



**AGENDA for a Regular Meeting  
of the Board of Trustees of the Town of Fairplay, CO  
Monday, MARCH 2, 2026, at 6:00 P.M. in the  
Fairplay Town Hall, 901 Main St, Fairplay, CO**

[CLICK TO JOIN MEETING BY TEAMS](#)

Meeting ID: 291 213 775 310 64 / Passcode 2mA3yk6h

Dial in by phone: [+1 929-352-2940](tel:+19293522940), [177530703#](tel:+177530703)

- I. **6:00 PM – CALL TO ORDER**
- II. **PLEDGE OF ALLEGIANCE**
- III. **ROLL CALL**
- IV. **APPROVAL OF AGENDA**
- V. **CONSENT AGENDA** *(This item is intended to streamline the Board Meeting grouping routine, non-controversial business. The public or the Board Members may ask that an item be removed from the Consent Agenda for individual consideration.)*
  - A. **APPROVAL OF PRIOR MEETING MINUTES** – October 20, 2026 Regular Meeting
  - B. **APPROVAL OF EXPENDITURES PAID THROUGH BILL.COM** – Paid bills for all Town funds from **January 28, 2026** through **March 24, 2026** in the amount of **\$168,613.56**.
- VI. **CITIZEN COMMENTS** *(This item allows the public to sign up to address the Board on matters that are not already on the agenda. Comments are limited to 5 minutes per person. On advice of counsel, neither the Board nor Staff members will directly respond to comments; instead, the Board will direct Staff to respond and, when necessary, provide a status update to the Board.)*
- VII. **PUBLIC HEARINGS**
  - A. State Revolving Fund (SRF) Loan public hearing for Capital Project funding for the Town of Fairplay Water Meter Replacement and Well Rehabilitation Project.
  - B. **CONTINUED FROM FEBRUARY 2, 2026: BOARD OF TRUSTEES SITTING AS THE BOARD OF ADJUSTMENT – CASE NO. VAR 2025-001:** Consideration of application from Pat Stoinski for a Variance for relief from setback standards and requirements within the Commercial (C) zone district for property located at 1150 Castello Avenue, Fairplay, CO?
  - C. **FIRST READING** – S Should the Board of Trustees approve the adoption of Ordinance No. 1, Series of 2026, entitled, **“AN ORDINANCE OF THE TOWN OF FAIRPLAY, COLORADO, AMENDING THE TOWN’S LAND USE CODE TO ACCOMMODATE NATURAL MEDICINE BUSINESSES.”?**
- VIII. **NEW BUSINESS**
  - A. **CONTINUED FROM JANUARY 5, 2026 – TO BE CONTINUED TO MARCH 16, 2026: SECOND READING** – Should the Board of Trustees approve the adoption of Resolution No. 5, Series of 2026, entitled, **“A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO APPROVING A REVOCABLE LICENSE AGREEMENT BETWEEN THE TOWN OF FAIRPLAY AND THE HELIOS CHARGING FOR INSTALLATION OF ELECTRIC VEHICLE CHARGING UNITS IN THE ALLEY BEHIND 501 MAIN STREET.”?**
  - B. **CONTINUED FROM FEBRUARY 2, 2026: SECOND READING** – Should the Board of Trustees approve the adoption of Resolution No. 11, Series of 2026, entitled, **“A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FAIRPLAY, COLORADO, ACCEPTING A DEPARTMENT OF LOCAL AFFAIRS LOCAL PLANNING CAPACITY GRANT.”?**
  - C. **FIRST READING** – Should the Board of Trustees approve the adoption of Resolution No. 12, Series of 2026, entitled, **“A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FAIRPLAY, COLORADO AMENDING A REFERRED QUESTION TO THE ELECTORS OF THE TOWN OF FAIRPLAY ON WHETHER THE LODGING OCCUPATION TAX SHALL BE INCREASED TO A MAXIMUM OF \$5.00 PER OCCUPIED ROOM PER DAY.”?**
- IX. **STAFF AND BOARD OF TRUSTEE REPORTS**
- X. **ADJOURNMENT.**

**Upcoming Meetings / Events**

Board of Trustees Regular Meeting	March 2, 2026
Board of Trustees Regular Meeting	March 16, 2026
Board of Trustees Regular Meeting	April 6, 2026
Fairplay Regular Municipal Mail Ballot Election	April 7, 2026
Board of Trustees Regular Meeting (Oaths to new Board Members/Outgoing Member Presentations)	April 20, 2026



**OFFICIAL MINUTES  
REGULAR BOARD MEETING  
OCTOBER 20, 2025  
901 MAIN STREET, FAIRPLAY, CO 80440**

**I. REGULAR MEETING – CALL TO ORDER**

A Regular Meeting of the Fairplay Board of Trustees was called to order on Monday, October 20, 2025, at 6:01 PM at Town Hall, 901 Main Street, Fairplay, CO, having previously been posted in accordance with Colorado Open Meetings law.

**II. PLEDGE OF ALLEGIANCE**

Mayor Just led the pledge of allegiance.

**III. ROLL CALL**

BOARD MEMBERS PRESENT: Mayor Frank Just, Mayor Pro Tem Ray Douglas, Trustee Courtney Avery, Trustee Josh Voorhis, and Trustee Baum.

BOARD MEMBERS ABSENT:

STAFF IN ATTENDANCE: Town Administrator Janell Sciacca, Town Attorney Joe Rivera, Town Planner Scot Hunn, and Town Engineer Deron Dirksen.

**IV. APPROVAL OF AGENDA**

Town Administrator Sciacca noted that New Business Item A was being withdrawn at the applicant's request.

**MOTION** to approve the agenda as amended with New Business Item A withdrawn was made by Trustee Baum and seconded by Mayor Pro Tem Douglas.

- Roll call vote: Unanimous approval.

**V. CONSENT AGENDA**

**A. APPROVAL OF CHECK AND ACH EXPENDITURES ISSUED THROUGH BILL.COM** – Paid bills for all Town funds from October 2, 2025, through October 16, 2025, in the amount of **\$205,162.23.**

**MOTION** to approve the Consent Agenda as presented with the expenditures as state was made by Mayor Pro Tem Douglas and seconded by Trustee Avery.

- Roll call vote: Unanimous approval.

**VI. CITIZEN COMMENTS**

Phil (last name unknown), 490 Hwy 285, inquired about the status of a criminal investigation of a Fairplay Police Officer.

Callie Edwards, 360 9<sup>th</sup> Street, thanked the Town of Fairplay for its continued support of the Boys & Girls Club and their annual Halloween event.

Scott Dodge, 1317 Meadow Drive, spoke regarding trash that has been deposited on the hillside above the Beach by bears getting into dumpsters on Front Street.

Elena Michael of CSU Extension, Bogue Street, introduced herself and touched on a plans and a proposal for a greenhouse at Cohen Park.

Barbie McBee, 600 Main Street, provided an overview of programs provided by Rocky Mountain Rural Health and requested the Town consider support with \$10,000 in funding to offset reduce revenue which would impact 113 Town residents served by the organization's programs.

**VII. PUBLIC HEARINGS**

**A. APPEAL HEARING – EP 2025-003:** Should the Board of Trustees for the Town of Fairplay approve an application from Pat Stoinski appealing the Town Administrator's denial of a Lot Line Adjustment Plat on the property commonly known at 1150 Castello Avenue, Fairplay, CO?

Mayor Just introduced the case. Town Attorney Rivera provided an overview of the format for the hearing. Ben Monarch of JVAM Law entered on behalf of Pat Stoinski and requested a continuance for time to prepare.

**MOTION** to continue Appeal Hearing EP2025-003 to November 3, 2025 was made by Trustee Voorhis and seconded by Trustee Baum.

- Roll call vote: Unanimous approval.

**B. CONTINUED FROM JULY 7, 2025 - THIRD READING** – Should the Board of Trustees for the Town of Fairplay approve the adoption of Ordinance No. 3, Series of 2025, entitled “**AN ORDINANCE ADOPTING BY REFERENCE THE 2024 EDITIONS OF THE INTERNATIONAL BUILDING CODE, INTERNATIONAL RESIDENTIAL CODE, INTERNATIONAL MECHANICAL CODE, INTERNATIONAL PROPERTY MAINTENANCE CODE, INTERNATIONAL EXISTING BUILDING CODE, INTERNATIONAL ENERGY CONSERVATION CODE, INTERNATIONAL SWIMMING POOL AND SPA CODE, INTERNATIONAL WILDLAND-URBAN INTERFACE CODE, INTERNATIONAL FIRE CODE, THE 2023 NATIONAL ELECTRICAL CODE, COLORADO FUEL GAS CODE, COLORADO PLUMBING CODE, COLORADO WILDFIRE RESILIENCY CODE, COLORADO MODEL ELECTRIC READY AND SOLAR READY CODE ALL REGULATING THE ERECTION, CONSTRUCTION, ENLARGEMENT, ALTERATION, REPAIR, MOVING, REMOVAL, DEMOLITION, CONVERSION, OCCUPANCY, EQUIPMENT, USE, HEIGHT, AREA AND MAINTENANCE OF ALL BUILDINGS OR STRUCTURES, AND BUILDING SERVICE EQUIPMENT; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE OF MARCH 1, 2026.**”?

Mayor Just introduced the ordinance and provided an overview of the format of the evening’s hearing. Building Official Parag reviewed the requirements and need to update:

ISO (Insurance Services Office) Rating

- Updating to 2024 codes would allow the Town to apply for a BCEGS (Building Code Effectiveness Grading Schedule) rating.
- Improve insurance availability and potentially slow insurance cost increases.
- Without adoption by March 1, the Town may not be included in a regional ISO application.

Grant Eligibility

- Some state housing and infrastructure grants require building codes to be within six years of the current edition.
- Remaining on 2018 codes may disqualify the Town from certain grants.

Avoiding Future Energy Code Mandate

- If the Town updates codes after July 1, 2026, it would be required to adopt the more restrictive “model energy code.”
- Adopting now would “lock in” the 2024 cycle and avoid stricter future mandates until at least 2030.

There was also discussion regarding cost impacts to developers with Parag advising the result of moving from 2018 to 2024 codes would increase residential construction costs approximately 1–2% and there was no impact on remodels.

Just opened the floor to public comment. Local business owners and/or residents Jim Carpenter, Scott Dodge, Pat Stoinski and Tom Burnett were in the audience and provided feedback and raised concerns that additional community outreach was needed, stricter codes increasing housing costs and discouraging development, and that more coordination with neighboring jurisdictions should be considered. Just closed the floor to comment and the Board conducted follow-up discussions with staff.

**MOTION** to approve Ordinance No. 3, Series of 2025, was made by Trustee Voorhis and failed for lack of second.

**MOTION** to continue Ordinance No. 3, Series of 2025, to November 17, 2026 to allow for more public notice and input was made was made by Trustee Baum and seconded by Trustee Avery.

- Roll call vote: Unanimous approval.

## VIII. NEW BUSINESS

**A. FIRST READING** – Should the Board of Trustees for the Town of Fairplay approve the adoption of Resolution No. 32, Series of 2025, entitled “**A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO, AUTHORIZING THE EXECUTION OF A PROPERTY IMPROVEMENT INCENTIVE PROGRAM (PIIP) AGREEMENT BETWEEN THE TOWN AND ROBERT SMYLY FOR THE 701 FRONT STREET RE-SIDING PROJECT.**”?

Item withdrawn at request of applicant.

**B. FIRST READING** – Should the Board of Trustees for the Town of Fairplay approve the adoption of Resolution No. 33, Series of 2025, entitled “**A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO APPROVING A CONTRACT FOR HEARING OFFICER SERVICES WITH EHREN PENIX.**”?

Town Attorney Sciacca provide and overview of the purpose of the agreement noting Penix would serve as an independent hearing officer for Phot Radar/AVIS citations. She provided background information on state law, the Municipal Judge declining to serve as the first-level hearing officer, number of contested citation over the past six months.

**MOTION** to approve adoption of Resolution No. 33, Series of 2025, as presented was made by Trustee Voorhis and seconded by Mayor Pro Tem Douglas.

- Roll call vote: Approved 4 to 1 with Baum voting No.

**C. FIRST READING** – Should the Board of Trustees for the Town of Fairplay approve the adoption of Resolution No. 34, Series of 2025, entitled “**A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO APPROVING CONTRACTS TO PURCHASE THE REAL PROPERTY ADJACENT TO THE TOWN’S WATER PLANT, 1582 BEAVER CREEK ROAD AND TBD BEAVER CREEK ROAD, FAIRPLAY, CO 80440 AKA COUNTY PARCEL ID R0048989 AND R0048990 AND WATER CERTIFICATES**”?

Town Attorney Rivera presented an overview of the draft agreement for acquiring land adjacent to the Town water plant for \$360,000 and associated water certificates for \$70,000. He noted the transactions are interdependent of one another and the proposed closing date has been set as December 3, 2025. Rivera also reviewed the leaseback structure reporting the interest rate would be 5.15%. He then requested the Board delegate authority to Mayor and Town Administrator to finalize agreements, that Staff be able to adjust non-material terms (e.g., dates) and approve reasonable transaction costs (e.g., surveys, title work). He also advised that Bond Counsel was on stand-by to clarify any portion of the agreement for the Board’s satisfaction.

**MOTION** to approve the adoption of Resolution No. 34. Series of 2025 as presented was made by Mayor Pro Tem Douglas and seconded by Trustee Baum.

- Roll call vote: Unanimous approval.

**D.** Consideration of whether to accept an expanded/new water and sanitary easement from Habitat for Humanity and the encumbered property is located near 525 and 527 Castello Ave., Fairplay Colorado

Town Engineer Dirksen provided an overview of the matter noting the 2 foot wide, 137 foot long easement was being granted to the Town for public water and sanitary sewer access and protection of the Town. He advised the existing easement was encroached upon by three porches built over it, homeowners were not impacted and prevents future conflicts.

**MOTION** to approve acceptance of the expanded water and sanitary sewer easement as presented was made by Trustee Baum and seconded by Mayor Pro Tem Douglas.

- Roll call vote: Unanimous approval.

**E. Submission of FY2025 Amended Budget and FY2025 Proposed Budget to the Board of Trustees for all funds of the Town of Fairplay, CO.**

Town Attorney Rivera presented the ordinance stating this legislation would allow the Board of Trustees to waive or modify certain Unified Development Code (UDC) requirements when those requirements were not proportional to the scale or impact of a proposed development. This would allow applicants to request waivers early, before incurring costly engineering or study requirements and ensures decisions are made by the Board rather than Staff when code requirements exceed project impacts.

**MOTION** to approve the adoption of Ordinance No. 7. Series of 2025 as presented and read into the record was made by Trustee Baum and seconded by Trustee Avery.

- Roll call vote: Unanimous approval.

**IX. 2025 BUDGET WORK SESSION WITH SPECIFIC FOCUS ON UTILITIES FUND.**

Town Administrator Sciacca reported the budgets were submitted to the Board in accordance with requirements of state law and adoption was targeted for December 1. She provided an overview of the structural deficit and reviewed some of the reasons behind it including personnel, rising insurance costs, and projects. Sciacca also provided an overview of revenues noting most were coming in higher than preliminary projections. She also raised the question of a ballot question for the April 2026 election to increase the lodging tax from \$2.00 per night to \$5.00 per night. Sciacca also reviewed expenditures by Department highlighting efforts to reduce costs, one-time projects, and contractor expenses. She closed noting reconciliation by Plante Moran was ongoing and that there would be work sessions and regular meeting discussions/hearings before final adoption on December 1.

**X. STAFF AND BOARD OF TRUSTEE REPORTS**

Town Administrator Sciacca provided updates on projects, upcoming meetings and events, and ongoing issues.

**XI. ADJOURNMENT**

There being no further business before the Fairplay Board of Trustees., Mayor Just declared the meeting adjourned at 8:34 PM.

**BOARD OF TRUSTEES, FAIRPLAY, COLORADO**

**ATTEST:**

\_\_\_\_\_  
Frank Just, Mayor

\_\_\_\_\_  
Janell Sciacca, Town Clerk

UNOFFICIAL

## BILLS PAID FROM JANUARY 28, 2026 TO FEBRUARY 24, 2026

Vendor Name	Paid On	Paid Amount	Payment Description
ADP Inc	1/30/2026	381.75	ADP Payroll Fees
Aflac	2/20/2026	221.04	Policy POV 107B4 Aug '25 to Jan '26 Contributions
Amwell	2/19/2026	900.00	shear pins for clarifier
Apex Waste Solution	2/6/2026	435.64	December Dumpster FEES
ASCAP	1/30/2026	172.17	Music License Fee
AT&T	2/19/2026	307.09	AT&T Office at Hand Fees - February 2026
AT&T	2/19/2026	320.82	AT&T Office at Hand Fees Jan 2026
AT&T Mobility	2/10/2026	4,421.12	VoIP, Body Cam, MDT and Cellular Monthly Charges X 2
Caselle LLC	2/6/2026	1,200.00	Community Connect Payment Portal
CDPHE	2/18/2026	92.00	2025-26 Additional Fee Billing for Fairplay WWTF
CenturyLink	2/19/2026	83.24	Water Plant Telephone Line
Charles Abbott Associates Inc	2/6/2026	6,932.78	December 2025 Bldg Official Services
CIRSA	2/6/2026	30,656.04	1st Qtr 2026 Liability Insurance Premium
Colorado Analytical Laboratories, Inc.	2/6/2026	24.00	Required Water Testing
Colorado Analytical Laboratories, Inc.	2/12/2026	403.00	WWTP Required testing
Colorado Analytical Laboratories, Inc.	2/19/2026	24.00	Required Water Testing
Colorado Natural Gas, Inc.	2/20/2026	351.04	PW Office Natural Gas Jan 2026
Colorado Natural Gas, Inc.	2/20/2026	1,651.94	WWTP Natural Gas - Jan 2026
Colorado Natural Gas, Inc.	2/20/2026	364.39	Town Hall Natural Gas Jan 2026
Colorado Natural Gas, Inc.	2/20/2026	1,107.93	PW Shop Natural Gas Jan 2026
Colorado Tents and Events	2/6/2026	1,045.02	Mardi Gras Furniture Rental Balance Due
Continental Divide Productions	2/20/2026	675.00	Mardi Gras Sound Crew
Elevated Cleaning Co	2/12/2026	200.00	Monthly Cleaning Bunkhouse
Elevated Cleaning Co	2/12/2026	250.00	Monthly Cleaning Visitor center
Elevated Cleaning Co	2/12/2026	300.00	Monthly Cleaning Town hall
Fairplay Auto Supply	2/19/2026	411.62	Shop Supplies and VM Maintenance & Repair
Family Support Registry	2/6/2026	254.30	02/03/2026 Pay Withholding Account 15890460
Family Support Registry	2/20/2026	254.30	02/20/2026 Pay Withholding Account 15890460
Ferrellgas	2/19/2026	687.36	Propane for water plant
Gravie	1/28/2026	24,870.64	Feb 2026-Health Insurance
Hazel Miller Entertainment, LLC	2/20/2026	1,750.00	Mardi Gras Band 50% Balance Due
Highline	2/19/2026	694.95	Monthly Fiber Town Facilities
HomeServe USA Corp	2/19/2026	1,584.70	HomeServe Water Line Coverage - Jan '26
Hunn Planning Policy LLC.	2/19/2026	2,485.00	Planning Services - General January 1-31, 2026
Hunn Planning Policy LLC.	2/19/2026	117.50	Planning Services - Finley SUP BB January 1-31, 2026
Infinity Certified Welding & Fabrication	1/30/2026	1,082.82	Helium for Mardi Gras Balloons
International Institute for Municipal Clerks	2/24/2026	160.00	IIMC Annual Membership Dues - Ernst (44825)
Iron Mountain	2/19/2026	189.00	Off-Site Vital Records Storage Fee
Konica Minolta Business Solutions U.S.A., Inc.	2/6/2026	86.65	Town Hall Copy Fees
Konica Minolta Business Solutions U.S.A., Inc.	2/6/2026	4.91	Public Works Copy Fees
Konica Minolta Business Solutions U.S.A., Inc.	2/6/2026	15.21	PD Copy Fees
Konica Minolta Business Solutions U.S.A., Inc.	2/6/2026	4.91	Special Events Copy Fees
Konica Minolta Business Solutions U.S.A., Inc.	2/19/2026	450.00	Copier Relocation Expense - Events/Visitor Center
Laser Graphics	2/19/2026	32.00	Large Menu Poster for Mardi Gras
Little Moses Jones	2/19/2026	500.00	Deposit - LMJ Burro Days Performance
Murray Dahl Beery Renaud LLP	2/6/2026	128.00	Dec '25 Municipal Court Prosecutor Fees
Murray Dahl Beery Renaud LLP	2/6/2026	9,412.25	Dec '25 Legal Counsel Fees
Park County Road Bridge Department	1/30/2026	248.45	Fuel
Patriot Portables Events LLC	1/30/2026	900.00	11/29-12/27 event portos
Patriot Portables Events LLC	1/30/2026	675.00	town hall portos
Patriot Portables Events LLC	1/30/2026	450.00	cohen portos + ball field portos
Patriot Portables Events LLC	1/30/2026	675.00	401 main portos
Peak Digital Office Solutions	2/12/2026	5,350.00	Laserfiche Records Mngt Program
Phoenix Technology Group	2/19/2026	200.00	PD MDT Warranty
PINNACOL ASSURANCE	2/3/2026	3,214.00	WC Premium
Plante & Moran, PLLC	2/6/2026	12,577.50	Accounting/Budget/YE/Audit Services 12/17/2025 to 01/15/2026
Postal Pros Southwest Inc.	2/5/2026	345.95	December Utility Billing
Postal Pros Southwest Inc.	2/5/2026	140.30	January Newsletter.
Sarah Ernst	2/19/2026	100.00	Ernst Monthly Cell Phone Reimbursement Jan and Feb 2026
Schmueser Gordon Meyer, Inc. dba SGM	2/18/2026	1,798.50	General Engineering Services
Schmueser Gordon Meyer, Inc. dba SGM	2/19/2026	381.50	Public Works Manual Update-Final Adoption
Schmueser Gordon Meyer, Inc. dba SGM	2/19/2026	392.25	GIS Services Thru 02-14-2026

Schmueser Gordon Meyer, Inc. dba SGM	2/19/2026	327.00	General Engineering Expense
Schmueser Gordon Meyer, Inc. dba SGM	2/19/2026	2,875.00	Impact Fee Services thru 01-10-2026 UF
Schmueser Gordon Meyer, Inc. dba SGM	2/19/2026	2,875.00	Impact Fee Services thru 01-10-2026 GF
Schmueser Gordon Meyer, Inc. dba SGM	2/19/2026	1,035.50	Finley SUP Bill Back
Schmueser Gordon Meyer, Inc. dba SGM	2/19/2026	3,215.50	Professional Services - Finley SUP Bill Back
Schmueser Gordon Meyer, Inc. dba SGM	2/19/2026	218.00	Engineering Services Bill Back - Finley SUP Bill
Schmueser Gordon Meyer, Inc. dba SGM	2/19/2026	78.50	River Park Trail Closeout Fees
Schmueser Gordon Meyer, Inc. dba SGM	2/19/2026	109.00	General Engineering - 540 Front Street
Scott Bullock - Salamander Productions	2/6/2026	138.00	Mardi Gras Logo Updates - Graphic Design Service
Shred America Colorado	2/24/2026	43.82	Monthly Shredding Console Service
South Park Ace	2/19/2026	599.58	Maintenance and Repair Parts
Standard Insurance Company	2/6/2026	1,248.11	STD/LTD Premiums Jan '26
Standard Insurance Company	2/6/2026	1,248.11	STD/LTD Premiums Feb '26
Stock Stick, LTD	2/12/2026	574.00	Stop stick purchase
Stock Stick, LTD	2/20/2026	574.00	Stop stick purchase
Tolin Mechanical	2/5/2026	443.00	PW Office Mechanical service
Tolin Mechanical	2/5/2026	443.00	San plant mechanical service
Town of Fairplay	2/18/2026	188.90	501 MAIN STREET W&S
Town of Fairplay	2/18/2026	123.20	PW Office W&S Jan 2026
Town of Fairplay	2/18/2026	161.70	Utility Bill
Tracy Renfrow	2/20/2026	50.00	Refund for 2 Mardi Gras Tickets - minus credit card fee
TRI-TECH FORENSICS	2/10/2026	153.60	Colorado Blood Specimen Kits
U.S. Bank	1/30/2026	7,776.27	Jan 2026 P-card Expenses
Utility Notification Center Of Colorado Inc.	1/30/2026	32.38	Locates, water
Utility Notification Center Of Colorado Inc.	2/19/2026	225.00	Water locates Jan 2026
Utility Notification Center Of Colorado Inc.	2/19/2026	225.00	Wastewater Locates Jan 2026
Warm Springs Consulting LLC	2/6/2026	5,750.00	Wastewater ORC January '26
Warm Springs Consulting LLC	2/6/2026	4,500.00	Water ORC Services Jan '26
Xcel Energy	2/6/2026	8,237.81	Town Facilities, Lights And Signage Electricity Fees
		<b>\$168,613.56</b>	



**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:** Mayor and Board of Trustees

**FROM:** Janell Sciacca, Town Administrator

**RE:** Public Hearing Item A. – State Revolving Loan Fund Public Hearing for Town of Fairplay Meter Replacement and Well Rehabilitation Project

**DATE:** March 2, 2026

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### BACKGROUND/ANALYSIS:

The Town of Fairplay is in process of applying for a Colorado Department of Public Health and Environment State Revolving Fund (SRF) Loan to fund the installation of smart meters in town on service connections that are either unmetered, or have broken or aging meters and the rehabilitation of supply wells 2, 3 and 4 by installing new pumps, motors and high-efficiency variable frequency drives. To date, the Town, with help of its contract engineer Ken Hardesty of Hardesty Mapping, LLC, has already completed the Eligibility Survey, Prequalification, Project Needs Assessment and a Colorado State Historical Preservation Office (SHPO) consultation, which are the first 4 loan process steps. The next step is to allow for public input and comment prior to loan application. The public input process is required to discuss project alternatives, costs, utility rate impacts, environmental impacts and energy efficiency. That is the intent of tonight's hearing and Ken Hardesty will be presenting to provide an overview and answer any questions regarding the project, loan process and associated documents.

Public Notice of this meeting was required to be made no less than 30 days prior to the hearing. The required notice was posted in The Flume newspaper (*copy attached*) and at all of the Town's normal posting locations (*copy attached*). Following completion of the hearing, Staff must upload the meeting notice, proofs of publication, agenda, attendee listing, minutes and a responsiveness summary to the State application portal as proof of the formal hearing. Completion of this step will then allow the Town to move forward to complete the remaining 2 steps prior to formal loan application. The remaining steps are a certificate of self-certification and the loan application.

### STAFF RECOMMENDATION

Conduct the required hearing to allow for public input and comment.

**“Where History Meets the High Country”**

Notice of Public Hearing for Town of Fairplay Water Meter Replacement and Well Rehabilitation Project, Fairplay, Colorado

Date: Mar 2, 2026  
Time: 6:00 PM  
Location: Fairplay Town Hall  
Address: 901 Main Street  
Fairplay, Colorado  
Topic: Meter Replacement Project

A public hearing will be conducted for informing citizens and soliciting public input, written or oral, regarding the Water Meter Replacement and Well Rehabilitation Project, and Project Needs Assessment (PNA). The PNA is a state submittal detailing the project consisting of advanced metering infrastructure (AMI) and well rehabilitation. The report has been submitted to the Colorado Department of Public Health and Environment (CDPHE) to qualify the Fairplay Water Meter Replacement and Well Rehabilitation Project for a State Revolving Fund Loan.

The Project will include installing new smart, digital meters in town with cellular meter reading capabilities, and the installation of new pumps, motors and variable frequency drives at three of the Town's supply well.

The opinion of probable construction cost for the project is \$600,000.

Copies of the PNA are available for public review prior to the Public Hearing at the following location:

Fairplay Town Hall,  
901 Main Street, Fairplay, Colorado

Or

Town of Fairplay website at:

[www.fairplayco.us](http://www.fairplayco.us)

The point of contact for the Water Meter Replacement and Well Rehabilitation Project is Janell Sciacca, Town Administrator, 719-839-6150.



# Drinking Water Project Needs Assessment (PNA) Form

Water Quality Control Division

**General Information**

Facility Name: FAIRPLAY, TOWN OF Original ID: \_\_\_\_\_

Mailing Address 1: 901 Main St Mailing Address 2: \_\_\_\_\_ County: \_\_\_\_\_

City: Fairplay State: CO Zip Code: 80440

Property Address 1: 901 Main St Property Address 2: \_\_\_\_\_ County: Park

City: Fairplay State: CO Zip Code: 80440

Latitude : 39.7517291 Longitude : -104.992107

Name of Project: Meter Replacement Project

Type of Project (Check all that apply)

Treatment       Distribution / Transmission       Water Supply       Water Storage

Please enter the following information for your organization if you have it.

**1. Applicant Information:**

First Name: Janell Middle Name: \_\_\_\_\_ Last Name: Sciacca

Phone Number: 719-839-5150

Mailing Address1: 901 Main St Mailing Address2: \_\_\_\_\_

City: Fairplay State: CO Zip Code: 80440

E-mail: jsciacca@fairplayco.us

**Consulting Engineer Information:**

First Name: Ken Middle Name: \_\_\_\_\_ Last Name: Hardesty

Phone Number: 303-570-9124

Mailing Address1: 2062 Dolomite Way Mailing Address2: \_\_\_\_\_

City: Castle Rock State: CO Zip Code: 80108

E-mail: hardestyeng@gmail.com

**Self-Certification:**

Yes     No    Does the system intend to self-certify all or a portion of the project?

If yes, please identify the portions of the project that the system will self-certify.

- Distribution system piping
- Pump station (without integral treatment)
- Valves, hydrants, and/or meters

Provide additional explanation, if necessary:

## 2. Executive Summary

This AMI project will serve to replace the aging and damaged meters in the Town of Fairplay with new, advanced reading meters and a central fixed data collector system that will automatically gather and download the town meter data to the Town's billing software. The project will also include rehabilitation of the Town's four (4) water supply wells, located at the water treatment plant site. The well rehabilitation will include replacement of the pumps and motors with 3-phase variable frequency drive (VFD) motors and new pumps. The scope of the project will include determining the number and size of meters in town, ordering the appropriate meters, hiring a specialized contractor experienced in large-scale meter replacement to pass out door hangers to establishments where the meters are located, scheduling and coordination for accessing the meters, removal of existing meters and installing new meters and radio communication units, installation of the fixed data collector system, software integration between the meter software and the Town's billing software, and training and troubleshooting. Each meter will include a radio communication unit that will communicate with the central fixed data collector system.

## 3. System Structure and Operation

### 3.1 Legal Ownership of System (TMF: Managerial-1)

First Name: Town of Fairplay

Mailing Address1: 901 Main Street Mailing Address2: \_\_\_\_\_

City: Fairplay State: CO Zip Code: 80440

Phone Number: 719-836-2622 Fax: \_\_\_\_\_

### 3.2 Organizational Chart

Include an Organizational Chart as Attachment 2.

### 3.3 Plans (TMF: Managerial-2)

Monitoring Plan - Include a copy of the Monitoring Plan as Attachment 3.

Cross Connection Control Plan - Include a copy of the Cross Connection Control Plan as Attachment 4.

Water Conservation Plan (if system sells over 2,000 acre feet of water annually) - Include a copy of the Water Conservation Plan as Attachment 5.  Not Applicable

### 3.4 Current Operator in Responsible (ORC) Charge (TMF: Technical-14)

First Name: Martin Middle Name: \_\_\_\_\_ Last Name: Deline

Certification Number: 172 Certification Expiration Date: 10/30/26

Operator Certification Level (check one)  Staff Operator  Contract Operator

Treatment  Class D  Class C  Class B  Class A

Distribution  Class 4  Class 3  Class 2  Class 1

Combined Treatment/Distribution  Class S  Class T

**3.5 Operator Certification (TMF: Technical-15)**

Yes  No Do the system operators have adequate operator certification levels for the proposed project as defined by Regulation 100 Water and Wastewater Facility Operators Certification Requirements?

Explain the impact of the proposed project on the required operator in responsible charge (ORC) certification level and other predicted staffing changes.

No impact on the ORC

**3.6 Record Keeping (TMF: Managerial-3)**

Describe the system's record retention policy that meets the requirements of the Colorado Primary Drinking Water Regulations (Regulation 11) including: record type, retention period, and record location.

Records are kept at the water treatment plant, public works office and town hall and retained for the specified time. Electronic records are maintained on the town's server and with CDPHE through the CEOS system.

**3.7 Annual Budget (TMF: Financial-1)**

Yes  No Does the system prepare an annual budget?  
 Yes  No Does the system prepare and maintain a Capital Improvement Plan?

Please provide a narrative of the process for annual budgeting and financial planning.

The budget is processed according to Colorado statutes. The Town Board of Trustees reviews all expenses and approves the budget and financial documents. The CIP is updated annually through a coordinated process between the Town's consulting engineer, Hardesty Engineering and Mapping and the Town Administrator, Janell Sciacca. The CIP is presented to the board of trustees for approval annually.

**3.8 Financial Status (TMF: Financial-2)**

Describe the current financial status and multi-year financial planning for the system including O&M costs, existing debt, required reserve accounts, rate structure, other capital improvement programs, and the system's reserve policies.

See audit documents

20-year cash flow projection  
Include a copy of the 20-year cash flow projection as Attachment 8.

**3.9 Audits (TMF: Financial-5)**

Has the system submitted audits to the Department of Local Affairs or has the received State exemption of the statutory audit requirement?

- Yes - Provide a copy of the most recent audited financial statement or exemption from State as Attachment 9.
- No

**3.10 Insurance (TMF: Financial-6)**

Does the system maintain general liability insurance?

- Yes - Provide a copy of the most recent audited financial statement or exemption from State as Attachment 9.
- No

**4. Project Purpose and Need**

Discuss the issue or concern that the proposed project will address. Specific issues are outlined below. All issues must be discussed in each sub section below even if they are not the project driver.

**4.1 Health and Compliance**

Summarize the system's compliance status that necessitates the proposed project.

The Town's water system is within compliance. The proposed improvements are necessary to maintain a well operated utility and to increase the systems reliability by decreasing water loss and non-revenue water through replacement of malfunctioning and/or outdated service meters.

**4.2 Existing facility limitations**

Summarize existing water system facility(ies) limitations that necessitate the proposed project.

There are currently no limitation on the existing water system facilities. There are numerous water meters in town that are currently inoperable or incorrectly metering water usage.

**4.3 Operations and Maintenance Issues**

Summarize operational and maintenance (O&M) issues with the existing water facilities.

Many of the Town's current water meters are very old or don't function and necessitate manual reading. The current and associated billing system has many data entry errors or areas where data is not known. Therefore, updating the billing system simultaneously with installation of new meters should enhance income potential by reducing non-revenue water. The project will also include enhancements to existing wells, including installation of VFDs for all wells and allowing for independent operation of the wells.

**5. Existing Facilities Analysis**

**5.1 Existing Source Water– Section required for treatment and supply projects**

Not applicable (for distribution and storage projects, only)

**5.1.2 Water Rights (TMF: Technical-3)**

[Empty text box for 5.1.2 Water Rights]

**5.2 Existing treatment– Required for treatment and supply projects only**

Not applicable (for distribution and finished water storage projects, only)

**5.3 Distribution - Required for distribution and storage projects only**

Not applicable (for supply and treatment projects, only)

**6.Facility Planning Analysis**

**6.1 Planning Area Description**

**6.1.1 Project Area Map**

Provide a map showing a minimum of a 3-mile radius around the project area that includes environmental features (lakes, streams, wetlands, floodplains). Map must include current and proposed service area, existing drinking water facilities (plants, major distribution lines, water sources, storage facilities), existing wastewater outfalls/permitted discharge points, and any new or affected sources with regard to the pertinent watershed. Include the map as Attachment 16.

**6.1.2 Urban Growth Boundary**

Yes  No Is the project within or near an urban growth boundary?

**6.1.3 Local and Regional Issues**

Yes  No Were local and regional planning efforts considered?

Please describe.

[Empty text box for 6.1.3 Local and Regional Issues description]

Yes  No Were local and regional water quality and/or quantity efforts considered?

Please describe.

Yes  No Was consolidation with another water system / treatment facility considered?

If yes, describe the consolidation considerations. If no, please indicate why consolidation was not considered.

**6.2 Population and Water Demand Projections (TMF: Technical-2)**

For a 20 year planning period, forecast the population growth, projected increase in Equivalent Residential Taps (ERT), and projected drinking water demands.

Current ERT - As Calculated in the Prequalification Form: 694.23

Population and Demand Projections - The department generally accepts two methodologies for projecting water flows over the 20 year planning period. Other methodologies are acceptable with a clear explanation and all assumptions and parameters listed:

- Method 1: Population based projections. Recommended for primarily residential systems and/or for systems without water meter data
- Method 2: Equivalent Residential Taps (ERT) Analysis. Recommended for systems with a high multifamily, commercial, industrial, irrigation demands.

Method 1 and 2 templates can be found at the end of this form. Attach the population projection as Attachment 17.

Discuss supporting data and reasons for projected future growth during the 20 year planning period. Note: Projects designed solely to serve future development or population growth are not eligible for State Revolving Fund financing.

**6.3 Source Water Planning**

**6.3.1 Overall Water Resource Management Description (TMF: Technical-2)**

For a 20 year planning period, describe the system's water resource management plan.

The town is diligently working on improving raw water flexibility and capabilities. This meter replacement project will help the town significantly reduce non-revenue water and improve the town's understanding of the overall usage and demand. The well rehabilitation project will improve the efficiency of supplying water to the town and reduce the power consumption. Additional future planning includes a proposed WTP and storage on the Middle Fork of the South Platte River to make beneficial use of the Town's additional municipal water rights.

**6.3.2 Water Rights (TMF: Technical-3)**

For the 20 year planning period, discuss how the system will be able to meet the projected population and increased industrial/commercial water demands.

The Town is currently working with their water attorney to establish applicability of water rights. Based on population growth estimates, it is expected that the current water rights should be sufficient to meet future demands.

Provide documentation supporting the system's water rights, if not provided in section 5.1.2 above, as Attachment 18.

**6.3.3 Source Water Supply Capacity (TMF: Technical-4)**

For the 20 year planning period, discuss if the source water supply infrastructure is capable of delivering adequate source water to meet projected needs.

Currently, the Town has the capacity and infrastructure to meet existing and near-term future demands. A recent WTP upgrade project has provided additional treatment capacity and has increased the WTP's capacity to near design capacity.

## **7. Assessment of Alternatives**

### **7.1 Alternatives**

For each alternative, please provide:

1. A description of the alternative addressing the issues identified in Section 4: Project Purpose and Need. (TMF: Technical-7)
2. Capital cost estimates and annual operation and maintenance costs.
3. Advantages and Disadvantages of each alternative.

Alternative 1 Title : Water meter replacement (AMI)

Alternative 1 Description (2000 character limit):

Install new AMI water meters at all service connections in town that either currently don't have meters installed, have broken or damaged meters, or have aging meters that have not been upgraded within the last 5 years. Approximately 450 meters will be installed that are equipped with cellular transmitters that will send usage data monthly to the Utility Department where data can then be imported into the billing software. The well rehabilitation project will include replacing old pumps and motors with new pumps, motors and VFD's on three wells (Well 2, 3, and 4).

Alternative 1 Capital and Operation and Maintenance Costs (2000 character limit):

Engineering opinion of project cost: \$600,000. Operation and maintenance costs would be minimal (approx. \$1,000/yr).

Alternative 1 Advantages and Disadvantages (2000 character limit):

Replacing the town's meters with a new AMI program would have many positive advantages for the town, including increased revenue, lower non-billable water, increased understanding of usage and demands for planning and water management, more control over managing water usage, better leak detection on service lines and providing more accurate data for setting and maintaining water rates. Disadvantage would be significant upfront cost.

Alternative 2 Title : Annual meter replacement program

Alternative 2 Description (2000 character limit):

The town would replace meters as they break or as water accounting data shows discrepancies in usage or billing. Meters would be purchased and installed on an annual basis by the town public works staff.

Alternative 2 Capital and Operation and Maintenance Costs (2000 character limit):

Annual cost: \$20,000 for purchasing and installing meters. O&M costs: \$35,000 labor and materials to repair and maintain old meters.

Alternative 2 Advantages and Disadvantages (2000 character limit):

Disadvantages: Town will continue to see decreased revenue, increased non-billable water, a lack of understanding of water usage and demands, less control of water management, an increase of water loss due to undetected leakage, and less ability to accurately set and maintain appropriate water rates. Advantage: Cheaper short-term costs.

Alternative 3 Title :

Alternative 3 Description (2000 character limit):

Alternative 3 Capital and Operation and Maintenance Costs (2000 character limit):

Alternative 3 Advantages and Disadvantages (2000 character limit):

Provide discussions of additional alternatives as Attachment 19.

**8. Selected Alternative**

**8.1 Justification of Selected Alternative (TMF: Technical-6)**

Please demonstrate why the selected alternative best meets system needs based on both monetary and non-monetary considerations. For treatment facility projects, if the EPA-BAT technology is not selected then the report must include a treatment rational.

The preferred Alternative 1, Water Meter Replacement project, meets the town's objectives of a cost effective, reliable and accurate water metering system. Any other phased approach to replacing the water meters would be more expensive, more of a demand on a small-Town staff to continue repairing meters while also replacing them, continued loss of revenue with an inaccurate billing system, and take significantly longer to accomplish.

### **8.2 Technical Description and Design Parameters (TMF: Technical-5)**

For the selected alternative, please describe all proposed project components and assumed design parameters.

Design components include approx. 450 Neptune water meters ranging from 3/4" to 2". The meters would be equipped with cellular transmitters. Other components would include backup belt clip readers, the Neptune 360 software package, and any necessary hardware for meter installation. The well rehabilitation would include three submersible Gould pumps (or equivalent), three 2-hp submersible motors, three variable frequency drives (VFD's) and all necessary electrical, instrumentation and hardware.

### **8.3 Proposed Process Flow Diagram**

Include a proposed treatment facility process flow diagram or map of the distribution system, as applicable as Attachment 20.

### **8.4 Appropriateness of Treatment Technologies (TMF: Technical-6)**

Discuss appropriateness of the proposed treatment process(es) to meet Regulation 11 considering anticipated source water quality and potential sources of contamination.

Neptune meters are state-of-the-art meters that are specifically designed for the intended application. The well rehabilitation will be performed by an experience contractor, and the equipment is considered applicable for the intended use.

### **8.5 Environmental Impacts**

Describe direct and indirect impacts on floodplains, wetlands, wildlife habitat, historical and archaeological properties, etc., including any projected permits and certifications.

There are no direct or indirect impacts as a result of this project.

### **8.6 Land Requirements**

Identify all necessary sites and easements, permits and certifications, and specify if the properties are currently owned, to be acquired, or leased by the applicant.

properties will require permitted access to replace the meters. Door hangers will be distributed and property owners will be asked to coordinate and schedule meter installation with the meter installation contractor. The Town of Fairplay owns the land at the WTP where the wells to be rehabilitated are located.

### **8.7 Construction Requirements**

Discuss construction concerns such as subsurface rock, high water table, limited access, or other conditions that may affect cost of construction or operation of a facility.

There are no construction concerns.

**8.8 Operational Aspects**

Discuss the operator staffing requirements, operator certification level requirements (including distribution), the expected basic operating configuration and process control complexities, and the operational controls and equipment that allows operational personnel to respond to routine and unanticipated treatment challenges, such as flow rate, chemical feed dosing, and process monitoring.

There is no additional staffing requirements. The AMI project will reduce the O&M work load on the public works staff as well as billing staff.

**8.9 Costs (TMF: Financial-2 and -3)**

Summarize the capital costs associated with the selected alternative. The 20 year cash flow projection included in Attachment 7 must reflect the capital and operation and maintenance costs associated with the selected alternative. (No more than 2,000 Characters)

See the attached 20-year cash projection. The O&M costs are included in the cash projection.

Cost Category Selection (Assign a percent to each applicable category)

Planning and Design Only (non-construction)	0
Construction - Treatment	0
Construction - Transmission and distribution	55
Construction - Source	45
Construction - Storage	0
Purchase of Systems	0
Restructuring	0
Land Acquisition	0
Water Rights	0
Other	0
Total: (must equal 100%)	100

Please include an estimate of the projected increase in and total average monthly user charges. Does the user charge system allow for billing, collection, and enforcement?



+15	1021	1021	134772	188885	330824
+20	1073	1073	141636	198505	347652

**10. Projecting Water Flow Method 2: Equivalent Residential Taps (ERT)**

Current Equivalent Residential Taps (ERT)		
A	Number of active residential taps:	0
B	Total annual consumption (gallons per year) - Residential	0
C	Estimated equivalent residential tap water usage Annual flow per ERT = B / A	0
D	Total annual consumption (gallons per year) - Commercial / Industrial / Irrigation	0
E	Estimated Commercial / Industrial / Irrigation flow in ERT # of commercial / industrial / irrigation ERT = D / C	0
F	Total ERTs = A + E	0

Population and Flow Assumptions / Data

Information Source

Current System Population	_____ People	_____
Current Service Area Population (If providing water to neighboring community)	_____ People	_____
Population Growth Rates	_____ % increase/year	_____
Average daily flow per ERT	_____ Gallons per capita day	_____
Maximum daily flow per ERT	_____ Gallons per capita day	_____
Peak Hour Factor	_____ Gallons per capita day	_____

Year	System Population	Service Area Population (if different)	Residential Taps (ERTs)	Multifamily Residential Taps (ERTs)	Commercial/ Industrial Taps (ERTs)	Irrigation Taps (ERTs)	Total Taps (ERTs)	Average Daily Flow	Maximum Daily Flow	Peak Hour Flow
+0										
+5										
+10										
+15										
+20										

**PUBLIC NOTICE**

Notice of Public Hearing for Town of Fairplay  
Water Meter Replacement and Well  
Rehabilitation Project, Fairplay, Colorado

**Date:** Mar 2, 2026

**Time:** 6:00 PM

**Location:** Fairplay Town Hall

**Address:** 901 Main Street

Fairplay, Colorado

**Topic:** Meter Replacement Project

A public hearing will be conducted for informing citizens and soliciting public input, written or oral, regarding the Water Meter Replacement and Well Rehabilitation Project, and Project Needs Assessment (PNA). The PNA is a state submittal detailing the project consisting of advanced metering infrastructure (AMI) and well rehabilitation. The report has been submitted to the Colorado Department of Public Health and Environment (CDPHE) to qualify the Fairplay Water Meter Replacement and Well Rehabilitation Project for a State Revolving Fund Loan.

The Project will include installing new smart, digital meters in town with cellular meter reading capabilities, and the installation of new pumps, motors and variable frequency drives at three of the Town's supply well.

The opinion of probable construction cost for the project is \$600,000.

Copies of the PNA are available for public review prior to the Public Hearing at the following location:

Fairplay Town Hall,  
901 Main Street, Fairplay, Colorado

Or

Town of Fairplay website at:

[www.fairplayco.us](http://www.fairplayco.us)

The point of contact for the Water Meter Replacement and Well Rehabilitation Project is Janell Sciacca, Town Administrator, 719-839-6150.

Published in The Park County Republican and Fairplay Flume February 6, 13, 20, and 27, 2026.

Fairplay Planning Department  
 Fairplay Town Hall  
 901 Main Street  
 Fairplay, Colorado 80440



Fairplay Board of Trustees  
 Mayor – Frank Just  
 Mayor Pro Tem – Ray Douglas  
 Courtney Avery  
 Erik Baum  
 Josh Voorhis

## Town Board of Trustees Hearing

### PUBLIC HEARING ITEM B.

### Stoinski Property Variance Application Review

<b>Hearing Date:</b>	February 2, 2026 - <u>Continued to March 2, 2026</u>
<b>File Name and Process:</b>	Stoinski Variance Request - VAR 2025-001
<b>Owner/Applicant:</b>	Pat Stoinski
<b>Representative:</b>	Ann Jefferson, JVAM Law
<b>Legal Description:</b>	New Lot 11 and Lot 14, Block 7, Johnson Addition
<b>Zoning:</b>	Commercial (C)
<b>Staff Member:</b>	Scot Hunn, Town Planner
<b>Recommendation:</b>	Denial

### Staff Report

#### I. Summary of Request:

The Applicant, Pat Stoinski, is requesting relief (a variance) from the strict application of the Town's dimensional limitation standards related to a proposed exemption plat for a property located at 1150 Castello Avenue.

Per the application, the Applicant requests approval for the following:

*“Application for a dimensional variance from the 10-foot rear and side yard setback requirements of UDC Section 16-5040 to permit the reconfiguration of a lot line in close proximity to existing structures.”*

Public notice has been provided in accordance with the Town of Fairplay Code.

Staff are **recommending denial** of this request.

## II. Background:

### **Exemption Plat Application and Recommendation for Denial**

On or about April 8, 2025, the Town received an application from Pat Stoinski (the “Stoinski Application”) for an exemption plat to adjust or move the common property line between “New Lot 11” and “Lot 14,” Block 7, Johnson Addition and to create a new lot line between “New Lot 11A” and “New Lot 14.”

Following two rounds of review of the plat submission by staff between April and June, 2025 and after receiving an existing conditions survey on June 10, 2025 from Tom Burnett, the Applicant’s surveyor, verifying that the location of the proposed common lot line between New Lot 11A and New Lot 14 would create a nonconforming situation due to the location of existing permanent structures - a stairway connected to an existing building on New Lot 11A and a non-permanent shed structure located on what would be New Lot 14 - staff notified the Applicant and Tom Burnett on June 26, 2025 that this situation constituted non-compliance with the Town Code and subdivision regulations.

At that time (see email from Scot Hunn to Pat Stoinski and Tom Burnett dated June 25, 2025) staff advised the Applicant that the UDC requires a minimum of ten (10) feet of setback separation between lot lines and structures. In that communication, staff also advised the Applicant that the review of the Stoinski Application could continue but that the proposed property line would need to be moved a minimum distance of ten (10) feet away from the existing stairs and that the non-permanent shed structure would also be moved further to the north to also provide a minimum of ten (10) feet between the new property line and the shed.

No further communication was received from the Applicant (by Scot Hunn) in response to his email communication on June 26<sup>th</sup>.

Following several weeks of inaction by the Applicant to respond to staff comments or to submit a revised, updated exemption plat application that complied with the requirements of the Town Code, Scot Hunn provided a letter (attached) to Janell Sciacca, Town Administrator, on August 7, 2025, recommending that the Town Administrator deny the application. This served two purposes: 1) denial of a non-compliant application given inaction to correct the application; and 2) allowing the Applicant to act on that denial by filing an appeal to allow her to present her case to the Town Board of Trustees, thus providing and protecting her due process rights under the Town Code.

### **Appeal of Staff Decision**

Following staff’s decision to deny the Stoinski Application due to inaction and non-compliance with the Town Code, the Applicant filed an appeal (“the Appeal”) of that decision. A hearing was scheduled and held on November 3, 2025.

Based on the testimony and representations made at the Appeal Hearing by the Applicant and her representative, Mr. Ben Monarch, JVAM Law, the Town Board (the “Board”) stayed the Appeal Hearing to allow the Appellant sufficient time to submit a formal application to the Town for a variance pursuant to Article XXII – *Board of Adjustment*, Town of Fairplay UDC.

### III. Summary Applicable Standards:

#### Variance Standards

The following section outlines the powers of the Board of Adjustment and the standards and findings necessary for approval of a variance. As highlighted below under subsection “B”, staff interprets the UDC as requiring that the Board of Adjustment make a positive finding for ALL seven standards.

#### **Section 16-22-70 - Powers of Board of Adjustment.**

*(B) Vary terms of this Chapter: The Board of Adjustment may authorize upon application in specific cases such variances from the terms of this Chapter, subject to terms and conditions fixed by the Board of Adjustment, as will not be contrary to the public interest where, owing to exceptional and extraordinary circumstances, literal enforcement of the provisions of this Chapter will result in unnecessary hardship. Every variance authorized hereunder shall not be personal to the applicant therefor but shall run with the land. No variance shall be authorized hereunder unless the Board of Adjustment shall find that the following conditions exist:*

1. *That the variance will not authorize the operation of a use other than those uses specifically enumerated as a primary permitted use for that district in which the property is located and for which the variance is sought;*

#### **Staff Response:**

This variance request is not related to and does not authorize any particular use enumerated as a primary permitted use for the Commercial Zone District.

*Not applicable.*

2. *One or more of the following special circumstances or conditions exist with respect to the specific property:*
  - a. *Exceptional narrowness, shallowness, or shape of the property at the time of the enactment of the regulation in question;*
  - b. *Exceptional topographic conditions of the property; and*
  - c. *Other extraordinary and exceptional situations or conditions of the property.*

**Staff Response:**

The Applicant sought to move an existing property line between “Old Lot 11” and “Old Lot 14” within Block 7 of the Johnson Addition. This was proposed in an application for an Exemption Plat (a lot line adjustment) where the lot line between Old Lot 11 and Old Lot 14 was to be moved to the south, making two new lots: “New Lot 11 A” and “New Lot 14.”

New Lot 14 would become larger and New Lot 11 A would become smaller, but both lots would continue to conform to the minimum lot size required in the Commercial Zone District (5,000 sq. ft.).

The shape of both lots (old and newly configured) would not be considered irregular or unique; not shallow, or narrow, or otherwise extraordinary.

Variations are often granted to allow for a reasonable use of properties which are unique or unlike neighboring properties in the same general vicinity either due to physical characteristics or impediments such as steep slopes; environmentally sensitive lands such as wetlands, critical wildlife habitat, or riparian areas; natural hazard areas such as rock fall zones, flood zones, or wildfire prone areas; or even the shape or size of a property.

In such extraordinary and exceptional circumstances, variances might be viewed from a zoning perspective as necessary or justified to allow the least amount of reasonable use of a property based on the establishment of a hardship (i.e., no reasonable use, for example) if a variance is not granted. Often times, variances are granted in whole or in part based on the degree or level of exceptionalism of circumstances.

However, in this case, both lots (old and newly configured) are essentially flat, with no extraordinary or exceptional topographic conditions existing on the lots.

But for a condition that is 100% discretionary by the Applicant’s choosing (i.e., the proposed location of a new lot line in violation of the Town’s setback regulations and standards where other alternatives exist including the movement of a shed structure that is not permanently affixed to the ground), staff believes the properties in question (old and newly configured) are not exceptional or extraordinary.

*Therefore, staff finds that this standard cannot met.*

3. *The special circumstances and conditions have not resulted from any act of the applicant.*

**Staff Response:**

The circumstance or condition wherein the Applicant is proposing to locate a new property line within 1-2 feet of existing structures on either side of the new property line using an Exemption Plat is entirely discretionary and, if approved, would result in automatically creating two non-conformities (zoning violations) on New Lot 11 A and New Lot 14. The new lot line between Lot 11 and Lot 14 could be proposed in several different locations and/or configurations that would avoid placing the lot line within the prescribed setback distance to the nearest structure (10 feet), or, as suggested by the Town during the review of the Exemption Plat, an existing shed which is apparently not permanently affixed to the ground could be moved to allow for the new lot line to avoid setback violations.

The Applicant has provided no evidence to demonstrate 1) that the existing shed cannot be moved; or 2) that other, alternative lot line configurations could not be proposed to avoid unnecessary setback violations.

*Therefore, staff finds that this standard cannot met.*

4. *That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, or substantially or permanently impair the appropriate use or development of adjacent property;*

**Staff Response:**

The variance to allow for a 1–2-foot setback on New Lot 11A and New Lot 14 should not alter the essential character of the neighborhood or the Commercial Zone District. Likewise, while the variance, if granted, would create situations where buildings/structures are located too close to a lot line (and therefore preclude normal distance requirements and the ability to install utilities or other facilities such as stormwater and drainage along the common lot line between New Lot 11A and New Lot 14) the variance, if granted should not substantially or permanently impair the use or development of adjacent property.

*Therefore, staff finds that this standard may be met.*

5. *That the variance, if granted, is the minimum that will afford relief and is the least modification possible of the provisions of this Chapter which are in question;*

**Staff Response:**

The variance is not the minimum relief sought; and is not the least modification of the provision (i.e., dimensional regulation) possible to afford relief from the regulations.

The Applicant is requesting 1–2-foot setbacks on two adjacent lots, representing an 80-90% reduction in the required side and rear yard setback distances normally required.

*Therefore, staff finds that this standard cannot met.*

6. *That the granting of the requested variance would relieve a peculiar, exceptional and undue hardship on the applicant, provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning regulations as embodied in this Chapter and the Zoning Map;*

**Staff Response:**

The application states that *“Without the variance, the applicant would suffer an unnecessary hardship. The ability to adjust lot lines is a reasonable use of property. Because of the fixed location of the existing structures, a strict application of the 10-foot setback rule renders the desired lot line adjustment a practical impossibility. This denies the applicant a reasonable use and reconfiguration of their property. The hardship is not merely financial; it is a physical and practical inability to proceed.”*

Staff agrees with the Applicant’s representative that the ability to adjust lot lines is and should be a reasonable use of property. Each property owner within the Town of Fairplay has the right to apply for and present proposals to re-subdivide or otherwise adjust property boundaries and common lot lines, to create or vacate easements, and the like.

That being acknowledged, the Town has well established subdivision and zoning regulations promulgated under the authority of the Town and enabled by statute that require new subdivisions to conform to the Town’s adopted codes, including dimensional limitations and other relevant zoning regulations.

Further, there has been no evidence presented nor any demonstration by the Applicant that at least one of the structures that would be in conflict with the proposed property line location – the shed – is in a fixed position or cannot be moved. On the contrary, staff is of the understanding that the shed is not located on a permanent foundation and that it could, with reasonable effort, be moved.

Staff’s previous (and timely) suggestions to the Applicant during the initial review of the proposed Exemption Plat to move what appears to be an aging

structure that is not permanently affixed to the ground were dismissed by the Applicant and no evidence was provided to demonstrate the shed is, in fact, permanently affixed and cannot be moved to another location on New Lot 11A or New Lot 14.

Additionally, there remain numerous other remedies available to the Applicant that would continue to permit reasonable uses of property, and, importantly, the reasonable and possibly streamlined ability to reconfigure lot lines by choosing a different location or configuration whereby the lot line between New Lot 11A and New Lot 14 could be shifted to the north and/or around the shed structure.

No hardship – other than one created by virtue of the proposed Exemption Plat and proposed lot line configuration – has been demonstrated. It is also worth noting that hardships are typically not associated with financial burden. Put another way, financial hardship is not a criteria or standard to be considered by the Board of Adjustment.

Importantly, the purpose of setback requirements and regulations – dimensional limitations – are, in fact, to limit the placement of permanent and non-permanent structures, above ground obstructions and, therefore to preserve and maintain portions of property where utilities, drainage and stormwater infrastructure, and other public infrastructure (typically serving the public good) are to be placed to provide for the safe, efficient, and cost-effective development of properties.

Setbacks are also required to ensure adequate light and air between structures; to preserve or regulate characteristics such as bulk and mass of buildings; and to protect neighboring properties. Safety is typically a factor in the establishment and enforcement of setback regulations, whether related to the zoning code or the building codes adopted by a municipality. In this case, the Applicant has a choice of where to locate a new property line.

If approved, the variance would automatically create two zoning violations – as a matter of choice and not of any extraordinary or exceptional condition or peculiar hardship – which would directly impair the intent and purpose of the Town of Fairplay Unified Development Code as well as the Town’s ability to enforce its code in the future.

*Therefore, staff finds that this standard cannot met.*

7. *That the variance, if granted, will not adversely affect the public health, safety and welfare.*

**Staff Response:**

The application states that *“The variance will not be detrimental to the public good. It does not affect public infrastructure, drainage, safety, or access. The public welfare is in no way impaired by the location of this interior lot line. Granting the variance serves the public good by resolving a long-standing land use issue efficiently and fairly.”*

As stated above, the Town has adopted dimensional limitations and other related zoning and development standards to ensure that areas of properties – particularly newly subdivided properties – are configured in a way that preserves areas (setbacks and yards) to permit efficiency, safety, and cost-effectiveness in the provision of critical infrastructure such as utilities, drainage and stormwater infrastructure, and other infrastructure as a matter of orderly development.

Knowingly placing an interior lot line between two lots within 1-2 feet of existing structures on either side of the lot line precludes the reasonable ability for the Town or any private property owner to accomplish the public good or to protect the public’s welfare by precluding the possibility of installing utilities and infrastructure in the future.

Resolving a land use issue or addressing an outstanding appeal by the Applicant is not a criteria for approval of a variance.

*Therefore, staff finds that this standard cannot met.*

**IV. Zoning Analysis:**

The subject property is located within the Commercial Zone District. The purpose and objectives of the Commercial Zone District are described as follows:

*“Commercial adjacent to Highway 285 allows larger more intensive highway oriented commercial. Uses include grocery, restaurants, vehicle service, general retail, business/professional offices, governmental facilities, banks, medical/dental clinics, vehicle sales, motels, car wash, bowling lanes etc. Residential located in the rear of structures or on the second floor primarily serves employees and is secondary to business use. Storage is enclosed and screened with berms, landscaping and/or opaque fencing.”*

*- Town of Fairplay UDC Section 16-5-20 – Description of Zone Districts*

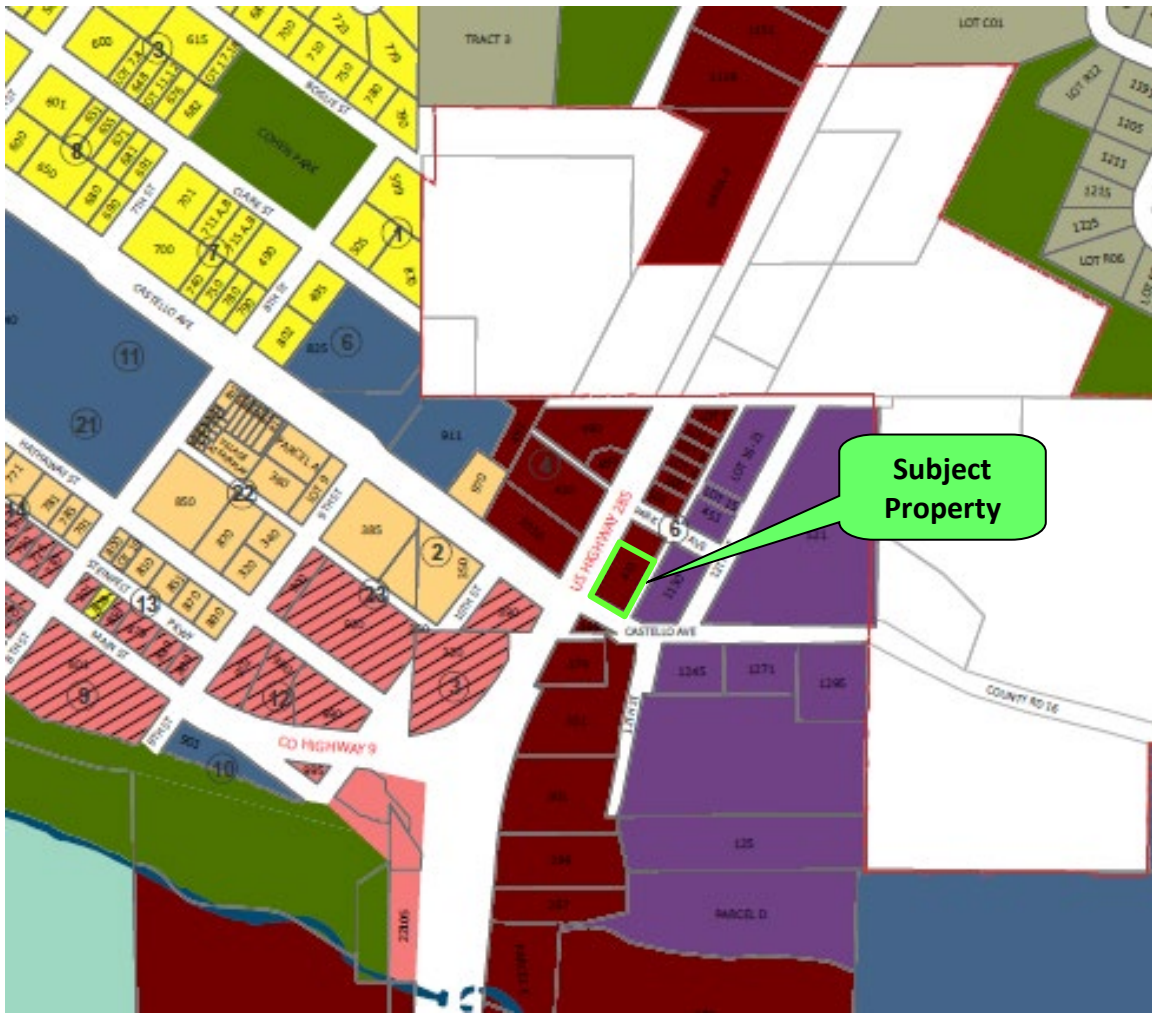


Figure 1: Town of Fairplay Zoning Map

Commercial Zone Standards	Allowed/Required	Proposed
Minimum Front Yard Setback:	25 feet	Unchanged
Minimum Side Yard Setback:	10 feet	<b>Approx. 1-2 feet</b>
Minimum Rear Yard Setback:	10 feet	<b>Approx. 1-2 feet</b>

As shown in the above table, the applicant is requesting approximately **8-9 feet of relief out of 10 feet** of the Town's standard setback requirements (or, 80-90% reduction in required setback distances).

**V. Staff Findings:**

The following summarizes staff's findings:

- Overall, the proposal fails to meet a preponderance of required findings and criteria for approval.
- No evidence has been provided to demonstrate that either the shed located on Lot 11 cannot be moved, or that alternative lot line configurations – avoiding setback violations – cannot be accomplished.
- No exceptional, extraordinary or peculiar conditions or circumstances exist – other than those proposed to be created by virtue of the Stoinski Exemption Plat Application - on the subject property.
- No evidence has been presented to establish hardship.

**VI. Staff Recommendation and Suggested Conditions:**

Staff find that the proposed Stoinski Variance Application for properties located at 1150 Castello Avenue does not meet a preponderance of the Town's Variance criteria and standards.

**Staff are recommending Denial** of the variance request.

Motion to Approve:

In the event the Town Board of Trustees votes to approve the Variance Request, the following suggested motion is provided:

**“I move that the Fairplay Board of Trustees approve the application for a Variance for relief from the Town of Fairplay setback regulations, filed by Pat Stoinski, for a property located at 1150 Castello Avenue within the Commercial Zone District because the application conforms with the standards and criteria of the Town of Fairplay Unified Development Code.”**

**“I further move to direct the Town Planner or Town Attorney to draft a resolution of approval for the Variance for the Town Board’s review and approval.”**

Motion to Deny:

In the event the Town Board of Trustees votes to deny the Variance Request, the following suggested motion is provided:

**“I move that the Fairplay Board of Trustees deny the application for a Variance for relief from the Town of Fairplay setback regulations, filed by Pat Stoinski, for a property located at 1150 Castello Avenue within the Commercial Zone District, because the application does not conform with the standards and criteria of the Town of Fairplay Unified Development Code.”**

**“I further move to direct the Town Planner or Town Attorney to draft a resolution of denial for the Variance for the Town Board’s review and approval.”**

Attachments:

- Applicant Variance Application Submittal Packet
- Staff Letter of Recommendation from Scot Hunn to Janell Sciacca Dated August 7, 2025
- Email from Scot Hunn to Pat Stoinski and Tom Burnett dated June 25, 2025
- Existing Conditions Survey Dated June 10, 2025, with Staff Red Lines
- Proposed Stoinski Exemption Plat Dated June 10, 2025, with Staff Red Lines

# HUNN

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## PLANNING & POLICY, LLC.

August 7, 2025

Town of Fairplay  
Attn: Janell Sciacca, Town Administrator  
901 Main Street  
Fairplay, CO. 80440

Re: Stoinski Lot Line Adjustment Application – Recommendation for Denial

Janell,

Pursuant to the Town of Fairplay Subdivision Regulations, specifically the provisions of Article 20 – *Exemption Plat*, of the Town of Fairplay Unified Development Code (UDC), I am herewith presenting a formal recommendation for denial of the Stoinski Exemption (Lot Line Adjustment) plat filed by Pat Stoinski (the “Applicant”) on or about April 8, 2025 (the “Stoinski Application”) to adjust or move the common property line between “New Lot 11A” and “New Lot 14,” Block 7, Johnson Addition.

As you are aware, the Town staff and consultant team completed an initial review of the Stoinski Application during the months of April and May 2025.

Following reviews by Hunn Planning & Policy, LLC., and SGM, Inc., the Applicant was provided with written comments – generally within 2-3 weeks of initial application date - pursuant to the Town of Fairplay Unified Development Code (UDC) standards and submittal requirements, as well as comments from a professional land surveyor related to professional survey standards and Colorado State Statutes requirements for land survey plats.

The Applicant subsequently re-submitted an updated exemption plat on or about June 10, 2025. The Town staff and consultant team subsequently provided additional review comments generally within a 2-week period (16 calendar days), providing written comments on June 24<sup>th</sup> and 26<sup>th</sup>.

As you are further aware, as part of the Town staff’s and consultant team’s review, the Applicant was asked – per the UDC – to provide a survey of existing conditions to demonstrate that any new or adjusted property lines would be in compliance with the Town of Fairplay zoning and subdivision requirements such as setbacks. Of particular concern after receiving the existing conditions survey was the proximity of the proposed, adjusted property line between New Lot 11A and New Lot 14 relative to existing building improvements (on New Lot 11A) and a shed structure on New Lot 14.

On June 26, 2025, I sent a letter to the Applicant stating that, following the Town’s review of the existing conditions survey and proposed Lot Line Adjustment Plat, staff and the consultant team had determined that the proposed property line between New Lot 11A and New Lot 14 would violate setbacks on both lots due to the proximity of the proposed lot line and existing improvements on both lots.

Specifically, the proposed exemption plat would create a new lot line between New Lot 11A and New Lot 14 that violates Chapter 16, Section 16-5-40 – *Table of dimensional limitations*, UDC, in the following ways:

- The properties are zoned Light Industrial (LI).
- The required side and rear yard setback(s) in the LI zone district are ten (10) feet.
- On proposed New Lot 11A, according to the draft plat and the existing conditions survey dated June 10, 2025, the proposed property line would be placed within approximately 1-2 feet of an existing staircase structure. This would violate the required 10-foot rear yard setback.
- On proposed New Lot 14, according to the draft plat and the existing conditions survey dated June 10, 2025, the proposed property line would be placed within approximately 1-2 feet of an existing shed structure. This would violate the required 10-foot side yard setback.

The Applicant was informed that, in its current configuration, the plat could not be approved and that doing so would create nonconformities on both new Lots (New Lot 11A and New Lot 14) in violation of the Town's subdivision regulations and, generally, state statutes. The Applicant was given alternatives to move the proposed property line further away (to the north) of an existing stairway located on New Lot 11A and to remove a shed on Lot 14 before the plat could be approved and/or recorded.

Since that time, and to my knowledge, the Town has received no further information or correspondence from the Applicant indicating that an updated plat – with revised property boundaries - will be provided for review by the Town; or that the Applicant will agree to removing the shed structure on proposed Lot 14 prior to approval of the plat.

In accordance with Chapter 16, Article 20 of the UDC, and in consideration of the lack of correspondence or good faith efforts on behalf of the Applicant to respond to or address Town review comments dated June 26, 2025, I am herein forwarding a recommendation for denial of the Stoinski Application.

The following citation from the UDC provides an overview of the process for review and approval of Exemption Plats (inclusive of Lot Line Adjustments) and specifically details that the Town Administrator is responsible for approval, approval with conditions, or denial of Exemption Plat applications. Additionally, the following citation outlines 1) the fact that all plats must conform to the requirements of the UDC, and 2) the process for the Applicant to appeal any decision by the Town Administrator:

***Sec. 16-20-50. - Exemption procedures.***

*Land development activities eligible for exemption from normal subdivision standards and processes shall be subject to the following procedures:*

*(A) All applicants for a subdivision exemption shall meet with the Town Planner and/ or Building Official to discuss exemption procedures prior to the submission of an application.*

*(B) All applicants shall submit a complete application, accompanied by any required fee, and a professionally prepared draft subdivision exemption plat substantially conforming in all respects to the applicable*

*requirements of Article XVI of this Chapter and illustrating all proposed adjusted lot lines and lots. The applicant shall provide no less than an original and two (2) copies of the proposed subdivision exemption plat unless otherwise specified by the Town Clerk.*

- (C) *All applications for a subdivision exemption shall be initially reviewed by the Town Planner and Building Official who shall forward a recommendation to the Town Administrator. The Town Administrator shall approve or deny the application within thirty (30) days without need for notice or hearing. Appeals from a decision of the Town Administrator shall be to the Board of Trustees in accordance with the procedures set forth in Subsection (E) below.*
- (D) *Upon approval of an application, the Town Administrator shall sign a reproducible Mylar original of the final subdivision exemption plat substantially conforming in all applicable respects to the requirements of Article XVI Subdivision Plat Details of this Chapter, and two (2) duplicate paper prints of the Mylar. One paper print shall be returned to the applicant. The Town Clerk shall file the approved plat with the County Clerk and Recorder as soon as reasonably possible, with the cost thereof to be borne by the applicant.*
- (E) *An applicant may appeal a decision of the Town Administrator denying a subdivision exemption approval to the Board of Trustees by filing a written notice of appeal with the Town Clerk not more than ten (10) days from the date of the Town Administrator's written decision. Such written notice shall specify in plain language the grounds for the appeal and shall be accompanied by any required filing fee and a copy of the Town Administrator's decision being appealed. Upon receipt of a timely notice of appeal, the Town Clerk shall schedule the matter for a hearing before the Board of Trustees to be conducted not more than thirty (30) days from the date the notice of appeal was received. All appeals shall be heard by the Board of Trustees de novo and shall be conducted at a public meeting within thirty (30) days from the filing of the appeal, or as soon thereafter as can be accommodated. The Town Clerk shall both (1) notify the appellant by certified mail, return receipt requested, of the date the appeal shall be heard and (2) publish notice thereof. Notice of the public hearing shall conform to the requirements of Article IV of this Chapter. The decision of the Board of Trustees on appeal may be issued orally, but shall thereafter be reduced to writing within a reasonable period of time after the conclusion of the hearing and mailed to the appellant. Absent good and just cause, the failure of an appellant to attend the hearing on his or her appeal shall constitute an abandonment of the appeal and no further proceedings shall be had thereon.*
- (F) *Aggregation and consolidation of lots for subdivision purposes. Any application seeking to simultaneously merge or aggregate two or more lots or parcels and then subdivide same for the purpose of creating two (2) or more new conforming lots shall be reviewed and approved under the procedures and standards utilized for establishing a minor or major subdivision, as the case may be, depending upon the total number of new lots sought to be created.*

Please let me know if I can provide anything further in this matter.

Kind regards,

Cc: Joseph Rivera, Town Attorney



Scot Hunn, AICP/MPA



Scot Hunn &lt;scot@hunnplanning.com&gt;

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## Stoinski Lot Line Elimination - Comments for June 10 2025 Re-Submittal

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Scot Hunn &lt;scot@hunnplanning.com&gt;

Thu, Jun 26, 2025 at 10:01 AM

To: freelancefound@live.com, Thomas Burnett &lt;burnettsurveying@gmail.com&gt;

Cc: Janell Sciacca &lt;jsciacca@fairplayco.us&gt;, Joseph Rivera &lt;jrivera@mdbrlaw.com&gt;, Deron Dircksen &lt;derond@sgm-inc.com&gt;, Tim Barnett &lt;timb@sgm-inc.com&gt;

Pat and Tom:

Thank you for your patience.

The Town of Fairplay staff and consultants have reviewed the latest versions of lot line elimination plat and existing conditions survey that were provided from the Applicant to the Town on or about June 10, 2025.

Attached are comments from Deron and Tim at SGM regarding some outstanding technical comments and recommendations they have. My comments are as follows:

- The updated plat addressed several of my previous comments. Thank you.
- Town Attorney, Joseph Rivera (copied on this email) and I conducted a site visit to the property recently to validate the existence and condition of the shed as well as the proposed property line in relation to the existing commercial building and the shed.
- As we interpret the existing conditions survey and the updated plat, it is clear that the **proposed** property line between "New Lot 11A" and "New Lot 14" will fall within 1-2 feet of both the existing stairs on the rear of the commercial building and also within 1-2 feet of the shed.
- The Town cannot approve a new lot line that is so close to those structures. To do so would mean the Town is knowingly allowing for the creation of nonconformities on both lots (New Lot 11A and Lot 14) because the building on Lot 11 and its stairs would violate the rear setback requirements (10 foot minimum separation between the stairs and any new property lines) and, unless the shed is moved it, too, would be encroaching into the side yard setback on New Lot 14.
- The minimum setback distance for what will be the rear setback for New Lot 11A is 10 feet. So, the property line needs to be located a minimum of 10 feet away from the edge of the stairs at the back of the commercial building. That would place the new property line through the middle of the shed which cannot happen.
- One option that we have suggested previously is to remove the shed prior to the plat being recorded. I believe this is the most practical option available (getting agreement that the shed will be removed prior to recording) to move this plat forward toward approval.
- The common lot line between New Lot 11A and New Lot 14 should be moved to the north approximately 10 feet on the plat.

I anticipate that another meeting with Town staff and consultant team will be helpful to discuss and resolve these issues. I should have time this Friday afternoon after 3 pm. I will have some availability Monday, June 30th, but then taking time off the remainder of next week. I am not certain that Janell, Deron, or Tim are available Friday or Monday but I can reach out to them and see.

We look forward to working with you to resolve outstanding issues and to bring this review to a close.

**Scot Hunn, AICP/MPA**

Principal/Owner




Hunn Planning & Policy LLC.

scot@hunnplanning.com

(970) 343-2161

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**3 attachments**

-  **Letter - Stoinski Review Comments 250624.pdf**  
879K
-  **fp-jn-b7-2 EXEMPT PLAT (3) dd notes 250617.pdf**  
645K
-  **StoinskiSubdivisionPlat-SurveyorPlatReview-250617.pdf**  
116K

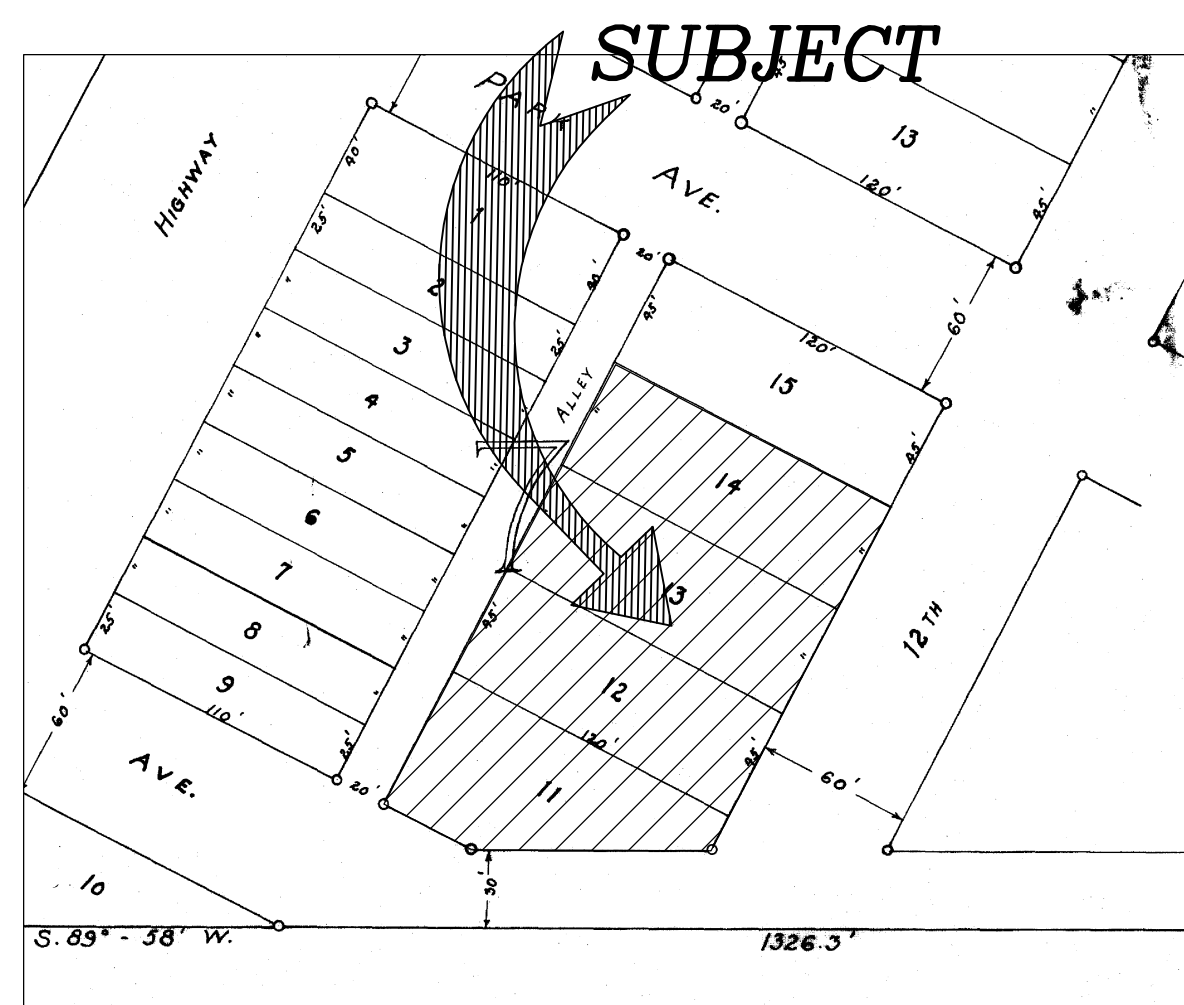
LEGEND

- INDICATES FOUND NO. 5 REBAR AND 1 1/2" YELLOW PLASTIC CAP, OR 1 1/2" ALUMINUM CAP, LS 11944 OR AS NOTED
- INDICATES SET NO. 5 X 18" REBAR WITH 1 1/2" YELLOW PLASTIC CAP, LS 11944
- ( ) INDICATES FIELD MEASUREMENTS UNLESS OTHERWISE NOTED.

10' UE 10' WIDE UTILITY EASEMENT  
5' UE 5' WIDE UTILITY EASEMENT

# STOINSKI EXEMPTION PLAT

## A RESUBDIVISION OF NEW LOT 11, AND LOT 14 BLOCK 7, JOHNSON ADDITION AS SIGNED NOVEMBER 18, 1939 AND RECORDED AT G-1 IN SW1/4 SEC. 34, T.9S., R.77 W. 6th P.M. TOWN OF FAIRPLAY, COUNTY OF PARK, STATE OF COLORADO



**TITLE COMPANY CERTIFICATE:**  
\_\_\_\_\_ does hereby certify that we have examined the title to all lands shown hereon and all lands herein dedicated by virtue of the plat, and title to all such lands is in the above-named Owner(s) free and clear of all liens, taxes and encumbrances, except as follows:  
Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
Agent/Officer \_\_\_\_\_  
Title: \_\_\_\_\_  
**Town Administrator Certificate**  
This plat is approved\* this \_\_\_\_\_ day of \_\_\_\_\_  
TOWN OF FAIRPLAY  
TOWN ADMINISTRATOR \_\_\_\_\_

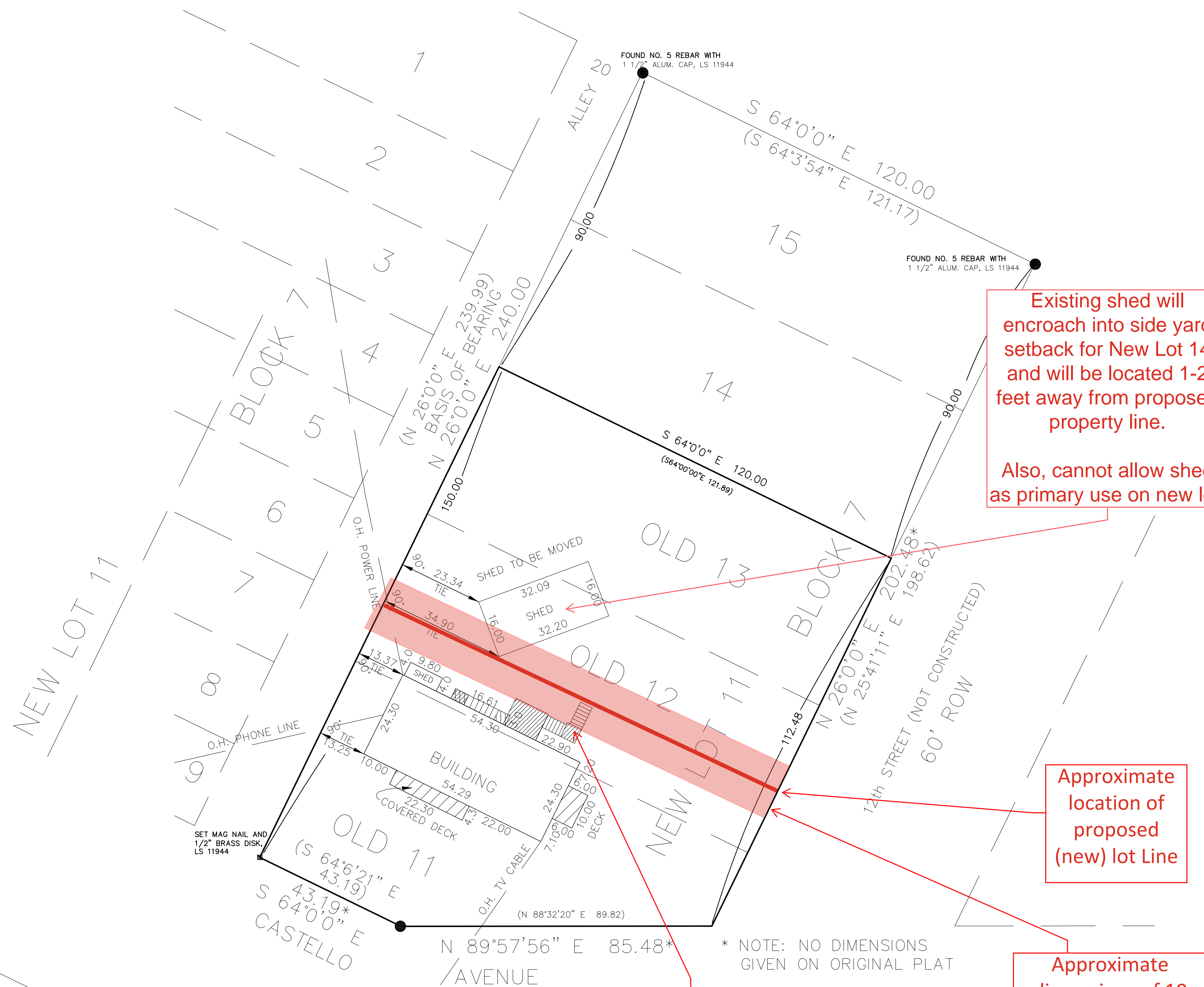
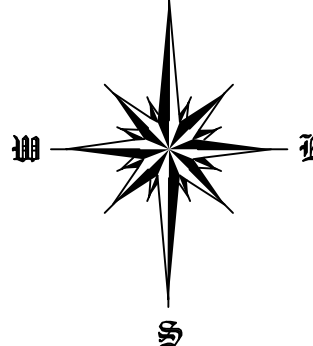
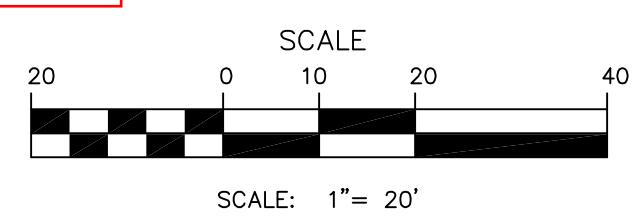
- NOTES:**
- 1) THE BASIS OF BEARING IS AN ASSUMED BEARING OF A LINE BETWEEN THE SOUTH WEST CORNER OF LOT 9 TO THE SOUTHERLY CORNER OF LOT 11, BLOCK 7 AS BEING S64°36'46"E WITH BOTH CORNERS BEING FOUND MONUMENTS AS SHOWN.
  - 2) MEASUREMENTS SHOWN IN PARENTHESES ARE FIELD MEASUREMENTS, UNLESS OTHERWISE NOTED.
  - 3) CERTIFICATION NOT VALID WITHOUT ORIGINAL SEAL AND SIGNATURE, THIS SURVEY AND ALL RELATED DOCUMENTS ARE FOR THE SOLE USE OF THE CLIENT AT THE DATE OF CERTIFICATION, AND DOES NOT EXTEND TO ANY UNNAMED PERSON OR ENTITY WITHOUT AN EXPRESSED RESTATEMENT BY THE SURVEYOR, NAMING SAID PERSON OR ENTITY.
  - 4) ANY PERSON WHO KNOWINGLY REMOVES, ALTERS, OR DEFACTS ANY PUBLIC LAND SURVEY MONUMENT OR BOUNDARY MONUMENT OR ACCESSORY, COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE 18-4-508, C.R.S.
  - 5) LEGAL DESCRIPTIONS FROM SCHEDULE # 512573.
  - 6) THE PURPOSE OF THIS EXEMPTION PLAT IS TO VACATE THE EXISTING LOT LINE BETWEEN NEW LOT 11 AND LOT 14 AND TO CREATE A NEW LOT LINE BETWEEN NEW LOT 11 AND LOT 14, AND TO CREATE ASSOCIATED UTILITY AND DRAINAGE EASEMENTS.
  - 7) ALL DIMENSIONS SHOWN ARE IN U.S. SURVEY FEET.
  - 8) LOTS 11 THROUGH LOT 15 BLOCK 7 ARE ZONED LIGHT INDUSTRIAL.
  - 9) BUILDING SETBACKS ARE: FRONT 25 FT., SIDE AND REAR ARE 10 FT. OR AS MAY BE AMENDED BY TOWN CODE.

**NOTICE:** ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVERED SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

**LIMITATIONS OF ACTIONS AGAINST LAND SURVEYORS**  
ALL ACTIONS AGAINST ANY LAND SURVEYOR BROUGHT TO RECOVER DAMAGES RESULTING FROM ANY ALLEGED NEGLIGENCE OR DEFECTIVE LAND SURVEY SHALL BE BROUGHT WITHIN THREE YEARS AFTER THE PERSON BRINGING THE ACTION EITHER DISCOVERED, OR IN THE EXERCISE OF REASONABLE DILIGENCE AND CONCERN, SHOULD HAVE DISCOVERED THE NEGLIGENCE OR DEFECT WHICH GAVE RISE TO SUCH ACTION, AND NOT THEREAFTER, BUT IN NO CASE SHALL SUCH AN ACTION BE BROUGHT MORE THAN TEN YEARS AFTER THE COMPLETION OF THE SURVEY UPON WHICH SUCH ACTION IS BASED.

**MORTGAGE'S CERTIFICATE**  
\_\_\_\_\_, as beneficiary of a deed of trust or identify other mortgage instrument or agreement security interest which constitutes a lien upon the decedant's property, recorded at Reception No. \_\_\_\_\_ and/or Book \_\_\_\_\_ Page \_\_\_\_\_ Park County Clerk and Recorder, hereby consents to the dedication of land to streets, alleys, roads and other public areas as designated on this plat, and hereby releases said lands from the lien created by said instrument.  
(print name of beneficiary) \_\_\_\_\_ (signature) \_\_\_\_\_ Date: \_\_\_\_\_  
(signature) \_\_\_\_\_ (print title) \_\_\_\_\_ Address: \_\_\_\_\_

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT. THE RECORD INFORMATION, WHICH IS REFERENCED HEREON, IS THE RESULT OF RESEARCH PERFORMED BY BURNETT LAND SURVEYING, INC., AND IS NOT NECESSARILY COMPLETE OR CONCLUSIVE.



**Land Dedication and Owner's Certificate**  
KNOW ALL PERSONS BY THESE PRESENTS:

That PATRICIA J. STOINSKI AND ALFRED W. STOINSKI, being the owner or owners of the following described real property situate in the Town of Fairplay, County of Park and State of Colorado, to wit:

BLOCK 7, NEW LOT 11, AND LOT 14 JOHNSON ADDITION, TOWN OF FAIRPLAY

has laid out, subdivided and platted the same into lots, tracts, streets, and easements as shown herein under the name and style of STOINSKI EXEMPTION PLAT, A RESUBDIVISION OF LOTS 11 THROUGH 14, BLOCK 7, JOHNSON ADDITION TOWN OF FAIRPLAY, and by these presents does hereby set apart and dedicate to the Town of Fairplay for public use all of the streets, alleys and other public ways and places as shown hereon, and hereby dedicates those portions of land labeled as utility easements for the installation and maintenance of public utilities as shown hereon.  
Executed the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

PATRICIA J. STOINSKI \_\_\_\_\_ ALFRED W. STOINSKI \_\_\_\_\_  
STATE OF COLORADO )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ [printed name(s) of owner(s)] [if by natural persons, here insert name; if by persons acting in a representative official capacity, or as attorney-in-fact, then insert the name and said capacity of said person and reference document establishing such capacity; if by officer of a corporation, then insert the name of said officer as the president or vice president of such corporation, naming it; if by a general partner of a partnership, then insert the name of said person as a general partner].

Witness my hand and official seal.

(SEAL) \_\_\_\_\_ Notary Public

My commission expires \_\_\_\_\_

**Fairplay Director of Public Works Certificate:**

This plat is approved\* this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
TOWN OF FAIRPLAY  
DIRECTOR OF PUBLIC WORKS \_\_\_\_\_

**Town Clerk's Certificate:**

STATE OF COLORADO )  
COUNTY OF PARK )

I hereby certify that this instrument was filed in my office at \_\_\_\_\_ o'clock \_\_\_\_\_ M., \_\_\_\_\_ and is duly recorded.

Town Clerk \_\_\_\_\_

**Surveyor's Certificate**

I, Thomas L. Burnett, being a registered land surveyor in the State of Colorado, do hereby certify that this plat of \_\_\_\_\_ was prepared by me and under my supervision, that both this plat and the survey are true and accurate to the best of my knowledge and belief, and that the monuments were placed pursuant to Sec. 38-51-105, C.R.S.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Surveyor's name/Registration No. \_\_\_\_\_

**Park County Clerk and Recorder's Certificate:**

STATE OF COLORADO )  
COUNTY OF PARK )

I hereby certify that this plat was accepted for filing and recorded in the office of the Park County Clerk and Recorder on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, under Reception No. \_\_\_\_\_ and/or Book \_\_\_\_\_ Page \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_, 20\_\_\_\_, Park County clerk and Recorder

**Fairplay Board of Trustees Certificate:**

This plat is approved\* this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
TOWN OF FAIRPLAY

Mayor \_\_\_\_\_

ATTEST:

Town Clerk \_\_\_\_\_

\*This approval does not guarantee that the type of soil, geologic hazard, drainage or flooding conditions of any lot shown hereon are such that a building permit may be issued. This approval is also with the understanding that all expenses involving necessary improvements for all utility service paving, grading, landscaping, curbs, gutters, street lights, street signs, and sidewalks shall be financed by others and not the Town of Fairplay. Notice is further hereby given that acceptance of this platted subdivision by the Town of Fairplay does not automatically constitute an acceptance of the roads, rights-of-way and other public improvements shown hereon for maintenance by said Town. Until such roads and rights-of-way and improvements meet Town specifications and are specifically inspected and accepted by the Town, the maintenance, construction, and all other matters pertaining to or affecting said roads, rights-of-way and improvements are the sole responsibility of the subdivider and owners of the land embraced within this subdivision.

EXISTING CONDITIONS	
STOINSKI EXEMPTION PLAT	
BLOCK 7, NEW LOT 11 & LOT 14, JOHNSON ADDITION	
TOWN OF FAIRPLAY, PARK COUNTY, COLORADO	
BURNETT LAND SURVEYING, INC. P.O. BOX 1953, 351 HWY 285, STE 104 FAIRPLAY, COLORADO 80440 (719) 836-1425	DATE: JUNE 10, 2025 SCALE: 1" = 20' DRAWN BY: TLB STOINSKI JOB NO. 2025-098

# STOINSKI EXEMPTION PLAT

## A RESUBDIVISION OF NEW LOT 11, AND LOT 14 BLOCK 7, JOHNSON ADDITION

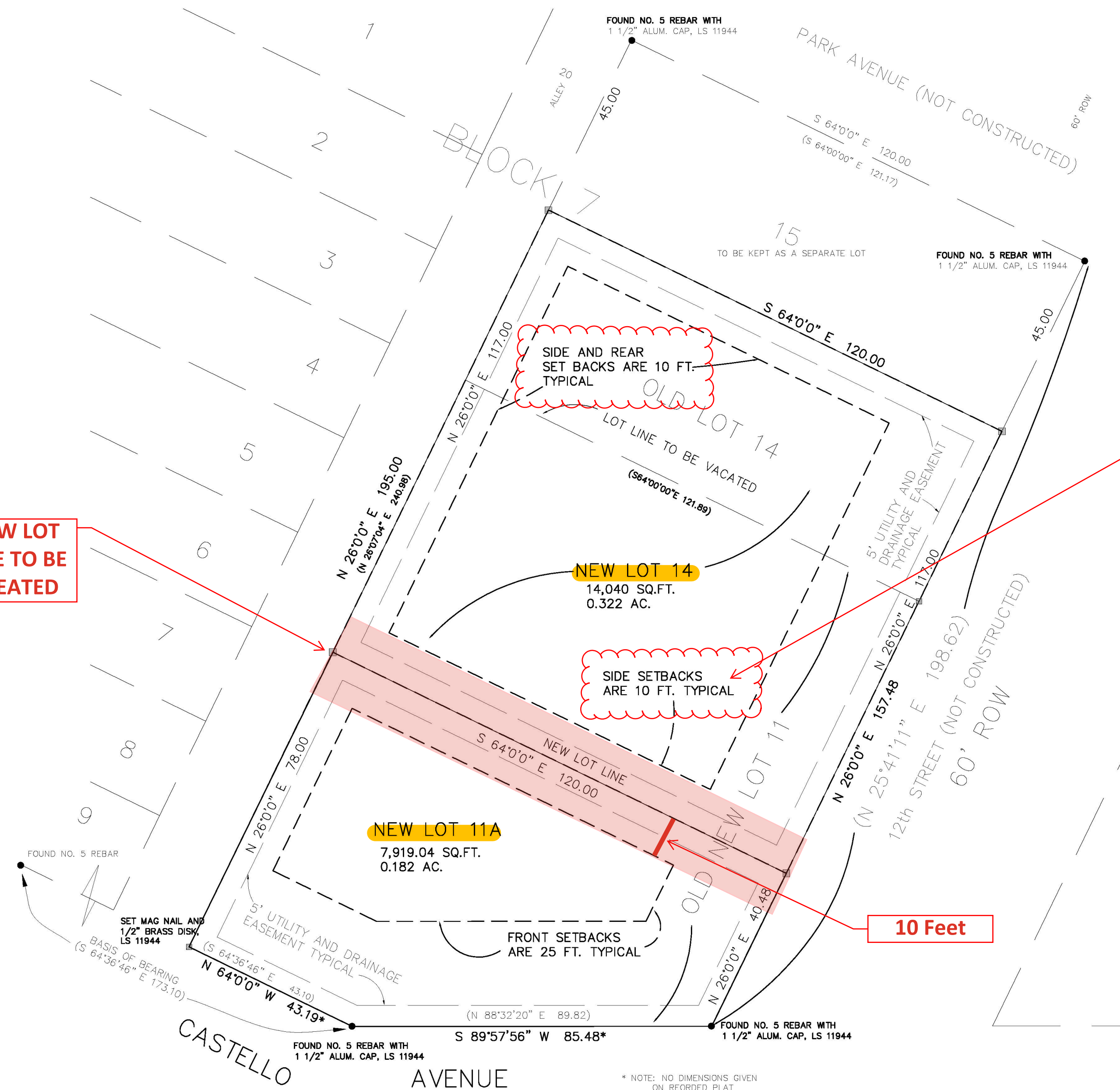
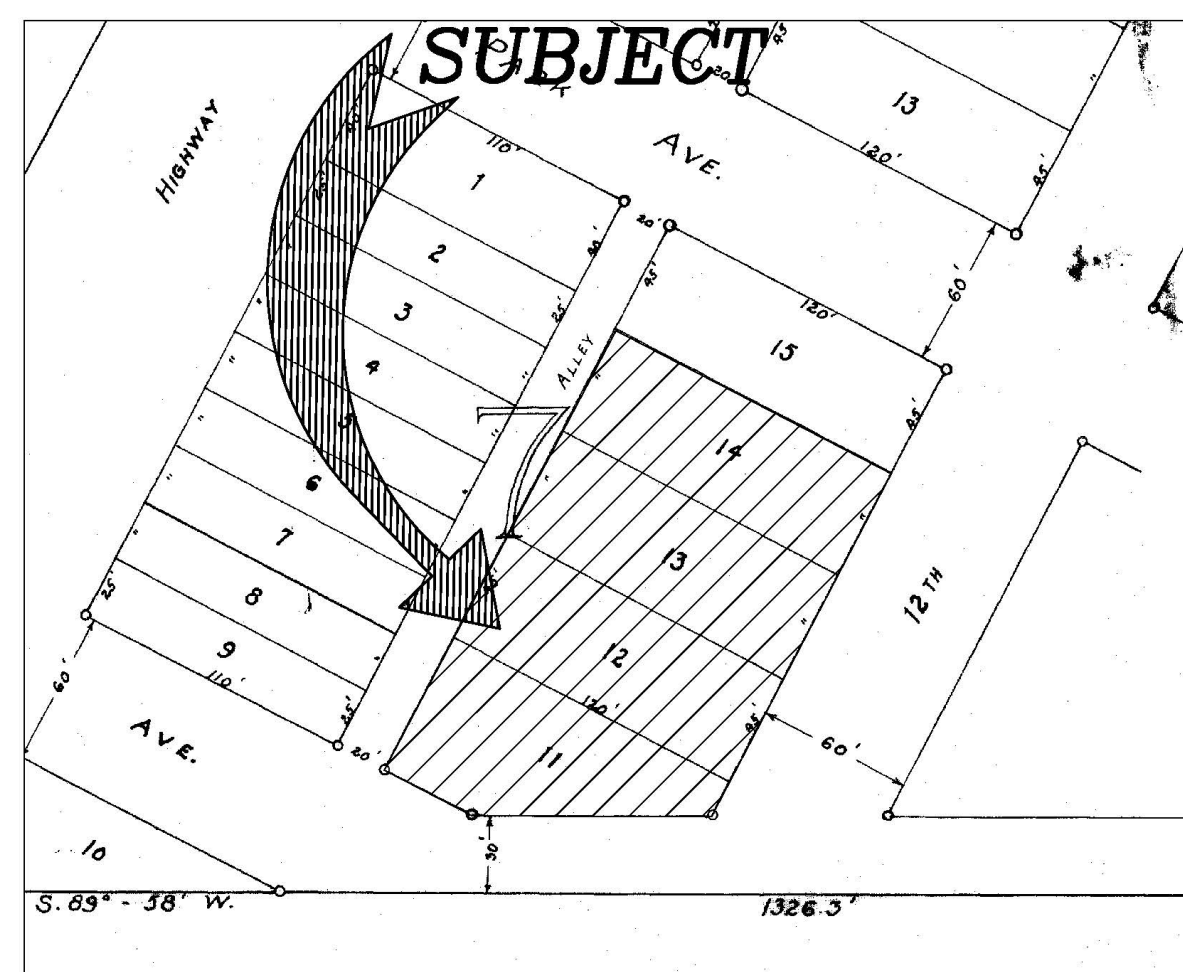
### AS SIGNED NOVEMBER 18, 1939 AND RECORDED AT G-1

### IN SW1/4 SEC. 34, T.9S., R.77 W. 6th P.M.

## TOWN OF FAIRPLAY, COUNTY OF PARK, STATE OF COLORADO

### LEGEND

- INDICATES FOUND NO. 5 REBAR AND 1 1/2" YELLOW PLASTIC CAP, OR 1 1/2" ALUMINUM CAP, LS 11944 OR AS NOTED
- INDICATES SET NO. 5 X 18" REBAR WITH 1 1/2" YELLOW PLASTIC CAP, LS 11944 OR AS NOTED
- ( ) INDICATES FIELD MEASUREMENTS UNLESS OTHERWISE NOTED.



Note by Applicant's Surveyor Acknowledging 10 Foot Setback Requirement

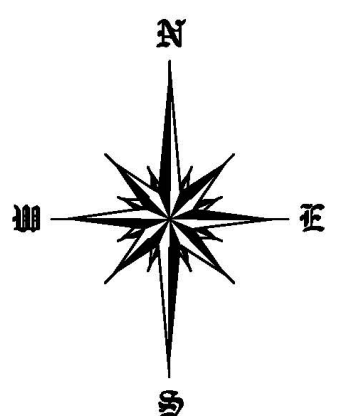
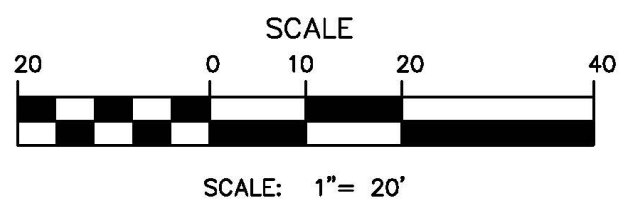
**TITLE COMPANY CERTIFICATE:** \_\_\_\_\_  
 VICINITY MAP  
 \_\_\_\_\_ does hereby certify that we have examined the title to all lands shown hereon and all lands herein dedicated by virtue of the plat, and title to all such lands is in the above-named Owner(s) free and clear of all liens, taxes and encumbrances, except as follows:  
 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
 Agent/Officer \_\_\_\_\_  
 Title: \_\_\_\_\_  
**Town Administrator Certificate**  
 This plat is approved\* this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
 TOWN OF FAIRPLAY  
 TOWN ADMINISTRATOR

- NOTES:**
- 1) THE BASIS OF BEARING IS AN ASSUMED BEARING OF A LINE BETWEEN THE SOUTH WEST CORNER OF LOT 9 TO THE SOUTHERLY CORNER OF LOT 11, BLOCK 7 AS BEING S64°38'46"E WITH BOTH CORNERS BEING FOUND MONUMENTS AS SHOWN.
  - 2) MEASUREMENTS SHOWN IN PARENTHESIS ARE FIELD MEASUREMENTS, UNLESS OTHERWISE NOTED.
  - 3) CERTIFICATION NOT VALID WITHOUT ORIGINAL SEAL AND SIGNATURE, THIS SURVEY AND ALL RELATED DOCUMENTS ARE FOR THE SOLE USE OF THE CLIENT AT THE DATE OF CERTIFICATION, AND DOES NOT EXTEND TO ANY UNNAMED PERSON OR ENTITY WITHOUT AN EXPRESSED RESTATEMENT BY THE SURVEYOR NAMING SAID PERSON OR ENTITY.
  - 4) ANY PERSON WHO KNOWINGLY REMOVES, ALTERS, OR DEFACTS ANY PUBLIC LAND SURVEY MONUMENT OR BOUNDARY MONUMENT OR ACCESSORY, COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE 18-4-508, C.R.S.
  - 5) LEGAL DESCRIPTIONS FROM SCHEDULE # 512573.
  - 6) THE PURPOSE OF THIS EXEMPTION PLAT IS TO VACATE THE EXISTING LOT LINE BETWEEN NEW LOT 11 AND LOT 14 AND TO CREATE A NEW LOT LINE BETWEEN NEW LOT 11 AND LOT 14, AND TO CREATE ASSOCIATED UTILITY AND DRAINAGE EASEMENTS.
  - 7) ALL DIMENSIONS SHOWN ARE IN U.S. SURVEY FEET.
  - 8) LOTS 11 THROUGH LOT 15 BLOCK 7 ARE ZONED LIGHT INDUSTRIAL.
  - 9) BUILDING SETBACKS: FRONT 25 FT., SIDE AND REAR ARE 10 FT. OR AS MAY BE AMENDED BY TOWN CODE.

**LIMITATIONS OF ACTIONS AGAINST LAND SURVEYORS**  
 ALL ACTIONS AGAINST ANY LAND SURVEYOR BROUGHT TO RECOVER DAMAGES RESULTING FROM ANY ALLEGED NEGLIGENCE OR DEFECTIVE LAND SURVEY SHALL BE BROUGHT WITHIN THREE YEARS AFTER THE PERSON BRINGING THE ACTION EITHER DISCOVERED, OR IN THE EXERCISE OF REASONABLE DILIGENCE AND CONCERN, SHOULD HAVE DISCOVERED THE NEGLIGENCE OR DEFECT WHICH GAVE RISE TO SUCH ACTION, AND NOT THEREAFTER, BUT IN NO CASE SHALL SUCH AN ACTION BE BROUGHT MORE THAN TEN YEARS AFTER THE COMPLETION OF THE SURVEY UPON WHICH SUCH ACTION IS BASED.

**MORTGAGEE'S CERTIFICATE**  
 \_\_\_\_\_ as beneficiary of a deed of trust or identify other mortgage instrument or agreement security interest which constitutes a lien upon the decedant's property, recorded at Reception No. \_\_\_\_\_ and/or Book \_\_\_\_\_ Page \_\_\_\_\_ Park County Clerk and Recorder, hereby consents to the dedication of land to streets, alleys, roads and other public areas as designated on this plat, and hereby releases said lands from the lien created by said instrument.  
 (print name of beneficiary) \_\_\_\_\_ (signature) \_\_\_\_\_ Date: \_\_\_\_\_  
 (signature) \_\_\_\_\_ (print title) \_\_\_\_\_ Address: \_\_\_\_\_

**TITLE COMMITMENT NOTES:**  
 THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT. THE RECORD INFORMATION, WHICH IS REFERENCED HEREON, IS THE RESULT OF RESEARCH PERFORMED BY BURNETT LAND SURVEYING, INC., AND IS NOT NECESSARILY COMPLETE OR CONCLUSIVE.



**Land Dedication and Owner's Certificate**  
 KNOW ALL PERSONS BY THESE PRESENTS:  
 That PATRICIA J. STOINSKI AND ALFRED W. STOINSKI, being the owner or owners of the following described real property situate in the Town of Fairplay, County of Park and State of Colorado, to wit:  
 BLOCK 7, NEW LOT 11, AND LOT 14 JOHNSON ADDITION, TOWN OF FAIRPLAY  
 has laid out, subdivided and plotted the same into lots, tracts, streets, and easements as shown herein under the name and style of STOINSKI EXEMPTION PLAT, A RESUBDIVISION OF LOTS 11 THROUGH 14, BLOCK 7, JOHNSON ADDITION TOWN OF FAIRPLAY, and by these presents does hereby set apart and dedicate to the Town of Fairplay for public use all of the streets, alleys and other public ways and places as shown hereon, and hereby dedicates those portions of land labeled as utility easements for the installation and maintenance of public utilities as shown hereon.  
 Executed the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

PATRICIA J. STOINSKI \_\_\_\_\_ ALFRED W. STOINSKI \_\_\_\_\_  
 STATE OF COLORADO )  
 COUNTY OF \_\_\_\_\_ )  
 The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ [printed name(s) of owner(s)] [if by natural persons, here insert name; if by persons acting in a representative official capacity, or as attorney-in-fact, then insert the name and said capacity of said person and reference document establishing such capacity; if by officer of a corporation, then insert the name of said officer as the president or vice president of such corporation, naming it; if by a general partner of a partnership, then insert the name of said person as a general partner].

Witness my hand and official seal.  
 (SEAL) \_\_\_\_\_ Notary Public  
 My commission expires \_\_\_\_\_  
**Fairplay Director of Public Works Certificate:**  
 This plat is approved\* this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
 TOWN OF FAIRPLAY  
 DIRECTOR OF PUBLIC WORKS

**Town Clerk's Certificate:**  
 STATE OF COLORADO )  
 COUNTY OF PARK )  
 I hereby certify that this instrument was filed in my office at \_\_\_\_\_ o'clock \_\_\_\_\_ M., \_\_\_\_\_ and is duly recorded.  
 Town Clerk \_\_\_\_\_

**Surveyor's Certificate**  
 I, Thomas L. Burnett, being a registered land surveyor in the State of Colorado, do hereby certify that this plat of \_\_\_\_\_ was prepared by me and under my supervision, that both this plat and the survey are true and accurate to the best of my knowledge and belief, and that the monuments were placed pursuant to Sec. 38-51-105, C.R.S.  
 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
 Surveyor's name/Registration No. \_\_\_\_\_

**Park County Clerk and Recorder's Certificate:**  
 STATE OF COLORADO )  
 COUNTY OF PARK )  
 I hereby certify that this plat was accepted for filing and recorded in the office of the Park County Clerk and Recorder on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, under Reception No. \_\_\_\_\_ and/or Book \_\_\_\_\_ Page \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ Park County clerk and Recorder

**Fairplay Board of Trustees Certificate:**  
 This plat is approved\* this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
 TOWN OF FAIRPLAY  
 Mayor \_\_\_\_\_  
 ATTEST:  
 Town Clerk \_\_\_\_\_

\*This approval does not guarantee that the type of soil, geologic hazard, drainage or flooding conditions of any lot shown hereon are such that a building permit may be issued. This approval is also with the understanding that all expenses involving necessary improvements for all utility service paving, grading, landscaping, curbs, gutters, street lights, street signs, and sidewalks shall be financed by others and not the Town of Fairplay. Notice is further hereby given that acceptance of this platted subdivision by the Town of Fairplay does not automatically constitute an acceptance of the roads, rights-of-way and other public improvements shown hereon for maintenance by said Town. Until such roads and rights-of-way and improvements meet Town specifications and are specifically inspected and accepted by the Town, the maintenance, construction, and all other matters pertaining to or affecting said roads, rights-of-way and improvements are the sole responsibility of the subdivider and owners of the land embraced within this subdivision.

<b>STOINSKI EXEMPTION PLAT</b>	
BLOCK 7, NEW LOT 11 & LOT 14, JOHNSON ADDITION	
TOWN OF FAIRPLAY, PARK COUNTY, COLORADO	
ADDRESS: 1150 CASTELLO AVE.	
DATE: JUNE 10, 2025	PREPARED FOR:
SCALE: 1" = 20'	STOINSKI
DRAWN BY: TLB	
P.O. BOX 1953, 351 HWY 285, STE 104 FAIRPLAY, COLORADO 80440 (719) 836-1425	JOB NO. 2025-098



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To: Mayor and Board of Trustees

From: Joseph Rivera, Town Attorney

Date: March 2, 2026

RE: **Public Hearing Item C** – Ord. 1 – Natural Medicines Regulations

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Background:

In 2022, Colorado voters approved the citizens’ ballot initiative known as “Proposition 122: Access to Natural Psychedelic Substances”, now codified in C.R.S. §§ 12-170-101 through 115 (the “Enabling Act”). The Enabling Act decriminalizes the personal possession, growing, sharing, and use, but not the sale, of psilocybin, psilocin, dimethyltryptamine, ibogaine, and mescaline, now defined as “Natural Medicines”.

The Enabling Act allows the supervised use of psychedelic mushrooms by individuals aged 21 and over at licensed facilities and requires the state to create a regulatory structure for the operation of these licensed facilities; and

In 2023 the Colorado General Assembly enacted Senate Bill 23-290, which is codified in C.R.S. §§ 44-50-101 through 904 (the “Regulatory Act”), to create a regulatory structure for the operation of these licensed facilities, which includes the licensing and registration of facilities and related businesses that provide for the use, cultivation, manufacture, and testing of Natural Medicine.

State law and regulations preempt local law (mostly):

Under applicable state law, the Colorado Dept. of Revenue (DOR) and the Colorado Department of Regulatory Agencies (DORA) license and regulate Natural Medicine Businesses. Here is a link to [DOR’s regulations \(64 pages\)](#) and [DORA’s regulations \(105 pages\)](#).

Together, DOR’s and DORA’s regulations cover a wide variety of subject areas, including, but not limited to, who may obtain a license, including criminal history checks and review of financial records (similar to the review of liquor license applicants). The regulations also cover the day-to-day operation of Natural Medicine Businesses, including, but not limited

to, the manufacture, storage, and disposal of Natural Medicine and the security requirements of Natural Medicine Businesses.

State law limits a municipality's authority to impose restrictions on Natural Medicine greater than those found in state law or imposed by the DOR and DORA. Here are some examples:

- C.R.S. § 12-170-112 (2) (“A local jurisdiction shall not adopt ordinances or regulations that are unreasonable or in conflict with [the Natural Medicine Health Act]”).
- C.R.S. § 12-170-112 (“A local jurisdiction shall not adopt, enact, or enforce any ordinance, rule, or resolution that is otherwise in conflict with [the Natural Medicine Health Act].”)
- C.R.S. § 44-50-104(d) (“A local jurisdiction may not adopt ordinances or regulations that are unreasonable or conflict with [the Natural Medicine Code]”)

However, the Natural Medicine Code expressly conveys to municipalities the authority to enact time, place, and manner restrictions. C.R.S. § 44-50-104(5)(a) (“A local jurisdiction may enact ordinances or regulations governing the time, place, and manner of the operation of licenses”)

The attached ordinances establish time, place and manner restrictions on Natural Medicine Businesses.

Suggested Motion:

I move to approve Ordinance No. 1, Series of 2026, an ordinance of the Town of Fairplay, Colorado, amending the Town's code to license and regulate Natural Medicine businesses.

**TOWN OF FAIRPLAY, COLORADO****ORDINANCE NO. 1  
(SERIES 2026)****AN ORDINANCE OF THE TOWN OF FAIRPLAY, COLORADO, AMENDING THE TOWN'S CODE TO LICENSE AND REGULATE NATURAL MEDICINE BUSINESSES**

**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**, under C.R.S. § 29-20-101, *et seq.*, the Town's Board of Trustees (Board) is authorized to enact ordinances to regulate the use of land with the Town's corporate boundaries; and

**WHEREAS**, under C.R.S. § 31-23-301, *et seq.*, the Board is authorized to enact ordinances for the preservation of public health, safety, and welfare; and

**WHEREAS**, the People of the State of Colorado approved the ballot initiative known as "Proposition 122: Access to Natural Psychedelic Substances", now codified in C.R.S. §§ 12-170-101 through 115 (the "Enabling Act"); and

**WHEREAS**, the Enabling Act decriminalizes the personal possession, growing, sharing, and use, but not the sale, of psilocybin, psilocin, dimethyltryptamine, ibogaine, and mescaline, now defined as "natural medicines;" and

**WHEREAS**, the Enabling Act authorizes the supervised use of psychedelic mushrooms (psilocybin) by individuals aged 21 and over at licensed facilities and requires the state to create a regulatory structure for the operation of these licensed facilities; and

**WHEREAS**, in 2023 the State Legislature enacted Senate Bill 23-290, now codified in C.R.S. §§ 44-50-101 through 904 (the "Regulatory Act"), to create a regulatory structure for the operation of these licensed facilities, which includes the licensing and registration of facilities and related businesses that provide for the use, cultivation, manufacture, and testing of these substances; and

**WHEREAS**, the Regulatory Act also allows local jurisdictions to adopt regulations governing the time, place, and manner of the operation of licensed facilities within their boundaries.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FAIRPLAY, COLORADO, AS FOLLOWS:**

**Section 1.** The Board now adopts the above and foregoing recitals as express findings and determinations of the Board.

**Section 2.** The Board now establishes a new Article 30 of Chapter 16, entitled Natural Medicine, which shall provide as follows:

### **ARTICLE 30 Natural Medicine**

#### **Sec. 16-30-10. Purpose and Objectives.**

This section permits and regulates the operation of Natural Medicine Businesses within the Town, as further regulated by Colo. Rev. Stat. §§ 12-170-101 through 115 (the “Enabling Act”); and Colo. Rev. Stat. §§ 44-50-101 through 904 (the “Regulatory Act”).

#### **Sec. 16-30-20. Definitions.**

For purposes of this Article, the following terms shall have the following meanings:

The term “Natural Medicine Healing Center” has the same meaning as set forth in section 12-170-104(8), C.R.S., as amended from time to time, and includes a facility licensed that permits a facilitator to provide and supervise natural medicine services for a participant, so long it is licensed by the appropriate Colorado State Licensing Authority.

The term “Natural Medicine” has the same meaning as set forth in section 12-170-104(12), C.R.S., as amended from time to time.

The term “Natural Medicine Business” has the same meaning as set forth in section 44-50-103(14), C.R.S., as amended from time to time, and includes businesses that cultivate, manufacture, test, store, distribute, transfer, and dispenses Natural Medicine and regulated Natural Medicine products.

The term “Colorado State Licensing Authority” means the authority codified in C.R.S. §§ 44-50-101 through 904 (the “Regulatory Act”) for the purpose of requiring Colorado state agencies to regulate and control the licensing of the cultivation, manufacturing, testing, storing, distribution, transfer, and dispensation of regulated natural medicine and regulated natural medicine products in the State of Colorado.

#### **Sec. 16-30-30. Personal recreational use.**

Nothing in this Article shall be construed to prohibit, regulate or otherwise impair the personal use of Natural Medicine by persons twenty-one (21) years of age or older, provided that such personal use does not involve the sale of Natural Medicine or operation of a Natural Medicine Business in the Town.

#### **Sec. 16-30-40. Town business license required.**

(A) It shall be unlawful for any person to operate a Natural Medicine Business without a license issued by the Town under the provisions of this Article 30, in addition any other requirements pertaining to the licensing of a business in the Town.

1. An application for a license must be made on a form provided by the Town and accompanied by the required fee.
  2. The application must be accompanied by a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business, and designating the use of each room or other area of the premises.
  3. The diagram shall designate those rooms or other areas of the premises where patrons are not permitted.
  4. The diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (+/- 6").
  5. The diagram shall designate the place at which the license will be conspicuously posted.
  6. No alteration in the configuration of the premises or any change in use of any room or area as shown on the diagram may be made without the prior written approval of the Town.
  7. The Town Administrator, or his or her designee, may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared and that the use of any area or room in the premises has not changed.
  8. The applicant must be qualified according to the provisions of this Article, and the premises must be inspected and approved for use by the fire district and the Town's Building Official and found to be in compliance with the applicable fire regulations and the Town's code.
- (B) Contemporaneously with the submission of an application for a license to operate a Natural Medicine Business in the Town, the applicant shall submit a special use permit to the Town as required by Article VI of the Fairplay Municipal Code.
- (C) State licensure required.
1. The Natural Medicine Business must obtain all the applicable licenses required by the Colorado State Licensing Authority and operate in conformance with them.
  2. On each anniversary date of the Town's granting of the applicant's license, the Natural Medicine Business operator must establish to the Town Administrator's satisfaction that all the applicable licenses required by the Colorado State Licensing Authority continue to be valid, and in good standing, with no pending or prior disciplinary actions.

**Sec. 16-30-50. Permitted location for Natural Medicine Businesses.**

(A) A Natural Medicine Business operating as a Natural Medicine Healing Center is permitted in the Commercial (C) zoning districts, provided that every such business must receive approval as a special use pursuant to Article VI of the Fairplay Municipal Code.

(B) All other types of Natural Medicine Businesses are permitted in the Light Industrial (LI) zoning districts, provided that every such business must receive approval as a special use pursuant to Article VI of the Fairplay Municipal Code.

(C) State licensure required. Final approval of the special use permit required for all Natural Medicine Businesses requires the applicant to establish to the satisfaction of Board of Trustees that it holds all applicable licenses required by the Colorado State Licensing Authority and each applicable license is valid.

**Sec. 16-30-60. Time Place and Manner Restrictions.**

(A) Time - The hours of operation of Natural Medicine Businesses are restricted to 7:00 a.m. to 7:00 p.m.

(B) Distance Requirements.

1. No Natural Medicine Business shall operate out of a building that is within (one thousand (1,000)) feet of another Natural Medicine Building, a child care center, preschool, elementary, middle, junior, or high school, or a residential childcare facility.
2. No Natural Medicine Business shall operate out of a building that is within (one thousand (1,000)) feet of any residential zoning district.

(C) Screening. All doorways, windows, and other opening shall be located, covered, or screened in such a manner to prevent a view into the interior from any exterior public or semipublic area.

(D) Security. All Natural Medicine Businesses shall comply with all applicable security and safety regulations established and set forth by the Regulatory Act or the Colorado State Licensing Authority.

**Section 3.** Section 16-5-30. Table of Uses is amended to include the below underlined Natural Medicine Business categories.

Table of uses									
P=Permitted Use, S=Special Use, ■=Prohibited Use									
Land Use	Residential		Mixed Use	Commercial			Light Indus.	Public	
	SF-Res	MF-Res	T	TC	C	MU	LI	CC	POST
Municipal wastewater treatment facilities	■	■	■	■	■	■	S	P	S
Municipal water treatment facilities	■	■	■	■	■	■	S	P	S
****	****	****	****	****	****	****	****	****	****
<u>Natural medicine healing center</u>	■	■	■	■	§	■	§	■	■
<u>Natural medicine cultivation facility</u>	■	■	■	■	§	■	§	■	■
<u>Natural medicine products manufacturer</u>	■	■	■	■	§	■	§	■	■
<u>Natural medicine testing facility</u>	■	■	■	■	§	■	§	■	■
<u>Natural medicine business, other</u>	■	■	■	■	§	■	§	■	■
*****	****	****	****	****	****	****	****	****	****
Nursery—Commercial large > 8,000 sq. ft.	■	■	■	■	P	S	P	■	■
Nursery—Commercial small ≤ 8,000 sq. ft.	■	■	S	S	P	P	P	■	■

**Section 4.** Safety Clause. The Town Board hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Fairplay, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

**Section 5.** Severability. Should any one or more sections or provisions of this Ordinance or of the Code provisions be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or of such Code provisions, the intention being that the various sections and provisions are severable.

**Section 6.** Repeal. All other ordinances, or parts of any ordinances or other Code provisions in conflict herewith are hereby repealed.

**Section 7.** This Ordinance shall become effective 30 days following publication.

**INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED IN FULL** in a newspaper of general circulation in the Town of Fairplay by the Board of Trustees this \_\_\_\_ day of \_\_\_\_\_ 2026.

**TOWN OF FAIRPLAY, COLORADO**

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Frank Just, Mayor

**ATTEST:**

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Janell Sciacca, Town Clerk



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To: Mayor and Board of Trustees

From: Joseph Rivera, Town Attorney

Date: March 2, 2026

RE: **New Business Item A.** – Res. 5 Helios Revocable Use Agreement

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At the Board’s January 5, 2026 meeting, Town staff presented to the Board a proposed license agreement with Helios. The license agreement permitted Helios to offer four (4) parking spaces at the Fairplay Visitor Center (501 Main Street) exclusively to charge electric vehicles for a profit.

At the meeting, the Board, Town staff and Helios’ representative discussed the license agreement and the determination of an appropriate rental amount.

Subsequent to the Board’s January 5, 2026 meeting, Town staff have met with Helios’ representative and the following changes have been discussed:

- In accordance with Helios’ preference, the form of the agreement has changed from a license agreement to a lease agreement;
- The compensation Helios will pay to the Town for the exclusive use of the Visitor Center parking spaces will be primarily paid before the lease term begins and in the form of site improvements to the parking lot and adjacent streets and alleys; and
- Town staff has reached out to Park County management staff about acquiring the lots behind the Visitor Center for additional parking for the Visitor Center.

As for next steps, Town staff will continue its work toward obtaining binding estimates for the projected site improvements and using same to propose a “rental” rate and, otherwise, work toward a final draft agreement. The final draft agreement is expected to be presented to the Board at the Board’s March 16, 2026 meeting.



**TO:** Mayor and Board of Trustees

**FROM:** Janell Sciacca, Town Administrator/Clerk

**RE:** New Business Item B. Resolution No. 11, DOLA LPC Grant Acceptance

**DATE:** February 2, 2026 – Continued to March 2, 2026

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**Background/Analysis:**

The Town of Fairplay applied for a Department of Local Affairs (DOLA) Local Planning Capacity (LPC) grant in 2025. The main intent of the LPC program is to increase the capacity of local government planning departments to address affordable housing, especially by expediting development review, permitting, and zoning of affordable housing, but Staff's goal in applying was to also obtain funding to assist in updating of the Town's Comprehensive Plan and Unified Development Code at the same time.

In late 2025, the Town was notified of receipt of \$112,500 in grant funding and this was included in the 2026 Budget, along with a 50% match by the Town, or \$60,000 for 2026. \$60,000, or a similar amount, would be recommended to be included in the 2027 budget as well. The entire process is expected to take 2 years.

The Grant agreement was approved and signed by the State and received by Staff in January. While the Town's signature on the grant documents is not necessary, Staff is presenting the grant agreement and associated resolution for adoption by the Board's to formalize acceptance. Auditors prefer to see this, so they have confirmation of formal approval by the governing Board.

Staff originally hoped to go to RFP in February but is now preparing to do this in early March if the Grant acceptance is approved. Staff will also begin the process of adopting an expedited review process prior to awarding any RFP in order to possibly receive up to \$45,000 in extra grant funding that would be used to help further pay for the UDC and Comp plan updates.

**Recommendation:**

Following discussion and questions by the Board, Staff recommends approval of Resolution No. 11, Series of 2026, as presented by motion, second and a roll call vote to formalize acceptance of a \$112,500 DOLA LPC grant.

Attachments:

- Resolution No. 11, Series of 2026
- DOLA Grant Document

**“Where History Meets the High Country”**

**TOWN OF FAIRPLAY, COLORADO**

**RESOLUTION NO. 10  
(Series of 2025)**

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FAIRPLAY, COLORADO, ACCEPTING A DEPARTMENT OF LOCAL AFFAIRS LOCAL PLANNING CAPACITY GRANT.**

**WHEREAS**, the Town of Fairplay ("Town") is a statutory municipality organized under the laws of the State of Colorado; and

**WHEREAS**, the Colorado Division of Local Affairs recognizes the importance of housing diversity and affordability as an urgent matter in the State of Colorado and has established the local Planning Capacity Grant for communities who have made a commitment to Proposition 123; and

**WHEREAS**, the Town submitted a Local Planning Capacity ("LPC") Grant application to the Colorado Department of Local Affairs ("DOLA") for funding for implementing expedited development review, permitting, and zoning of affordable housing under Proposition 123; and

**WHEREAS**, the Town was awarded a grant in the amount of \$112,500.00 for the aforementioned application which also includes updating the Town's Comprehensive Plan and Unified Development Code; and

**WHEREAS**, the Town of Fairplay desires to formalize its acceptance of the \$112,500.00 LPC Grant award to reduce the financial burden to the Town's budget for the updating process and to assist the Town to meet its Proposition 123 affordable housing commitment(s);

**NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FAIRPLAY, COLORADO:**

Section I. That the Town of Fairplay hereby accepts the \$112,500.00 grant award to develop and implement expedited development review, permitting, and zoning as outlined in the grant award documents attached to this Resolution.

Section II. This resolution takes effect immediately upon adoption.

**INTRODUCED, READ, ADOPTED, AND APPROVED** on this 2<sup>nd</sup> day of February, 2026.

**TOWN OF FAIRPLAY, COLORADO**

**ATTEST:**

\_\_\_\_\_  
Frank Just, Mayor

\_\_\_\_\_  
Janell Sciacca, Town Clerk CMC

## State of Colorado Intergovernmental Grant Agreement Summary of Terms and Conditions

**State Agency**

DEPARTMENT OF LOCAL AFFAIRS (DOLA)

**Grantee**

Town of Fairplay

**Project Number and Name**

LPC-25-077 - Fairplay UDC Update &  
Expedited Review of Affordable Housing

**DLG Portal Number**

LPC-25-077

**CMS Number**

202769

**Grant Award Amount**

\$112,500.00

**Retainage Amount**

\$5,625.00

**Funding Account Codes**

CTGG1 202600003054

**Phase Code**

LP2541

**VCUST#**

VC00000000014198

**Address Code**

CN001, EFT

**Performance Start Date**

The later of the Effective Date or January 05, 2026

**Grant Expiration Date**

April 30, 2028

**DOLA Program Manager**

Robyn DiFalco, (720) 682-5202,  
([robyn.difalco@state.co.us](mailto:robyn.difalco@state.co.us))

**DOLA Program Assistant**

Jessica Rupe, (720) 557-4902,  
([jessica.rupe@state.co.us](mailto:jessica.rupe@state.co.us))

**Program Name**

Local Planning Capacity Grant Program  
( LPC )

**Agreement Authority**

Authority to enter into this Grant exists in C.R.S. 24-32-106 and 29-3.5-101 and funds have been budgeted, appropriated and otherwise made available pursuant to C.R.S. Section 29-32-103(1) et. seq. (Affordable Housing Support Fund) and a sufficient unencumbered balance hereof remains available for payment. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies. This Intergovernmental Grant Agreement is funded, in whole or in part, with State funds.

### **Grant Purpose/Project Description**

The Project consists of updating the Town's Comprehensive Plan, Unified Development Code (UDC), implementation of a system to expedite the development review process for affordable housing projects, and generally advance affordable housing goals in Fairplay, Colorado.

**Exhibits and Order of Precedence**

The following Exhibits and attachments are included with this Agreement:

1. Exhibit B, Scope of Project
2. Exhibit G, Sample Option Letter

In the event of a conflict of inconsistency between this Agreement and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

1. Colorado Special Provisions in §18 of the main body of this Agreement
2. Any properly executed Option Letter or Amendment
3. The provisions of the other sections of the main body of this Agreement
4. Exhibit B, Scope of Project

Signature Page

The Signatories Listed Below Authorize this Grant

STATE OF COLORADO

Jared S. Polis, Governor

DEPARTMENT OF LOCAL AFFAIRS

Maria De Cambra, Executive Director

DEPARTMENT OF LOCAL AFFAIRS

PROGRAM REVIEWER

Signed by:

*Maria De Cambra*

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By: Maria De Cambra, Executive Director

Signed by:

*Robyn DiFalco*

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By: Robyn DiFalco, LPC Program Manager

Date: 1/20/2026 | 8:26 PM MST

Date: 1/16/2026 | 1:10 PM MST

In accordance with §24-30-202, C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate (the “Effective Date”).

STATE CONTROLLER

Robert Jaros, CPA, MBA, JD

Signed by:  
*Caleb Vester*  
1B60C79585F74E7...

By: Kelly Bearden, Controller Delegate  
Department of Local Affairs

Effective Date 1/21/2026 | 7:46 PM MST

## 1. Grant

As of the Performance Start Date, the State Agency shown on the Summary of Terms and Conditions page of this Intergovernmental Grant Agreement (the “State”) hereby obligates and awards to Grantee shown on the Summary of Terms and Conditions page of this Intergovernmental Grant Agreement (the “Grantee”) an award of Grant Funds in the amounts shown on the Summary of Terms and Conditions page of this Intergovernmental Grant Agreement. By accepting the Grant Funds provided under this Intergovernmental Grant Agreement, Grantee agrees to comply with the terms and conditions of this Intergovernmental Grant Agreement and requirements and provisions of all Exhibits to this Intergovernmental Grant Agreement.

## 2. Term

### A. Initial Grant Term and Extension

The Parties’ respective performances under this Intergovernmental Grant Agreement shall commence on the Performance Start Date and shall terminate on the Grant Expiration Date unless sooner terminated or further extended in accordance with the terms of this Intergovernmental Grant Agreement. Upon request of Grantee, the State may, in its sole discretion, extend the term of this Intergovernmental Grant Agreement by providing Grantee with an updated Intergovernmental Grant Agreement or an executed Option Letter showing the new Grant Expiration Date.

### B. Early Termination in the Public Interest

The State is entering into this Intergovernmental Grant Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Intergovernmental Grant Agreement ceases to further the public interest of the State or if State, Federal or other funds used for this Intergovernmental Grant Agreement are not appropriated, or otherwise become unavailable to fund this Intergovernmental Grant Agreement, the State, in its discretion, may terminate this Intergovernmental Grant Agreement in whole or in part by providing written notice to Grantee that includes, to the extent practicable, the public interest justification for the termination. If the State terminates this Intergovernmental Grant Agreement in the public interest, the State shall pay Grantee an amount equal to the percentage of the total reimbursement payable under this Intergovernmental Grant Agreement that corresponds to the percentage of Work satisfactorily completed, as determined by the State, less payments previously made. Additionally, the State, in its discretion, may reimburse

Grantee for a portion of actual, out-of-pocket expenses not otherwise reimbursed under this Intergovernmental Grant Agreement that are incurred by Grantee and are directly attributable to the uncompleted portion of Grantee's obligations, provided that the sum of any and all reimbursements shall not exceed the maximum amount payable to Grantee hereunder. This subsection shall not apply to a termination of this Intergovernmental Grant Agreement by the State for breach by Grantee.

C. *Reserved.*

### 3. Definitions

The following terms shall be construed and interpreted as follows:

- A. **"Agreement"** means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- B. *Reserved.*
- C. **"Breach of Agreement"** means the failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Grantee, or the appointment of a receiver or similar officer for Grantee or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach. If Grantee is debarred or suspended under §24-109-105, C.R.S. at any time during the term of this Agreement, then such debarment or suspension shall constitute a breach.
- D. **"Budget"** means the budget for the Work described in **Exhibit B**.
- E. **"Business Day"** means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1) C.R.S.
- F. *Reserved.*
- G. **"CORA"** means the Colorado Open Records Act, §§24-72-200.1 *et seq.*, C.R.S.
- H. *Reserved.*
- I. **"Grant" or "Grant Agreement" or "Intergovernmental Grant Agreement"** means this agreement which offers Grant Funds to Grantee, including all attached Exhibits, all

documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future updates thereto.

- J. **“Grant Funds” or “Grant Award Amount”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Intergovernmental Grant Agreement.
- K. **“Grant Expiration Date”** means the Grant Expiration Date shown on the Summary of Terms and Conditions page of this Intergovernmental Grant Agreement. Work performed after the Grant Expiration Date is not eligible for reimbursement from Grant Funds.
- L. **“Effective Date” or “Performance Start Date”** means the Performance Start Date shown on the first page of this Intergovernmental Grant Agreement. Work performed prior to the Effective Date is not eligible for reimbursement from Grant Funds.
- M. **“Exhibits”** means the exhibits and attachments included with this Grant as shown on the Summary of Terms and Conditions page of this Intergovernmental Grant Agreement.
- N. **“Extension Term”** means the period of time by which the Grant Expiration Date is extended by the State through delivery of an updated Intergovernmental Grant Agreement, an Amendment, or an Option Letter.
- O. *Reserved.*
- P. *Reserved.*
- Q. **“Goods”** means any movable material acquired, produced, or delivered by Grantee as set forth in this Intergovernmental Grant Agreement and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.
- R. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.
- S. **“Initial Term”** means the time period between the initial Performance Start Date and the initial Grant Expiration Date.
- T. **“Party”** means the State or Grantee, and **“Parties”** means both the State and Grantee.
- U. *Reserved.*
- V. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of

birth, mother's maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §§24-72-501 and 24-73-101 C.R.S. "PII" shall also mean "personal identifying information" as set forth at § 24-74-102, et. seq., C.R.S.

- W. *Reserved.*
- X. *Reserved.*
- Y. "**Services**" means the services to be performed by Grantee as set forth in this Intergovernmental Grant Agreement, and shall include any services to be rendered by Grantee in connection with the Goods.
- Z. "**State Confidential Information**" means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Grantee which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Grantee without restrictions at the time of its disclosure to Grantee; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Grantee to the State; (iv) is disclosed to Grantee, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.
- AA. "**State Fiscal Rules**" means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a) C.R.S.
- BB. "**State Fiscal Year**" means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- CC. "**State Records**" means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- DD. *Reserved.*
- EE. "**Subcontractor**" means third-parties, if any, engaged by Grantee to aid in performance of the Work. "Subcontractor" also includes sub-grantees.

FF. *Reserved.*

GG. *Reserved.*

HH. *Reserved.*

II. “**Work**” means the delivery of the Goods and performance of the Services described in this Intergovernmental Grant Agreement.

JJ. “**Work Product**” means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Performance Start Date that is used, without modification, in the performance of the Work.

Any other term used in this Intergovernmental Grant Agreement that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

#### 4. Statement of Work

Grantee shall complete the Work as described in this Intergovernmental Grant Agreement and in accordance with the provisions of **Exhibit B**. The State shall have no liability to compensate or reimburse Grantee for the delivery of any goods or the performance of any services that are not specifically set forth in this Intergovernmental Grant Agreement.

#### 5. Payments to Grantee

##### A. Maximum Amount

Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Grantee any amount under this Grant that exceeds the Grant Amount shown on the first page of this Intergovernmental Grant Agreement. Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. The State shall not be liable to pay or reimburse Grantee for any Work performed or expense incurred before the Performance Start Date or after the Grant Expiration Date; provided, however, that Work performed and expenses incurred by Grantee before the Performance Start Date that are chargeable to an active Federal Award may be submitted for reimbursement as permitted by the terms of the Federal Award.

i. The State may increase or decrease the Grant Award Amount by providing Grantee with an updated Intergovernmental Grant Agreement or an executed Option Letter showing the new Grant Award Amount.

B. *Reserved.*

C. Matching Funds

Grantee shall provide the Other Funds amount shown on the Project Budget in **Exhibit B** (the “Local Match Amount”). Grantee shall appropriate and allocate all Local Match Amounts to the purpose of this Intergovernmental Grant Agreement each fiscal year prior to accepting any Grant Funds for that fiscal year. Grantee does not by accepting this Intergovernmental Grant Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Intergovernmental Grant Agreement is not intended to create a multiple-fiscal year debt of Grantee. Grantee shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Grantee’s laws or policies.

D. Reimbursement of Grantee Costs

Upon prior written approval, the State shall reimburse Grantee’s allowable costs, not exceeding the maximum total amount described in this Intergovernmental Grant Agreement for all allowable costs described in this Intergovernmental Grant Agreement and shown in the Budget in **Exhibit B**. Upon request of the Grantee, the State may, without changing the maximum total amount of Grant Funds, adjust or otherwise reallocate Grant Funds among or between each line of the Budget by providing Grantee with an executed Option Letter or formal amendment. The State shall only reimburse allowable costs if those costs are: **(i)** reasonable and necessary to accomplish the Work and for the Goods and Services provided; and **(ii)** equal to the actual net cost to Grantee (i.e. the price paid minus any items of value received by Grantee that reduce the cost actually incurred).

E. Close-Out and Deobligation of Grant Funds.

Grantee shall close out this Grant within 90 days after the Grant Expiration Date. To complete close out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Intergovernmental Grant Agreement and Grantee’s final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete. Any Grant Funds remaining after submission and payment of Grantee’s final reimbursement request are subject to deobligation by the State.

F. Erroneous Payments.

The State may recover, at the State's discretion, payments made to Grantee in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Grantee. The State may recover such payments by deduction from subsequent payments under this Intergovernmental Grant Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and Grantee, or by any other appropriate method for collecting debts owed to the State.

## 6. Reporting - Notification

A. Performance and Final Status

Grantee shall submit all financial, performance and other reports to the State no later than the end of the close-out period described in **§5.E**.

B. Violations Reporting

Grantee shall disclose, in a timely manner, in writing to the State, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting this Award.

## 7. Grantee Records

A. Maintenance and Inspection

Grantee shall make, keep, and maintain, all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to this Grant for a period of three years following the completion of the close out of this Grant. Grantee shall permit the State to audit, inspect, examine, excerpt, copy and transcribe all such records during normal business hours at Grantee's office or place of business, unless the State determines that an audit or inspection is required without notice at a different time to protect the interests of the State.

B. Monitoring

The State will monitor Grantee's performance of its obligations under this Intergovernmental Grant Agreement using procedures as determined by the State. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work.

C. Final Audit Report

Grantee shall comply with all State and federal audit requirements. Grantee shall provide copies of audits to the State upon request.

**8. Confidential Information-State Records**

A. Confidentiality

Grantee shall hold and maintain, and cause all Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Grantee for the sole and exclusive benefit of the State, unless those State Records are otherwise publically available at the time of disclosure or are subject to disclosure by Grantee under CORA. Grantee shall not, without prior written approval of the State, use for Grantee's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Intergovernmental Grant Agreement. Grantee shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. If Grantee or any of its Subcontractors will or may receive the following types of data, Grantee or its Subcontractors shall provide for the security of such data according to the following: (i) the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Grant as an Exhibit, if applicable, (ii) the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, (iii) the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJ, and (iv) the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this Grant, if applicable. Grantee shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Grantee may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Intergovernmental Grant Agreement. Grantee shall ensure all such agents, employees, assigns, and Subcontractors sign nondisclosure

agreements with provisions at least as protective as those in this Grant, and that the nondisclosure agreements are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Grantee shall provide copies of those signed nondisclosure restrictions to the State upon request.

C. Use, Security, and Retention

Grantee shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Grantee shall provide the State with access, subject to Grantee's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Grant, Grantee shall return State Records provided to Grantee or destroy such State Records and certify to the State that it has done so, as directed by the State. If Grantee is prevented by law or regulation from returning or destroying State Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Grantee becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. After an Incident, Grantee shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State.

E. Safeguarding PII

If Grantee or any of its Subcontractors will or may receive PII under this Agreement, Grantee shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S. In addition, as set forth in § 24-74-102, *et. seq.*, C.R.S., Grantee, including, but

not limited to, Grantee's employees, agents and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement. If Grantee is given direct access to any State databases containing PII, Grantee shall execute, on behalf of itself and its employees, the certification attached hereto as **Exhibit E** on an annual basis. Grantee's duty and obligation to certify as set forth in **Exhibit E** shall continue as long as Grantee has direct access to any State databases containing PII. If Grantee uses any Subcontractors to perform services requiring direct access to State databases containing PII, the Grantee shall require such Subcontractors to execute and deliver the certification to the State on an annual basis, so long as the Subcontractor has access to State databases containing PII.

#### **9. Conflict of Interest**

Grantee shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Grantee under this Grant. Grantee acknowledges that, with respect to this Grant, even the appearance of a conflict of interest shall be harmful to the State's interests and absent the State's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations under this Grant. If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Grantee acknowledges that all State employees are subject to the ethical principles described in §24-18-105, C.R.S. Grantee further acknowledges that State employees may be subject to the requirements of §24-18-105, C.R.S. with regard to this Grant.

#### **10. Insurance**

Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"). Grantee shall ensure that any Subcontractors maintain all insurance customary for the completion of the Work done by that Subcontractor and as required by the State or the GIA.

#### **11. Breach of Agreement**

In the event of a breach of Agreement, the aggrieved Party shall give written notice of breach of agreement to the other party. If the notified party does not cure the breach, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the

remedies as described in §12 for that party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in this Agreement in order to protect the public interest of the State; or if Grantee is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Agreement in whole or in part or institute any other remedy in this Agreement as of the date that the debarment or suspension takes effect.

## 12. Remedies

### A. State's Remedies

In addition to any remedies available under any Exhibit to this Grant Agreement, if Grantee is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in §11, shall have all of the remedies listed in this section in addition to all other remedies set forth in this Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

#### I. Termination for Breach

In the event of Grantee's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Additionally, if Grantee fails to comply with any term or condition of this Award, then the State may, in its discretion, terminate this entire Agreement or any part of this Agreement. Grantee shall continue performance of this Agreement to the extent not terminated, if any.

The State may also terminate this Grant Agreement at any time if the State has determined, in its sole discretion, that Grantee has ceased performing the Work without intent to resume performance, prior to the completion of the Work.

##### a. Obligation and Rights

To the extent specified in any termination notice, Grantee shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Grantee shall complete and deliver to the State all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Agreement's terms. At the request of the State, Grantee shall assign to the State all of Grantee's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Grantee

shall take timely, reasonable and necessary action to protect and preserve property in the possession of Grantee but in which the State has an interest. At the State's request, Grantee shall return materials owned by the State in Grantee's possession at the time of any termination. Grantee shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

**b. Payments**

Notwithstanding anything to the contrary, the State shall only pay Grantee for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Grantee was not in breach or that Grantee's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Agreement had been terminated in the public interest under **§2.B**.

**c. Damages and Withholding**

Notwithstanding any other remedial action by the State, Grantee shall remain liable to the State for any damages sustained by the State in connection with any breach by Grantee, and the State may withhold payment to Grantee for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Grantee is determined. The State may withhold any amount that may be due Grantee as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

**II. Remedies Not Involving Termination**

The State, in its discretion, may exercise one or more of the following additional remedies:

**a. Suspend Performance**

Suspend Grantee's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Grantee to an adjustment in price or cost or an adjustment in the performance schedule. Grantee shall promptly cease performing Work and incurring costs

in accordance with the State's directive, and the State shall not be liable for costs incurred by Grantee after the suspension of performance.

**b. Withhold Payment**

Withhold payment to Grantee until Grantee corrects its Work.

**c. Deny Payment**

Deny payment for Work not performed, or that due to Grantee's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

**d. Removal**

Demand immediate removal of any of Grantee's employees, agents, or subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Agreement is deemed by the State to be contrary to the public interest or the State's best interest.

**e. Intellectual Property**

If any Work infringes, or if the State in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, Grantee shall, as approved by the State (i) secure that right to use such work for the State and Grantee; (ii) replace the work with non-infringing work or modify the work so that it becomes non-infringing; or, (iii) remove any infringing work and refund the amount paid for such work to the State.

**B. Grantee's Remedies**

If the State is in breach of any provision of this Agreement and does not cure such breach, Grantee, following the notice and cure period in §11 and the dispute resolution process in §13 shall have all remedies available at law and equity.

**13. Dispute Resolution**

Except as herein specifically provided otherwise, disputes concerning the performance of this Grant that cannot be resolved by the designated Party representatives shall be referred in

writing to a senior departmental management staff member designated by the State and a senior manager or official designated by Grantee for resolution.

#### **14. Notices and Representatives**

Each Party shall identify an individual to be the principal representative of the designating Party and shall provide this information to the other Party. All notices required or permitted to be given under this Intergovernmental Grant Agreement shall be in writing, and shall be delivered either in hard copy or by email to the representative of the other Party. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §14.

#### **15. Rights in Work Product and Other Information**

Grantee hereby grants to the State a perpetual, irrevocable, non-exclusive, royalty free license, with the right to sublicense, to make, use, reproduce, distribute, perform, display, create derivatives of and otherwise exploit all intellectual property created by Grantee or any Subcontractors or Subgrantees and paid for with Grant Funds provided by the State pursuant to this Grant.

#### **16. Governmental Immunity**

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions, committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b); and the State's risk management statutes, §§24-30-1501, *et seq.*, C.R.S. No term or condition of this Intergovernmental Grant Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

#### **17. General Provisions**

##### **A. Assignment**

Grantee's rights and obligations under this Grant are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Grantee's rights and obligations approved by the State shall be subject to the provisions of this Intergovernmental Grant Agreement.

##### **B. Captions and References**

The captions and headings in this Intergovernmental Grant Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Intergovernmental Grant Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

C. Entire Understanding

This Intergovernmental Grant Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Intergovernmental Grant Agreement.

D. Modification

The State may modify the terms and conditions of this Grant by issuance of an updated Intergovernmental Grant Agreement, which shall be effective if Grantee accepts Grant Funds following receipt of the updated letter. The Parties may also agree to modification of the terms and conditions of the Grant in either an option letter or a formal amendment to this Grant, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules.

E. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Intergovernmental Grant Agreement to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Performance Start Date. Grantee shall strictly comply with all applicable Federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. Digital Signatures

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

G. Severability

The invalidity or unenforceability of any provision of this Intergovernmental Grant Agreement shall not affect the validity or enforceability of any other provision of this Intergovernmental Grant Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under the Grant in accordance with the intent of the Grant.

H. Survival of Certain Intergovernmental Grant Agreement Terms

Any provision of this Intergovernmental Grant Agreement that imposes an obligation on a Party after termination or expiration of the Grant shall survive the termination or expiration of the Grant and shall be enforceable by the other Party.

I. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described above, this Intergovernmental Grant Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Any services or benefits which third parties receive as a result of this Grant are incidental to the Grant, and do not create any rights for such third parties.

J. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Intergovernmental Grant Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

K. Accessibility

- i. *Reserved.*
- ii. Grantee shall comply with the Accessibility Standards for Individuals with a Disability, as adopted by the Office of Information Technology pursuant to [§24-85-103 C.R.S.](#)
- iii. The State may require Grantee's compliance with the Accessibility Standards for Individuals with a Disability adopted by the Office of Information Technology pursuant to [§24-85-103 C.R.S.](#) is determined and tested by a qualified third party selected by the State. The State may ask the Grantee to review the selection of the third party. Grantee shall be responsible for all costs associated with the third-party vendor's assessment. If Grantee is not in compliance as determined by the third-party vendor, at the State's request and at the State's direction, Grantee shall

promptly take all necessary actions to come into compliance using a State-approved vendor, at no additional cost to the State.

L. *Reserved*

#### **18. Colorado Special Provisions (Colorado Fiscal Rule 3-3)**

A. Statutory Approval. §24-30-202(1) C.R.S.

This Intergovernmental Grant Agreement shall not be valid until it has been approved by the Colorado State Controller or designee. If this Intergovernmental Grant Agreement is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Intergovernmental Grant Agreement shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. Fund Availability. §24-30-202(5.5) C.R.S.

Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. Governmental Immunity.

Liability for claims for injuries to persons or property arising from the negligence of the Parties, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b); and the State's risk management statutes, §§24-30-1501, *et seq.*, C.R.S. No term or condition of this Intergovernmental Grant Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. Independent Contractor.

Grantee shall perform its duties hereunder as an independent contractor and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee shall not have authorization, express or implied, to bind the State to any agreement, liability, or understanding, except as expressly set forth herein. Grantee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Grantee or any of its agents or employees. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Intergovernmental Grant Agreement.

Grantee shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.

E. Compliance with Law.

Grantee shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. Choice of Law, Jurisdiction, and Venue.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. Prohibited Terms.

Any term included in this Agreement that requires the State to indemnify or hold Grantee harmless; requires the State to agree to binding arbitration; limits Grantee's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void *ab initio*. Nothing in this Agreement shall be construed as a waiver of any provision of §24-106-109, C.R.S.

H. Software Piracy Prohibition.

State or other public funds payable under this Grantee shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Grantee hereby certifies and warrants that, during the term of this Agreement and any extensions, Grantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Grantee is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Grantee, including, without limitation, immediate termination of this Agreement and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. Employee Financial Interest/Conflict of Interest. §§24-18-201 and 24-50-507 C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Agreement. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's services and Grantee shall not employ any person having such known interests.

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## EXHIBIT B - SCOPE OF PROJECT (SOP)

### 1. PURPOSE

**1.1. Local Planning Capacity.** The purpose of the Local Planning Capacity (LPC) grant program is to provide funding to local governments to increase the capacity of their planning departments responsible for processing land use, permitting, and zoning applications for housing projects. “Fast Track” or expedited review of affordable housing projects is a top priority to increase the number of units built. Grant Funds may be used to support new staff wages, hiring consultants, implementing new systems and technologies, revising land use development codes, regional collaborations, and tracking, documentation of Prop 123 goals, and other planning efforts that generally advance affordable housing goals.

### 2. DESCRIPTION OF THE PROJECT(S) AND WORK

**2.1. Project Description.** The Project consists of updating the Town’s Comprehensive Plan, Unified Development Code (UDC), and implementation of a system to expedite the development review process for affordable housing projects, and generally advance affordable housing goals in Fairplay, Colorado.

**2.2. Work Description.** The Town of Fairplay (Grantee) will hire qualified consultants to complete an update of the Town’s Comprehensive Plan and UDC. The Comprehensive Plan will include all municipal master plan requirements in C.R.S. 31-23-206(1.5) including: a) a narrative description of the procedure used for the development and adoption of the master plan; b) an updated three-mile plan; c) a water supply element; d) a strategic growth element; and e) a recreation and tourism element (C.R.S. 31-23-206(5)).

In addition to the statutory requirements, the Plan shall also address the following items required by DOLA as a condition of funding: 1) risks of natural and human-caused hazards to life, property, and public resources, and consideration of their impact to vulnerable communities, and goals, strategies or actions to address and mitigate these hazards; 2) water supply and water quality goals (as a component of the water supply element); and 3) an action plan that prioritizes actions necessary to implement the Comprehensive Plan, general recommendations for updates to the Unified Development Code to conform with the updated Comprehensive Plan, a timeline for implementation, and assigns responsibility for actions. The Project also includes updating the Unified Development Code to implement the vision and goals of the Comprehensive Plan, as well as implementing an expedited review process for affordable housing projects. Grant funds may also support tracking/documentation and reporting of Proposition 123 requirements. Grantee will

## LPC-25-077 - Fairplay UDC Update &amp; Expedited Review of Affordable Housing

provide DOLA with electronic copies of accepted Plan and proof of Substantial Completion prior to Project Closeout.

Grantee will conduct a robust community engagement process that ensures participation by all key stakeholders, especially underrepresented voices, and residents or local workers who are considered housing cost-burdened. Grantee will complete quarterly performance metric reporting in a form provided by DOLA.

Additionally, at Project Closeout, a Final Informal Memo will be submitted that identifies the following: 1) description of the Grantee's approach to expedited review of affordable housing; 2) the outcome of that effort, including whether new policies were formally adopted and an assessment of how effectively this approach has been at reducing the amount of time required for review; 3) any other project outcomes that impacted the Grantee's Prop 123-related goals; 4) description of community engagement efforts; 5) the number of affordable housing units that were either permitted or preserved during the grant period; 6) the degree to which this grant has had a transformative impact on Grantee's affordable housing efforts; and 7) any lessons learned. Grantee will own the updated Comprehensive Plan and all related documents.

**2.2.1.** A contract for consultant services shall be awarded by Grantee to a qualified firm through a formal Request For Proposals or competitive selection process.

**2.3. Responsibilities.** Grantee shall be responsible for the completion of the Work and to provide required documentation to DOLA as specified herein.

**2.3.1.** Grantee shall notify DOLA at least 30 days in advance of Project Completion.

**2.4. Recapture of Advanced Funds.** To maximize the use of Grant Funds, the State shall evaluate Grantee's expenditure of the Grant Funds for timeliness and compliance with the terms of this Grant. DOLA reserves the right to recapture advanced Grant Funds when Grantee has not or is not complying with the terms of this Grant.

**2.5. Eligible Expenses.** Eligible expenses shall include: consultant fees, RFP/bid advertisements, attorney's fees, and Directo Costs.

**2.5.1.** Direct costs are those that are identified as program-specific allowable costs of implementing the grant program objective.

**2.5.2.** Ineligible Expenses. Ineligible expenses shall include, but are not limited to: job posting or recruitment costs, indirect overhead or general operating costs, housing construction, pre-development costs, lobbying, food, drink, or entertainment costs. Grant Funds may not be used to cover legal costs to defend.

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**3. DEFINITIONS**

**3.1. Project Budget Lines.**

**3.1.1.** “Consultant Services” means consultant fees, RFP/bid advertisements, and attorney’s fees.

**3.2. “Substantial Completion”** means the Work is sufficiently complete in accordance with the Grant so it can be utilized for its intended purpose without undue interference.

**4. DELIVERABLES**

**4.1. Outcome.** The final outcome of this Grant is a completed update to the Town’s Comprehensive Plan, a completed update to the UDC, submission of any related reports or work product funded by this Grant, documentation from stakeholder engagement outcomes, and implementation of a system to expedite the development review process for affordable housing projects and/or achieve Proposition 123 requirements in Fairplay, Colorado. In addition, a Final Informal Memo will be submitted to DOLA as a Final Report.

**4.2. Service Area.** The performance of the Work described within this Grant shall be located in the Town of Fairplay, Colorado.

**4.3. Performance Measures.** Grantee shall comply with the following performance measures:

<b><u>Milestone/Performance Measure/Grantee will:</u></b>	<b><u>By:</u></b>
Provide DOLA with baseline data on pre-grant estimated development review time for affordable housing projects. DOLA will provide the template.	Within 30 days after the Effective Date of this Intergovernmental Grant Agreement.
Begin procurement process or Contractor mobilization.	Within 90 days after the Effective Date of this Intergovernmental Grant Agreement.
Provide DOLA with a copy of Grantee’s Consultant Agreement or its Scope of Work.	Within 14 days after the Effective Date of the subcontract(s).
Submit draft policy documents to DOLA for courtesy review.	Within 30 days prior to a scheduled public hearing.
Submit documentation of new policy adoption.	Within 30 days after formal adoption.
Submit Quarterly Pay Requests	See §4.5.2 below
Submit Quarterly Reports	See §4.5.2 below

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Submit Project Final Report	July 28, 2028
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**4.4. Budget Line Adjustments.**

**4.4.1. Grant Funds.** Grantee may request in writing that DOLA move Grant Funds between and among budget lines, so long as the total amount of Grant Funds remains unchanged. To make such budget line changes, DOLA will use an Option Letter (**Exhibit G**).

**4.4.2. Other Funds.** Grantee may increase or decrease the amount of Other Funds in any one or any combination of budget lines as described in **§6.2**, or move Other Funds between and among budget lines, so long as the total amount of such “Other Funds” is not less than the amount set forth in **§6.2** below. Grantee may increase the Total Project Cost with “Other Funds” and such change does not require an amendment or option letter. DOLA will verify the Grantee’s contribution of “Other Funds” and compliance with this section at Project Closeout.

**4.5. Quarterly Pay Request and Status Reports.** Beginning 30 days after the end of the first quarter following execution of this Grant and for each quarter thereafter until termination of this Grant, Grantee shall submit Pay Requests and Status Reports using a form provided by the State. The State shall pay the Grantee for actual expenditures made in the performance of this Grant based on the submission of statements in the format prescribed by the State. The Grantee shall submit Pay Requests setting forth a detailed description and provide documentation of the amounts and types of reimbursable expenses. Pay Requests and Status Reports are due within 30 days of the end of the quarter but may be submitted more frequently at the discretion of the Grantee.

**4.5.1.** For quarters in which there are no expenditures to reimburse, Grantee shall indicate zero (0) requested in the Pay Request and describe the status of the Work in the Status Report. The report will contain an update of expenditure of funds by budget line as per **§6.2** of this **Exhibit B** Scope of Project as well as a projection of all Work expected to be accomplished in the following quarter, including an estimate of Grant Funds to be expended.

**4.5.2.** Specific submittal dates.

Quarter	Year	Due Date	Pay Request Due	Status Report Due
4 <sup>th</sup> (Oct-Dec)	2025	January 30, 2026	Yes	Yes
1 <sup>st</sup> (Jan-Mar)	2026	April 30, 2026	Yes	Yes

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2 <sup>nd</sup> (Apr-Jun)	2026	JULY 15, 2026*	Yes	Yes
3 <sup>rd</sup> (Jul-Sep)	2026	October 30, 2026	Yes	Yes
4 <sup>th</sup> (Oct-Dec)	2026	January 30, 2027	Yes	Yes
1 <sup>st</sup> (Jan-Mar)	2027	April 30, 2027	Yes	Yes
2 <sup>nd</sup> (Apr-Jun)	2027	JULY 15, 2027*	Yes	Yes
3 <sup>rd</sup> (Jul-Sep)	2027	October 30, 2027	Yes	Yes
4 <sup>th</sup> (Oct-Dec)	2027	January 30, 2028	Yes	Yes
1 <sup>st</sup> (Jan-Mar)	2028	April 30, 2028	Yes	Yes
2 <sup>nd</sup> (Apr-Jun)	2028	JULY 15, 2028*	Yes	Yes

**\*State fiscal year runs July 1 - June 30 annually. Grantee must request reimbursement for all eligible costs incurred during a State fiscal year by July 15 annually.**

**4.6. DOLA Acknowledgment.** The Grantee agrees to acknowledge the Colorado Department of Local Affairs in any and all materials or events designed to promote or educate the public about the Work and the Project, including but not limited to: press releases, newspaper articles, op-ed pieces, press conferences, presentations and brochures/pamphlets.

**5. PERSONNEL**

**5.1. Responsible Administrator.** Grantee’s performance hereunder shall be under the direct supervision of Janell Sciacca, Town Administrator/ Town Clerk, ([jsciacca@fairplayco.us](mailto:jsciacca@fairplayco.us)), who is an employee or agent of Grantee, and is hereby designated as the responsible administrator of this Project and a key person under this §5. Such administrator shall be updated through the process in §5.3. If this person is an agent of the Grantee, such person must have signature authority to bind the Grantee and must provide evidence of such authority.

**5.2. Other Key Personnel.** Scot Hunn, Town Planner, ([scot@hunnpinning.com](mailto:scot@hunnpinning.com)). Such key personnel shall be updated through the process in §5.3.

**5.3. Replacement.** Grantee shall immediately notify the State if any key personnel specified in §5 of this Exhibit B cease to serve. All notices sent under this subsection shall be sent in accordance with §14 of the Grant.

**5.4. DLG Program Manager:** Robyn DiFalco, (720) 682-5202, ([robyn.difalco@state.co.us](mailto:robyn.difalco@state.co.us)).

**5.5. DLG Program Assistant:** Jessica Rupe, (720) 557-4902, ([jessica.rupe@state.co.us](mailto:jessica.rupe@state.co.us)).

**6. FUNDING**

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The State provided funds shall be limited to the amount specified under the “Grant Funds” column of **§6.2**, Budget, below.

**6.1. Matching/Other Funds.** Grantee shall provide **at least 50%** of the Total Project Cost as documented by Grantee and verified by DOLA at Project Closeout. Initial estimates of Grantee’s contribution are noted in the “Other Funds” column of **§6.2** below. Increases to Grantee’s contribution to Total Project Cost do not require modification of this Intergovernmental Grant Agreement and/or **Exhibit B**.

**6.2. Budget**

Budget Line(s)		Total Project Cost	Grant Funds	Other Funds	Other Funds Source
Line #	Cost Category				
1	Consultant Services	\$225,000	\$112,500	\$112,500	Grantee
	<b>Total</b>	<b>\$225,000</b>	<b>\$112,500</b>	<b>\$112,500</b>	

**7. PAYMENT**

Payments shall be made in accordance with this section and the provisions set forth in **§5** of the Grant.

**7.1. Payment Schedule.** If Work is subcontracted or subgranted and such Subcontractors and/or Subgrantees are not previously paid, Grantee shall disburse Grant Funds received from the State to such Subcontractor or Subgrantee within fifteen days of receipt. Excess funds shall be returned to DOLA.

Payment	Amount	
Interim Payment(s)	\$106,875	Paid upon receipt of actual expense documentation and written Pay Requests from the Grantee for reimbursement of eligible approved expenses.
Final Payment	\$5,625	Paid upon Substantial Completion of the Project (as determined by the State in its sole discretion), provided that the Grantee has submitted, and DOLA has accepted, all required reports.
<b>Total</b>	<b>\$112,500</b>	

**7.2. Interest.** Grantee or Subgrantee may keep interest earned from Grant Funds up to \$100 per year for administrative expenses.

**8. ADMINISTRATIVE REQUIREMENTS**

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- 8.1. Reporting.** Grantee shall submit the following reports to DOLA using the State-provided forms. DOLA may withhold payment(s) if such reports are not submitted timely.
- 8.1.1. Quarterly Pay Request and Status Reports.** Quarterly Pay Requests shall be submitted to DOLA in accordance with **§4.5** of this **Exhibit B**.
- 8.1.2. Final Reports.** Within 90 days after the completion of the Project, Grantee shall submit the final Pay Request and Status Report to DOLA.
- 8.2. Monitoring.** DOLA shall monitor this Work on an as-needed basis. DOLA may choose to audit the records for activities performed under this Grant. Grantee shall maintain a complete file of all records, documents, communications, notes and other written materials or electronic media, files or communications, which pertain in any manner to the operation of activities undertaken pursuant to an executed Grant. Such books and records shall contain documentation of the Grantee's pertinent activity under this Grant in accordance with Generally Accepted Accounting Principles.
- 8.2.1. Subgrantee/Subcontractor.** Grantee shall monitor its Subgrantees and/or Subcontractors, if any, during the term of this Grant. Results of such monitoring shall be documented by Grantee and maintained on file.
- 8.3. Bonds.** If Project includes construction or facility improvements, Grantee and/or its contractor (or subcontractors) performing such work shall secure the bonds hereunder from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR Part 223 and are authorized to do business in Colorado.
- 8.3.1. Bid Bond.** A bid guarantee from each bidder equivalent to 5 percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
- 8.3.2. Performance Bond.** A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- 8.3.3. Payment Bond.** A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.
- 8.3.4. Substitution.** The bonding requirements in this **§8.3** may be waived in lieu of an irrevocable letter of credit if the price is less than \$50,000.

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**9. CONSTRUCTION/RENOVATION.** The following subsections shall apply to construction and/or renovation related projects/activities:

- 9.1. Plans & Specifications.** Construction plans and specifications shall be drawn up by a qualified engineer or architect licensed in the State of Colorado, or pre-engineered in accordance with Colorado law, and hired by the Grantee through a competitive selection process.
- 9.2. Procurement.** A construction contract shall be awarded to a qualified construction firm through a formal selection process with the Grantee being obligated to award the construction contract to the lowest responsive, responsible bidder meeting the Grantee's specifications.
- 9.3. Subcontracts.** Copies of any and all contracts entered into by the Grantee in order to accomplish this Project shall be submitted to DOLA upon request, and any and all contracts entered into by the Grantee or any of its Subcontractors shall comply with all applicable federal and state laws and shall be governed by the laws of the State of Colorado.
- 9.4. Standards.** Grantee, Subgrantees and Subcontractors shall comply with all applicable statutory design and construction standards and procedures that may be required, including the standards required by Colorado Department of Public Health and Environment, and shall provide the State with documentation of such compliance.

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# STATE OF COLORADO CONTRACT MODIFICATION

## OPTION LETTER #Insert # Here

### SIGNATURE AND COVER PAGE

**State Agency**

Department of Local Affairs (DOLA)

**Grantee**

Insert Grantee's Full Legal Name

**Project Number and Name**

Insert DOLA's project number and name

**Option Letter CMS Number**

Insert CMS number for this Amendment

**Previous CMS #(s)**

Insert CMS number for orig Agreement, and any prior chg docs

**Program Name**

Local Planning Capacity Grant Program

(Acctg Dropdwn LPC)

**Funding Account Codes**

Enter CTGG1 number

**Phase Code**

Acctg enters Phase Code

**DLG Portal Number**

Insert DLG Portal number for this Project

**Current Grant Agreement Expiration Date**

Month Day, Year

**Prior Grant Agreement Expiration Date**

Month Day, Year

**Grant Amount**

Initial Award: \$0.00

Option Letter # and date effective/spendable:  
\$0.00

Option Letter # and date effective/spendable:  
\$0.00

Total Grant Amount: \$0.00

**DOLA Program Manager**

Robyn DiFalco, (720) 682-5202,  
([robyn.difalco@state.co.us](mailto:robyn.difalco@state.co.us))

**DOLA Program Assistant**

Jessica Rupe, (720) 557-4902,  
([jessica.rupe@state.co.us](mailto:jessica.rupe@state.co.us))

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**STATE OF COLORADO**  
Jared S. Polis, Governor  
Colorado Department of Local Affairs

**STATE CONTROLLER**  
Robert Jaros, CPA, MBA, JD

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By: Maria De Cambra, Executive Director

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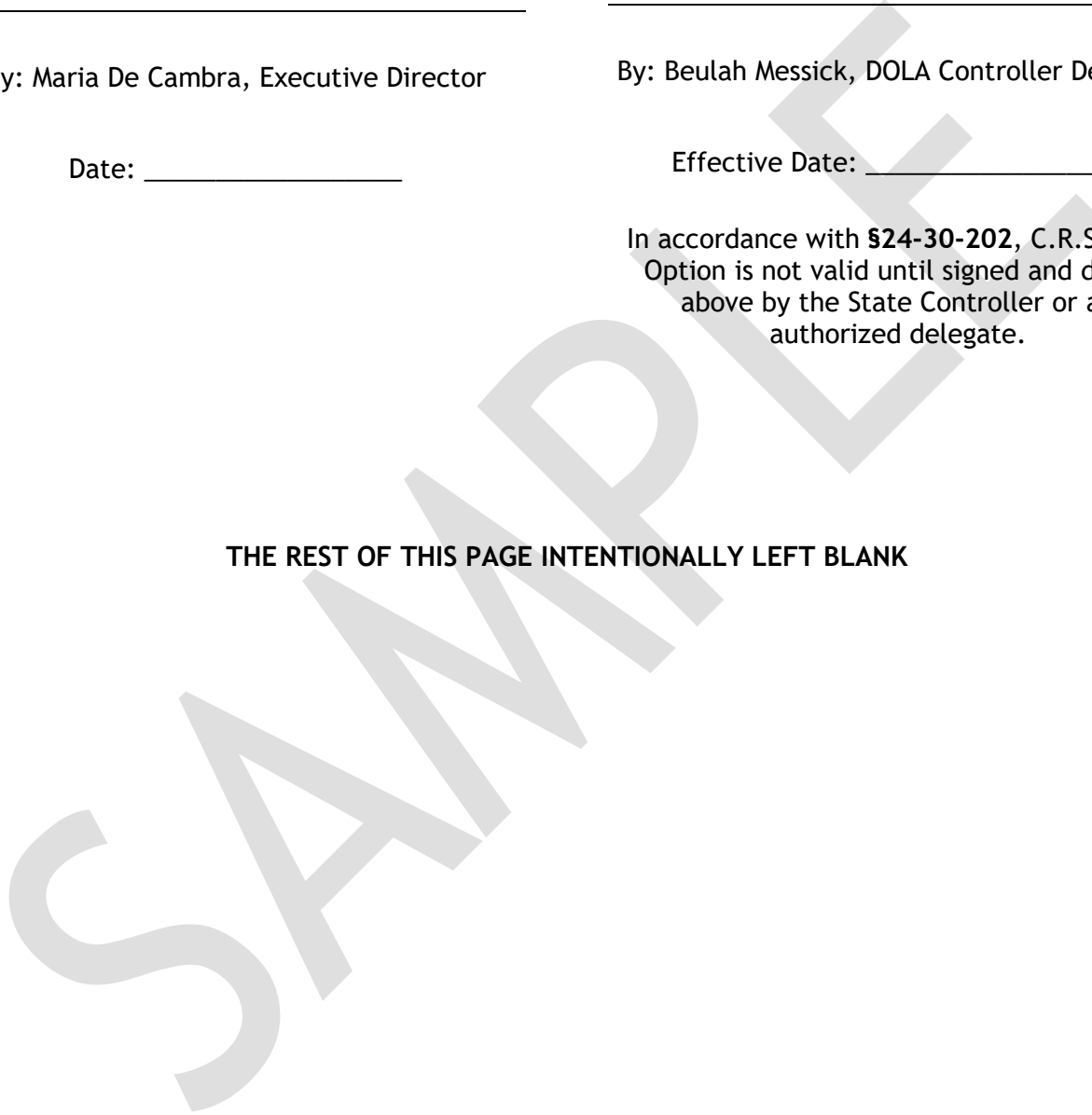
By: Beulah Messick, DOLA Controller Delegate

Date: \_\_\_\_\_

Effective Date: \_\_\_\_\_

In accordance with **§24-30-202**, C.R.S., this Option is not valid until signed and dated above by the State Controller or an authorized delegate.

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1. **OPTIONS.** Choose all applicable options listed in §1 and in §2:

- A.  Option to extend (use this option for Extension of Time)
- B.  Change in the Grant Award Amount within the current term (use this option for an Increase or Decrease in Grant Funds, including Supplemental funding awards)
- C.  Budget Line Adjustment(s) reallocation of awarded Grant Funds to Budget Line(s) (use this Option to redistribute existing Grant Funds between budget lines)

2. **REQUIRED PROVISIONS.** All Option Letters shall contain the appropriate provisions set forth below:

- A. **For use with Option 1(A):** In accordance with **Section 2(A)** of the original Intergovernmental Grant Agreement between the State of Colorado, acting by and through the Colorado Department of Local Affairs, and **Grantee's Name**, the State hereby exercises its option for an additional term beginning **Insert start date** and ending on **Insert ending date**. Tables in **Sections 4.3 and 4.5.2 of Exhibit B** are deleted and replaced with the following:

<u>Milestone/Performance Measure:</u>	<u>By:</u>
Provide DOLA with baseline data on estimated review time for affordable housing projects. DOLA will provide the template.	Within 30 days after the Effective Date of this Intergovernmental Grant Agreement.
Begin procurement process or Contractor mobilization.	Within 90 days after the Effective Date of this Intergovernmental Grant Agreement.
Provide DOLA with a copy of Grantee's Consultant Agreement or its Scope of Work.	Within 14 days after the Effective Date of the subcontract(s).
Begin Work.	Within ___ days after the Effective Date of the subcontract(s).
Documentation of efforts to explore, adopt, and/or implement	Within 30 days after the Policy adoption.

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policies to expedite review of affordable housing.	
Submit draft of expedited review policy language to DOLA for courtesy review.	30 days prior to a scheduled public hearing.
Submit Quarterly Pay Requests	See §4.5.2 below
Submit Quarterly Status Reports	See §4.5.2 below
Submit Project Final Report	[give date certain]

Quarter	Year	Due Date	Pay Request	Status Report
2 <sup>nd</sup> (Apr-Jun)	2025	JULY 15, 2025*	Yes	Yes
3 <sup>rd</sup> (Jul-Sep)	2025	October 30, 2025	Yes	Yes
4 <sup>th</sup> (Oct-Dec)	2025	January 30, 2026	Yes	Yes
1 <sup>st</sup> (Jan-Mar)	2026	April 30, 2026	Yes	Yes
2 <sup>nd</sup> (Apr-Jun)	2026	JULY 15, 2026*	Yes	Yes
3 <sup>rd</sup> (Jul-Sep)	2026	October 30, 2026	Yes	Yes
4 <sup>th</sup> (Oct-Dec)	2026	January 30, 2027	Yes	Yes

B. For use with Option 1(B): In accordance with Section 5(A)(i) of the original Intergovernmental Grant Agreement between the State of Colorado, acting by and through the Colorado Department of Local Affairs, and Grantee's Name, the State hereby exercises its option to increase/decrease Grant Funds awarded for this Project in an amount equal to amt of increase or (decrease), from beginning dollar amt to ending dollar amt. The Grant Award Amount shown on the Summary of Terms and Conditions page of this Intergovernmental Grant Agreement is hereby changed to ending dollar amt. The Budget table in Section 6.2 and the Payment Schedule in Section 7.1, both of Exhibit B, are deleted and replaced with the following:

<u>Budget Line(s)</u>				
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Line #	Cost Category	Total Project Cost	Grant Funds	Other Funds	Other Funds Source
	Architectural/Engineering Services	\$ 0.00			Grantee
	Construction/Improvement of Public Roadways				Grantee
	<b>Total</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	

Payment	Amount	
Interim Payment(s)		Paid upon receipt of actual expense documentation and written Pay Requests from the Grantee for reimbursement of eligible approved expenses.
Final Payment		Paid upon Substantial Completion of the Project (as determined by the State in its sole discretion), provided that the Grantee has submitted, and DOLA has accepted, all required reports.
<b>Total</b>		

C. **For use with Option 1(C):** In accordance with **Section 5(D)** of the original Intergovernmental Grant Agreement between the State of Colorado, acting by and through the Colorado Department of Local Affairs, and **Grantee's Name**, the State hereby exercises its option to re-allocate awarded Grant Funds within the Project Budget. The Budget table in **Section 6.2** of **Exhibit B** is deleted and replaced with the following:

Budget Line(s)		Total Project Cost	Grant Funds	Other Funds	Other Funds Source
Line #	Cost Category	Cost	Funds	Funds	Source
	Architectural/Engineering Services	\$ 0.00			Grantee
	Construction/Improvement of Public Roadways				Grantee

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	<b>Total</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	
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**3. OPTION LETTER EFFECTIVE DATE:**

The effective date of this Option Letter is upon approval of the State Controller or Month Day, Year, whichever is later.

SAMPLE



**TO:** Mayor and Board of Trustees  
**FROM:** Janell Sciacca, Town Administrator/Clerk  
**RE:** New Business Item C. Resolution No. 12, Amending Referred Ballot Question  
**DATE:** March 2, 2026

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**Background/Analysis:**

The Board approved submission of a Ballot question to the voters of Fairplay asking to increase the Town's per day lodging tax fee from \$2.00 to \$5.00 with adoption of Resolution 36, Series of 2025 on November 3, 2025.

Unfortunately, upon review of the actual ballot draft, Town Attorney Rivera noted that the first line of the question did not include specific language that is required by statute under TABOR. Town Attorney Rivera drafted Resolution No. 12, Series of 2026, which will update the language in question accordingly.

Because this matter was caught in time, the ballot language has already been updated prior to the mailing of the ballots which will occur the week of March 16. All public notices, including the required TABOR notice, were also updated in anticipation of adoption of Resolution No. 12.

**Recommendation:**

Staff recommends adoption of Resolution No. 12 in order to approve the wording update for the referred ballot question that will be decided upon by voters at the April 7, 2026 Regular Municipal Elections.

Attachments:

- Resolution No. 12, Series of 2026

**TOWN OF FAIRPLAY, COLORADO****RESOLUTION NO. 12  
(SERIES OF 2026)****A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FAIRPLAY, COLORADO AMENDING A REFERRED QUESTION TO THE ELECTORS OF THE TOWN OF FAIRPLAY ON WHETHER THE LODGING OCCUPATION TAX SHALL BE INCREASED TO A MAXIMUM OF \$5.00 PER OCCUPIED ROOM PER DAY**

**WHEREAS**, the Town of Fairplay (“Town”) is a statutory municipality organized under the laws of the State of Colorado; and

**WHEREAS**, Section 31-15-501(1)(c), C.R.S., authorizes the Town to levy occupation taxes within its borders; and

**WHEREAS**, pursuant to Resolution No. 4, Series of 2008, the Town previously referred a question to the registered electors of the Town of Fairplay whether the Town should levy a \$2.00 per day lodging occupation tax on the provision of lodging rooms and accommodations including camping; and

**WHEREAS**, at the Regular Municipal Election held on April 1, 2008 the registered electors of the Town voted to approve the \$2.00 per day lodging occupation tax; and

**WHEREAS**, the provision of lodging and accommodations, including camping or campsites, and short-term rentals to the traveling public results in increased traffic, increased demands upon municipal services, increased demands on public safety and emergency services, all of which have direct impacts on the health, safety, and welfare of Town residents; and

**WHEREAS**, an occupation tax is a means to require a business located within a municipality to pay its fair share of the expenses incurred by the municipality in providing those services and facilities; and

**WHEREAS**, in the seventeen years since the implementation of the lodging occupation tax, the Town has learned that \$2.00 per day in no way adequately covers all the associated impacts; and

**WHEREAS** the Town of Fairplay Board of Trustees desires to increase the lodging occupation tax to \$5.00 per lodging room per day; and

**WHEREAS**, the Board of Trustees deems it appropriate to submit this matter as a Ballot Issue to the electorate of the Town at the Regular Municipal Election to be held on Tuesday, April 7, 2026; and

**WHEREAS**, the Board of Trustees previously approved a referred question for this tax increase at its November 3, 2025 meeting; and

**WHEREAS**, the Board of Trustees now amends the format of the referred question to better align with applicable law and standards.

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

**Section 1.** The following ballot question shall appear on the ballot at the Regular Municipal Election to be held on Tuesday, April 7, 2026:

**Question 1. Shall the Town of Fairplay, Colorado's taxes be increased by \$40,000.00 annually by increasing the Town's lodging occupation tax rate from \$2.00 per day per occupied lodging room or accommodation up to \$5.00 per day per occupied lodging room or accommodation for hotel rooms, motel rooms, lodging rooms, motor hotel rooms, guest house rooms, bed and breakfast rooms, recreational vehicle pads or other similar accommodations rented for less than one (1) month or thirty (30) consecutive days commencing on bookings made after July 1, 2026, increasing tax revenues up to \$40,000 the first fiscal year and whatever amounts are raised annually thereafter, to be used to address visitor impacts, fund community projects and capital improvements, or fund any other lawful municipal purpose as determined by the Town of Fairplay Board of Trustees; and shall the Town be permitted to collect, retain, and expend all revenues derived from such tax as a voter-approved revenue change and an exception to limits which would otherwise apply under Article X, Section 20 of the Colorado Constitution or any other law?**

**YES/FOR** \_\_\_\_

**NO/AGAINST** \_\_\_\_

**Section 2.** In connection with the fixing of the ballot title, the Board finds and determines as follows:

- A. The Board finds that the general understanding of the effect of a "yes" or "no" vote on the Ballot Issues will be clear to the electors.
- B. The ballot title for the Ballot Issue will not conflict with those titles selected for any other Town measure that will appear on the ballot at the April 7, 2026 Town election; and
- C. The ballot title for the Ballot Issue correctly and fairly expresses the true intent and meaning of the measure.

**Section 3.** The Town Clerk shall serve as the designated election official of the Town for purposes of performing acts required or permitted by law in connection with the election on the Ballot Questions and shall take such action as may be required to comply with all applicable laws pertaining to the conduct of the election.

**Section 4.** The Town Clerk, the Town Administrator, and Town Attorney are hereby authorized and directed to take all necessary and appropriate action to effectuate the provisions of this Resolution including all reasonable and necessary action to cause such approved ballot question and issue to be printed and placed on the ballot for the April 7, 2026 Regular Municipal Election.

**Section 5.** Implementation of Tax. Upon approval of the above Ballot Issue by the majority of the registered electors of the Town, the Board shall enact an implementing ordinance consistent with the terms and conditions contained in the above Ballot Issue.

**Section 6.** If any section, paragraph, clause, or provision of this Resolution shall for any reason be held to be ineffective, invalid, or unenforceable, the ineffectiveness, invalidity, or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining issues of this Resolution.

**RESOLVED, APPROVED AND ADOPTED THIS 2<sup>ND</sup> DAY OF MARCH 2026.**

**TOWN OF FAIRPLAY, COLORADO**

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Frank Just, Mayor

**ATTEST:**

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Janell Sciacca, CMC Town Clerk