

AGENDA ITEM SUMMARY

June 23, 2020

City Council

STAFF

Darin Atteberry, City Manager
SeonAh Kendall, Economic Health Manager

SUBJECT

Resolution 2020-059 Approving an Intergovernmental Agreement with Larimer County for the Allocation and Distribution of Coronavirus Relief Fund, CARES Act, Title V.

EXECUTIVE SUMMARY

The purpose of this item is to authorize the City Manager to enter into an intergovernmental agreement (IGA) with Larimer County and seven other municipalities relating to the distribution of Coronavirus Relief Fund (CVRF) also known as the CARES Act, Title V funds. The IGA will memorialize the terms of the CVRF allocation disbursement, roles and responsibilities and reimbursement process.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

On May 18, 2020, Governor Polis signed Executive Order D2020 070 directing the expenditure of federal funds received by the state pursuant to the Coronavirus Aid, Relief, and Economic Security Act of 2020 (the CARES Act). The CARES Act established the Coronavirus Relief Fund (CVRF) to assist local governments in Colorado that did not get direct distribution of funds in the CARES Act with expenses to facilitate compliance with COVID-19-related public health measures. CVRF allows local governments to receive reimbursement for necessary expenditures that were not accounted for in the most recent local government budget and were incurred as of March 1 due to the COVID-19 public health emergency.

The Colorado Department of Local Affairs (DOLA) has developed process guidelines for the distribution of CVRF. A requirement of the funding allocation is for municipalities and their respective counties to collaborate on how the total amount allocated per county for all municipal and county reimbursements will be distributed and utilized. The IGA details this requirement between Larimer County, the City, Loveland, Estes Park, Timnath, Berthoud, Windsor, Wellington and Johnstown.

CARES CVRF Timeline

CVRF Opt-In Period w/ DOLA	June 3, 2020 - July 7, 2020
Collaborative Negotiation of Allocation	Now
Signed IGA	Before June 30, 2020
DOLA Opt-In Application	No later than July 7, 2020
CVRF Priorities Assessment	Now
Council Finance Committee	July 20, 2020
City Council	August 4, 2020
Reimbursement for CVRF City-Incurred Costs	Eligible through December 30, 2020
Allocation Agreement Expiration	March 31, 2021

CITY FINANCIAL IMPACTS

A future ordinance in August 2020 allocating the City's distribution of CVRF will be forthcoming (see timeline above).

RESOLUTION 2020-059
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY,
LARIMER COUNTY, AND OTHER MUNICIPALITIES WITHIN LARIMER COUNTY
FOR THE ALLOCATION AND DISTRIBUTION OF CORONAVIRUS RELIEF FUND,
CARES ACT, TITLE V FUNDS

WHEREAS, the City of Fort Collins is threatened with serious injury and damage, consisting of widespread human and economic impact caused by the Novel Coronavirus 2019 (COVID-19); and

WHEREAS, on March 13, 2020, in order to undertake emergency measures to protect the life, health, safety and property of the citizens of the City and persons conducting business therein, and in order to attempt to minimize the loss of human life and the preservation of property, the City Manager, as the Director of the City's Office of Emergency Management, proclaimed a "local emergency" in accordance with Section 2-671(a)(1) of the City Code and activated the Emergency Operations Plan established pursuant to Section 2-673 of the City Code; and

WHEREAS, Larimer County (the "County") and the City of Fort Collins, the City of Loveland, the Town of Estes Park, the Town of Timnath, the Town of Berthoud, the Town of Windsor, the Town of Wellington and the Town of Johnstown (collectively, the "Municipalities") have expended significant effort and funds to protect the community from the impacts of COVID-19 and to slow its spread: and

WHEREAS, the emergence and rapid spread of COVID-19 was unexpected and local governments could not have adequately budgeted for such expenses; and

WHEREAS, efforts, including recovery efforts, to slow the spread of COVID-19 and protect the community are ongoing and will require the additional expenditure of time and funds; and

WHEREAS, On May 18, 2020, Governor Polis signed Executive Order D2020 070 directing the expenditure of federal funds received by the state pursuant to the Coronavirus Aid, Relief, and Economic Security Act of 2020 (the "CARES Act"); and

WHEREAS, the CARES Act established the Coronavirus Relief Fund to assist local governments in Colorado that did not get direct distribution of funds in the CARES Act with expenses to facilitate compliance with COVID-19-related public health measures; and

WHEREAS the State of Colorado appropriated \$30,617,332.00 of CARES Act funds (the "CARES Act Funds") to the County and the Municipalities to reimburse these unbudgeted expenses through the Department of Local Affairs which will administer funding through a reimbursement program for verified, eligible expenses; and

WHEREAS, the County and the Municipalities recognize that it is in the best interest of Larimer County communities to work cooperatively to ensure that all of the County allocation of CARES Act Funds is applied for the benefit of County residents rather than allowing such funds

to remain unspent and revert to the state-wide reserve fund pool for reallocation elsewhere in the state; and

WHEREAS, the County and the Municipalities have a successful track record of working together for the benefit of the community and seek to divide the CARES Act Funds pursuant to that certain Memorandum of Understanding Related to Distribution of Cares Act Funds (the “MOU”), a draft of which is attached as Exhibit “A” and incorporated herein by reference; and

WHEREAS, as Colorado governmental entities, the County and Municipalities are each authorized, pursuant to C.R.S. §29-1-203, to cooperate or contract with one another to acquire or provide any government function, service, or facility lawfully authorized to each; and

WHEREAS, the City Council has determined that the MOU is in the best interests of the City and its citizens to accomplish the purposes set forth therein, and that the City Manager should be authorized to execute the MOU between the County and the Municipalities.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals above.

Section 2. That the City Council hereby approves the MOU in substantially the form attached hereto as Exhibit “A” and authorizes the City Manager, in consultation with the City Attorney and consistent with this Resolution, to finalize the MOU and its exhibits and execute it on behalf of the City.

Section 3. That in addition, the City Manager is authorized, during the term of the IGA and in consultation with the City Attorney, to approve and execute such amendments to the IGA as the City Manager determines to be reasonably necessary and appropriate to: (a) protect the City’s interests or to effectuate the purposes of this Resolution; (b) provide a benefit to the City; and (c) limit the City’s financial obligation to expenditure of funds already appropriated and approved by Council or conditioned upon such appropriation .

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 23rd day of June, A.D. 2020.

Mayor

ATTEST:

City Clerk

MEMORANDUM OF UNDERSTANDING RELATED TO DISTRIBUTION OF CARES ACT FUNDS

This Memorandum of Understanding for Funding related to the distribution of CARES Act Title V funds (“Agreement”) is made and effective on _____, 2020, by and among the Board of County Commissioners of Larimer County, Colorado (referred to as “County”), and the City of Fort Collins, Colorado, the City of Loveland, Colorado, the Town of Estes Park, Colorado, the Town of Timnath, Colorado, the Town of Berthoud, Colorado, the Town of Windsor, Colorado, the Town of Wellington, Colorado, and the Town of Johnstown, 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 unable to be predicted. Therefore, local governments could not have adequately budgeted for such expenses.
- E. The State of Colorado is appropriating \$30,617,332.00 of CARES Act funding to Larimer County local governments to reimburse these unbudgeted expenses through the 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 Larimer County community to work cooperatively to ensure that all of the Larimer County allocation is applied to the benefit of Larimer County residents rather than allowing the funds to remain unspent and revert to the state-wide reserve fund pool for reallocation elsewhere in the state.
- H. The criteria for eligibility will be as prescribed in the CARES Act and rules which may be revised from time to time
- I. The Parties wish to agree on how to divide the appropriated funds for the good of the community.
- J. The Parties have a successful track record of working together for the benefit of the community.

- K. County and Municipalities are authorized pursuant to Article XIV, Section 18 of the Colorado Constitution and Section 29-1-201, et seq., Colorado Revised Statutes, and pursuant to their home-rule authority, as applicable, to enter into agreements for the purpose of providing any service or performing any function which they can perform individually.

II. CONSIDERATION

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

III. TERMS AND CONDITIONS

- A. Commencing as of the date set forth above and continuing until such time as the CARES Act funding allocated hereunder either has been fully disbursed to the Parties by DOLA or has reverted to the state-wide reserve fund pool for reallocation, the Parties agree to the following in relation to the CARES Act funds.
- B. The obligations of the County and Municipalities to commit or expend funds are subject to and conditioned on the receipt of the CARES Act funds.
- C. The funds will be distributed among the parties as outlined in Exhibit A, which is attached hereto and incorporated herein. Exhibit A contains the total estimated current and projected expenses by each unit of local government in order to establish intended “drawdown” of funds.
- D. Each Party is individually responsible for completing all activities necessary to become eligible to receive reimbursement from the CARES Act funds, including “opting in” to establish an account in the DOLA system for administering CARES Act funds. If a Party fails to complete such necessary activities, such Party may not be eligible for distribution of the funds.
- E. Each Party, at its sole discretion, may use the funds allocated to it in any manner appropriate under the CARES Act as administered by DOLA and assumes responsibility for ensuring the funds are only used for eligible expenses as determined by DOLA under the CARES Act criteria.
- F. Each Party will assume responsibility for covering its own costs until such time as reimbursement is received from DOLA and assumes its own risk that such reimbursement may not occur. No Party will have any expectation that other Parties to this Agreement will be providing any CARES act funds to another. Each party is liable for its own spending.

- G. Any parties may seek partners on projects eligible for CARES Act reimbursement, whether or not from among the other Parties to this Agreement. Any party may seek to reallocate its funds to or from another eligible CARES Act participant as part of a separate cooperative agreement. No Party is under any obligation to participate in any such cooperative projects.
- H. The parties will confer in early September 2020 to share information about the progress of each Party's application of the funds to beneficial use in the community and to consider an adjustment to the allocations in the event a Party does not reasonably expect to utilize all of that Party's allocated funds.
- I. Each Party will keep an appropriate accounting of the expenditure of funds sufficient to meet the needs of DOLA and their own accounting practices, and any other applicable CARES Act requirements.
- J. This Agreement is to be construed according to its fair meaning and as if prepared by all parties hereto and is deemed to be and contain the entire understanding and agreement between the parties hereto. There shall be deemed to be no other terms, conditions, promises, understandings, statements, or representations, expressed or implied, concerning this Agreement unless set forth in writing and signed by the Parties hereto.
- K. This Agreement cannot be modified except in writing signed by all Parties.
- L. This Agreement will be governed by and its terms construed under the laws of the State of Colorado. Venue for any action shall be in Larimer County, State of Colorado.
- M. 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.
- N. This Agreement is made for the sole and exclusive benefit of County and Municipalities, their successors and assigns, and it is not made for the benefit of any third party.
- O. 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.

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

- Q. Notification to Parties to this Agreement shall be made to the U.S. mail addresses or to the electronic email addresses listed on Exhibit B.

- R. This Agreement may be signed by the Parties in counterpart.

BOARD OF COUNTY COMMISSIONERS OF
LARIMER COUNTY, COLORADO

By: _____

Title: _____

ATTEST:

Approved as to form:

County Attorney

CITY OF FORT COLLINS, COLORADO

By: _____

Title: _____

ATTEST:

Approved as to form:

City Attorney

CITY OF LOVELAND, COLORADO

By: _____

Title: _____

ATTEST:

Approved as to form:

City Attorney

TOWN OF ESTES PARK

By: _____

Title: _____

ATTEST:

Approved as to form:

Town Attorney

TOWN OF TIMNATH, COLORADO

By: _____

Title: _____

ATTEST:

Approved as to form:

Town Attorney

TOWN OF BERTHOUD, COLORADO

By: _____

Title: _____

ATTEST:

Approved as to form:

Town Attorney

TOWN OF WINDSOR, COLORADO

By: _____

Title: _____

ATTEST:

Approved as to form:

Town Attorney

TOWN OF WELLINGTON, COLORADO

By: _____

Title: _____

ATTEST:

Approved as to form:

Town Attorney

TOWN OF JOHNSTOWN, COLORADO

By: _____

Title: _____

ATTEST:

Approved as to form:

Town Attorney

EXHIBIT “A”

Party	% of Allocation	Allocation Amount
Larimer County, Colorado	50.00%	\$15,308,666
City of Fort Collins, Colorado	29.45%	\$9,015,692
City of Loveland, Colorado	13.64%	\$4,177,151
Town of Berthoud, Colorado	1.55%	\$475,349
Town of Estes Park, Colorado	1.11%	\$340,307
Town of Johnstown, Colorado	0.26%	\$79,913
Town of Timnath, Colorado	0.86%	\$262,512
Town of Windsor, Colorado	1.32%	\$405,021
Town of Wellington, Colorado	1.81%	\$552,720
TOTAL	100.00%	\$30,617,332

EXHIBIT "B"

To County:

County Manager
Larimer County, Colorado
P.O. Box 1190
Fort Collins, CO 80522
Email: hoffmalc@co.larimer.co.us

To Fort Collins:

City Manager
City of Fort Collins
P.O. Box 580
Fort Collins, CO 80522
Email: datteberry@fcgov.com

With copy to:

City Attorney
City of Fort Collins
P.O. Box 580
Fort Collins, CO 80522

To Loveland:

City Manager
City of Loveland
500 East 3rd Street, Suite 330
Loveland, CO 80537
Email: steve.adams@cityofloveland.org

With copy to:

City Attorney
City of Loveland
500 East 3rd Street, Suite 330
Loveland, CO 80537

To Estes Park:

Town Administrator
P.O. Box 1200
Estes Park, CO 80517
Email: tmachalek@estes.org

To Timnath:

Town Manager
4800 Goodman Street
Timnath, CO 80547
Email: wlavanchy@timnathgov.com

To Berthoud:

Town Administrator
P.O. Box 1229
Berthoud, CO 80513
Email: ckirk@berthoud.org

To Windsor:

Town Manager
301 Walnut Street
Windsor, CO 80550
Email: shale@windsorgov.com

To Wellington:

The Town of Wellington
3735 Cleveland Avenue
P.O. Box 127
Wellington, CO 80549
Email: houghtkm@wellingtoncolorado.gov

With copy to:

March, Olive and Pharris, LLC
Attn: Brad March
1312 S. College Ave.
Fort Collins, CO 80524

To Johnstown:

Town Manager
450 S. Parish Ave.
Johnstown, CO 80534
Email: mlecerf@townofjohnstown.com