



**FRUITA CITY COUNCIL**  
**SPECIAL MEETING**  
**JULY 6, 2020**  
**12:00 P.M.**

- 1. CALL TO ORDER AND ROLL CALL**
- 2. AGENDA - ADOPT/AMEND**
- 3. COUNCIL REPORTS AND ACTIONS**
  - A. MEMORANDUM OF UNDERSTANDING – A request to approve a Memorandum of Understanding regarding allocation and disbursement of Coronavirus Aid, Relief and Economic Security Act (CARES Act) funds with Mesa County, the City of Grand Junction, Town of Palisade, Town of Collbran, and Town of DeBeque**
- 4. ADJOURN**



**FRUITA**  
COLORADO

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## **AGENDA ITEM COVER SHEET**

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**TO: FRUITA CITY COUNCIL AND MAYOR**

**FROM: MARGARET SELL, FINANCE DIRECTOR/CITY CLERK**

**DATE: JULY 6, 2020**

**RE: MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN MESA COUNTY AND MUNICIPALITIES REGARDING ALLOCATION AND DISBURSEMENT OF CARES ACT FUNDS**

### **BACKGROUND**

The State of Colorado is appropriating \$13,200,000 of CARES Act funding to be distributed to Mesa County. The County and municipalities within Mesa County have developed a MOU to allocate these funds to the County and municipalities within the County to reimburse unbudgeted expenses due to COVID 19 and/or for reimbursement of budgeted funds that were expended for expenses substantially different than the budgeted purposes. To be eligible for funding the entities must opt-in to the program by July 7. The City of Fruita's allocation for these funds is \$1,133,143. Reimbursement requests will be administered through the Colorado Department of Local Affairs.

The MOU spells out the terms of the agreement for allocation and disbursement of funds.

To be eligible for reimbursement, the CARES Act requires that the expenses:

- are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
- were not accounted for in the budget most recently approved as of March 27, 2020, for the local government; and
- were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020 (collectively, "Eligible Expenses").

The Parties to the MOU agree to cooperate to determine that all eligible expenses are paid and to otherwise expend the Mesa County allocation in full for beneficial use in the community due to and in response to COVID 19. Each Party agrees that any amount it reasonably anticipates will be unused as of October 31, 2020 will offered and be made available for use by another Party(ies).

### **FISCAL IMPACT**

The fiscal impact of this MOU has the potential of reimbursing the City of Fruita up to \$1.1 million in funds spent due to the COVID-19 pandemic. Funds spent by the City for this purpose

were not anticipated in the 2020 Budget and have been redirected from other purposes of the City. Any funds received will not have a net fiscal impact on the City as they will be offset by like expenditures of either unbudgeted funds or budgeted funds redirected to a substantially different purpose than intended. However, this will allow the City to reduce its anticipated use of fund balance and reductions in operating expenses to cover these unbudgeted and unanticipated expenses.

### **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

The MOU contributes to the economic health of the City through reimbursement of unanticipated expenses and potential development of programs to assist businesses and citizens from adverse impacts of COVID-19.

### **OPTIONS AVAILABLE TO COUNCIL**

- Approve the MOU regarding the allocation of CARES Act funds to Mesa County and municipalities within Mesa County.
- Take no action and allow the City's allocation of funds to be allocated to other entities in Mesa County.
- Approve the MOU subject to a change in the allocation formula or additional terms and conditions. This option is unlikely due to the July 7 deadline for opting in to the program.

### **RECOMMENDATION**

It is the recommendation of staff that the Council by motion:

**APPROVE THE MOU WITH MESA COUNTY AND OTHER MUNICIPALITIES  
IN MESA COUNTY REGARDING THE ALLOCATION AND DISBURSEMENT  
OF CARES ACT FUNDS**

**MEMORANDUM OF UNDERSTANDING REGARDING ALLOCATION AND  
DISBURSEMENT OF CORONAVIRUS AID, RELIEF AND ECONOMIC SECURITY ACT  
(CARES ACT) FUNDS**

This Memorandum of Understanding Regarding Allocation and Disbursement of Coronavirus Aid, Relief and Economic Security Act ("CARES Act") Funds (this "Agreement") is made and effective on signature by each party hereto (the "Effective Date.") The Agreement is by and among the Board of County Commissioners of Mesa County, Colorado (the "County"), and the City of Grand Junction, Colorado, the City of Fruita, Colorado, the Town of Palisade Colorado, the Town of Collbran, Colorado, and the Town of DeBeque, Colorado (individually referred to as "Municipality" or collectively as "Municipalities"). (The County and Municipalities will jointly be referred to as the "Parties").

**I. RECITALS**

- A. The novel coronavirus, referred to as COVID-19, has been declared a worldwide pandemic. National, state, and local emergencies have been declared as a result of COVID-19.
- B. All of the Parties, as local governmental entities, have expended significant effort and funds to protect the community from the impacts of COVID-19 and to slow its spread.
- C. Efforts to slow the spread and protect the community are ongoing and will require continued time and funding. Recovery efforts are also ongoing and will require the additional expenditure of time and funds.
- D. The emergence and rapid spread of COVID-19 was unexpected and unpredictable. Therefore, local governments could not have adequately budgeted for such expenses.
- E. The State of Colorado is appropriating \$13,200,000 of CARES Act funding ("Mesa County Allocation") to be distributed to the Municipalities and the County governments to reimburse unbudgeted expenses due to COVID 19 and/or for reimbursement of budgeted funds that were expended for expenses substantially different than the budgeted purpose(s). The Mesa County Allocation is being distributed by and through the Colorado Department of Local Affairs ("DOLA").

- F. The State of Colorado has designated DOLA as the fiscal agent for the funding which will be administered as a reimbursement program following eligibility verification performed by DOLA for the expenses.
- G. All Parties recognize that it is in the best interest of the Municipalities and the County to work cooperatively to ensure that all of the Mesa County Allocation is applied to the benefit of residents of the County and the Municipalities rather than allowing the funds to remain unspent and revert to the state-wide reserve fund pool for reallocation elsewhere in the State.
- H. The criteria for eligible expense will be as prescribed in the CARES Act and rules which may be revised from time to time.
- I. The Parties have agreed to a methodology for distribution of the Mesa County Allocation. Furthermore, the Parties have agreed that the Mesa County Allocation shall be allocated such that the funds will be expended for the good of the community due to their individual and collective response to COVID 19.
- J. The Parties have a successful track record of working together for the benefit of the community and desire to build on and continue those successes.
- K. The County and the Municipalities are authorized pursuant to Article XIV, Section 18 of the Colorado Constitution and Section 29-1-201, *et seq.*, Colorado Revised Statutes, to enter into agreements for the purpose of providing any service or performing any function which they can perform individually.

## **II. AGREEMENT**

NOW, THEREFORE, in consideration of the covenants and obligations herein expressed, the adequacy of which is acknowledged, the County and the Municipalities agree as follows:

- A. Commencing on the Effective Date and continuing until the earlier of the date upon which the Mesa County Allocation has been fully disbursed or the date upon which disbursement is prohibited by State or Federal law or regulation, the Parties agree to the following in relation to the distribution and expenditure of the Mesa County Allocation of the CARES Act funds.

- B. The obligations of the County and the Municipalities to commit or expend funds are subject to and conditioned on the receipt of the CARES Act funds.
- C. The Mesa County Allocation will be distributed amongst the Parties in the amounts and to the contact persons and addresses for each Party listed on Exhibit A, which is attached hereto and incorporated herein as if fully set forth. Exhibit A contains the distribution to each Party of its share of the Mesa County Allocation.
- D. Each Party is and shall be separately responsible for completing all reporting, accounting and other activities necessary or required by the CARES Act, and each Party shall separately "opt in" to receive the funding so that the DOLA, and not the County, will be the fiscal agent responsible for administering the funding distribution. Each Party is aware that failure to fully prepare, process, submit or otherwise perform as requires by the CARS Act may result in loss or forfeiture of funds.
- E. Each Party assumes responsibility for ensuring the funds are only used for eligible expenses as determined by DOLA under the CARES act criteria and guidance. The Act requires that the expenses:
- a. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
  - b. were not accounted for in the budget most recently approved as of March 27, 2020, for the local government; and
  - c. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020 (collectively, "Eligible Expenses").
- F. By signing this Agreement, each Party agrees that the fund distribution will be used only to cover those costs and expenses that are Eligible Expenses in compliance with the CARES Act.
- G. All Parties may partner on Eligible Expense projects with another Party(ies) signatory to this Agreement. No Party(ies) is(are) under any obligation to participate in any such partnership.
- H. On or before October 31, 2020 the Parties agree to meet and provide information about each Party's use of its share of the fund for Eligible Expenses. Furthermore, the Parties agree to cooperate to determine that all Eligible Expenses are paid and to otherwise expend the Mesa County Allocation in full for beneficial use in the community due to and in response to COVID 19. Each Party agrees that any amount it reasonably anticipates will be unused as of October 31, 2020 will offered and be made available for use by another Party(ies). The Parties agree to amend Exhibit A and the allocations provided therein to attain that goal.

J. On or before December 30, 2020, each Party shall use its share of the fund for Eligible Expenses in accordance with local, state and federal law, including all U.S. Department of Treasury guidance relating to the CARES Act. The CARES Act imposes expenditure and accounting obligations and each Party agrees to be responsible for ensuring that it spends, documents, and accounts for its portion of the fund in compliance with the CARES Act requirements. Each Party will keep an appropriate accounting of the expenditure of funds sufficient to meet the needs of DOLA.

K. The Parties shall each be responsible for any suits, demands, costs or actions resulting from its own acts or omissions and each of the Parties may insure against such possibilities as each Party deems necessary and appropriate. The Parties understand and agree that the County and the Municipalities, and their respective officials and employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101, *et seq.*, as from time-to-time amended, or otherwise available to any of the Parties, their officials, or their employees.

L. This Agreement is to be construed according to its fair meaning and as if prepared by all of the Parties and is deemed to be and contain the entire understanding and agreement between the Parties. There shall be deemed to be no other terms, conditions, promises, understandings, statements, or representations, expressed or implied, concerning this Agreement unless set forth in writing and signed by the Parties.

M. This Agreement cannot be modified except in writing signed by all of the Parties.

N. This Agreement will be governed by and its terms construed under the laws of the State of Colorado. Venue for any action to enforce or interpret this Agreement shall be in Mesa County, State of Colorado.

O. Nothing contained herein is deemed or should be construed by the Parties or by any third party as creating the relationship of principle and agent, a partnership or a joint venture between the Parties, or an employment relationship between the Parties.

P. This Agreement is made for the sole and exclusive benefit of the County and the Municipalities, their successors and assigns, and it is not made for the benefit of any third party.

Q. If any term or condition of this Agreement is held to be invalid by final judgment of any court of competent jurisdiction, the invalidity of such a term or condition, will not in any way affect any of the other terms or conditions of this Agreement, provided that the invalidity of any such term or condition does not materially prejudice any Party in their respective rights and obligations under the valid terms and conditions of this Agreement.

R. No Party will be deemed in violation of this Agreement if prevented from performing any of its respective obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortage of energy or materials, acts of God, acts of public enemies, acts of superior governmental authorities, weather conditions, rebellions, sabotage, health pandemics or epidemics, or any other circumstances for which it is not responsible or that are not within its control.

S. This Agreement may be signed by the Parties in counterparts.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by properly authorized signatories as of the Effective Date state above.

BOARD OF COUNTY COMMISSIONERS OF  
MESA COUNTY, COLORADO

\_\_\_\_\_  
Scott McInnis, Chair

ATTEST:

\_\_\_\_\_  
Tina Peters, Clerk & Recorder

CITY OF GRAND JUNCTION, COLORADO

By: \_\_\_\_\_  
Greg Caton  
City Manager

ATTEST:

\_\_\_\_\_  
Wanda Winkelmann, City Clerk

CITY OF FRUITA, COLORADO

By: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

TOWN OF PALISADE

By: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

TOWN OF COLLBRAN, COLORADO

By: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

TOWN OF DEBEQUE, COLORADO

By: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

## EXHIBIT "A"

### **To County:**

Distribution Amount: \$5,800,000.00

#### Contact Person

Peter Baier  
Mesa County Administrator  
Mesa County, Colorado  
P.O. Box 20000  
Grand Junction, CO 81502  
(970) 244-1689  
[peter.baier@mesacounty.us](mailto:peter.baier@mesacounty.us)

### **To Grand Junction:**

Distribution Amount: \$5,800,000.00

#### Contact Person

Greg Caton, City Manager  
City of Grand Junction  
250 N. 5<sup>th</sup> Street, Grand Junction CO 81506  
(970)244-1508  
[gregc@gjcity.org](mailto:gregc@gjcity.org)

### **To Fruita:**

Distribution Amount: \$1,133,143.00

#### Contact Person

Mike Bennett  
City Manager  
City of Fruita  
325 East Aspen  
Fruita, CO 81521  
(970) 858-3663  
[mbennett@fruita.org](mailto:mbennett@fruita.org)

**To Palisade:**

Distribution Amount: \$309,050.00

Contact Person

Janet Hawkinson

Town Administrator

Town of Palisade

175 East Third Street

Palisade, CO 81526

(970) 464-5602

[jhawkinson@townofpalisade.org](mailto:jhawkinson@townofpalisade.org)

**To Collbran:**

Distribution Amount: \$70,585.00

Contact Person

Town Administrator

Melanie Matarozzo

1010 High Street

P.O. Box 387

Collbran, CO 81624

(970) 487-3751

[clerk@townofcollbran.us](mailto:clerk@townofcollbran.us)

**To DeBeque:**

Distribution Amount: \$87,222.00

Contact Person

Town Manager

Carè McInnis

P.O. Box 60

381 Minter Avenue

DeBeque, CO 81630

(970) 283-5475

[cmcinnis@debeque.org](mailto:cmcinnis@debeque.org)