to follow all reimbursement requirements as established by DOLA for those eligible CARES Act reimbursement funds for COVID-19 pandemic related costs as further set forth in guidance provided by the U.S. Treasury. Each Party is individually responsible for any record keeping, implementing the necessary controls, financial reporting, and accounting related to such funds as required by applicable statute, DOLA guidelines, and any applicable federal or state laws, and for completing all activities necessary to become eligible to receive reimbursement from the CARES Act funds. Failure to do so may result in forfeiture of funds.
- G. Each Party assumes responsibility for the funds distributed to them (other than the other party's assuming responsibility and liability related to any funds distributed to the Party by the County) and also assumes responsibility for ensuring the funds are only used for eligible expenses as determined by DOLA under the CARES act criteria.
- H. Each Party will assume responsibility for initially covering their own costs and await reimbursement from DOLA. No Party will have any expectation of other parties to the agreement providing any money to another.
- I. All Parties may seek partners on projects eligible for CARES reimbursement from among the other Parties signatory to the agreement. No Party is under any obligation to participate in any such partnership.
- J. The parties will confer in early September 2020 to share information about the progress of each Party's application of the funds to beneficial use in the community.
- K. Each Party will keep an appropriate accounting of the expenditure of funds sufficient to meet the requirements of DOLA, and their own accounting practices.
- L. This Agreement is to be construed according to its language using a plain and clear on its face meaning and as if prepared by all parties hereto and is deemed to be and contain the entire understanding and agreement between the parties hereto. There shall be deemed to be no other terms, conditions, promises, understandings, statements, or representations, expressed or implied, concerning this Agreement unless set forth in writing and signed by the Parties hereto.

- M. This Agreement cannot be modified except in writing signed by all Parties.
- N. This Agreement will be governed by and its terms construed under the laws of the State of Colorado. Venue for any action shall be in Park County, State of Colorado.
- O. Nothing contained herein is deemed or should be construed by the Parties or by any third party as creating the relationship of principle and agent, a partnership or a joint venture between the Parties, or an employment relationship between the Parties.
- P. This Agreement is made for the sole and exclusive benefit of County and Municipalities, their successors and assigns, and it is not made for the benefit of any third party.
- Q. If any term or condition of this Agreement is held to be invalid by final judgment of any court of competent jurisdiction, the invalidity of such a term or condition, will not in any way affect any of the other terms or conditions of this Agreement, provided that the invalidity of any such term or condition does not materially prejudice any Party in their respective rights and obligations under the valid terms and conditions of this Agreement.
- R. No Party will be deemed in violation of this Agreement if prevented from performing any of its respective obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortage of energy or materials, acts of God, acts of public enemies, acts of superior governmental authorities, weather conditions, riots, rebellions, sabotage, or any other circumstances for which it is not responsible or that are not within its control.
- S. Notification to Parties to this Agreement shall be made to the addresses listed on Exhibit C.
- T. This Agreement may be signed by the Parties in counterpart.

BOARD OF COUNTY COMMISSIONERS OF
PARK COUNTY, COLORADO

By: _____

Title: _____

ATTEST:

Approved as to form:

County Attorney

TOWN OF ALMA, COLORADO

By: _____

Title: _____

ATTEST:

Approved as to form:

Town Attorney

TOWN OF FAIRPLAY, COLORADO

By: _____

Title: _____

ATTEST:

Approved as to form:

Town Attorney

EXHIBIT "A"

Coronavirus Relief Fund
Guidance for State, Territorial, Local, and Tribal Governments
April 22, 2020

The purpose of this document is to provide guidance to recipients of the funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). The CARES Act established the Coronavirus Relief Fund (the “Fund”) and appropriated \$150 billion to the Fund. Under the CARES Act, the Fund is to be used to make payments for specified uses to States and certain local governments; the District of Columbia and U.S. Territories (consisting of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and Tribal governments.

The CARES Act provides that payments from the Fund may only be used to cover costs that—

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
2. 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; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.¹

The guidance that follows sets forth the Department of the Treasury’s interpretation of these limitations on the permissible use of Fund payments.

Necessary expenditures incurred due to the public health emergency

The requirement that expenditures be incurred “due to” the public health emergency means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred to allow the State, territorial, local, or Tribal government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

The statute also specifies that expenditures using Fund payments must be “necessary.” The Department of the Treasury understands this term broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.

Costs not accounted for in the budget most recently approved as of March 27, 2020

The CARES Act also requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. A cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget *or* (b) the cost

¹ See Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act.

is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

The “most recently approved” budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020

A cost is “incurred” when the responsible unit of government has expended funds to cover the cost.

Nonexclusive examples of eligible expenditures

Eligible expenditures include, but are not limited to, payment for:

1. Medical expenses such as:
 - COVID-19-related expenses of public hospitals, clinics, and similar facilities.
 - Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs.
 - Costs of providing COVID-19 testing, including serological testing.
 - Emergency medical response expenses, including emergency medical transportation, related to COVID-19.
 - Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment.
2. Public health expenses such as:
 - Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
 - Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.
 - Expenses for disinfection of public areas and other facilities, e.g., nursing homes, in response to the COVID-19 public health emergency.
 - Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
 - Expenses for public safety measures undertaken in response to COVID-19.
 - Expenses for quarantining individuals.
3. Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

4. Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:
 - Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
 - Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
 - Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.
 - Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
 - COVID-19-related expenses of maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures, to enable compliance with COVID-19 public health precautions.
 - Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.
5. Expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, such as:
 - Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.
 - Expenditures related to a State, territorial, local, or Tribal government payroll support program.
 - Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.
6. Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund's eligibility criteria.

Nonexclusive examples of ineligible expenditures²

The following is a list of examples of costs that would *not* be eligible expenditures of payments from the Fund.

1. Expenses for the State share of Medicaid.³
2. Damages covered by insurance.
3. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

² In addition, pursuant to section 5001(b) of the CARES Act, payments from the Fund may not be expended for an elective abortion or on research in which a human embryo is destroyed, discarded, or knowingly subjected to risk of injury or death. The prohibition on payment for abortions does not apply to an abortion if the pregnancy is the result of an act of rape or incest; or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

Furthermore, no government which receives payments from the Fund may discriminate against a health care entity on the basis that the entity does not provide, pay for, provide coverage of, or refer for abortions.

³ See 42 C.F.R. § 433.51 and 45 C.F.R. § 75.306.

4. Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds.
5. Reimbursement to donors for donated items or services.
6. Workforce bonuses other than hazard pay or overtime.
7. Severance pay.
8. Legal settlements.

EXHIBIT "B"

Party	Allocation Amount
Park County, Colorado	\$ 1,454,992.00
Town of Alma, Colorado	\$ 309,914.00
Town of Fairplay, Colorado	\$ 126,584.00

EXHIBIT "C"

To County:

County Manager
Park County, Colorado
P.O. Box 1373
Fairplay, CO 80440

To Alma:

Town Administrator

To Fairplay:

Town Administrator