BOARD OF COUNTY COMMISSIONERS

PARK COUNTY, COLORADO

RESOLUTION NO. 2026-008

A RESOLUTION CLARIFYING AND LIMITING THE USE OF COUNTY FUNDS FOR LEGAL REPRESENTATION OF ELECTED OFFICIALS

WHEREAS, the Board of County Commissioners of Park County, Colorado ("Board"), is vested with exclusive authority over the management of county affairs and the control, appropriation, and expenditure of county funds pursuant to **§§ 30-11-101(1)(a), 30-11-107(1)(b), and 30-11-107(2)(a), C.R.S.;** and

WHEREAS, under **Article XI, Section 1 of the Colorado Constitution** and **§ 29-1-101 et seq., C.R.S.,** public funds may be expended only for lawful public purposes that primarily serve the interests of the County as a governmental entity and its taxpayers; and

WHEREAS, Colorado law draws a clear distinction between actions taken within the scope of official duties in furtherance of a public entity's interests and actions taken in an individual, personal, political, or adversarial capacity; and

WHEREAS, the Colorado Governmental Immunity Act **("CGIA"), § 24-10-101 et seq., C.R.S.,** permits—but does not require—a public entity, in its discretion, to authorize a defense or indemnification to an officer or employee only upon an affirmative determination by recorded vote of the governing body that the conduct at issue occurred within the scope of official duties and that providing such defense or indemnification serves the interests of the public entity; and

WHEREAS, §§ 24-10-110(1)(a) and 24-10-118, C.R.S., expressly limit defense and indemnification authority and do not mandate the payment of legal fees for conduct that is adverse to, or in conflict with, the public entity; and

WHEREAS, nothing in Colorado law confers a vested right upon an elected official to County-funded legal representation, and any such determination is made on a case-by-case basis by the governing body in its legislative discretion; and

WHEREAS, the Board has a non-delegable fiduciary duty to safeguard public funds and to prevent their use for purposes that expose the County to unnecessary fiscal risk, internal conflict, or litigation expense; and

WHEREAS, the Board finds that payment of County funds for legal representation independently obtained by an elected official for purposes adverse to Park County, its governing body, or its administration does not serve a public purpose, is not within the scope of official County business, and is inconsistent with Colorado law; and

WHEREAS, nothing herein is intended to restrict the lawful authority, independence, or speech rights of any elected official, but solely to govern the use of County funds;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PARK COUNTY, COLORADO:

Section 1. Definitions

For purposes of this Resolution, the following terms shall have the meanings set forth below.

(a) "Legal representation" means the provision of legal services by an attorney or law firm, including legal advice, defense, indemnification, or litigation services.

(b) "Scope of official duties" means acts undertaken by an elected official in the good-faith performance of lawful responsibilities of office in furtherance of the interests of Park County.

(c) "Materially aligned" means interests substantially consistent with the institutional, legal, and fiscal interests of Park County.

(d) "Legitimate public purpose" means a purpose that primarily serves the interests of Park County and its taxpayers.

(e) "Adversarial representation" means legal representation asserting claims against Park County or its governing body.

Section 2. Express Limitation on Use of County Funds

No County funds shall be authorized, expended, reimbursed, indemnified, advanced, or otherwise paid for legal representation of an elected official unless the Board of County Commissioners makes an affirmative determination by recorded vote that the expenditure serves a legitimate public purpose.

Absent such determination, payment is expressly prohibited.

Section 3. Procedure for Requesting County-Funded Legal Representation

(a) Any elected official seeking County-funded legal representation shall submit a written request to the Board of County Commissioners.

(b) The request shall identify, at a minimum:

1. The nature of the legal matter;

2. The acts or omissions giving rise to the matter;

3. Whether the matter arises from the performance of official duties; and

4. Whether the legal interests of the requesting official are materially aligned with the interests of Park County.

(c) Submission of a request does not create any right, entitlement, or presumption that County-funded legal representation will be approved.

(d) The Board may consider the request in executive session to the extent permitted by law and shall approve or deny the request by recorded vote at a public meeting.

(e) The Board may impose reasonable conditions, limitations, or scope restrictions on any authorized legal representation.

Section 4. Adversarial Representation Prohibited

County funds shall not be used to pay for legal representation acquired by an elected official to assert claims against Park County or challenge actions of the Board of County Commissioners.

Section 5. Discretion Reserved to the Board

The determination of whether County-funded legal representation is authorized is a legislative and discretionary function reserved exclusively to the Board of County Commissioners.

Section 6. No Waiver, Estoppel, or Implied Contract

Nothing in this Resolution shall be construed as a waiver of authority, an implied contract, a guarantee of defense or indemnification, or a basis for equitable estoppel.

Section 7. Consistency with Ethics and Insurance Law

This Resolution shall be applied consistently with applicable ethics laws, the Colorado Governmental Immunity Act, and County insurance policies.

Section 8. Effective Date

This Resolution shall take effect immediately upon adoption by the Board of County Commissioners.

Section 9. Applicability

This Resolution shall apply prospectively to any request for County-funded legal representation submitted on or after the effective date of this Resolution. Nothing herein shall be construed to create, recognize, or impair any vested right to County-funded legal representation, nor to require reimbursement of legal fees incurred prior to such effective date.

Section 10. Severability

If any provision of this Resolution is held invalid, such invalidity shall not affect the remaining provisions.

ADOPTED this 21st day of January, 2026.

BOARD OF COUNTY COMMISSIONERS

PARK COUNTY, COLORADO

Chair _____

Commissioner _____ Amy Mitchell

Commissioner _____

ATTEST:

The undersigned Clerk and Recorder of Park County, Colorado, hereby certifies that the foregoing Resolution No. 2026-008 was duly adopted by the Board of County Commissioners of Park County, Colorado, at a regular meeting thereof held on the 21st day of January, 2026.

_____

Clerk and Recorder

Park County, Colorado

(SEAL)