

**AGENDA for a Special Meeting
of the Board of Trustees of the Town of Fairplay, Colorado
Monday, December 12, 2022, at 6:00 p.m.
at the Fairplay Town Hall Board Room
901 Main Street, Fairplay, Colorado**

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. APPROVAL OF AGENDA

V. NEW BUSINESS

A. CONTINUED FROM DECEMBER 5, 2022 – Should the Board Approve Adoption of Resolution No. 47, series of 2022, entitled, “**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FAIRPLAY, COLORADO, APPROVING AND INTERGOVERNMENTAL AGREEMENT WITH THE COUNTY OF PARK, COLORADO, ON BEHALF OF THE PARK COUNTY SHERIFF’S OFFICE, FOR LAW ENFORCEMENT SERVICES.**”?

VI. STAFF AND BOARD OF TRUSTEE REPORTS

VII. ADJOURNMENT.

Upcoming Meetings/Important Dates

Fairplay Holiday Lighting Contest Judging	December 15, 2022
Christmas Holiday – <i>TOWN OFFICES CLOSED</i>	December 23 & 26, 2022
New Year’s Holiday – <i>TOWN OFFICES CLOSED</i>	January 2, 2023
Fairplay Board of Trustees Regular Meeting	January 9, 2023 6:00 PM



Town of Fairplay

400 Front Street • P.O. Box 267
Fairplay, Colorado 80440
(719) 836-2622 phone
(719) 836-3279 fax
www.fairplayco.us

STAFF REPORT

TO: Honorable Mayor Just and Board of Trustees

FROM: Janell Sciacca, Town Administrator

RE: IGA With Park County and Sheriff for Law Enforcement Service in Town of Fairplay
Resolution No. 47, Series of 2022

DATE: December 12, 2022

BACKGROUND/ANALYSIS:

Colorado Revised Statutes CRS 29-1-201 permits and encourages government entities to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with one another. In budget discussions for the 2023 calendar year, the Board of Trustees generally agreed that it would be in the best interests of the financial health of the Town and the health, safety and welfare of the citizens of the Town of Fairplay to initiate discussions regarding the possibility of contracting with Park County and the Sheriff's Office to provide for expanded and more comprehensive law enforcement. Combining forces with the Sheriff could result in a substantially greater number of Deputies available to patrol the Town and respond to calls for service and large-scale events and also provide for added services such as Investigations, Animal Control, Narcotics, Civil, Professional Standards, a formal citizen complaint process, etc.

The Town currently employs 4 full-time Officers, and 1 part-time Officer. This number includes the Chief of Police. For the Town to provide sufficient coverage, the Officers rarely see one another, and sicknesses are difficult to cover when Officers have already worked their hours and have to cover shifts on days off. Scheduling also makes it difficult for Officers to take vacations, get in required training or participate in Town Staff events. These issues have taken their toll on the morale and overall health of the Chief and the Officers.

The Sheriff's Office currently consists of the Sheriff, Undersheriff, one Patrol Lieutenant, one Administrative Sergeant, one Animal Control Officer, 2 Detectives, and 14 Patrol Deputies with 2 new hires in process. There are also multiple civilian Staff as well as a Jail Captain, Jail Sergeant, 3 Jail Corporals and 11 Jail Deputies. In addition, there are 8 Posse members and 1 Reserve Deputy. Therefore, should the Town decide to contract with the Sheriff, total law enforcement Staff available to the Town in some fashion would increase significantly more than the current level. Additionally, the Town Officers would be part of a much bigger organization which would provide them more routine employment terms for law enforcement, better training, standard policies and rules of procedure and conduct, development and career advancement prospects, opportunity to bond with brothers and sisters in blue, a well-established chain of command and performance evaluation system, a grievance process, better pay and the potential to work closer to their home area for several.

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In 2021, the calls for service in Fairplay were approximately 1,027 or 2.81 per day. For 2022, the to-date number is approximately 1,490 or 4.08 calls per day. These numbers include everything from traffic stops to VIN inspections, to domestics, agency-assists, etc.

At the meeting held on December 5, members of the community voiced many of their concerns. Those are listed below with responses from the Town Officials or the Sheriff along with additional information:

1. *Seeing Officers drive down the Town Streets and wave.* Deputies are already driving down the streets and making impacts on traffic enforcement and school safety. They will get to know the people living in the Town just like the current Officers did and many times citizens may see the current Officers patrolling as Deputies if the agreement is approved. The Sheriff has committed to using the current Officers to bring all Deputies up to speed on everything Fairplay.
2. *Deputies will not be available due to response elsewhere in the County.* Town Officers were already responding to assist the County leaving the town uncovered at times. However, the County/State/Town worked together and will continue to work together to cover during those situations. There are always Deputies, Jailers and Command Staff at the Jail that can be dispatched within the Town as a moment's notice. With major events, the Sheriff can call in other jurisdictions and agency support as has been done in the past with adjacent counties.
3. *Growth will outpace law enforcement personnel.* This sentiment reflects the foresight that the Board and Staff have pondered throughout this planning process. Growth is occurring everywhere. By merging our forces, the Town and County can partner together to attract more qualified candidates and search out possible housing options. Many law enforcement personnel would prefer to work and live in the small mountain communities instead of the big towns with major crime. Development will not happen overnight and with the current economic problems, it could be 5-10 years before there is any significant increase in the number of residents. The Town can also implement impact fees on new development. A development fee imposed on new residential and non-residential projects to fund the proportionate share of the Public Facility costs created by new development for law enforcement buildings, vehicles, and equipment created by new development could help offset the impacts.
4. *Town taxpayer monies going to the County instead of the Town.* Homeowners with a \$400,000 home pay less than \$200/year to the Town in property taxes or around \$3.20 yearly toward the current \$600,000 Police Budget. Most of the revenue the Town collects is from Sales Tax. Someone who might buy \$25,000 of sales taxable items in the Town, would only pay about \$1,000 in sales tax toward the Town's overall budget. Most taxes that support the Town's budget are paid by tourists and travelers.
5. *Ability or inability of the Town to hire a new police force if the agreement fails.* Again, it behooves both parties and the citizens to work together to protect the Town and the County as a whole. We must support one another for the greater and common good. However, if the Town needed to hire its own Officers, it can be done and there would be no less than 6 months that the Town would have to recruit and hire several Officers. The IGA agreement fully covers processes to maintain workability of the arrangement and sets forth the process for addressing issues and negotiations should they arise. The Sheriff will be required to report on a regular basis to the Town Board which also allows opportunity to hash out and potential issues.
6. *Feels like a done deal.* It is not a done deal, but when the average person, who can set aside personal opinions and objectively evaluate the situation weighing the pros and cons, looks at the matter overall, it is clear why the Board chose to pursue an agreement. Personal opinions and individual feelings should also be set aside to truly see the benefits that will be provided to the Officers as well.

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7. *If It ain't broke don't fix it.* The Town is not trying to fix any situation. The Town is seeking to expand and improve on the current level of service in the best interests of the community.
8. *Will the Town get the same/better and consistent service.* The Chief himself stated that the citizens would probably see the same level of service or better. The Sheriff then stated that he plans to have the same Deputies working in the same areas so they would have the opportunity to provide the hometown police department-type service as well. The Sheriff also stated his department was trying to hire local people, provide them training and then require them to stay with the organization for 3 years which provides for continuity. The Town and County are working together on Affordable/Workforce housing to help attract and retain qualified people to the community and many Officers/Deputies from larger jurisdictions are moving to small, rural areas where law enforcement is still supported and appreciated.

An IGA with the Sheriff will gain the Town access to additional services it does not, nor will it have without the significant expense of hiring specially trained Staff. These are Narcotics Officers to conduct drug investigations and enforcement; Detectives to investigate and prosecute significant crimes; Animal Control Officers to deal with dogs at large, barking dogs and administration of a licensing program; a Chain of Command with a well-established system to investigate allegations against Deputies, and a whole host of other ancillary services and programs.

Again, the Town Board is confident the citizens of Fairplay will see better and more well-rounded services, which is the whole intent and based upon concerns voiced by members of our community.

9. *Make sure the Town Officers are taken care of.* Sheriff McGraw stated he would guarantee the Officers would be taken care of, and Mayor Just and the entire Board of Trustees committed at the beginning of discussions to utilize any realized savings from the 2023 budget, if the agreement were approved, to ensure all Officers were compensated appropriately.

STAFF RECOMMENDATION

Staff recommends the Board allow for public input on the IGA, conduct deliberations and then *approve or deny* Resolution No.47, Series 2022, by motion, second and a roll call vote.

Attachment:

1. Resolution No. 47, Series of 2022
2. Intergovernmental Agreement

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TOWN OF FAIRPLAY, COLORADO

**RESOLUTION NO. 47
(Series of 2022)**

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FAIRPLAY, COLORADO, APPROVING AND INTERGOVERNMENTAL AGREEMENT WITH THE COUNTY OF PARK, COLORADO, ON BEHALF OF THE PARK COUNTY SHERIFF'S OFFICE, FOR LAW ENFORCEMENT SERVICES.

WHEREAS, the Town of Fairplay, Colorado ("Town") is a statutory town, duly organized and existing under the laws of the state of Colorado; and

WHEREAS, pursuant to C.R.S. § 31-15-401, the Town, by and through its Board of Trustees ("Board") and through its police powers, possesses the authority to regulate the police and the enforcement of laws of the municipality; and

WHEREAS, pursuant to C.R.S. § 31-15-402, the Town, by and through its Board of Trustees ("Board"), possesses the authority and has general powers in relation to the finances of the Town; and

WHEREAS, the Board of Trustees has determined it is in the best interests of the Town of Fairplay, Colorado, in furtherance of the public health, safety and welfare, to contract with the Park County Sheriff's Office for comprehensive law enforcement services.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO, THAT:

Section 1. The Board of Trustees of the Town of Fairplay, Colorado, hereby approves the Intergovernmental Agreement between the Town of Fairplay, Colorado, and The County of Park, Colorado, attached hereto as "Exhibit A" and authorizes the Mayor to execute same on behalf of the Town.

Section 2. This resolution shall become effective upon adoption.

RESOLVED, APPROVED, and ADOPTED this 5th day of December, 2022.

TOWN OF FAIRPLAY, COLORADO

ATTEST:

Frank Just, Mayor

Janell Sciacca, Town Clerk

EXHIBIT A

INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF FAIRPLAY, STATE OF COLORADO AND THE COUNTY OF PARK, STATE OF COLORADO

THIS INTERGOVERNMENTAL AGREEMENT, is made and entered into this ____ day of _____, 2022, by and between the Town of Fairplay, State of Colorado, a municipal corporation, by and through its Board of Trustees (hereinafter "Fairplay" or "Town"), and the County of Park, State of Colorado a political subdivision, by and through its Board of County Commissioners on behalf of the Park County Sheriff's Office (hereinafter "Sheriff" or "County").

WITNESSETH

WHEREAS, pursuant to C.R.S. 29-1-201 et. seq., the County and the Town are permitted and encouraged to enter into Intergovernmental Agreements in order to make the most efficient and effective use of their powers and responsibilities in order to provide for any government function, service or facility; and

WHEREAS, any such contract shall set forth fully the purposes, powers, rights, obligations, and the responsibilities, financial and otherwise, of the contracting parties; and

WHEREAS, the Sheriff, Undersheriff, and Sworn Deputies are authorized to provide law enforcement services in the County of Park, Colorado; and

WHEREAS, the Town is located within the County of Park, Colorado, and desires to provide expanded, enhanced and more comprehensive law enforcement services within the boundaries of the corporate limits of the Town of Fairplay, Colorado; and

WHEREAS, the County and the Sheriff, are willing and able to provide said law enforcement services within the boundaries of the corporate limits of the Town of Fairplay, Colorado;

NOW, THEREFORE, in consideration of the covenants, specified herein, the parties hereto agree as follows:

1. Town and County desire to enter into an agreement for the provision of Law Enforcement Services by the Sheriff within corporate Fairplay corporate town limits.
2. The Town, which is located within the County of Park, currently has, but may not continue to have, its own municipal police force, and has determined that it is in the best interest of the Town and its citizens to contract with the County and Sheriff to provide Law Enforcement Services, as defined herein, within the Town's corporate boundaries pursuant to the terms this Agreement.
3. The Sheriff has determined that his office has the resources to provide Law Enforcement Services to the Town and is willing and able to provide the requested services in exchange for the compensation to be provided by the Town to the County pursuant to this Agreement.
4. This Agreement is authorized pursuant to Section 18, Article XIV, of the Colorado Constitution, C.R.S. §29-1-201, et seq and C.R.S. §30-11-410.
5. As evidenced by their respective signatures, and in consideration of the covenants specified herein, Town and County have accepted and consented to the terms and conditions of this Agreement.

1. TERRITORY COVERED AND TERM

- 1.1 The Sheriff shall provide the Law Enforcement Services as set forth herein within the corporate limits and boundaries of Town.
- 1.2 The Term of this Agreement shall commence on January 1, 2023, and shall end at 12:00 midnight on December 31, 2023.
- 1.3 This Agreement shall automatically renew for successive one year terms, unless one party gives the other party written notice of non-renewal at least one hundred eighty (180) days prior to December 31st of the then current term.
- 1.4 Notwithstanding anything herein to the contrary, the Town may terminate this Agreement upon one hundred eighty (180) days written notice if: (1) there is a material breach by the County of its obligations hereunder which is not cured within sixty (60) days of written notice by Town of the County's material breach or non-performance hereunder; or (2) County fails to provide a timely or reasonable budget; or (3) County fails to provide coverage or services as agreed to in this agreement.
- 1.5 Notwithstanding anything herein to the contrary, County may terminate this Agreement upon one hundred eighty (180) days written notice if: (1) there is a material breach by the Town of its obligations hereunder which is not cured within sixty (60) days of written notice by County of the Town's material breach or non-performance hereunder; or (2) Town fails to make any payment required hereunder; or (3) the Town elects not to budget and appropriate monies for this Agreement for any year.
- 1.6 Either party may terminate this Agreement if the Town and County fail to timely agree to the budget for any year, in which case this Agreement shall terminate at the end of the current year, subject to the required one hundred eighty (180) days written notice provided for in this section.
- 1.7 If any duties within the agreement are not performed, the Town Mayor, with Town Board approval, will provide written certified notice to the Sheriff as to nonperformance of duties in which the Sheriff has thirty (30) days to respond. If the Town deems the Sheriff's response to be unacceptable, the Town may then provide written ninety (90) day notice of termination of the agreement. In an effort to avert the aforementioned, the Sheriff and the Mayor may meet for the purpose of reviewing the Law Enforcement Services performed, and to be performed, provided that any changes to the Law Enforcement Services / Scope of Services and provided herein shall require mutual approval by the Board of County Commissioners and the Town Board.

2. SCOPE OF SERVICES

- 2.1 The County, through the Sheriff, agrees to use reasonable efforts and discretion to provide, and in providing, the law enforcement services specified in this Section 2., within the corporate limits of the Town of Fairplay (herein "Law Enforcement Services"). County hereby delegates to, and hereby deputizes and authorizes, the Sheriff, his deputies, lieutenants, sergeants, officers, agents and employees, the necessary authority to provide such services and apply and enforce the appropriate state and federal laws, rules and regulations as well as the criminal ordinances of County, and as specified herein, the applicable criminal, traffic and animal control Fairplay Town Ordinances. For the purpose of Park County's providing of the Law Enforcement Services set forth in this Agreement, and only for the purpose of giving official status to the performance thereof, the deputies, lieutenants, sergeants, officers, agents and employees of the Sheriff's Office engaging in performance of such Law

Enforcement Services shall have the authority to act for County while performing such service or function within the corporate limits of the Town of Fairplay.

- 2.2 Law Enforcement Services shall include enforcement of Colorado Revised Statutes, Park County Fire Ban, Model Traffic Code, and Fairplay Town Ordinances including animal control. The Sheriff shall have no obligations to enforce Town building codes, zoning codes, fire codes, plumbing codes, or electrical codes.
- 2.3 Supervisor for Law Enforcement Services in the Town of Fairplay: The Sheriff's appointed Patrol Lieutenant, will be responsible for the supervision of law enforcement and public safety operations for Town, and will serve as the ombudsman/supervisor. The Lieutenant/Supervisor will be appointed by the Sheriff. The Sheriff will weigh and consider, but not be bound by, input from the Town on his appointment. It is the intent of the parties that experience, consistency and continuity of service and keeping with the principles of community and problem-oriented policing, are of value to the Town and its citizens and are required elements of the position of the Supervisor for the Town of Fairplay. It is understood by the Town that the length of this appointment, and any termination of such appointment, are to be determined at the discretion of the Sheriff. It is additionally understood that there will be twenty-four hour/ seven days per week supervision for all patrol functions. It is further understood that shift supervisors will have and retain their full County responsibilities as well as responsibilities in the Town of Fairplay.
- 2.4 Town Police Officers: If the one-time Park County Sheriff's lateral Deputy testing is successfully completed and passed by each Town Police Officer, and if they otherwise qualify for appointment, the Sheriff will laterally transfer those successful current full-time Town Police Officers to be employed by County to the Sheriff's Office and appoint said officers as Deputies and employees of the Sheriff's Office, to fill any vacancies in the Sheriff's Office. Should a Town Police Officer fail to successfully complete the Sheriff's lateral Deputy testing, the Sheriff will not extend an offer of employment.
- 2.5 Notwithstanding anything in this Agreement to the contrary, the Sheriff shall not be required to provide Law Enforcement Services to the Town that exceed the level of law enforcement services provided in the unincorporated areas of Park County. The Sheriff will, staffing levels permitting, as determined by the Sheriff in his discretion, split the current Patrol zones in the south end of the county to better provide Law Enforcement services to the Town of Fairplay. In order to minimize unnecessary duplication of law enforcement services, the Parties agree that deputies assigned to the Town's patrol district from time to time may respond to other jurisdictions, including unincorporated Park County, as needed, as determined by the Sheriff in his discretion. Similarly, Sheriff's personnel assigned elsewhere in the County, may from time to time, be used for Law Enforcement Services within the Town. The Sheriff agrees to incorporate in the Department's patrol schedule coverage to include school zones patrols, which should generally be conducted during the morning arrival and late afternoon departure hours or at such times as deemed appropriate by the Sheriff. All traffic and citation related fines and fees shall be retained by the County.
- 2.6 Equipment: The County Sheriff's Office will provide equipment, training, uniform allowance, vehicles and supplies for deputies provided hereunder, on the same basis as the County/Sheriff provides such to deputies assigned to other patrol districts within unincorporated Park County. Such costs will be included in the annual budget provided for under Section 3.1.

- 2.7 Current Town Police Department vehicles and other capital equipment may be provided to the County for the use of Deputies under a separate agreement and the same may be negotiated between Town and the County for such vehicles and equipment owned by the Town.
- 2.8 The Sheriff shall make available to all Deputies the proper training to maintain their status of Certified Peace Officer in the State of Colorado. The Sheriff further agrees that each Deputy assigned on a regular basis shall have completed at least the minimum training in Community Policing to be able to perform his or her duties under the terms of this Agreement.
- 2.9 The Sheriff will, unless circumstances elsewhere in Park County impact such availability, as determined by the Sheriff in his discretion, provide extra-duty deputies to patrol the Town of Fairplay for special events as requested by the Town. Normally these patrols will be performed by Sheriff's Reserve deputies and or Sheriff's posse members. The Town will be responsible for compensating the County for such extra-duty hours at the current County contractual extra-duty rate charged by the Sheriff's Office.
- 2.10 The Sheriff shall maintain in the Sheriff's records system, and in accordance with the Sheriff's applicable records retention policies, records relating to criminal complaints, arrests, and other official law enforcement actions taken by the Sheriff for Law Enforcement Services provided within the Town of Fairplay under this Agreement. During and after the termination of this Agreement, the Town shall have reasonable access to the Sheriff's records for all information pertaining to any entry made by the Sheriff for such matters on behalf of Town under this Agreement, which access shall be granted at no charge and for legitimate County law enforcement purposes.
- 2.11 All Sheriff's personnel provided under the terms of this Agreement will wear the uniform of the Sheriff's Office and the Sheriff shall provide the Town Administrator a complete list of sworn deputies at the beginning of each year and subsequently provide regular updated copies when/if turnover or other circumstances results in significant changes to staffing.
- 2.12 The Sheriff will provide reports to the Town of police activity within the Town of Fairplay on a quarterly basis or within any reasonable time period as requested by the Town Administrator, or designee. This reporting shall include written and/or oral reports to the Town Board at the Board's regular meetings on a quarterly basis, or more/less often as determined by the Town Administrator, or designee. In addition, to the extent the Sheriff's schedule permits, as determined by the Sheriff in his discretion, the Sheriff will submit to the Town Board written monthly activity reports.
- 2.13 The Law Enforcement Services shall include EMS and fire dispatching services within the Town.
- 2.14 Animal Control enforcement will be provided by the Sheriff's regular Animal Control Officers. County shall ensure that the Town has adopted/will promptly adopt an Animal Control Ordinance in substantial conformance to the Park County Animal Control Resolution of 1995. Upon notice from Park County, the Town shall ensure that the Town promptly adopts any amendments to such Ordinance. All Animal Control fines and fees shall be retained by the County.
- 2.15 In the event that Deputies assigned to the Town under this Agreement incur overtime expenses in providing Law Enforcement Services, the Sheriff shall, at his discretion, manage the overtime issue through the use of comp time or the Sheriff's Office overtime budgeted line item approved by the County.
- 2.16 In situations where time and expenses are incurred because of an extraordinary criminal investigation, as reasonably determined by the Sheriff, that occurs within the Town limits, the Sheriff or his designee shall, as soon as practicable, notify the Town Administrator, or designee,

of said determination. The Sheriff shall consult with the Town Administrator, or designee, regarding the estimated costs to be charged as a result of the extraordinary investigation and cooperate to reasonably minimize the extra cost to the Town. The County shall submit monthly invoices for the amounts expended by the County for such overtime expenses, forensic examination expenses, expert analysis expenses and other expenses incurred that are specific to that investigation by the 15th of the month following the incurring of such expenses. The Town shall, upon receipt of invoices, process them for payment to the County after the first Town Board meeting following receipt of invoices.

- 2.17 The Sheriff shall make available to the Town a copy of the Sheriff's Office Policies and Procedures, including a copy of the County Personnel Manual. The Town shall maintain the confidentiality of any such non-public documents supplied by the Sheriff.
- 2.18 All personnel assigned to the Town patrol district under this Agreement shall remain employees of the County Sheriff's Office. The County shall continue to be responsible for administering all wages, withholdings, retirement contributions, worker's compensation, unemployment benefits, dental, medical and life insurance consistent with and in accordance with the County's compensation, personnel and benefit policies as approved by the Park County Board of County Commissioners.
- 2.19 If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any Town ordinance, rule, regulation, resolution, custom, policy or practice is at issue, as long as such is not adopted at the request of the County, the Town shall defend the same at its sole expense and if judgment is entered or damages are awarded against the Town, the County, or both, the Town shall satisfy the same, including all chargeable costs and attorney's fees.

3. COMPENSATION FOR LAW ENFORCEMENT SERVICES

- 3.1 The Town shall pay the County for the services provided under this Agreement based upon the budget that the parties approve, working diligently and in good faith, for each calendar year. The Sheriff, on behalf of the County, shall prepare and submit to the Town and County, by August 1st of each year in which this Agreement is in effect, a proposed budget for the base Law Enforcement Services to be provided hereunder for the ensuing calendar year. Said budget, subject to supplemental appropriations as they may be agreed to by the Parties, shall be the amount which the Town shall pay to the County for the Law Enforcement Services under this Agreement for the ensuing calendar year, provided that said budget is approved by the Town of Fairplay Town Board of Trustees and the Park County Board of County Commissioners, prior to the beginning of the ensuing calendar year for which the budget is to be in effect. For the portion of calendar year covered by this Agreement, and in the manner provided in this Section 3.1, the Town has budgeted and appropriated funds for the remainder of 2023 in the amount set forth in this Agreement and attached as Exhibit A, and Exhibit A shall be the agreed upon budget for 2023.
- 3.2 The annual cost of services will be divided into quarterly installments and the County will invoice the Town in such quarterly installments. The County shall invoice the Town the first week of each calendar quarter (January, April, July and October). The Town shall pay the County for the entire amount invoiced no later than thirty (30) calendar days after the date of the invoice. If the County fails to invoice the Town by the date described above, the Town shall have thirty (30) days from the date of the said County invoice to make the

payment. If the County submits the invoice by the date described above and the Town fails to make payment within 30 days, the County may add a late charge of one percent (1%) to each invoiced amount for which late payment is made.

- 3.3 All obligations of the Sheriff under this Agreement are expressly contingent upon funds being appropriated, budgeted, approved, or otherwise made available by the Town, County or other source, for purposes of carrying out this Agreement. To the extent that such funding is not made available, either in whole or in part, the Parties shall notify the other, this Agreement shall terminate, and the Parties shall be released from any obligations under this Agreement for which such funding is required.
- 3.4 The Town and the County are not obligated by this Agreement to make any payments or provide any services in any fiscal year beyond the fiscal year for which funds are appropriated for payment or providing thereof or to make any payments from any funds of that party other than funds appropriated for the payment of current expenditures. All payment and other obligations of the Town or County under this Agreement are from year to year only and do not constitute a multiple-fiscal year direct or indirect debt or other financial obligation of the Town or County.
- 3.5 If this Agreement is terminated for any cause during a calendar year, Town shall be responsible only for the prorated costs through the termination date.
- 3.6 The Town has/will provide at no cost to the County an office space in Town Hall for the use of Sheriff's Deputies and Animal Control when needed.

4. ADDITIONAL PROVISIONS

The Parties agree that the following additional provisions shall apply to the Sheriff's provision of Law Enforcement Services under this Agreement:

- 4.1 Any citizen complaints of violation of law or policy by Sheriff's Deputies assigned to the Town's patrol district shall be made by the complaining person in writing on the Park County Sheriff's Office Citizens Complaint form, and in compliance with the then existing Sheriff's Policy and Procedure for Professional Standards investigations. Pursuant to that policy, the Sheriff, or his designee, shall inform the Town in writing when any such complaint is received, including the name of the Deputy complained against and the nature of the complaint. The Sheriff, or his designee, shall also notify the Town of the final disposition of any such complaint after the Sheriff's internal investigation has been completed.
- 4.2 Any complaint by the Mayor and Town Board of violation of law or policy by Sheriff's Deputies assigned to the Town's patrol district shall be made by the Town Administrator, or designee, on behalf of the Town Board in writing to the Sheriff. The Sheriff in compliance with the then existing Sheriff's Policy and Procedure for Professional Standards investigations shall discuss the nature and final disposition of the complaint with only those supervising staff within the Sheriff's Office and the County Attorney's Office, and with the Town Administrator, or designee and Town Attorney. Pursuant to that policy the Sheriff, or his designee, shall inform the Town in writing when any such complaint is received, including the name of the Deputy complained against and the nature of the complaint. The Sheriff, or his designee, shall also notify the Town Administrator, or designee, of the final disposition of any such complaint after the Sheriff's internal investigation has been completed. The Town Administrator, or designee, may convey the results of the investigation either orally or in writing to Town Board.

- 4.3 The Party receiving a complaint from any member of the public regarding the substance of policies related to the services provided under this Agreement shall forward the complaint, in writing, to the Party whose policy is in question.
- 4.4 Selection of the Sheriff's Deputies to be assigned to the Town's patrol district under this Agreement will be made by the Sheriff, considering, but not being bound by, input from the Town if they so desire. Current Town of Fairplay Police Officers who have been hired as Park County Deputies should, if reasonably possible, continue to be assigned to the Town of Fairplay for a period of time to ensure the continuity of services and to provide orientation assistance to newly assigned Deputies. The Parties agree that this assignment is temporary and that those current Town of Fairplay Police Officers who have been hired as Park County Deputies may be re-assigned by the Sheriff at his discretion.
- 4.5 The Sheriff shall be deemed to be the Chief of Police of the Town of Fairplay and shall perform the duties of Police Chief cited in CRS 31-4-112 and Fairplay Municipal Code Section 2-5-30. The Sheriff shall be responsible for the supervision and operation of the force in its provision of services hereunder. For purposes of this Agreement, the Sheriff may delegate his responsibilities to other commanding officer(s) within the Sheriff's Office who may then act as his official representative to receive communication from and communicate to the Town. Any questions or concerns with operational issues shall be first made to the supervision Deputy, the Operations Division Lieutenant or Commander and/or his designee. Issues concerning matters of policy shall be directed to the Operations Division Lieutenant or Commander and/or his designee or the Sheriff. The supervising Deputy and all Sheriff's personnel acting under or above him shall at all times be entitled to exercise reasonable efforts and discretion to determine appropriate law enforcement response, charges filed, and priorities in the course of providing Law Enforcement Services hereunder, and in so doing shall at all times be subject to and guided by the mission and values statement and policies and procedures of the Sheriff's Office.
- 4.6 The Town Administrator, or designee, shall be the contract monitor who will act on behalf of the Town to ensure that the provisions of this Agreement are met. The Sheriff, or his designee, shall make all reports and correspondence (both written and verbal) to the Town Administrator, or designee. The Sheriff will allow the Town Administrator, or designee reasonable access to records and Sheriff's staff for this purpose.
- 4.7 The Parties agree that the relationship of the Sheriff to Town under this Agreement is that of any independent contractor. In this, and for the sole purposes of acting as provided in Section 4.5 and providing the services contracted for hereunder, the Sheriff may be considered to be an agent of the Town of Fairplay; for all other purposes, however, the Sheriff and his Deputies provided under this Agreement shall be considered to be officials or employees of Park County and not employees of the Town of Fairplay. All other persons who are employed by or acting as agents of the Town of Fairplay shall be considered to be employees or agents of the Town of Fairplay and not of the County or the Sheriff's Office, and no person who is not an Officer, Deputy or other person of, employed by or expressly commanded by the Sheriff in the course of providing Law Enforcement Services hereunder shall be considered to be an agent or employee of the Town for any purpose.
- 4.8 For the purposes of Section 4.6, the relationships between the Parties as described in Section 4.5 above shall apply. Also consistent with Section 4.6, The Town shall consider the County, which is the governmental entity financially responsible for the Sheriff's budget, to be the same party as the Sheriff. Nothing in Section 4.6 or elsewhere in this Agreement shall be construed

in any way to be a waiver by either party or their personnel of the protections to which the parties and their officials and employees are entitled to under the Colorado Governmental Immunity Act, C.R. S. §24-10-101, et seq., as amended.

- 4.9 In addition to and without limitation upon all other provisions of this Agreement, each party agrees not to sue as a breach of this Agreement, and otherwise not to seek legal or equitable relief against, the other party, or any of their respective elected or appointed officials, employees or agents or their personnel, for any alleged failure to properly exercise discretion in determining law enforcement response and priorities under this Agreement. This paragraph shall not preclude the parties from pursuing any other remedies that may be available to them in the event of any other material breach or alleged breach of this Agreement.
- 4.10 Park County and the Town of Fairplay are "public entities" within the meaning of the Colorado Governmental Immunity Act, C.R.S. §24-10-101, et seq., as amended the "'Act"). Park County and the Town of Fairplay shall each at all times during the term of this Agreement, maintain such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Act. The County further agrees to cooperate fully in the defense of all claims arising from incidents where the Sheriff, or any of the Deputies or other personnel subject to this Agreement was acting as the Chief of Police of the Town of Fairplay police force under this Agreement, or in providing the Law Enforcement Services hereunder. Park County agrees to cooperate with the legal counsel retained under the insurance policy for claims subject to this paragraph. Except as otherwise provided in this Agreement, each party agrees to be responsible for its own negligent actions or omissions, and those of its officers, agents and employees in the performance or failure to perform work under this Agreement. By agreeing to this provision, neither the County nor the Town waives or intends to waive, as to any person not a party to the Agreement, the limitations on liability or any other provision of the Act.
- 4.11 Park County shall provide the Town of Fairplay, at the beginning of each calendar year of this Agreement, with proof of insurance showing Park County's coverage for comprehensive general liability, police professional liability, auto liability and workers' compensation, if and as may be required by this Agreement, and will provide timely updates of any changes in the County's insurance program. The Town shall provide Park County with proof of insurance showing Town's coverage for comprehensive general liability and police professional liability and will provide timely updates of any changes in the Town's insurance program.
- 4.12 This Agreement is effective as of the date on which it is signed by all the representatives of the parties as provided in the signature portion of this Agreement below, after receiving all required approvals. This Agreement shall remain in effect unless it is superseded by a new written Agreement that is mutually acceptable to and signed by all parties, or until it is terminated by either party, provided that any termination pursuant to Section 1.3 shall not, except as otherwise provided in this Agreement, be effective until one hundred eighty (180) days after the date on which the terminating party provides to the other party written notification of its intent to terminate. Any such notice of termination shall be directed to the attention of the representative or representatives signing this Agreement for the non-terminating party as specified in the signature portion of this Agreement below, and shall be considered to have been provided on the date of postmarking, if the notices is placed in the U.S. mail, certified mail with return receipt requested, or on the date of delivery, if the notice is hand delivered. For purposes of this paragraph, notice shall be considered sufficient when mailed or delivered to the following addresses:

For the Sheriff:

Park County Sheriff
P.O. Box 604
Fairplay, Colorado 80440

For the County:

Park County Board of County Commissioners
P.O. Box 1373
Fairplay, CO 80440

For the Town of Fairplay:

Fairplay Town Administrator
PO Box 267
Fairplay, CO 80440

- 4.13 This Agreement may be amended by the parties at any time during its term, provided that any such amendment is agreed to in writing and signed by the representatives of the parties executing this Agreement as set forth in the signature portion below.
- 4.14 Should any of the provisions of this Agreement be held to be invalid or unenforceable, then the balance of this Agreement shall be held to be in full force and effect though the invalid portion was not included; provided however, that should the invalidity or unenforceability go to the essence of the Agreement or be of substantial nature, then the party or parties who would receive the benefit of the provision, were it not invalid or unenforceable, shall have the option to terminate this Agreement forthwith.
- 4.15 This Agreement shall be governed by and interpreted in accordance with the laws of the State of Colorado. Any dispute concerning the performance of this Agreement which is not resolved by mutual agreement of the Parties shall be filed in the Courts in Park County, Colorado, unless otherwise agreed in writing by the Parties, which shall be the sole convenient forum for such litigation.
- 4.16 The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the County and Town, and nothing contained in this Agreement shall give or allow any claim or right of action by any other or third person. It is the express intent of the parties to this Agreement that any person receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.
- 4.17 This Agreement constitutes the entire agreement and understanding of the Parties hereto with respect to the subject matter hereof and supersedes all prior agreements, proposals, offers, counteroffers, and understandings of the Parties regarding said subject matter, whether written or oral, all of which are hereby merged into and superseded by this Agreement.
- 4.18 The person(s) signing this Agreement on behalf of the party for which he/she signs represents and warrants that he/she has the power and authority to contract for, act on behalf of, and bind that party.
- 4.19 The section headings are inserted herein only as a matter of convenience and for reference and in no way are intended to be part of this Agreement or to define, limit or describe the scope or intent of this Agreement or the particular paragraphs hereof to which they refer.
- 4.20 This Agreement, and payments and other monetary obligations of the Town or County hereunder, shall not be construed as creating a multiple-fiscal year debt or other financial

obligation of the Town or County within the meaning of Section 20(4)(b) of Article X of the Constitution of Colorado. If renewed by agreement of the parties for a period in excess of one fiscal year, this Agreement shall not obligate the Town, or County, directly or indirectly, to make any payments or meet any other monetary obligations required herein, beyond such payments or obligations as are appropriated for any fiscal year in which this Agreement is in effect. In the event the Town or County fails to budget and appropriate, on or before December 31 of each year, funds sufficient to pay all monetary obligations due for the ensuing year, this Agreement shall terminate effective December 31 of the year in which the Town or County did not budget and appropriate sufficient funds to meet its obligation hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

BOARD OF COUNTY COMMISSIONERS OF PARK COUNTY, COLORADO

By: _____
Richard Elsner, Chairman

Attest: _____
County Clerk

Date: _____

BOARD OF TRUSTEES OF TOWN OF FAIRPLAY, COLORADO

By: _____
Frank Just, Mayor

Attest: _____
Janell Sciacca, Town Clerk

Date: _____

SHERIFF'S OFFICE OF PARK COUNTY, COLORADO

By: _____
Tom McGraw, Sheriff

Date: _____

EXHIBIT A
COMPENSATION FOR LAW ENFORCEMENT SERVICES

- A. Per Section 3.1 of this agreement, the Town has budgeted and appropriated funds for the remainder of 2023 in the amount of \$ 350,000.00 (Three hundred and fifty thousand dollars). This amount is the agreed upon 2023 Budget.
- B. Per Section 3.2 of this agreement, the payment terms are that the annual cost will be divided into quarterly installments, invoiced by the County in the first week of the quarter and paid as follows:
- | <u>Quarter</u> | <u>Amount Due</u> | <u>Due Date</u> |
|----------------|-------------------|------------------------------------|
| Quarter 1 | \$87,500.00 | 30 days after January invoice date |
| Quarter 2 | \$87,500.00 | 30 days after April invoice date |
| Quarter 3 | \$87,500.00 | 30 days after July invoice date |
| Quarter 4 | \$87,500.00 | 30 days after October invoice date |
- C. For extra duty hours described per Section 2.9 of this agreement, the current contractual extra-duty rate charged by the Sheriff's Office is \$50.00 per hour.

Town of Fairplay - Water Loss Evaluation

NOVEMBER, 2022

Year/Month	Gallons of Water Produced	Water Gallons Billed	Bulk Water Filled Gallons Sold	Gallons Not Billed (Non-revenue)	% Loss	Influent Intake Gallons Sanitation Plant	Usage/Leakage (Gallons)
22-Nov	2,636,174	1,705,000	2,800	933,974	35.43%	2,725,199	510,975
22-Oct	3,107,087	1,672,000	3,000	1,432,087	46.09%	3,119,062	588,025
22-Sep	3,520,790	2,020,000	2,900	1,497,890	42.54%	2,748,647	1,372,143
22-Aug	4,422,770	2,731,000	6,500	1,685,270	38.10%	3,016,516	2,006,254
22-Jul	4,084,981	2,407,000	6,975	1,671,006	40.91%	3,129,599	1,555,382
22-Jun	3,472,184	2,157,000	3,200	1,311,984	37.79%	2,782,182	1,290,002
22-May	2,705,715	1,760,000	1,400	944,315	34.90%	2,801,428	504,287
22-Apr	2,573,411	1,670,000	1,100	902,311	35.06%	2,873,579	299,832
22-Mar	2,589,242	2,067,000	2,750	519,492	20.06%	3,073,850	115,392
22-Feb	2,333,009	1,832,000	2,700	498,309	21.36%	2,758,731	174,278
22-Jan	2,537,579	1,679,000	1,400	857,179	33.78%	3,092,156	45,423
21-Dec	2,552,299	1,939,000	1,000	612,299	23.99%	2,966,896	185,403
21-Nov	2,509,249	1,780,000	2,450	726,799	28.96%	2,677,502	431,747
21-Oct	3,298,065	2,422,000	2,850	873,215	26.48%	2,958,659	939,406
21-Sep	4,125,110	2,439,000	2,700	1,683,410	40.81%	3,028,952	1,696,158
21-Aug	4,396,735	2,781,000	1,700	1,614,035	36.71%	3,072,321	1,924,414
21-Jul	4,495,697	3,231,000	1,800	1,262,897	28.09%	3,498,456	1,597,241
21-Jun	3,939,138	2,577,000	5,025	1,357,113	34.45%	3,294,293	1,244,845
21-May	2,950,224	2,323,000	330	626,894	21.25%	3,282,436	267,788
21-Apr	2,567,775	2,046,000	1,690	520,085	20.25%	3,098,238	69,537
	TOTAL 64,817,234	TOTAL 43,238,000	TOTAL 54,270	TOTAL 21,530,564	Avg Loss 32.35%	TOTAL 59,998,702	Avg Usage 840,927

Averages 3,240,862 2,161,900 2,714 1,076,528 2,999,935

Notes:

49 meters need to be repaired or replaced*

* The Town has been waiting for ordered meters since summer.

21 need to be checked (vacant lots)

NWFPD has been requested to keep track of and report all tanker fills

Usage/Leakage assumes approx. 600,000 gal per month from Spruce Hill and the Trailer Park and no I&I

1. Meadow Drive water leak found and fixed early November .

Town of Fairplay - Individual Well Production Data

	Well 1 (gal)	Well 2 (gal)	Well 3 (gal)	Monthly (gal)
Nov-22	788,747	713,701	1,133,726	2,636,174
Oct-22	880,870	845,956	1,380,261	3,107,087
Sep-22	943,018	966,788	1,610,984	3,520,790
Aug-22	1,270,994	1,147,087	2,004,689	4,422,770
Jul-22	1,338,854	953,189	1,792,938	4,084,981
Jun-22	1,181,982	784,967	1,505,235	3,472,184
May-22	937,356	607,968	1,160,391	2,705,715
Apr-22	901,205	579,729	1,092,477	2,573,411
Mar-22	911,916	586,701	1,090,625	2,589,242
Feb-22	828,909	531,882	972,218	2,333,009
Jan-22	901,541	583,894	1,052,144	2,537,579
Dec-21	914,759	576,695	1,060,845	2,552,299
Nov-21	876,563	583,714	1,048,972	2,509,249
Oct-21	1,085,427	779,760	1,432,878	3,298,065
Sep-21	1,304,614	956,774	1,863,722	4,125,110
Aug-21	1,100,385	1,300,920	1,995,430	4,396,735
Jul-21	1,069,883	1,396,690	2,029,124	4,495,697
Jun-21	1,204,249	1,122,587	1,612,302	3,939,138
May-21	1,237,321	707,596	1,005,307	2,950,224
Apr-21	1,119,949	603,099	844,727	2,567,775
TOTAL	20,798,542 32.09%	16,329,697 25.19%	27,688,995 42.72%	64,817,234