## **AGENDA**

# CITY COUNCIL REGULAR MEETING

March 24, 2020

5:00 PM, City Council Chambers 130 S Galena Street, Aspen



- I. CALL TO ORDER
- II. ROLL CALL
- III. SCHEDULED PUBLIC APPEARANCES

# IV. CITIZENS COMMENTS & PETITIONS

(Time for any citizen to address Council on issues NOT scheduled for a public hearing. Please limit your comments to 3 minutes)

### NOTICE REGARDING PUBLIC PARTICIPATION

Attendance at the Council meeting will be limited to comply with ten (10) person maximum for meeting participation. Sister Cities room next to Council Chambers will be available for ten (10) people to view the meeting. Anyone who is symptomatic for COVID-19 will be asked to leave immediately.

Individual members of the public wishing to participate remotely may submit a request to comment via telephone by providing notice to the Clerk's Office for the City of Aspen by phone or email, 970-920-5001 or citizencalls@cityofaspen.com at least fifteen (15) minutes prior to the commencement of the meeting. Such individuals will then be provided a call-in telephone number, which each individual must call no later than five minutes prior to the commencement of the meeting. The individual wishing to comment shall wait on the call-in line to comment until called on by the mayor.

#### V. SPECIAL ORDERS OF THE DAY

- a) Councilmembers' and Mayor's Comments
- b) Agenda Amendments
- c) City Manager's Comments
- d) Board Reports

#### VI. CONSENT CALENDAR

(These matters may be adopted together by a single motion)

- VI.A. Resolution #018, Series of 2020 Colorado Water Conservation Board Grant Acceptance and Contract Award to Western Water Partnerships Alternative Transfer Method Project
- VI.B. Resolution #022, Series of 2020 Wheeler Opera House Infrastructure & Modernization Phase 1 Scope
- VI.C. Resolution #024, Series of 2020 Amendment Extension for Publicis Sapient Annual On-Demand Support Contract
- VI.D. Resolution #025, Series of 2020 Emergency Response Appropriations
- VI.E. Draft Minutes of March 10th & 13th, 2020
- VII. NOTICE OF CALL-UP
- VIII. ACTION ITEMS
- IX. FIRST READING OF ORDINANCES
- X. PUBLIC HEARINGS
  - X.A. Ordinance #03, Series of 2020 Continuation of Adoption of Wireless Communications Facilities Design Guidelines and Related Amendment to the Land Use Code Chapter 26.505; Wireless Communication Facilities and Equipment
- XI. ADJOURNMENT



### **MEMORANDUM**

TO: Mayor and City Council

FROM: Raquel Flinker, Interim Utilities Portfolio Manager

THROUGH: Tyler Christoff, Director of Utilities

MEMO DATE: 03/16/2020

MEETING DATE: 03/24/2020

RE: Colorado Water Conservation Board Grant Acceptance and Contract

Award to Western Water Partnerships – Alternative Transfer Method

Project (Resolution #018, Series of 2020)

REQUEST OF COUNCIL: The City of Aspen has received a \$183,356.00 grant from the Colorado Water Conservation Board (CWCB) for the evaluation of water-sharing projects to help increase the reliability of the City of Aspen's municipal water supply, increase environmental flows, and promote agricultural viability. Western Resource Advocates is contributing \$15,000 and the City of Aspen is also contributing \$15,000 of matching funds. Staff is requesting acceptance of this grant and consent to execute an agreement with Western Water Partnerships in the amount of \$213,356.00 for the development of this project.

BACKGROUND: The City of Aspen operates a water utility that supplies customers both inside and outside the municipal boundary. Aspen obtains its water supply primarily from the surface water sources of Castle Creek and Maroon Creek. Aspen has adopted a policy to maintain streamflows in the creeks downstream of its diversion structures at flow rates at or above the Colorado Water Conservation Board's decreed instream flow rights for the protection of the fishery and the associated aquatic habitats in those streams.

In 2017, Western Resource Advocates (WRA) and the Wilderness Workshop (WW), both conservation nonprofits, began discussing alternative ways for the City of Aspen to meet future water needs. Those conversations led to this project which involves the evaluation of voluntary and compensated agreements with irrigators as a possible temporary option for meeting municipal water needs and improving streamflows.

DISCUSSION: The objective of this project is to identify and evaluate opportunities for voluntary water sharing agreements with agricultural producers in the Roaring Fork Valley to increase the reliability of the City's municipal water supply and/or enhance stream flows in the Upper Roaring Fork River and key tributaries. The concepts could include, among other

possibilities, an interruptible water supply agreement, partial year irrigation, and/or deficit irrigation.

Colorado's Water Plan identifies Alternative Transfer Methods (ATMs) as an important strategy to help offset the increasing pressures on agricultural water rights through voluntary water sharing agreements that respect property rights and offer an alternative to permanent agricultural dry-up. Designed properly, ATMs can increase an agricultural producer's profits in a given year while helping reduce demands on a water system, resulting in "win-win" agreements. While several ATM projects have been implemented in Colorado, this would be the first ATM designed for a West Slope headwaters municipality. Considering this, the project will identify the unique challenges and opportunities presented by the area's geography, water rights and hydrology.

In addition, the project will begin to investigate opportunities to increase supplies in the Roaring Fork Valley through water sharing agreements with East Slope water users that are currently diverting water out of the basin. Considering the complexity of any such water sharing agreement, the team will identify potential partners and facilitate meetings to discuss potential water sharing concepts. The team will summarize any potential water sharing opportunities.

Through previous studies, it has been determined that the City's municipal water supplies are vulnerable and would benefit from additional firming. To illustrate this need, the City's current storage capacity is less than a day's municipal demand. When factoring in drought and climate change, projected hydrology indicates the City's water supply would be even more unreliable and in need of additional firming. Adding to these challenges, the Roaring Fork River headwaters are the source of trans-basin diversions which, at times, create significantly reduced stream flows in the Upper Roaring Fork River and some of its tributaries.

Because much effort will be spent developing ATM projects, the project is divided into two phases. Phase 1 (this project), is focused on the development and recommendation of specific ATMs, whereas Phase 2 will involve the implementation of the ATMs identified in this phase.

FINANCIAL IMPACTS: The execution of the attached contract with Western Water Partnerships in the amount of 213,356.00 would be funded by the \$183,356.00 CWCB grant as well as \$15,000.00 of matching funds from Western Resource Advocates and \$15,000.00 of matching funds from the City of Aspen.

Spending authority has been incorporated into the 2020 Budget under the \$225,000 Water Rights project within the Water Utility Fund.

**Total Project Expenditures** 

Western Water Partnerships anticipated work	c scope	\$213,356.00
	Total	\$213,356.00
Funding Budgeted		
CWCB grant		\$183,356.00
Western Resource Advocates contribution		\$ 15,000.00
City of Aspen contribution		\$ 15,000.00
	Total	\$213,356.00

ENVIRONMENTAL IMPACTS: The City is committed to reducing its footprint (carbon and water) and fighting climate change, but even with this effort and action the City recognizes that it is best practice to plan for a future that looks very different than today. Evaluating alternative transfer mechanisms for water rights can contribute to ensuring the resiliency of its water system.

STAFF RECOMMENDATION: Staff recommends that Council approve the Alternative Transfer Methods project contract with Western Water Partnerships in the amount of \$213,356.00.

PROPOSED MOTION:	'I move to appro	ve Resolution No.	018	Series of 2020 "
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CITY MANAGER COMMENTS:_		
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ATTACHMENT A – Resolution #018, Series of 2020

ATTACHMENT B – City of Aspen CWCB Grant Application dated June 7, 2020

ATTACHMENT C - Grant Award Letter from Colorado Department of Natural Resources / CWCB

ATTACHMENT D – Professional Services Agreement with Western Water Partnerships

# RESOLUTION #018 (Series of 2020)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, ACCEPTING A GRANT FROM THE COLORADO WATER CONSERVATION BOARD AND APPROVING A CONTRACT BETWEEN THE CITY OF ASPEN AND WESTERN WATER PARTNERSHIPS TO EVALUATE ALTERNATIVE TRANSFER METHODS PROJECTS, AUTHORIZING THE CITY MANAGER TO EXECUTE SAID CONTRACT ON BEHALF OF THE CITY OF ASPEN, COLORADO.

WHEREAS, there has been submitted to the City Council a grant award for the evaluation of alternative transfer methods projects from the Colorado Water Conservation Board; and, a contract for the evaluation of alternative transfer methods projects, between the City of Aspen and Western Water Partnerships, a true and accurate copy of which is attached hereto as Exhibit "A";

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO,

That the City Council of the City of Aspen hereby approves the CWCB Grant for the evaluation of alternative transfer methods projects and awards a contract to Western Water Partnerships in the amount of \$213,356.00, and that this Resolution hereby authorizes the City Manager to execute said agreement on behalf of the City of Aspen.

INTRODUCED, READ AND ADOPTED by the City Council of the City of Aspen on the 24th day of March, 2020.

	Torre, Mayor
I Nicole Henning duly appointed and	d acting City Clerk do certify that the

I, Nicole Henning, duly appointed and acting City Clerk do certify that the foregoing is a true and accurate copy of that Resolution adopted by the City Council of the City of Aspen, Colorado, at a meeting held March 24, 2020.



Amount of Funds Requested

# COLORADO WATER CONSERVATION BOARD

# ALERNATIVE AGRICULTURAL WATER TRANSFER METHODS COMPETITIVE GRANT PROGRAM



Amount of Matching Funds

### **GRANT APPLICATION FORM**

Upper Roaring Fork A	IM Project - Phase 1	
5		
\$186,356.00		\$30,000.00
	e.	

Instructions: This application form must be submitted in electronic format (Microsoft Word or Original PDF). The application can be emailed or a disc can be mailed to the address at the end of the application form. The Alternative Agricultural Water Transfer Methods Competitive Grant Program, Criteria and Guidelines can be found at <a href="http://cwcb.state.co.us/LoansGrants/alternative-agricultural-water-transfer-methods-grants/Pages/main.aspx">http://cwcb.state.co.us/LoansGrants/alternative-agricultural-water-transfer-methods-grants/Pages/main.aspx</a>. The criteria and guidelines must be reviewed and followed when completing this application. You may attach additional sheets as necessary to fully answer any question, or to provide additional information that you feel would be helpful in evaluating this application. Include with your application a cover letter summarizing your request for a grant. If you have difficulty with any part of the application, contact Alex Funk of the Water Supply Planning Section (Colorado Water Conservation Board) for assistance, at (303) 866-3441 or email at <a href="mailto:alex.funk@state.co.us">alex.funk@state.co.us</a>.

Generally, the applicant is also the prospective owner and sponsor of the proposed program/project. If this is not the case, contact Alex before completing this application.

# Part A. - Description of the Applicant(s) (Program/Project Sponsor);

1. Applicant Name(s): City of Aspen

130 South Galena St.

Mailing address:

130 South Galena St. Aspen, CO 81611

Taxpayer ID#:

84-6000563

Email address:

margaret.medellin@cityofaspen.com

Phone Numbers: Business:

970-429-1992

Home:

Fax:

2. Person to contact regarding this application if different from above:

Name: Margaret Medellin

Position/Title

Utilities Portfolio Manager, Utilities Department

3. If the Contracting Entity is different then the Applicant, please describe the Contracting Entity here.

n/a

- 4. Provide a brief description of your organization. The applicant may be a public or private entity. Given the diverse range of potential applicants, not all of the following information may be relevant. Where applicable and relevant the description should include the following:
  - a) Type of organization, official name, the year formed, and the statutes under which the entity was formed, a contact person and that person's position or title, address and phone number. For private entities, a copy of the Articles of Incorporation and By-laws should be appended to the application.

The City of Aspen, Colorado was established in 1881. Aspen is a Home Rule Municipality that operates under a council-manager governmental structure.

Contact Person:

Margaret Medellin, PE Utilities Portfolio Manager City of Aspen, Utilities Department 130 South Galena Street Aspen, CO 81611 (970) 429-1992

b) For waters suppliers, information regarding the number of customers, taps, service area, and current water usage, and future growth plans, water related facilities owned or used, funding/revenue sources (existing service charges, tap fees, share assessments, etc.), the number of members or shareholders and shares of stock outstanding or a description of other means of ownership.

The incorporated area (within the municipal boundary) consists of approximately 3.83 square miles. The total service territory is approximately 8.5 square miles, and includes unincorporated areas served by Aspen.

Aspen owns and operates its own water utilities. It provides treated (i.e. potable) water to all customers in the service area and raw water for irrigation and snowmaking purposes to a small subset of customers. Aspen obtains it treated water supply primarily from the surface water sources of Maroon Creek and Castle Creek, and the City also uses three groundwater wells as a supplemental supply.

According to the 2010 Census, the full-time population within the municipal boundary of Aspen was 6,658 people, up from 5,914 full-time residents as reported in the 2000 Census. The City also has contracts to provide water service to areas outside of the municipal boundary, and after adding these full-time residents, the total number of year-round, full-time residents served was approximately 8,895 in 2000 and 10,016 in 2010.

Aspen is a resort community with a population that markedly increases during the ski season and also during the summer months. Because of this, two separate service area population forecasts were developed

for Aspen - one for the permanent, full-time population and one for the seasonal, part-time population, see Table 1, below.

Table 1: City of Aspen Water Service Area Population

Year	Permanent Population	Seasonal Population
2015	10,632	26,791
2016	10,759	27,112
2017	10,888	27,437
2018	11,019	27,767
2019	11,151	28,100
2020	11,285	28,437
2025	11,979	30,185
2030	12,715	32,040
2035	13,496	34,009

Aspen currently bills its customers on a monthly basis using a fourtier inclining block rate structure. This conservation-oriented rate structure has been in place since January 2006. The City's rate structure provides for 5,000 gallons per ECU per month in tier 1, an additional 10,000 gallons of water per ECU per month in tier 2, and additional 5,000 gallons per ECU per month in tier 3, and all monthly usage greater than 20,000 gallons per ECU per month is billed at the tier 4 rate. (information sourced from The City of Aspen's Municipal Water Efficiency Plan (Element Water Consulting and Water DM 2015)).

- c) For other entities, background, organizational size, staffing and budget, and funding related to water that is relevant in determining whether the applicant has the ability to accomplish the program/project for which funding is sought.
- d) A brief history of the Applicant(s).

The City of Aspen ("City" or "Aspen"), Colorado, located in Pitkin County, is a municipality established in 1881. Aspen is a Home Rule Municipality that operates under a council-manager governmental structure. Aspen is located in the upper reaches of the Roaring Fork Valley near the confluences of the mainstem of the Roaring Fork River with Hunter Creek, Castle Creek, and Maroon Creek at an elevation of approximately 7,900 feet. Aspen is located along Colorado State Highway 82 approximately 20 miles west of Independence Pass. The incorporated area (within the municipal boundary) consists of

approximately 3.83 square miles. However, at this time, the total service territory is approximately 8.5 square miles, and includes unincorporated areas served by Aspen. The City's year-round, full-time service area population was approximately 10,506 residents as of 2014.

Aspen owns and operates its own water utilities. It provides treated (i.e. potable) water to all customers in the service area and raw water for irrigation and snowmaking purposes to a small subset of customers. Aspen obtains it treated water supply primarily from the surface water sources of Maroon Creek and Castle Creek, and the City also uses three groundwater wells as a supplemental supply. Aspen has adopted a policy to maintain streamflows in the creeks downstream of its diversion structures at flow rates at or above the Colorado Water Conservation Board's decreed instream flow rights for the protection of the fishery and the associated aquatic habitats in those streams.

In 2017, Western Resource Advocates (WRA) and the Wilderness Workshop (WW) began discussing alternative ways for the City of Aspen to meet future water needs. Those conversations led to this project to evaluate voluntary and compensated agreements with irrigators as a possible option for meeting municipal water needs and improving streamflows.

WRA is a nonprofit conservation organization dedicated to protecting the Interior West's land, air, and water. WRA promotes river restoration and water conservation, advocates for a clean and sustainable energy future, and protects public lands for present and future generations. WRA's Healthy Rivers Program works to promote and implement smart water solutions for communities and farms and to keep streams and rivers flowing. WRA envisions a future where the West's rivers and lakes have abundant clean water to support fish and wildlife, communities and farms, and world class recreational opportunities.

WW's mission is to protect and conserve the wilderness and natural landscapes of the Roaring Fork Watershed, the White River National Forest, and adjacent public lands. WW is a non-profit organization that engages in research, education, legal advocacy and grassroots organizing to protect the ecological integrity of surrounding public lands. WW focuses on the monitoring and conservation of air and water quality, wildlife species and habitat, and natural communities. WW advocates for the ecological management of and increased protections for public lands and waters as well as adding lands of wilderness quality to the National Wilderness Preservation System. The organization's geographic scope includes defending the ecological integrity of nearly 4 million acres of public lands administered by the White River National Forest (WRNF) and the Colorado River Valley Field Office of the Bureau of Land Management (BLM) - lands that stretch from Battlement Mesa in the west to the Eisenhower Tunnel in the east.

e) Please include any relevant Tabor issues relating to the funding request that may affect the Contracting Entity.

None.

# Part B. - Description of the Alternative Water Transfer Program/Project -

#### 1. Purpose of the Program/Project

Please provide a summary of the proposed program/project, including a statement of what the program/project is intended to accomplish, the need for the program/project, the problems and opportunities to be addressed, the expectations of the applicant(s), and why the program/project is important to the applicant(s). The summary must include a description of the technical, institutional (i.e., how the program/project will be organized and operated), and legal elements that will and/or have been addressed by the applicant and proposed program/project. The summary should also discuss relevant project history, if applicable, and any other relevant issues.

The City of Aspen (City), Western Resources Advocates (WRA) and Wilderness Workshop (WW) have collaborated to develop the proposed Upper Roaring Fork Alternative Transfer Method (ATM) Project - Phase 1. This project aims to develop water sharing projects to help increase the reliability of the City of Aspen's municipal water supply and increase environmental flows in the Upper Roaring Fork River basin. Colorado's Water Plan identifies ATMs as an important strategy to help offset the increasing pressures on agricultural water rights through voluntary water sharing agreements that respect property rights and offer an alternative to permanent agricultural dry-up. Designed properly, ATMs can increase an agricultural producer's profits in a given year while helping reduce demands on a water system, resulting in "win-win" agreements.

While several ATM projects have been implemented in Colorado, this would be the first ATM designed for a West Slope headwaters municipality. Considering this, the project will identify the unique challenges and opportunities presented by the area's geography, water rights and hydrology.

Through previous studies, it has been determined that the City's municipal water supplies are vulnerable and would benefit from additional firming. To illustrate this need, the City's current storage capacity is less than a day's municipal demand. When factoring in drought and climate change, projected hydrology indicates the City's water supply would be even more unreliable and in need of additional firming. Adding to these challenges, the Roaring Fork River headwaters are the source of trans-basin diversions which, at times, create significantly reduced stream flows in the Upper Roaring Fork River and some of its tributaries.

The objective of this project is to identify and evaluate opportunities for voluntary water sharing agreements with agricultural producers in the Roaring Fork Valley to increase the reliability of the City's municipal

water supply and/or enhance stream flows in the Upper Roaring Fork River and key tributaries. The concepts could include, among other possibilities, an interruptible water supply agreement, partial year irrigation, and/or deficit irrigation.

In addition, the project will begin to investigate opportunities to increase supplies in the Roaring Fork Valley through water sharing agreements with East Slope water users that are currently diverting water out of the basin. Considering the complexity of any such water sharing agreement, the team will identify potential partners and facilitate meetings to discuss potential water sharing concepts. The team will summarize any potential water sharing opportunities to pursue in Phase 2.

Because much effort will be spent developing ATM projects, the project is divided into two phases. Phase 1 (this project), is focused on the development and recommendation of specific ATMs, whereas Phase 2 will involve the implementation of the ATMs identified in this phase.

# **Previous Studies**

To the maximum extent possible, the results of any previous studies and investigation should be utilized and incorporated into the proposed program/project. The application for funding should include a brief summary of the results of previous studies and how they will be utilized.

While the final Consultant team has not yet been determined, the selected team will be required to have experience working on ATM issues and projects in Colorado and be well versed on the various ATM efforts, studies, and investigations that have occurred to date. There are several key reports and efforts available on the CWCB's website, that will provide guidance to this project. Additional materials to be utilized, include, among others:

- Colorado Water Plan
- Colorado River Basin Implementation Plan
- Alternative Agricultural Water Transfer Methods Grant Program Summary and Status Update
- Meeting Colorado's Future Water Supply Needs Opportunities and Challenges Associated with Potential Agricultural Water Conservation Measures (CWCB and CSU, 2008)
- Aspen's Water Future: Estimating the Number and Severity of Possible Future Water Shortages (Headwaters Corporation, 2017)
- Municipal Water Efficiency Plan, City of Aspen (Element Water Consulting and WaterDM, 2015)
- Drought-Year Baseflow Monitoring on Select Reaches in the Roaring Fork Watershed (S.K. Mason Environmental, 2013)
- Roaring Fork Watershed Plan (Roaring Fork Conservancy, 2012)
- State of the Roaring Fork Watershed Report 2008 (Roaring Fork Conservancy, 2008)
- Drought-Year Baseflow Monitoring on Select Reaches in the Roaring Fork Watershed, February 13, 2013

https://cityofaspen-my.sharepoint.com/personal/margaret\_medellin\_cityofaspen\_com/Documents/ATM/RFP/Roaring Fk ATM
Application 060719 FINAL.doc

- 2012 Upper Roaring Fork River Aquatic Life Use Assessment
- Snapshot Assessment of the Roaring Fork Watershed A Synoptic Approach to Characterizing Low Flow Conditions on the Crystal and Roaring Fork Rivers in the Autumn of 2012. November 9, 2012
- Roaring Fork Watershed Plan 2012

### 2. Study Area/Service Area Description

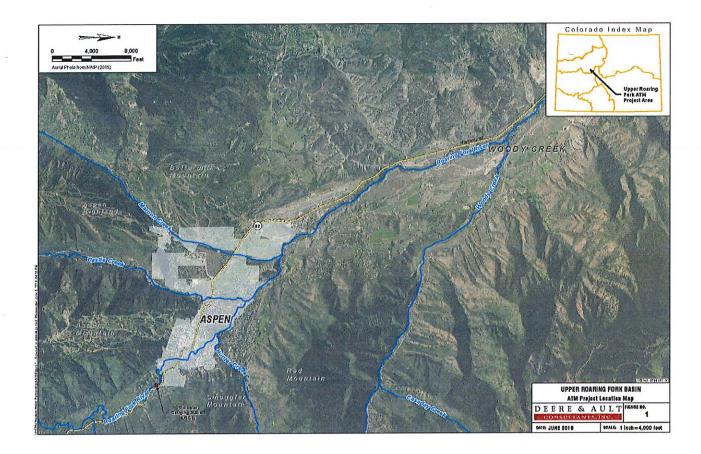
The study area/service area is generally the geographic area that is the subject of the proposed program/project (include both the source of supply and location and type of new use). The description should include the following items:

a) A narrative description of the study area/service area including: the county, the location of towns or cities, topography, and locations of major surface and ground water features.

The study area generally encompasses the area which supplies water to Aspen's municipal system or that provides streamflow to the stretch of the Roaring Fork River from the Stillwater USGS Gage to the confluence with Woody Creek. This area is within Pitkin County.

It is noted that trans-mountain diversions withdraw streamflow upstream of the City. Enhancements to the City's municipal and environmental flows may be realized through ATMs outside of this immediate study area if arrangements with diverters were considered.

b) An area map showing each of the items above, as well as the locations of existing facilities, proposed project facilities and boundaries of lands involved in the proposed program/project.



- c) Information regarding the irrigated lands that are involved in the program/project. This must include a tabulation of total irrigated acreage, description of cropping types, crop yields, and total average annual water diversions for existing agricultural lands.
  - There are about 2,800 irrigated acres in the Upper Roaring Fork Valley and a few tributary basins which will be subject to the Project Team's exploration for compatibility for an ATM project.
- d) Information regarding the location of the new water use(s) that will be served by transferred water including the estimated number of users/taps and/or uses served.
  - The new water will be used to firm existing supplies and to increase the resiliency of Aspen's water supply. New water may also be used to increase streamflow in the Roaring Fork or its tributaries to the benefit of the environment.
- e) Socio-economic characteristics of the area such as population, employment and land use.

Aspen is a resort community with a population that fluctuates depending on the season. According to the 2010 census, Aspen had

6,658 residents. In addition to these residents, there is a considerable influx of daily commuters and tourists. Aspen is the most populous municipality in Pitkin County and serves as an economic base and employment generator for the Roaring Fork Valley.

# 3. Description of the Alternative Water Transfer Method

Please describe the type(s) of water transfers that will be examined/utilized (i.e., conceived transfer methods include, but are not limited to: 1) interruptible water supply agreements; 2) long-term agricultural land fallowing; 3) water banks; 4) reduced consumptive use through efficiency or cropping changes while maintaining historic return flows; and 5) purchase by end users with leaseback under defined conditions). In addition, please describe how the transferable consumptive use will be calculated and quantified, and how return flow patterns will be addressed/maintained.

The Project will examine opportunities for ATMs in both the upper Roaring Fork River basin and on the East Slope to help improve firm yields for the City and/or improve environmental flows in the upper Roaring Fork River and/or tributaries. Considering that part of the project is the identification of ATM opportunities, the Consultant team will be evaluating the water rights, the historical uses and operations and other factors to determine what water sharing strategies would be fit the needs of all interests. Due to this, the water transfer methods described above will be considered and evaluated to determine its fit. Once an ATM method(s) is chosen, the Consultant team will develop "Plans of Operation" for one or more ATM projects to help meet the City's municipal water needs and/or environmental flows for the Roaring Fork River and/or its tributaries with potential interested irrigators.

# 4. Program/Project Eligibility

Please <u>describe how</u> the proposed program/project meets each of the following eligibility requirements (please see Criteria and Guidelines for additional information regarding the alternative water transfer methods/strategies that qualify for funding). Note: If these requirements are addressed in other parts of the application you may simply reference the applicable section(s).

a) A description of how, if implemented, the proposed program/project will protect property and water rights.

Any ATM project implemented through this effort will require the use of either water court to change the use of the water rights or an administrative approval process such as the Interruptible Water Supply Agreement (i.e. 37-92-309 CRS) which will ensure that other water right holders are protected from an change of water rights.

b) Identified group(s) of agricultural users that are or may be willing to transfer a portion of their water and identified entity(s), group(s) or area(s) where the transferred water could or would be put to the

new use and a description of the new use.

In Task 3 (Exploration of Potential ATM Water Supplies in the Upper Roaring Fork River Basin) and Task 5 (Identification of ATM Opportunities for ISFs and Municipal uses), the Consultant team will explore ATM opportunities within the upper Roaring Fork River basin that could be used to improve the City's firm water supplies and/or environmental flows. These efforts include direct outreach to the agricultural producers to determine their interest in pursuing an ATM and if so, on what terms would need to be met to enter into an agreement. Ideally, the new uses would include both municipal use for the City of Aspen and environment flows in the upper Roaring Fork River basin.

In Task 7 (Identifying Opportunities for Water Sharing with East Slope Water Users), the Project Team will identify and analyze water sharing opportunities with East Slope water users that are currently diverting from the Roaring Fork River basin. Specifically, the Consultant team will examine opportunities and constraints associated with water sharing strategies involving the Twin Lakes Tunnel and/or the Boustead Tunnel. Considering the complexity of any such water sharing agreement, the Consultant team will identify any potential partners willing to discuss a possible water-sharing ATM strategy and facilitate a meeting with each of the managers and operators of the projects as well as water users that own water rights in those projects.

c) The program/project must at a minimum conceptually describe the technical, institutional, and legal elements of the water transfer. Grant monies may be used to address one or more of these elements. If grant monies are not requested for all three elements, the grant applicant must describe how the applicant has or intends to address the elements, which are not included in the grant request, through other efforts.

While several ATM projects have been implemented in Colorado, this would be the first ATM considered by a West Slope headwaters municipality. Considering this, the project will identify the unique challenges and opportunities presented by the area's geography, water rights and hydrology. Through the implementation of this project, the Consultant team will develop a model and/or template for other similar ATM project sponsors to use. While each ATM project will have its unique attributes, including its water rights, this project will help to establish guidance for those wanting to replicate the approach. To ensure this, the applicant will provide a report detailing the financial, legal and technical considerations and lessons learned through this pilot project. The report will describe negotiations with the agricultural producers and East Slope water users. A description of the ATM method, land preservation options, development of a farm and water management program, water right court and/or administrative processes and the financial analyses, tools and agreements will be provided in the final report.

d) If grant monies are proposed for use for legal assistance, then the use of those funds shall be oriented toward advancing the knowledge of alternative agricultural water transfer methods and techniques; not for preparation of a specific water court case. The total requested funds for legal assistance shall not exceed 40 percent of the total grant request. In addition, grant monies proposed for use for legal assistance must be used to collaboratively address issues and concerns related to agricultural water transfer. Funds shall not be used to solely advance the cause of the project proponents.

Grant funds will not be used for the preparation of a specific water court case. The grant funds for legal services will only be applied to advising on the legal aspects of any water sharing concept or project.

e) A minimum of a 10 percent cash match of total project cost (past expenditures and "in kind" can not be counted toward the 10 percent match).

The City and WRA will provide at least 10% of the project costs. WRA is pursuing a grant that would provide additional cash matching funds. The matching resources will likely be above the 10% minimum threshold. In addition, the City has already spent over \$12,000 towards the development of the project in the past three months. Inkind contributions from the City, Western Resource Advocates and Wilderness Workshop are also estimated to be \$47,000 plus the City's in-kind contributions of \$50,000.

# 5. Program/Project Evaluation Criteria

The following grant evaluation criteria will be used by the CWCB to evaluate and make recommendations to fund, partially fund or not fund a grant application. The criteria are aimed at advancing alternative transfer methods from the literature and studies to actual on the ground projects/programs that provide reliable water supply and sustain key elements of the agricultural area from which the water is transferred. The applicant should fully address and explain in detail in the application how, and the extent to which, the proposed project/program meets each of the criteria. However, it should be noted that the project does not have to meet all of the criteria to be eligible to receive funding and the criteria below are not listed in any order of important or priority.

The proposed project/program builds upon the work of former alternative water transfer methods efforts and addresses key areas that have been identified. For more detailed information on this work, please refer to the draft report: *Alternative Agricultural Water Transfer Methods Grant Program Summary and Status Update*, November 2012.

The report summarizes the past ATM funded projects and provides a list of findings and recommendations based on this work. Many of the studies that have been funded by the CWCB through the ATM program have identified several barriers to successful implementation. This project seeks to directly address all four major barriers to successful implementation of ATMs:

- 1. Potentially high transaction costs associated with water rights transfers.
- 2. Water rights administration uncertainties and water rights accounting questions.

3. Certainty of long-term supply and desire for water providers to have permanence of long-term supply.

4. Infrastructure needs and water quality issues.

The proposed project addresses one or more key recommendation(s) in the report: *Alternative Agricultural Water Transfer Methods Grant Program Summary and Status Update*, November 2012.

The Alternative Agricultural Water Transfer Methods Grant Program Summary and Status Update (Update) specifically recommends:

Continue to support demonstration/pilot projects to determine the feasibility of new concepts or techniques as needed. This project is focused on identifying actual ATM projects that can be implemented to help meet the City's municipal water needs and to improve the environmental flows in the upper Roaring Fork River and/or its tributaries. For those ATM projects that are identified, the Consultant team will develop "Operational Plans" that will serve as the roadmap for implementing them in Phase 2 of this effort.

Identify that ATMs on the West Slope could be used for both municipal uses, instream flow and compact compliance purposes. Since this project is the first ATM designed for a West Slope headwaters municipality with the purpose of increasing firm water supplies and improving instream flows, this project will hopefully advance the understanding of ATMs on the West Slope. The Project Team hopes this project will identify the unique challenges and opportunities presented by the area's geography, water rights and hydrology.

a. Preference will be given to projects that provide additional matching resources in the form of cash, past expenditures and in-kind contributions that are in addition to the required 10% cash match.

The City and WRA will provide at least 10% of the project costs. WRA is pursuing a grant that would provide additional cash matching funds. The matching resources will likely be above the 10% minimum threshold. In addition, the City has already spent over \$12,000 towards the development of the project in the past three months. In-kind contributions from the City, Western Resource Advocates and Wilderness Workshop are also estimated to be \$47,000 plus the City's in-kind contributions of \$50,000.

b. The proposed project/program has the ability/potential to produce a reliable water supply that can be administered by the State of Colorado, Division of Water Resources.

While the City has not presupposed which legal mechanism will be utilized in changing any water rights for use by the City and/or environmental flows, (e.g. water court, interruptible water supply statute, HB 1248--CWCB's pilot program, HB1128), it will be able to be administered by the Division of Water Resources. Once an ATM strategy has been identified by the Consultant team, the appropriate Division Engineer's Office(s) will be consulted.

c. The proposed project/program produces information that is transferable and transparent to other users and other areas of the state (i.e., would provide an example "template" or roadmap to others wishing to explore alternate transfer methods).

All of the information produced from this project would be transferable and transparent to other users and other areas of the state. The intent of this project is to demonstrate the feasibility of protecting agricultural lands while increasing municipal firm water supplies and improving environmental flows. With agricultural, environmental and municipal uses all being considered, we believe there are synergies that can be realize and resources that can be tapped due to the project's multi-objectives.

d. The proposed project/program addresses key water needs identified in SWSI 2010 or as identified in a basin's needs assessment.

SWSI 2010 Key Findings and Recommendations identified significant pressures on irrigated agriculture in the State and forecast that as much as 700,000 acres of irrigated land could be dried up if the status quo continues. Chapter 6.4 of the draft Colorado Water Plan stated a goal of achieving water sharing of 50,000 acre feet annually. This project seeks to implement an ATM project that will contribute to meeting these goals.

Throughout the Colorado Water Plan, there are policy recommendations geared towards the promotion of conservation easements coupled with ATMs to allow for certainty and permanent preservation of agricultural lands. In Section 6.5.2., Agricultural Viability Actions and Strategies, Program to facilitate agricultural opportunities (Page 6-143), the IBCC recommends "that the State needs to provide additional education and assistance to farmers and ranchers to help realize more transactions that allow for ATMs, and to enable new Colorado farmers to successfully enter the agricultural industry.

In addition, this project seeks to meet most, if not all the following overarching goals set forth in the Colorado Basin Implementation Plan:

- Ecosystem Health Protect and Restore Streams, Rivers, Lakes and Riparian Areas
- Agriculture Sustain, Protect and Promote Agriculture
- Safe Drinking Water Secure and Protect drinking water for today and tomorrow
- Conservation Encourage a High Level of Basin-wide Conservation across all uses
- Land Use Develop Water Conscious Land Use Strategies
- Basin Administration Ensure Reliable and Predictable Basin Administration

e. The proposed project/program advances the preservation of high value agricultural lands. Value can be viewed as: the value of crops produced, the value the agriculture provides to the local community, and the value the agricultural area provides for open space and wildlife habitat.

Although irrigated agriculture occupies a small percentage of the upper Roaring Fork River basin's total land area, it provides important functions including local agricultural production and economy, wildlife habitat, open space, and stream corridor protection. While most of the agricultural production is either grass or alfalfa to provide feed for cattle and horses within the area, there has been an increase in acreage of potatoes grown to supply a local distillery.

f. The proposed project/program addresses water quality, or provides other environmental benefits to rivers, streams and wetlands.

An important goal of this project is to use ATMs to improve environmental flows in the upper Roaring Fork River and/or its tributaries. Ideally, the projects would increase the City's firm water supplies and benefit the river and streams.

g. The proposed project/program increases our understanding of and quantifies program/project costs. This could include institutional, legal, technical, costs and third-party impacts.

Yes, this project will provide valuable information on program/project costs including the institutional, legal and technical costs as well as third party impacts. As further described in the Statement of Work, there will be an economic analysis as part of the farm and water plan to determine the options for compensation to the farmer and/or continued farming with less water during the years the municipal water provider uses the water.

h. The proposed project/program does not adversely affect access to other sources of water (not subject to/participating in the program) where owners of these water rights may wish to pursue traditional transfer of their rights to other users.

This ATM project will utilize existing processes including but not limited to water court, the State Engineer's Office Substitute Water Supply Plans, Interruptible Water Supply Statute (C.R.S. 37-92-309). All of these incorporate protections to other water right holders to ensure no injury.

i. The proposed project/program provides a perpetual water supply for the new and/or alternate use and preserves agricultural production and/or helps sustain the area's economy from which the transfer is occurring.

Considering that this project seeks to use ATMs to provide water for municipal use (and environmental use), a permanent supply is desirable (albeit interruptible). If an ATM were perpetual, we would be looking at conservation easements or other deed restrictions to ensure the perpetual protection of the agricultural lands.

j. The quantity of water produced by the proposed project/program. Preference will be given to programs that can address larger water supply needs.

The amount of water produced by the proposed ATM project is unknown at this time. There are about 2,800 irrigated acres in the Upper Roaring Fork Valley and a few tributary basins which will be subject to the Project Team's exploration for compatibility for an ATM project. Considering this, if a third or quarter of the irrigated lands were in such a program, the yields could be in excess of 1,000 acre-feet.

An ATM involving East Slope water users has the potential to produce additional supplies although the amounts are to be determined.

k. Applicants are encouraged to develop projects demonstrating participation and/or support from a diverse set of stakeholders and interests.

The City, Western Resources Advocates and the Wilderness Workshop are working cooperatively on this multi-objective ATM project. These project partners represent a diverse set of stakeholders and interests. In addition, the Project Team presented the project to the Colorado Basin Roundtable at their May 2019 meeting and will continue to seek input and support from this group.

#### 6. Statement of Work

Provide the proposed statement of work. On the following page there is an example format for the statement of work. You can use the example format or your own format, provided that comparable information is included. The statement of work should outline by task how the proposed program/project will be accomplished. It is important that the statement of work detail the specific steps, activities/procedures that will be followed to accomplish each individual task and the overall program/project and the specific products/deliverables that will be accomplished. The statement of work must include but not be limited to: task description, key personnel, budget, schedule and deliverables and the final report/project documentation upon completion of the water activity.

The statement of work will form the basis for the contract between the Applicant and the State of Colorado. In short, the Applicant is agreeing to undertake the work for the compensation outlined in the statement of work and budget, and in return, the State of Colorado is receiving the deliverables/products specified. Please note that costs incurred prior to execution of a contract or purchase order are not subject to reimbursement.

Please provide a detailed statement of work using the following template. Additional sections or modifications may be included as necessary. Please define all acronyms. If a grant is awarded an independent statement of work document will be required with correct page numbers.

### **Statement of Work**

WATER ACTIVITY NAME - Upper Roaring Fork Alternative Method Transfer (ATM) Project - Phase 1

**GRANT RECIPIENT** – City of Aspen

FUNDING SOURCE - The Alternative Agricultural Water Transfer Methods Competitive Grant Program

#### INTRODUCTION AND BACKGROUND

The City of Aspen (City), Western Resources Advocates and the Wilderness Workshop (the Project Team) have collaborated to develop the proposed Upper Roaring Fork Alternative Transfer Method (ATM) Project—Phase 1. This project aims to develop water sharing projects to help increase the reliability of the City of Aspen's municipal water supply and increase environmental flows in the Upper Roaring Fork River basin. Colorado's Water Plan identifies ATMs as an important strategy to help offset the increasing pressures on agricultural water rights through voluntary water sharing agreements that respect property rights and offer an alternative to permanent agricultural dry-up. Designed properly, ATMs can increase an agricultural producer's profits in a given year while helping reduce or maintain demands on a water system, resulting in "win-win" agreements.

While several ATM projects have been implemented in Colorado, this would be the first ATM considered by a West Slope headwaters municipality. Considering this, the project will identify the unique challenges and opportunities presented by the area's geography, water rights and hydrology.

Through previous studies, it has been determined that the City's municipal water supplies are vulnerable and would benefit from additional firming. To illustrate this need, the City's current storage capacity is less than a day's municipal demand. When factoring in drought and climate change, projected hydrology indicates the City's water supply would be even more vulnerable and in need of additional firming. In addition to these vulnerabilities, the Roaring Fork River headwaters are the source of trans-basin diversions which, at times, contributes to significantly reduced stream flows in the Upper Roaring Fork River and some of its tributaries.

The objective of this project is to identify and evaluate opportunities for voluntary water sharing agreements with agricultural producers in the Roaring Fork Valley to increase the reliability of the City's municipal water supply and/or enhance stream flows in the Upper Roaring Fork River and key tributaries. The concepts could include, among other possibilities, an interruptible water supply agreement, partial year irrigation, and/or deficit irrigation.

In addition, the project will begin to investigate opportunities to increase supplies in the Roaring Fork Valley through water sharing agreements with East Slope water users that are currently diverting water out of the basin. Considering the complexity of any such water sharing agreement, the team will identify potential partners and facilitate meetings to discuss potential water sharing concepts. The team will summarize any potential water sharing opportunities to pursue in a subsequent Phase 2 of the project.

Because of the complexity of developing ATM projects, the project is divided into two phases. Phase 1 (this project), is focused on the development and recommendation of specific ATMs, whereas Phase 2 will involve the implementation of the ATMs identified in this phase. Phase 2 will occur after the completion of this project and this grant application does not include any Phase 2 work.

#### **OBJECTIVES**

The project's primary objectives are:

- 1) Identify potential interested irrigators
- 2) Develop conceptual "Plans of Operation" for one or more ATM projects to help meet the City's municipal water needs and/or environmental flows for the Roaring Fork River and/or its tributaries with potential interested irrigators.
- 3) Identify opportunities for water sharing with East Slope water users.
- 4) Provide recommendations for one or more ATM projects to be implemented in Phase 2.

#### **TASKS**

# Task 1: Summarize Municipal Projected Firm Yield Demands

Review existing data and reports related to municipal water needs in time, location, amount, and hydrologic year type. Consultant team will review and summarize the City water intake structures and locations, municipal water demand data and projections, and available streamflow data at critical intake locations. Consultant team will characterize projected firm yield deficits to inform ATM project demands. This task will be informed by previous work by the City and its consultants and may include analysis of proposed infrastructure and facilities.

Deliverable: A memorandum describing the municipal projected firm yield demands will be developed.

Task 2: Summarize Environmental Flow Needs for the Upper Roaring Fork River and Key Tributaries Review existing data and reports related to environmental flow needs and flow shortages in time, location, amount, and hydrologic year type. Consultant team will obtain and compile data from a variety of sources to identify environmental flow needs. These sources include non-consumptive needs databases or reports, such as SWSI or Basin Implementation Plans; as well as any instream/environmental flow quantification data. This information will be used to summarize the streamflow required to meet the legal thresholds required for instream flow use. This initial review will also include an analysis of streamflow data to identify the nature and extent of flow shortages in the project area that might impact the health of the natural environment. For streams where data is not available, streamflow estimates may be derived using modeling techniques, water official and water user interviews, or other means. This information provides the basis for determining the need for environmental flows, including location, amount and timing.

Deliverable: A memorandum describing the environmental flow needs will be developed.

Task 3: Exploration of Potential ATM Water Supplies in the Upper Roaring Fork River Basin

Explore agricultural water rights diverting at or upstream of critical locations of the upper Roaring Fork River and key tributaries to determine ATM opportunities. Characterizations of the water rights will be made including location, diversion rate, adjudicated priorities, summarization of diversion records, and a preliminary analysis of yield performance of the water right under various hydrologic conditions. A description of the historical agricultural use of these water rights will also be included. At a minimum, this will include a description of the historical crops and livestock operations, estimated acreages/head count and crop yields, and irrigation methods. Previous work characterizing water rights in the study area may be incorporated in this task.

Deliverable: A memorandum describing the results of this task will be included.

### Task 4: Develop and Implement Outreach Strategies to Potential Agricultural Partners

Consultant team will meet with and educate agricultural water users about the voluntary nature and economic, water rights, and environmental benefits of potential ATM projects, as well as the types of water transactions that may be available, and the processes for approval. Example of existing ATM projects and specific ways in which irrigators are benefiting from agreements and payments will be shared.

Deliverable: Consultant team will document input from outreach participants regarding their possible participation in an ATM, as well as concerns and potential barriers to participation in ATM projects.

#### Task 5: Identification of ATM Opportunities for ISFs and Municipal Uses

Based on the tasks above, the team will identify and evaluate potential ATM projects in the Roaring Fork River basin that will provide water for environmental flows and/or municipal use. The following subtasks will be evaluated for potential ATM projects the emerge with irrigator partners.

#### **Yield Analysis**

Consultant team will provide a preliminary estimate of environmental benefits and municipal firm yield that each of the identified potential ATM projects may provide. The yield analysis will consider what kind of ATM is proposed; such as an interruptible water supply agreement (i.e. 3 out of 10 years), partial year irrigation, and/or deficit irrigation.

#### **Due Diligence**

Preliminary due diligence on water rights identified with interested irrigators will be conducted to determine their feasibility for potential ATM projects. The analysis may include review of decrees, ditch company bylaws, deeds, encumbrances, and relevant agreements, and will identify and fatal flaws or challenges such as shared ownership, shepherding, shared infrastructure, augmentation requirements, or potential injury to other water rights. The data reviewed will be from publicly available records.

### **Economic Analysis of ATM Concepts**

To provide an accurate understanding of the economic considerations of the potential agricultural partners in an ATM strategy, the economic baseline conditions of the agricultural operation(s) will be established to calculate an estimate of baseline net farm income under full water and, potentially, limited water conditions. These

baseline conditions can then be compared to operations under an ATM to help determine the water's value to the operator and provide a rational starting point for negotiating the ATM price. To further inform the team, identified water rights will be compared to recent sales of water rights in the vicinity to help determine current value. Also included in this task will be an analysis and recommendation for a method of price adjustment for the ATM.

Identifying Required Water Court and/or Administrative Processes for Specific ATM Strategies
The legal analysis will identify the appropriate transaction mechanism based on statutory limitations and water
user preference. The legal analysis will describe the approval process that will be necessary for implementation
of a potential ATM project.

# **Evaluate Potential ATM Projects**

Based on the analysis described above, the Consultant team will develop evaluation criteria to identify the advantages and disadvantages for each of the ATM concepts, including competing or complimentary interests between instream flows and municipal uses.

Deliverable: Consultant team will provide a written summary of the analysis of the potential ATM project.

### Task 6: Develop Conceptual Plans of Operation for ATMs

Consultant team will develop conceptual plans of operation for selected ATM projects (to be determined in consultation with the Project Team). These plans will describe the baseline conditions, recommend a water sharing strategy (e.g. interruptible water supply agreement, partial season irrigation, etc.) and outline key terms that the water sharing agreement should include such as timing, amounts of water and legal mechanisms necessary to implement the transfer of water.

Deliverable: Consultant team will provide plans of operation for all viable ATM projects.

### Task 7: Identifying Opportunities for Water Sharing with East Slope Water Users

This task will identify and analyze water sharing opportunities with East Slope water users that are currently diverting from the Roaring Fork River basin. Specifically, the consultant team will examine opportunities and constraints associated with water sharing strategies involving the Twin Lakes Tunnel and/or the Boustead Tunnel. Considering the complexity of any such water sharing agreement, the consultant team will identify any potential partners willing to discuss a possible water-sharing ATM strategy and facilitate a meeting managers and operators of the projects as well as water users that own water rights in those projects.

Deliverable: Consultant team will summarize any potential water sharing opportunities to pursue in Phase 2.

#### Task 8: Public Outreach and Communication

To ensure that the community is kept apprised of the project, the Consultant team will provide updates and/or presentations to City Council, Colorado River Basin Roundtable and other community groups and interested stakeholders as requested by the Project Team.

Deliverable: For any outreach requested by the Project Team, Consulting Team will document meetings,

attendees, and key discussion points.

### Task 9: Project Management

This task involves the management of the project, including conducting team meetings, calls and grant management responsibilities including submitting regular progress reports and invoicing. This task also includes directing subcontractor efforts to complete the deliverables of the project.

Deliverable: Regular progress reports and invoicing including providing the City materials ready for submission to the CWCB to invoice for grant reimbursement.

### Task 10—Final Report

Consultant team will produce a final report to the CWCB describing the project's findings and recommendations.

Final Deliverable: A final report describing the ATM project will be provided to the CWCB in digital format.

#### REPORTING AND FINAL DELIVERABLE

Reporting: The applicant shall provide the CWCB a progress report every 6 months, beginning from the date of the executed contract. The progress report shall describe the completion or partial completion of the tasks identified in the statement of work including a description of any major issues that have occurred and any corrective action taken to address these issues.

Final Deliverable: At completion of the project, the applicant shall provide the CWCB a final report that summarizes the project and documents how the project was completed. This report may contain photographs, summaries of meetings and engineering reports/designs.

#### BUDGET

Provide a detailed budget by task including number of hours and rates for labor and unit costs for other direct costs (i.e. mileage, \$/unit of material for construction, etc.). A detailed and perfectly balanced budget that shows all costs is required for the State's contracting and purchase order processes. Sample budget tables are provided below. Please note that these budget tables are examples and will need to be adapted to fit each individual application. Tasks should correspond to the tasks described above.

Project Personnel:						_			
Spring		Engineering	Economist	Legal	ISF Project Manager	Agronomist	Outreach & Comm Specialist	Admin.	Total Labor Costs
Hourly Rate:	\$160	\$150	\$190	\$250	\$115	\$125	5 \$100	\$75	
Task 1: Summarize Municipal Projected Firm Yield Demands \$ 1,50	1,500.00 \$	3,000.00	\$ 1,520.00		5				\$6,020.00
Task 2: Summarize Environmental Flow Needs for the Upper Roaring Fork  River and Key Tributaries  \$ 1,50	\$ 00.005,1		· ·		\$ 5,000.00				\$6,500.00
Task 3: Investigations of Potential ATM Water Supplies in the Upper Roaring Fork River Basin	4,000.00 \$	6,000.00	\$ 4,560.00		- 				\$14,560.00
lement Outreach Strategies to Potential	2,400.00 \$	3,600.00	\$ 10,640.00		\$ 2,000.00	2	\$ 2,500.00		\$21,140.00
Task 5: Identification of ATM opportunities for ISFs and Municipal uses \$ 5,50	5,500.00 \$	6,000.00	-	\$ 1,500.00	\$ 4,000.00	\$ 2,500.00			\$19,500.00
S	8,000.000	8,400.00	\$ 12,160.00	\$ 2,000.00	\$ 2,000.00	\$ 1,500.00			\$34,060.00
Task 7: Identifying Opportunities for Water Sharing with East Slope Water \$10,50 Users	10,500.00	3,600.00	\$ 1,520.00	\$ 5,000.00	\$ 2,000.00				\$22,620.00
communication	4,000.00	6,000.00	\$ 1,520.00		\$ 1,020.00		\$ 2,500.00		\$15,040.00
Task 9: Project Management \$ 7,50	7,500.00 \$	1,800.00	- 8		€			\$ 3,000.00	\$12,300.00
Task 10: Final Report \$ 5,50	5,500.00 \$	3,600.00	\$ 4,560.00	\$ 1,000.00	\$ 1,460.00	\$ 500.00	1,000.00		\$17,620.00
Total Hours: 31	315.00	280.00	192.00	38.00	152.00	36.00	00.09	40.00	
Total Labor Costs: \$5	\$50,400	\$42,000	\$36,480	\$9,500	\$17,480	\$4,500	000***	\$3,000	\$169,360.00
			£		9				Total Direct Costs
Direct Costs:									
Mileage \$	6,500 \$	3,500	\$ 1,500	\$ 1,000	\$ 3,500	005,1	0		\$17,500.00
\$ grigging \$	1,600 \$	1,000	\$ 600	\$ 500	\$ 1,000	€9	400		\$5,100.00
Misc. Expenses \$	1,000 \$	200	\$ 200		\$ 100	€9	100		\$1,900.00
Copies (including final report) \$	100			×					\$100.00
Total Direct Costs: \$	9,200 \$	2,000	\$ 2,300	\$ 1,500	\$ 4,600	3 2,000	00		\$24,600.00
10% Administration									\$19,396.00
	8				7				
							Total	Total Project Costs:	\$213,356.00
							Cash ]	Cash Match Amount	\$30,000.00
							CWCB ATM	CWCB ATM Grant Request:	\$183,356.00

#### **SCHEDULE**

Provide a project schedule including key milestones for each task and the completion dates or time period from the Notice to Proceed (NTP). This dating method allows flexibility in the event of potential delays from the procurement process. Sample schedules are provided below. Please note that these schedules are examples and will need to be adapted to fit each individual application.

Task	Start Date	Finish Date
Task 1: Identify Municipal Projected Firm Yield	NTP	NTP + 6 mos
Demands	1111	TVII - OTHOS
Task 2: Identify Environmental Flow Needs for the	NTP	NTP + 6 mos
Upper Roaring Fork River and Key Tributaries	NII	NTT + O HOS
Task 3: Investigations of Potential ATM Water	NTP	NTP + 6 mos
Supplies in the Upper Roaring Fork River Basin	INII	NTT + OTIOS
Task 4: Develop and implement outreach strategies to	NTP	NTP + 10 mos
potential agricultural partners	IVII	NTT + TO THOS
Task 5: Identification of ATM opportunities for ISFs	NTP + 6 mos	NTP + 12 mos
and Municipal uses	NTT + O IIIOS	1117 + 1211105
Task 6: Develop Conceptual Plans of Operation for	NTP + 12 mos	NTP + 20 mos
ATMs	1417 + 1211105	NTF + 20 mos
Task 7: Identifying Opportunities for Water Sharing	NTP	NTP + 22 mos
with East Slope Water Users	NIF	NTF + ZZ IIIOS
Task 8: Public outreach and communication	NTP	NTP + 26 mos
Task 9: Project Management	NTP	NTP + 26 mos
Task 10—Final Report	NTP + 16 mos	NTP + 26 mos

#### **PAYMENT**

Payment will be made based on actual expenditures and invoicing by the applicant. Invoices from any other entity (i.e. subcontractors) cannot be processed by the State. The request for payment must include a description of the work accomplished by major task, and estimate of the percent completion for individual tasks and the entire water activity in relation to the percentage of budget spent, identification of any major issues and proposed or implemented corrective actions. The last 5 percent of the entire water activity budget will be withheld until final project/water activity documentation is completed. All products, data and information developed as a result of this grant must be provided to the CWCB in hard copy and electronic format as part of the project documentation. This information will in turn be made widely available to the public and help promote the development of alternative agricultural transfer methods.

Additional Information – If you would like to add any additional pertinent information please feel free to do so here.

See Attached Letter of Support from Bart Miller, Western Resource Advocates



June 7, 2019

Alex Funk, Agricultural Water Resources Specialist Colorado Water Conservation Board 1313 Sherman Street, Room 718 Denver, CO 80203

Re: Upper Roaring Fork Alternative Method Transfer (ATM) Project - Phase 1

Dear Alex,

Western Resource Advocates is pleased to support the City of Aspen's grant application for the Upper Roaring Fork Alternative Transfer Method (ATM) Project - Phase 1. In 2017 Western Resource Advocates began discussing alternative ways for the City of Aspen to meet future water needs. Those conversations led to this project to evaluate voluntary and compensated agreements with irrigators as a possible option for meeting municipal water needs and improving streamflows. Western Resource Advocates, along with the Wilderness Workshop, are involved in this project and will work closely with the City as Project Partners as it progresses. In addition, Western Resource Advocates has applied for a grant to provide half of the project cash mash.

Western Resource Advocates is a nonprofit conservation organization dedicated to protecting the Interior West's land, air, and water. We promote river restoration and water conservation, advocate for a clean and sustainable energy future, and protect public lands for present and future generations. Our Healthy Rivers Program works to promote and implement smart water solutions for communities and farms and to keep our streams and rivers flowing. We envision a future where the West's rivers and lakes have abundant clean water to support fish and wildlife, communities and farms, and world class recreational opportunities.

We are excited about the Upper Roaring Fork ATM Project's potential to develop water sharing projects to help increase the reliability of the City of Aspen's municipal water supply and increase environmental flows in the Upper Roaring Fork River basin. Additionally, Colorado's Water Plan identifies ATMs as an important strategy to help offset the increasing pressures on agricultural water rights through voluntary water sharing agreements that respect property rights and offer an alternative to permanent agricultural dry-up.

We hope the CWCB will support this important project and approve the City's application for an Alternative Agricultural Water Transfers grant.

Sincerely,

**Bart Miller** 

Healthy Rivers Program Director

Bart P. Mille

Arizona P.O. Box 30497 Phoenix, AZ 85046 Colorado - Boulder 2260 Baseline Road Suite 200

Colorado - Denver 1536 Wynkoop Street Suite 210 Boulder, CO 80302 Denver, CO 80202

Nevada 550 W. Musser Street Suite G Carson City, NV 89703 New Mexico 409 E. Palace Avenue Santa Fe, NM 87501

307 West 200 South **Suite 2000** Salt Lake City, UT 84101 The above statements are true to the best of my knowledge:

**Signature of Applicant:** 

m. Medell

Print Applicant's Name: Margaret Medellin

Project Title: Upper Roaring Fork ATM Project – Phase 1

# Return this application to:

Mr. Alex Funk Colorado Water Conservation Board Water Supply Planning Section 1313 Sherman St., Room 721 Denver, CO 80203 alex.funk@state.co.us

# GRANT AWARD LETTER SUMMARY OF GRANT AWARD TERMS AND CONDITIONS

State Agency	Contract Number
Colorado Department of Natural Resources	CMS Number: 148958
Colorado Water Conservation Board (CWCB)	Encumbrance Number: CTGG1 PDAA 2020*2656
1313 Sherman St, Room 718	
Denver, CO 80203	
Grantee	Grant Amount
City of Aspen	Entire Grant term for all applicable fiscal years: \$183,356.00
130 South Galena Street	
Aspen, CO 81611	
Grant Issuance Date	
The later of February 1, 2020 or the date the State Controller or	
an authorized delegate signs this Grant Letter	0
Grant Expiration Date	Local Match Amount
February 1, 2024	Entire Grant term for all applicable fiscal years: \$30,000.00
Grant Authority	
Authority for the agency entering into this Contract arises from	
Colorado Revised Statutes (CRS) 37-60-106 and 37-60-121,	
and Senate Bill 09-125 adopted by the 2009 General	
Assembly, and a sufficient unencumbered balance thereof	
remains available for payment. Required approvals, clearance	
and coordination have been accomplished from and with	
appropriate agencies.	

## **Grant Purpose**

The ATM Grant purpose is to begin evaluation of developing water-sharing projects to help increase the reliability of the City of Aspen's municipal water supply, increase environmental flows, and promote agricultural viability.

#### **Exhibits and Order of Precedence**

The following Exhibits and attachments are included with this Grant:

- 1. Exhibit A, Statement of Work.
- 2. Exhibit B, Budget.
- 3. Exhibit C, Sample Option Letter.

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

- 1. The provisions of the main body of this Grant.
- 2. Exhibit A, Statement of Work.
- 3. Exhibit B, Budget.
- 4. Exhibit C. Sample Option Letter.

For Contractor:
Margaret Medellin, Utilities Portfolio Manager
City of Aspen
-130 South Galena Street
Aspen, CO 81611
970-429-1992
Margaret.medellin@cityofaspen.com

CMS Number: 148958

Encumbrance Number: CTGG1 PDAA 2020\*2656

#### SIGNATURE PAGE

THE SIGNATORIES LISTED BELOW AUTHORIZE THIS GRANT

STATE OF COLORADO

Jared S. Polis, Governor
Department of Natural Resources
Colorado Water Conservation Board
Dan Gibbs, Executive Director

By: Greg Johnson, CWCB Project Manager

Date:

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

STATE CONTROLLER Robert Jaros, CPA, MBA, JD

-DocuSigned by:

Maggue Van Clif

Maggie Van Cleef

DNBy:Purchasing Director

February 21, 2020 | 3:39 PM PST

Date:

#### 1. GRANT

As of the Grant Issuance Date, the State Agency shown on the first page of this Grant Award Letter (the "State") hereby obligates and awards to Grantee shown on the first page of this Grant Award Letter (the "Grantee") an award of Grant Funds in the amounts shown on the first page of this Grant Award Letter. By accepting the Grant Funds provided under this Grant Award Letter, Grantee agrees to comply with the terms and conditions of this Grant Award Letter and requirements and provisions of all Exhibits to this Grant Award Letter.

#### 2. TERM

#### A. Initial Grant Term and Extension

The Parties' respective performances under this Grant Award Letter shall commence on the Grant Issuance Date and shall terminate on the Grant Expiration Date unless sooner terminated or further extended in accordance with the terms of this Grant Award Letter. Upon request of Grantee, the State may, in its sole discretion, extend the term of this Grant Award Letter by providing Grantee with an updated Grant Award Letter showing the new Grant Expiration Date. If the Work will be performed in multiple phases, the period of performance start and end date of each phase is detailed under the Project Schedule in Exhibit B.

### B. Early Termination in the Public Interest

The State is entering into this Grant Award Letter to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Grant Award Letter ceases to further the public interest of the State or if State, or other funds used for this Grant Award Letter are not appropriated, or otherwise become unavailable to fund this Grant Award Letter, the State, in its discretion, may terminate this Grant Award Letter 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 Grant Award Letter in the public interest, the State shall pay Grantee an amount equal to the percentage of the total reimbursement payable under this Grant Award Letter 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 Grant Award Letter 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 Grant Award Letter by the State for breach by Grantee.

# 3. **DEFINITIONS**

The following terms shall be construed and interpreted as follows:

- A. "**Budget**" means the budget for the Work described in Exhibit B.
- B. "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.
- C. "CORA" means the Colorado Open Records Act, §§24-72-200.1 et. seq., C.R.S.
- D. "Grant Award Letter" means this letter 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.

- E. "**Grant Funds**" means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Grant Award Letter.
- F. "Grant Expiration Date" means the Grant Expiration Date shown on the first page of this Grant Award Letter.
- G. "Grant Issuance Date" means the Grant Issuance Date shown on the first page of this Grant Award Letter.
- H. "Exhibits" exhibits and attachments included with this Grant as shown on the first page of this Grant
- I. "Extension Term" means the period of time by which the Grant Expiration Date is extended by the State through delivery of an updated Grant Award Letter
- J. "Goods" means any movable material acquired, produced, or delivered by Grantee as set forth in this Grant Award Letter and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.
- K. "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.
- L. "**Initial Term**" means the time period between the Grant Issuance Date and the Grant Expiration Date.
- M. "Matching Funds" means the funds provided Grantee as a match required to receive the Grant Funds.
- N. "Party" means the State or Grantee, and "Parties" means both the State and Grantee.
- O. "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
- P. "Services" means the services to be performed by Grantee as set forth in this Grant Award Letter, and shall include any services to be rendered by Grantee in connection with the Goods.
- Q. "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 Contractor which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure to Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Contractor to the State; (iv) is disclosed to Contractor, 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.
- R. "State Fiscal Rules" means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a) C.R.S.

- S. "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.
- T. "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.
- U. "Subcontractor" means third-parties, if any, engaged by Grantee to aid in performance of
- V. "Work" means the delivery of the Goods and performance of the Services described in this Grant Award Letter.
- W. "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 Grant Issuance Date that is used, without modification, in the performance of the Work.

Any other term used in this Grant Award Letter 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 Grant Award Letter and in accordance with the provisions of Exhibit A. 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 Grant Award Letter.

#### 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 for each State Fiscal Year shown on the first page of this Grant Award Letter. 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 Grant Issuance Date or after the Grant Expiration Date.

#### B. Matching Funds.

Grantee shall provide the Local Match Amount shown on the first page of this Grant Award Letter and described in Exhibit A (the "Local Match Amount"). Grantee shall appropriate and allocate all Local Match Amounts to the purpose of this Grant Award Letter each fiscal year prior to accepting any Grant Funds for that fiscal year. Grantee does not by accepting this Grant Award Letter irrevocably pledge present cash reserves for payments in future fiscal years, and this Grant Award Letter 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

The State shall reimburse Grantee's allowable costs, not exceeding the maximum total amount described in this Grant Award Letter for all allowable costs described in this Grant Award Letter and shown in the Budget, except that Grantee may adjust the amounts between each line item of the Budget without formal modification to this Agreement as long as the Grantee provides notice to the State of the change, the change does not modify the total maximum amount of this Grant Award Letter or the maximum amount for any state fiscal year, and the change does not modify any requirements of the Work. 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.

Grantee shall close out this Grant within 45 days after the Grant Expiration Date. To complete close out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Grant Award Letter 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. REPORTING - NOTIFICATION

#### F. 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 described in §5.E, containing an evaluation and review of Grantee's performance and the final status of Grantee's obligations hereunder.

### G. 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. The State may impose any penalties for noncompliance which may include, without limitation, suspension or debarment.

#### 6. 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 Grant Award Letter 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 promptly submit to the State a copy of any final audit report of an audit performed on Grantee's records that relates to or affects this Grant or the Work, whether the audit is conducted by Grantee or a third party.

#### 7. 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 Grant Award Letter. 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. 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 Grant Award Letter. 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.

#### 8. CONFLICTS 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.

#### 9. 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.

#### 10. REMEDIES

In addition to any remedies available under any exhibit to this Grant Award Letter, if Grantee fails to comply with any term or condition of this Grant, the State may terminate some or all of this Grant and require Grantee to repay any or all Grant funds to the State in the State's sole discretion. The State may also terminate this Grant Award Letter 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.

#### 11. 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.

### 12. 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 Grant Award Letter 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 **§13**.

### 13. 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.

#### 14. 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 Contract 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.

### 15. 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 Grant Award Letter.

### B. Captions and References

The captions and headings in this Grant Award Letter are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Grant Award Letter 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 Grant Award Letter 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 Grant Award Letter.

#### D. Modification

The State may modify the terms and conditions of this Grant by issuance of an updated Grant Award Letter, 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 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 Grant Award Letter 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 Grant Issuance 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 Grant Award Letter shall not affect the validity or enforceability of any other provision of this Grant Award Letter, 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 Grant Award Letter Terms

Any provision of this Grant Award Letter 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 Grant Award Letter 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 Grant Award Letter, 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.

### **EXHIBIT A - Statement of Work**

**WATER ACTIVITY NAME -** Upper Roaring Fork Alternative Method Transfer (ATM) Project - Phase 1

**GRANT RECIPIENT** – City of Aspen

**FUNDING SOURCE -** The Alternative Agricultural Water Transfer Methods Competitive Grant Program

#### INTRODUCTION AND BACKGROUND

The City of Aspen (City), Western Resources Advocates and the Wilderness Workshop (the Project Team) have collaborated to develop the proposed Upper Roaring Fork Alternative Transfer Method (ATM) Project—Phase 1. This project aims to develop water sharing projects to help increase the reliability of the City of Aspen's municipal water supply and increase environmental flows in the Upper Roaring Fork River basin. Colorado's Water Plan identifies ATMs as an important strategy to help offset the increasing pressures on agricultural water rights through voluntary water sharing agreements that respect property rights and offer an alternative to permanent agricultural dry-up. Designed properly, ATMs can increase an agricultural producer's profits in a given year while helping reduce or maintain demands on a water system, resulting in "win-win" agreements.

While several ATM projects have been implemented on Colorado's East Slope, this would be the first ATM considered by a West Slope and headwaters municipality. Considering this, the project will identify the unique challenges and opportunities presented by the area's geography, water rights and hydrology.

Through previous studies, it has been determined that the City's municipal water supplies are vulnerable and would benefit from additional firming. To illustrate this need, the City's current storage capacity is less than a day's municipal demand. When factoring in drought and climate change, projected hydrology indicates the City's water supply would be even more vulnerable and in need of additional firming. In addition to these vulnerabilities, the Roaring Fork River headwaters are the source of trans-basin diversions which, at times, contributes to significantly reduced stream flows in the Upper Roaring Fork River and some of its tributaries.

The objective of this project is to identify and evaluate opportunities for voluntary water sharing agreements with agricultural producers in the Roaring Fork Valley to increase the reliability of the City's municipal water supply and/or enhance stream flows in the Upper Roaring Fork River and key tributaries. The concepts could include, among other possibilities, an interruptible water supply agreement, partial year irrigation, and/or deficit irrigation.

In addition, the project will begin to investigate opportunities to increase supplies in the Roaring Fork Valley through water sharing agreements with East Slope water users that are currently diverting water out of the basin. Considering the complexity of any such water sharing agreement, the team will identify potential partners and facilitate meetings to discuss potential water sharing concepts. The team will summarize any potential water sharing opportunities to pursue in Phase 2.

Because of the complexity of developing ATM projects, the project is divided into two phases. Phase 1 (this project), is focused on the development and recommendation of specific ATMs, whereas Phase 2, will involve the implementation of the ATMs identified in this phase. Phase 2 will occur after the completion of this project and this grant application does not include any Phase 2 work.

#### **OBJECTIVES**

The project's primary objectives are:

- 1) Identify potential interested irrigators
- 2) Develop conceptual "Plans of Operation" for one or more ATM projects to help meet the City's municipal water needs and/or environmental flows for the Roaring Fork River and/or its tributaries with potential interested irrigators.
- 3) Identify opportunities for water sharing with East Slope water users.
- 4) Provide recommendations for one or more ATM projects to be implemented in Phase 2.

#### **TASKS**

### Task 1: Identify Municipal Projected Firm Yield Demands

Identify municipal water needs in time, location, amount, and hydrologic year type. Consultant team will review and analyze the City water intake structures and locations, municipal water demand data and projections, and available streamflow data at critical intake locations. Consultant team will characterize projected firm yield deficits to inform ATM project demands. This task will be informed by previous work by the City and its consultants and may include analysis of proposed infrastructure and facilities.

Deliverable: A memorandum describing the municipal projected firm yield demands will be developed.

# Task 2: Identify Environmental Flow Needs for the Upper Roaring Fork River and Key Tributaries

Identify environmental flow needs and flow shortages in time, location, amount, and hydrologic year type. Consultant team will obtain and compile data from a variety of sources to identify environmental flow needs. These sources include non-consumptive needs databases or reports, such as Statewide Supply Initiative or Basin Implementation Plans; as well as any instream/environmental flow quantification data. This information will be used to summarize the streamflow required to meet the legal thresholds required for instream flow use. This initial review will also include an analysis of streamflow data to identify the nature and extent of flow shortages in the project area that might impact the health of the natural environment. For streams where data is not available, streamflow estimates may be derived using modeling techniques, water official and water user interviews, or other means. This information provides the basis for determining the need for environmental flows, including location, amount and timing.

Deliverable: A memorandum describing the environmental flow needs will be developed.

### Task 3: Exploration of Potential ATM Water Supplies in the Upper Roaring Fork River Basin

Explore agricultural water rights diverting at or upstream of critical locations of the upper Roaring Fork River and key tributaries to determine ATM opportunities. Characterizations of the water rights will be made including location, diversion rate, adjudicated priorities, summarization of diversion records, and a preliminary analysis of yield performance of the water right under various hydrologic conditions. A description of the historical agricultural use of these water rights will also be included. At a minimum, this will include a description of the historical crops and livestock operations, estimated acreages/head count and crop yields, and irrigation methods. Previous work characterizing water rights in the study area may be incorporated in this task.

Deliverable: A memorandum describing the results of this task will be included.

### Task 4: Develop and implement outreach strategies to potential agricultural partners

Consultant team will meet with and educate agricultural water users about the voluntary nature and environmental, economic, and water rights benefits of potential ATM projects, as well as the types of water transactions that may be available, and the processes for approval. Example of existing ATM projects and specific ways in which irrigators are benefiting from agreements and payments will be shared.

**Deliverable:** Consultant team will document input from outreach participants regarding their possible participation in an ATM, as well as concerns and potential barriers to participation in ATM projects.

#### Task 5: Identification of ATM opportunities for ISFs and Municipal uses

Based on the tasks above, the team will identify and evaluate potential ATM projects in the Roaring Fork River basin that will provide water for environmental flows and/or municipal use. The following subtasks will be evaluated for potential ATM projects the emerge with irrigator partners.

#### **Yield Analysis**

Consultant team will provide a preliminary estimate of environmental benefits and municipal firm yield that each of the identified potential ATM projects may provide. The yield analysis will consider what kind of ATM is proposed; such as an interruptible water supply agreement (i.e. 3 out of 10 years), partial year irrigation, and/or deficit irrigation.

#### **Due Diligence**

Preliminary due diligence on water rights identified with interested irrigators will be conducted to determine their feasibility for potential ATM projects. The analysis may include review of decrees, ditch company bylaws, deeds, encumbrances, and relevant agreements, and will identify and fatal flaws or challenges such as shared ownership, shepherding, shared infrastructure, augmentation requirements, or potential injury to other water rights. The data reviewed will be from publicly available records.

#### **Economic Analysis of ATM Concepts**

To provide an accurate understanding of the economic considerations of the potential agricultural partners in an ATM strategy, the economic baseline conditions of the agricultural operation(s) will be established to calculate an estimate of baseline net farm income under full water and, potentially, limited water conditions. These baseline conditions can then be compared to operations under an ATM to help determine the water's value to the operator and provide a rational starting point for negotiating the ATM price. To further inform the team, identified water rights will be compared to recent sales of water rights in the vicinity to help determine current value. Also included in this task will be an analysis and recommendation for a method of price adjustment for the ATM.

**Identifying required water court and/or administrative processes for specific ATM strategies**The legal analysis will identify the appropriate transaction mechanism based on statutory limitations and water user preference. The legal analysis will describe the approval process that will be necessary for implementation of a potential ATM project.

#### **Evaluate Potential ATM Projects**

Based on the analysis described above, the Consultant team will develop evaluation criteria to identify the advantages and disadvantages for each of the ATM concepts, including competing or complimentary interests between instream flows and municipal uses.

Deliverable: Consultant team will provide a written summary of the analysis of the potential ATM project.

#### Task 6: Develop Conceptual Plans of Operation for ATMs

Consultant team will develop conceptual plans of operation for selected ATM projects (to be determined in consultation with the Project Team). These plans will describe the baseline conditions, recommend a water sharing strategy (e.g. interruptible water supply agreement, partial season irrigation, etc.) and outline key terms that the water sharing agreement should include such as timing, amounts of water and legal mechanisms necessary to implement the transfer of water.

Deliverable: Consultant team will provide plans of operation for all viable ATM projects.

### Task 7: Identifying Opportunities for Water Sharing with East Slope Water Users

This task will identify and analyze water sharing opportunities with East Slope water users that are currently diverting from the Roaring Fork River basin. Specifically, the consultant team will examine opportunities and constraints associated with water sharing strategies involving the Twin Lakes Tunnel and/or the Boustead Tunnel. Considering the complexity of any such water sharing agreement, the consultant team will identify any potential partners willing to discuss a possible water-sharing ATM strategy and facilitate a meeting with each of the managers and operators of the projects as well as water users that own water rights in those projects.

Deliverable: Consultant team will summarize any potential water sharing opportunities to pursue in Phase 2.

#### Task 8: Public Outreach and Communication

To ensure that the community is kept apprised of the project, the Consultant team will provide updates and/or presentations to City Council, Colorado River Basin Roundtable and other community groups and interested stakeholders as requested by the Project Team.

Deliverable: For any outreach requested by the Project Team, consulting team will document meetings, attendees, and key discussion points.

#### **Task 9: Project Management**

This task involves the management of the project, including conducting team meetings, calls and grant management responsibilities including submitting regular progress reports and invoicing. This task also includes directing subcontractor efforts to complete the deliverables of the project.

Deliverable: Regular progress reports and invoicing including providing the City materials ready for submission to the CWCB to invoice for grant reimbursement.

#### Task 10—Final Report

Consultant team will produce a final report to the CWCB describing the project's findings and recommendations.

Final Deliverable: A final report describing the ATM project will be provided to the CWCB in digital format.

#### REPORTING AND FINAL DELIVERABLE

Reporting: The applicant shall provide the CWCB a progress report every 6 months, beginning from the date of the executed contract. The progress report shall describe the completion or partial completion of

the tasks identified in the statement of work including a description of any major issues that occur and any corrective actions taken to address them.

Final Deliverable: At completion of the project, the applicant shall provide the CWCB a final report that summarizes the project and documents how the project was completed. This report may contain photographs, summaries of meetings and engineering reports/designs.

#### **Reporting Requirements**

**Progress Reports:** The grantee shall provide the CWCB a progress report every 6 months, beginning from the date of issuance of a purchase order, or the execution of a contract. The progress report shall describe the status of the tasks identified in the statement of work, including a description of any major issues that have occurred and any corrective action taken to address these issues. The CWCB may withhold reimbursement until satisfactory progress reports have been submitted.

**Final Report:** At completion of the project, the grantee shall provide the CWCB a Final Report on the grantee's letterhead that:

- Summarizes the project and how the project was completed.
- Describes any obstacles encountered, and how these obstacles were overcome.
- Confirms that all matching commitments have been fulfilled.
- Includes photographs, summaries of meetings and engineering reports/designs.

#### **Payments**

Payment will be made based on actual expenditures, must include invoices for all work completed and must be on grantee's letterhead. The request for payment must include a description of the work accomplished by task, an estimate of the percent completion for individual tasks and the entire Project in relation to the percentage of budget spent, identification of any major issues, and proposed or implemented corrective actions.

The CWCB will pay the last 10% of the <u>entire</u> water activity budget when the Final Report is completed to the satisfaction of CWCB staff. Once the Final Report has been accepted, and final payment has been issued, the water activity and purchase order or contract will be closed without any further payment. Any entity that fails to complete a satisfactory Final Report and submit to CWCB within 90 days of the expiration of a purchase order or contract may be denied consideration for future funding of any type from CWCB.

#### **Performance Requirements**

Performance measures for this contract shall include the following:

- (a) Performance standards and evaluation: Grantee will produce detailed deliverables for each task as specified. Grantee shall maintain receipts for all project expenses and documentation of the minimum in-kind contributions (if applicable) per the budget in Exhibit B. Per Grant Guidelines, the CWCB will pay out the last 10% of the budget when the final deliverable is completed to the satisfaction of CWCB staff. Once the final deliverable has been accepted, and final payment has been issued, the purchase order or grant will be closed without any further payment.
- (b) Accountability: Per the Grant Guidelines full documentation of project progress must be submitted with each invoice for reimbursement. Grantee must confirm that all grant conditions have been complied with on each invoice. In addition, per the Grant Guidelines, Progress Reports must be submitted at least once every 6 months. A Final Report must be submitted and approved before final project payment.
- (c) Monitoring Requirements: Grantee is responsible for ongoing monitoring of project progress per Exhibit A. Progress shall be detailed in each invoice and in each Progress Report, as detailed above. Additional inspections or field consultations will be arranged as may be necessary.
- (d) Noncompliance Resolution: Payment will be withheld if grantee is not current on all grant conditions. Flagrant disregard for grant conditions will result in a stop work order and cancellation of the Grant Agreement.



### **EXHIBIT B BUDGET AND SCHEDULE**

# **Colorado Water Conservation Board**

## **Alternative Agricultural Water Transfer Methods Competitive Grant Program**

Name of Grantee: City of Aspen

Name of Water Project: Upper Roaring Fork Alternative Transfer Method Project - Phase 1

Task No.	Task Description	Pro	ject Cost by Task	Matching Funds			CWCB Grant Request		
TASK 1 – Summarize Muni Projected Firm	A memorandum describing the municipal projected								
Yield Demands	firm yield demands will be developed.	\$	6,020.00	\$	3,000.00	\$	3,020.00		
TASK 2 – Summarize Enviromental Flow	A memorandum describing the environmental flow								
Needs	needs will be developed.	\$	6,500.00	\$	3,000.00	\$	3,500.00		
TASK 3 – Investigations of Potential ATM Supplies in the Upper Roaring Fork River Basin	A memorandum describing the results of this task will be included.	\$	14,560.00	\$	3,000.00	\$	11,560.00		
TASK 4 – Develop and Implement Outreach Strategies to Potential Agricultural Partners	Consultant team will document input from outreach participants regarding their possible participation in an ATM, as well as concerns and	\$	21,140.00	\$	3,000.00	\$	18,140.00		
TASK 5 - Identification of ATM Opportunities for ISFs and Muni Use	Consultant team will provide a written summary of the analysis of the potential ATM project.	\$	19,500.00	\$	3,000.00	\$	16,500.00		
TASK 6 – Develop Conceptual Plans of Operation for ATMs	Consultant team will provide plans of operation for all viable ATM projects.	\$	34,060.00	\$	3,000.00	\$	31,060.00		
TASK 7 – Identifying Opportunities for Water Sharing with East Slope Water Users	Consultant team will summarize any potential water sharing opportunities to pursue in Phase 2.	\$	22,620.00	\$	3,000.00	\$	19,620.00		
TASK 8- Public Outreach and Communication	For any outreach requested by the Project Team, consulting team will document meetings, attendees, and key discussion points.	\$	15,040.00	\$	3,000.00	\$	12,040.00		
TASK 9: Project Management	Regular progress reports and invoicing including providing the City materials ready for submission	\$	12,300.00	\$	3,000.00	\$	9,300.00		
TASK 10: Final report to the CWCB	A final report describing the ATM project will be provided to the CWCB in digital format.	\$	17,620.00	\$	3,000.00	\$	14,620.00		
Direct and Indirect Costs	Mileage, Copies and administration costs	\$	43,996.00	\$	-	\$	43,996.00		
	Total	\$	213,356.00	\$	30,000.00	\$	183,356.00		
					14%		86%		

### **EXHIBIT B SCHEDULE**

Task	Start Date	Finish Date
Task 1: Identify Municipal Projected Firm Yield Demands	2/1/2020	2/1/2024
Task 2: Identify Environmental Flow Needs for the Upper Roaring Fork River and Key Tributaries	2/1/2020	2/1/2024
Task 3: Investigations of Potential ATM Water Supplies in the Upper Roaring Fork River Basin	2/1/2020	2/1/2024
Task 4: Develop and implement outreach strategies to potential agricultural partners	2/1/2020	2/1/2024
Task 5: Identification of ATM opportunities for ISFs and Municipal uses	2/1/2020	2/1/2024
Task 6: Develop Conceptual Plans of Operation for ATMs	2/1/2021	2/1/2024
Task 7: Identifying Opportunities for Water Sharing with East Slope Water Users	2/1/2020	2/1/2024
Task 8: Public outreach and communication	2/1/2020	2/1/2024
Task 9: Project Management	2/1/2020	2/1/2024
Task 10—Final Report	5/1/2021	2/1/2024

DocuSign Envelope ID: EA56A7A8-D1B7-49C8-8A2B-D4C20A07CESTIMATED DETAIL BUDGET - CITY OF ASPEN  Project Personnel:	ΑΊ	A FM Project Manager	Eı	ngineering	F	Economist	Legal	egal ISF Project Manager		Agronomist		Outreach & Comm Specialist		A	Admin.	Total Labor Costs
Hourly Rate:		\$160		\$150		\$190	\$250		\$115		\$125		\$100		\$75	
Task 1: Summarize Municipal Projected Firm Yield Demands	\$	1,500.00	\$	3,000.00	\$	1,520.00		\$	-							\$6,020.00
Task 2: Summarize Environmental Flow Needs for the Upper Roaring Fork River and Key Tributaries	\$	1,500.00	\$	-	\$	-		\$	5,000.00							\$6,500.00
Task 3: Investigations of Potential ATM Water Supplies in the Upper Roaring Fork River Basin	\$	4,000.00	\$	6,000.00	\$	4,560.00		\$	-							\$14,560.00
Task 4: Develop and Implement Outreach Strategies to Potential Agricultural Partners	\$	2,400.00	\$	3,600.00	\$	10,640.00		\$	2,000.00			\$	2,500.00			\$21,140.00
Task 5: Identification of ATM opportunities for ISFs and Municipal uses	\$	5,500.00	\$	6,000.00	\$	-	\$ 1,500.00	\$	4,000.00	\$	2,500.00					\$19,500.00
Task 6: Develop Conceptual Plans of Operation for ATMs	\$	8,000.00	\$	8,400.00	\$	12,160.00	\$ 2,000.00	\$	2,000.00	\$	1,500.00					\$34,060.00
Task 7: Identifying Opportunities for Water Sharing with East Slope Water Users	\$	10,500.00	\$	3,600.00	\$	1,520.00	\$ 5,000.00	\$	2,000.00							\$22,620.00
Task 8: Public outreach and communication	\$	4,000.00	\$	6,000.00	\$	1,520.00		\$	1,020.00			\$	2,500.00			\$15,040.00
Task 9: Project Management	\$	7,500.00	\$	1,800.00	\$	-		\$	-					\$	3,000.00	\$12,300.00
Task 10: Final Report	\$	5,500.00	\$	3,600.00	\$	4,560.00	\$ 1,000.00	\$	1,460.00	\$	500.00	\$	1,000.00			\$17,620.00
Total Hours:		315.00		280.00		192.00	38.00		152.00		36.00		60.00		40.00	
Total Labor Costs:		\$50,400		\$42,000		\$36,480	\$9,500		\$17,480		\$4,500		\$6,000		\$3,000	\$169,360.00
																<b>Total Direct Costs</b>
Direct Costs:																
Mileage	\$	6,500	\$	3,500	\$	1,500	\$ 1,000	\$	3,500	\$	1,500					\$17,500.00
Lodging	\$	1,600	\$	1,000	\$	600	\$ 500	\$	1,000	\$	400					\$5,100.00
Misc. Expenses	\$	1,000	\$	500	\$	200		\$	100	\$	100					\$1,900.00
Copies (including final report)	\$	100					`									\$100.00
Total Direct Costs:	\$	9,200	\$	5,000	\$	2,300	\$ 1,500	\$	4,600	\$	2,000					\$24,600.00
10% Administration																\$19,396.00
															ct Costs:	\$213,356.00
										Cash Match Amount				\$30,000.00		

# **EXHIBIT C, SAMPLE OPTION LETTER**

State Agency	Option Letter Number
Department of Natural Resources	
Colorado Water Conservation Board (CWCB)	
1313 Sherman St, Room 718	
Denver, CO 80203	
Grantee	Original Agreement Number
City of Aspen	CMS# 148958
120 South Galena Street	CTGG1 2020*2656
Aspen, CO 81611	
•	
Current Agreement Maximum Amount (Initial Term)	Option Agreement Number
	Agreement Performance Beginning Date
	<b>Current Agreement Expiration Date</b>
1 OPETONG	

- 1. **OPTIONS:** 
  - A. Option to extend for an Extension Term
- 2. **REQUIRED PROVISIONS:** 
  - A. <u>For use with Option 1(A):</u> In accordance with Section 2.C., of the Original Agreement referenced above, the State hereby exercises its option for an additional term, beginning \_\_\_\_\_ and ending on the current Agreement expiration date shown above, at the rates stated in the Original Agreement, as amended.
- 3. **OPTION EFFECTIVE DATE:** 
  - A. The effective date of this Option Letter is upon approval of the State Controller or \_\_\_\_\_, whichever is later.

STATE OF COLORADO  Jared Polis, Governor  Department of Natural Resources  Colorado Water Conservation Board	In accordance with §24-30-202, C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate.  STATE CONTROLLER Robert Jaros, CPA, MBA, JD
Ву:	Ву:
Name:	Name:
Title:	Title:
Date:	Option Effective Date:



### CITY OF ASPEN STANDARD FORM OF AGREEMENT V 2009

### PROFESSIONAL SERVICES

City of Aspen Contract No.: 51140

**AGREEMENT** made as of <u>24th</u> day of <u>March</u>, in the year <u>2020</u>.

### **BETWEEN the City:**

The City of Aspen c/o Raquel Flinker 130 South Galena Street Aspen, Colorado 81611 Phone: (970) 429-2782

#### And the Professional:

Western Water Partnerships c/o Todd Doherty 1912 East 17<sup>th</sup> Ave. Denver, CO 80206 Phone: 303-518-4741

#### **Contract Amount:**

Total: <u>\$ 213,356.00</u>

If this Agreement requires the City to pay an amount of money in excess of \$50,000.00 it shall not be deemed valid until it has been approved by the City Council of the City of Aspen.

City Council Approval:

Date: March, 24th, 2020

Resolution No.:\_\_\_\_

#### For the Following Project:

Evaluation of water-sharing projects to help increase the reliability of the City of Aspen's municipal water supply, increase environmental flows, and promote agricultural viability. This project will be funded by a \$183,356.00 grant from the Colorado Water Conservation Board (CWCB) and \$15,000.00 matching funds from Western Resource Advocates and \$15,000.00 from the City of Aspen.

### **Exhibits appended and made a part of this Agreement:**

Exhibit A: Statement of Work. Exhibit B: Schedule and Budget.

### The City and Professional agree as set forth below.

- 1. <u>Scope of Work</u>. Professional shall perform in a competent and professional manner the Scope of Work as set forth at **Exhibit A** attached hereto and by this reference incorporated herein.
- 2. <u>Completion</u>. Professional shall commence Work immediately upon receipt of a written Notice to Proceed from the City and complete all phases of the Scope of Work as expeditiously as is consistent with professional skill and care and the orderly progress of the Work in a timely manner. The parties anticipate that all Work pursuant to this Agreement shall be completed no later than <u>June 2024</u>. Upon request of the City, Professional shall submit, for the City's approval, a schedule for the performance of Professional's services which shall be adjusted as required as the project proceeds, and which shall include allowances for periods of time required by the City's project engineer for review and approval of submissions and for approvals of authorities having jurisdiction over the project. This schedule, when approved by the City, shall not, except for reasonable cause, be exceeded by the Professional.
- 3. <u>Payment</u>. In consideration of the work performed, City shall pay Professional on a time and expense basis for all work performed. The hourly rates for work performed by Professional shall not exceed those hourly rates set forth at **Exhibit B** appended hereto. Except as otherwise mutually agreed to by the parties the payments made to Professional shall not initially exceed the amount set forth above. Professional shall submit, in timely fashion, invoices for work performed. The City shall review such invoices and, if they are considered incorrect or untimely, the City shall review the matter with Professional within ten days from receipt of the Professional's bill.
- 4. <u>Non-Assignability</u>. Both parties recognize that this Agreement is one for personal services and cannot be transferred, assigned, or sublet by either party without prior written consent of the other. Sub-Contracting, if authorized, shall not relieve the Professional of any of the responsibilities or obligations under this Agreement. Professional shall be and remain solely responsible to the City for the acts, errors, omissions or neglect of any subcontractors' officers, agents and employees, each of whom shall, for this purpose be deemed to be an agent or employee of the Professional to the extent of the subcontract. The City shall not be obligated to pay or be liable for payment of any sums due which may be due to any sub-contractor.
- 5. <u>Termination of Procurement.</u> The sale contemplated by this Agreement may be canceled by the City prior to acceptance by the City whenever for any reason and in its sole discretion the City shall determine that such cancellation is in its best interests and convenience.
- 6. <u>Termination of Professional Services</u>. The Professional or the City may terminate the Professional Services component of this Agreement, without specifying the reason therefor, by giving notice, in writing, addressed to the other party, specifying the effective date of the termination. No fees shall be earned after the effective date of the termination. Upon any termination, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, reports or other material prepared by the Professional pursuant to this Agreement shall become the property of the City. Notwithstanding the above, Professional shall not be relieved of any liability to the City for damages sustained by the City by virtue of any breach of this Agreement by the Professional, and the City may withhold any payments to the Professional for the purposes of set-off until such time as the exact amount of damages due the City from the Professional may be determined.
- 7. <u>Independent Contractor Status.</u> It is expressly acknowledged and understood by the parties that nothing contained in this agreement shall result in, or be construed as establishing an employment

relationship. Professional shall be, and shall perform as, an independent Contractor who agrees to use his or her best efforts to provide the said services on behalf of the City. No agent, employee, or servant of Professional shall be, or shall be deemed to be, the employee, agent or servant of the City. City is interested only in the results obtained under this contract. The manner and means of conducting the work are under the sole control of Professional. None of the benefits provided by City to its employees including, but not limited to, workers' compensation insurance and unemployment insurance, are available from City to the employees, agents or servants of Professional. Professional shall be solely and entirely responsible for its acts and for the acts of Professional's agents, employees, servants and subcontractors during the performance of this contract. Professional shall indemnify City against all liability and loss in connection with, and shall assume full responsibility for payment of all federal, state and local taxes or contributions imposed or required under unemployment insurance, social security and income tax law, with respect to Professional and/or Professional's employees engaged in the performance of the services agreed to herein.

8. Indemnification. Professional agrees to indemnify and hold harmless the City, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this contract, to the extent and for an amount represented by the degree or percentage such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the wrongful act, omission, error, professional error, mistake, negligence, or other fault of the Professional, any subcontractor of the Professional, or any officer, employee, representative, or agent of the Professional or of any subcontractor of the Professional, or which arises out of any workmen's compensation claim of any employee of the Professional or of any employee of any subcontractor of the Professional. The Professional agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the Professional, or at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with, any such liability, claims, or demands. If it is determined by the final judgment of a court of competent jurisdiction that such injury, loss, or damage was caused in whole or in part by the act, omission, or other fault of the City, its officers, or its employees, the City shall reimburse the Professional for the portion of the judgment attributable to such act, omission, or other fault of the City, its officers, or employees.

### 9. Professional's Insurance.

- (a) Professional agrees to procure and maintain, at its own expense, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by the Professional pursuant to Section 8 above. Such insurance shall be in addition to any other insurance requirements imposed by this contract or by law. The Professional shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to Section 8 above by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, duration, or types.
- (b) Professional shall procure and maintain, and shall cause any subcontractor of the Professional to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurance acceptable to the City. All coverages shall be continuously maintained to cover all liability, claims, demands, and

other obligations assumed by the Professional pursuant to Section 8 above. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

- (i) Workers' Compensation insurance to cover obligations imposed by applicable laws for any employee engaged in the performance of work under this contract, and Employers' Liability insurance with minimum limits of ONE MILLION DOLLARS (\$1,000,000.00) for each accident, ONE MILLION DOLLARS (\$1,000,000.00) disease policy limit, and ONE MILLION DOLLARS (\$1,000,000.00) disease each employee. Evidence of qualified self-insured status may be substituted for the Workers' Compensation requirements of this paragraph.
- (ii) Commercial General Liability insurance with minimum combined single limits of TWO MILLION DOLLARS (\$2,000,000.00) each occurrence and TWO MILLION DOLLARS (\$2,000,000.00) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision.
- (iii) Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000.00) each occurrence and ONE MILLION DOLLARS (\$1,000,000.00) aggregate with respect to each Professional's owned, hired and non-owned vehicles assigned to or used in performance of the Scope of Work. The policy shall contain a severability of interests provision. If the Professional has no owned automobiles, the requirements of this Section shall be met by each employee of the Professional providing services to the City under this contract.
- (iv) *Professional Liability* insurance with the minimum limits of ONE MILLION DOLLARS (\$1,000,000) each claim and ONE MILLION DOLLARS (\$1,000,000) aggregate.
- (c) The policy or policies required above shall be endorsed to include the City and the City's officers and employees as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by the City, its officers or employees, or carried by or provided through any insurance pool of the City, shall be excess and not contributory insurance to that provided by Professional. No additional insured endorsement to the policy required above shall contain any exclusion for bodily injury or property damage arising from completed operations. The Professional shall be solely responsible for any deductible losses under any policy required above.
- (d) The certificate of insurance provided to the City shall be completed by the Professional's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be reviewed and approved by the City prior to commencement of the contract. No other form of certificate shall be used. The certificate shall identify this contract and shall provide that the coverages afforded under the policies

shall not be canceled, terminated or materially changed until at least thirty (30) days prior written notice has been given to the City.

- (e) Failure on the part of the Professional to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of contract upon which City may immediately terminate this contract, or at its discretion City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by City shall be repaid by Professional to City upon demand, or City may offset the cost of the premiums against monies due to Professional from City.
- (f) City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.
- (g) The parties hereto understand and agree that City is relying on, and does not waive or intend to waive by any provision of this contract, the monetary limitations (presently \$350,000.00 per person and \$990,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, C.R.S., as from time to time amended, or otherwise available to City, its officers, or its employees.
- 10. <u>City's Insurance</u>. The parties hereto understand that the City is a member of the Colorado Intergovernmental Risk Sharing Agency (CIRSA) and as such participates in the CIRSA Property/Casualty Pool. Copies of the CIRSA policies and manual are kept at the City of Aspen Risk Management Department and are available to Professional for inspection during normal business hours. City makes no representations whatsoever with respect to specific coverages offered by CIRSA. City shall provide Professional reasonable notice of any changes in its membership or participation in CIRSA.
- 11. <u>Completeness of Agreement</u>. It is expressly agreed that this agreement contains the entire undertaking of the parties relevant to the subject matter thereof and there are no verbal or written representations, agreements, warranties or promises pertaining to the project matter thereof not expressly incorporated in this writing.
- 12. <u>Notice</u>. Any written notices as called for herein may be hand delivered or mailed by certified mail return receipt requested to the respective persons and/or addresses listed above.
- 13. <u>Non-Discrimination</u>. No discrimination because of race, color, creed, sex, marital status, affectional or sexual orientation, family responsibility, national origin, ancestry, handicap, or religion shall be made in the employment of persons to perform services under this contract. Professional agrees to meet all of the requirements of City's municipal code, Section 15.04.570, pertaining to non-discrimination in employment.
- 14. <u>Waiver</u>. The waiver by the City of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term. No term, covenant, or condition of this Agreement can be waived except by the written consent of the City, and forbearance or indulgence by the City in any regard whatsoever shall not constitute a waiver of any term, covenant, or condition to be performed by Professional to which the same may apply and, until complete

performance by Professional of said term, covenant or condition, the City shall be entitled to invoke any remedy available to it under this Agreement or by law despite any such forbearance or indulgence.

- 15. Execution of Agreement by City. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns. Notwithstanding anything to the contrary contained herein, this Agreement shall not be binding upon the City unless duly executed by the Mayor of the City of Aspen (or a duly authorized official in his absence) following a Motion or Resolution of the Council of the City of Aspen authorizing the Mayor (or a duly authorized official in his absence) to execute the same.
- 16. Illegal Aliens CRS 8-17.5-101 & 24-76.5-101.
  - (a) <u>Purpose</u>. During the 2006 Colorado legislative session, the Legislature passed House Bills 06-1343 (subsequently amended by HB 07-1073) and 06-1023 that added new statutes relating to the employment of and contracting with illegal aliens. These new laws prohibit all state agencies and political subdivisions, including the City of Aspen, from knowingly hiring an illegal alien to perform work under a contract, or to knowingly contract with a subcontractor who knowingly hires with an illegal alien to perform work under the contract. The new laws also require that all contracts for services include certain specific language as set forth in the statutes. The following terms and conditions have been designed to comply with the requirements of this new law.
  - (b) <u>Definitions</u>. The following terms are defined in the new law and by this reference are incorporated herein and in any contract for services entered into with the City of Aspen.

"Basic Pilot Program" means the basic pilot employment verification program created in Public Law 208, 104th Congress, as amended, and expanded in Public Law 156, 108th Congress, as amended, that is administered by the United States Department of Homeland Security.

"Public Contract for Services" means this Agreement.

"Services" means the furnishing of labor, time, or effort by a Contractor or a subcontractor not involving the delivery of a specific end product other than reports that are merely incidental to the required performance.

- (c) By signing this document, Professional certifies and represents that at this time:
  - (i) Professional shall confirm the employment eligibility of all employees who are newly hired for employment in the United States; and
  - (ii) Professional has participated or attempted to participate in the Basic Pilot Program in order to verify that new employees are not illegal aliens.
- (d) Professional hereby confirms that:
  - (i) Professional shall not knowingly employ or contract new employees without confirming the employment eligibility of all such employees hired for employment in the United States under the Public Contract for Services.

- (ii) Professional shall not enter into a contract with a subcontractor that fails to confirm to the Professional that the subcontractor shall not knowingly hire new employees without confirming their employment eligibility for employment in the United States under the Public Contract for Services.
- (iii) Professional has verified or has attempted to verify through participation in the Federal Basic Pilot Program that Professional does not employ any new employees who are not eligible for employment in the United States; and if Professional has not been accepted into the Federal Basic Pilot Program prior to entering into the Public Contract for Services, Professional shall forthwith apply to participate in the Federal Basic Pilot Program and shall in writing verify such application within five (5) days of the date of the Public Contract. Professional shall continue to apply to participate in the Federal Basic Pilot Program and shall in writing verify same every three (3) calendar months thereafter, until Professional is accepted or the public contract for services has been completed, whichever is earlier. The requirements of this section shall not be required or effective if the Federal Basic Pilot Program is discontinued.
- (iv) Professional shall not use the Basic Pilot Program procedures to undertake pre-employment screening of job applicants while the Public Contract for Services is being performed.
- (v) If Professional obtains actual knowledge that a subcontractor performing work under the Public Contract for Services knowingly employs or contracts with a new employee who is an illegal alien, Professional shall:
  - (1) Notify such subcontractor and the City of Aspen within three days that Professional has actual knowledge that the subcontractor has newly employed or contracted with an illegal alien; and
  - (2) Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this section the subcontractor does not cease employing or contracting with the new employee who is an illegal alien; except that Professional shall not terminate the Public Contract for Services with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
- (vi) Professional shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that the Colorado Department of Labor and Employment undertakes or is undertaking pursuant to the authority established in Subsection 8-17.5-102 (5), C.R.S.
- (vii) If Professional violates any provision of the Public Contract for Services pertaining to the duties imposed by Subsection 8-17.5-102, C.R.S. the City of Aspen may terminate the Public Contract for Services. If the Public Contract for Services is so terminated, Contractor shall be liable for actual and consequential

damages to the City of Aspen arising out of Professional's violation of Subsection 8-17.5-102, C.R.S.

(ix) If Professional operates as a sole proprietor, Professional hereby swears or affirms under penalty of perjury that the Professional (1) is a citizen of the United States or otherwise lawfully present in the United States pursuant to federal law, (2) shall comply with the provisions of CRS 24-76.5-101 *et seq.*, and (3) shall produce one of the forms of identification required by CRS 24-76.5-103 prior to the effective date of this Agreement.

### 17. Warranties Against Contingent Fees, Gratuities, Kickbacks and Conflicts of Interest.

- (a) Professional warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Professional for the purpose of securing business.
- (b) Professional agrees not to give any employee of the City a gratuity or any offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to this Agreement, or to any solicitation or proposal therefore.
- (c) Professional represents that no official, officer, employee or representative of the City during the term of this Agreement has or one (1) year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof, except those that may have been disclosed at the time City Council approved the execution of this Agreement.
- (d) In addition to other remedies it may have for breach of the prohibitions against contingent fees, gratuities, kickbacks and conflict of interest, the City shall have the right to:
  - 1. Cancel this Purchase Agreement without any liability by the City;
  - 2. Debar or suspend the offending parties from being a Professional, contractor or subcontractor under City contracts;
  - 3. Deduct from the contract price or consideration, or otherwise recover, the value of anything transferred or received by the Professional; and
  - 4. Recover such value from the offending parties.
- 18. <u>Fund Availability</u>. Financial obligations of the City payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. If this Agreement contemplates the City utilizing state or federal funds to meet its obligations herein, this Agreement shall be contingent upon the availability of those funds for payment pursuant to the terms of this Agreement.

#### 19. General Terms.

- (a) It is agreed that neither this Agreement nor any of its terms, provisions, conditions, representations or covenants can be modified, changed, terminated or amended, waived, superseded or extended except by appropriate written instrument fully executed by the parties.
- (b) If any of the provisions of this Agreement shall be held invalid, illegal or unenforceable it shall not affect or impair the validity, legality or enforceability of any other provision.
- (c) The parties acknowledge and understand that there are no conditions or limitations to this understanding except those as contained herein at the time of the execution hereof and that after execution no alteration, change or modification shall be made except upon a writing signed by the parties.
- (d) This Agreement shall be governed by the laws of the State of Colorado as from time to time in effect. Venue is agreed to be exclusively in the courts of Pitkin County, Colorado.
- 20. <u>Electronic Signatures and Electronic Records</u> This Agreement and any amendments hereto may be executed in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one agreement binding on the Parties, notwithstanding the possible event that all Parties may not have signed the same counterpart. Furthermore, each Party consents to the use of electronic signatures by either Party. The Scope of Work, and any other documents requiring a signature hereunder, may be signed electronically in the manner agreed to by the Parties. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic documents, or a paper copy of a document bearing an electronic signature, on the grounds that it is an electronic record or electronic signature or that it is not in its original form or is not an original.
- 20. <u>Successors and Assigns</u>. This Agreement and all of the covenants hereof shall inure to the benefit of and be binding upon the City and the Professional respectively and their agents, representatives, employee, successors, assigns and legal representatives. Neither the City nor the Professional shall have the right to assign, transfer or sublet its interest or obligations hereunder without the written consent of the other party.
- 21. <u>Third Parties</u>. This Agreement does not and shall not be deemed or construed to confer upon or grant to any third party or parties, except to parties to whom Professional or City may assign this Agreement in accordance with the specific written permission, any right to claim damages or to bring any suit, action or other proceeding against either the City or Professional because of any breach hereof or because of any of the terms, covenants, agreements or conditions herein contained.
- 22. <u>Attorney's Fees</u>. In the event that legal action is necessary to enforce any of the provisions of this Agreement, the prevailing party shall be entitled to its costs and reasonable attorney's fees.
- 23. <u>Waiver of Presumption</u>. This Agreement was negotiated and reviewed through the mutual efforts of the parties hereto and the parties agree that no construction shall be made or presumption

shall arise for or against either party based on any alleged unequal status of the parties in the negotiation, review or drafting of the Agreement.

- 24. <u>Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion.</u> Professional certifies, by acceptance of this Agreement, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any transaction with a Federal or State department or agency. It further certifies that prior to submitting its Bid that it did include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts. In the event that Professional or any lower tier participant was unable to certify to the statement, an explanation was attached to the Bid and was determined by the City to be satisfactory to the City.
- 25. <u>Integration and Modification</u>. This written Agreement along with all Contract Documents shall constitute the contract between the parties and supersedes or incorporates any prior written and oral agreements of the parties. In addition, Professional understands that no City official or employee, other than the Mayor and City Council acting as a body at a council meeting, has authority to enter into an Agreement or to modify the terms of the Agreement on behalf of the City. Any such Agreement or modification to this Agreement must be in writing and be executed by the parties hereto.
- 26. <u>Authorized Representative</u>. The undersigned representative of Professional, as an inducement to the City to execute this Agreement, represents that he/she is an authorized representative of Professional for the purposes of executing this Agreement and that he/she has full and complete authority to enter into this Agreement for the terms and conditions specified herein.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement of which shall be deemed an original on the date first written above.

CITY OF ASPEN, COLORADO:	PROFESSIONAL:
[Signature]	[Signature]
By:	By: TODD TOHERTY
Title:	Title: President, Western worten Partnerships
Date:	Date: 03/09/2020

Approved as to form:	
City Attorney's Office	

#### EXHIBIT A PROFESSIONAL SERVICES AGREEMENT

#### Statement of Work

**WATER ACTIVITY NAME -** Upper Roaring Fork Alternative Method Transfer (ATM) Project - Phase 1

### INTRODUCTION AND BACKGROUND

The City of Aspen (City), Western Resources Advocates and the Wilderness Workshop (the Project Team) have collaborated to develop the proposed Upper Roaring Fork Alternative Transfer Method (ATM) Project—Phase 1. This project aims to develop water sharing projects to help increase the reliability of the City of Aspen's municipal water supply and increase environmental flows in the Upper Roaring Fork River basin. Colorado's Water Plan identifies ATMs as an important strategy to help offset the increasing pressures on agricultural water rights through voluntary water sharing agreements that respect property rights and offer an alternative to permanent agricultural dry-up. Designed properly, ATMs can increase an agricultural producer's profits in a given year while helping reduce or maintain demands on a water system, resulting in "win-win" agreements.

While several ATM projects have been implemented in Colorado, this would be the first ATM considered by a West Slope headwaters municipality. Considering this, the project will identify the unique challenges and opportunities presented by the area's geography, water rights and hydrology.

Through previous studies, it has been determined that the City's municipal water supplies are vulnerable and would benefit from additional firming. To illustrate this need, the City's current storage capacity is less than a day's municipal demand. When factoring in drought and climate change, projected hydrology indicates the City's water supply would be even more vulnerable and in need of additional firming. In addition to these vulnerabilities, the Roaring Fork River headwaters are the source of trans-basin diversions which, at times, contributes to significantly reduced stream flows in the Upper Roaring Fork River and some of its tributaries.

The objective of this project is to identify and evaluate opportunities for voluntary water sharing agreements with agricultural producers in the Roaring Fork Valley to increase the reliability of the City's municipal water supply and/or enhance stream flows in the Upper Roaring Fork River and key tributaries. The concepts could include, among other possibilities, an interruptible water supply agreement, partial year irrigation, and/or deficit irrigation.

In addition, the project will begin to investigate opportunities to increase supplies in the Roaring Fork Valley through water sharing agreements with East Slope water users that are currently diverting water out of the basin. Considering the complexity of any such water sharing agreement, the team will identify potential partners and facilitate meetings to discuss potential water sharing concepts. The team will summarize any potential water sharing opportunities to pursue in a subsequent Phase 2 of the project.

Because of the complexity of developing ATM projects, the project is divided into two phases. Phase 1 (this project), is focused on the development and recommendation of specific ATMs, whereas Phase 2 will involve the implementation of the ATMs identified in this phase. Phase 2 will occur after the completion of this project and this grant application does not include any Phase 2 work.

#### **OBJECTIVES**

The project's primary objectives are:

- 1) Identify potential interested irrigators
- 2) Develop conceptual "Plans of Operation" for one or more ATM projects to help meet the City's municipal water needs and/or environmental flows for the Roaring Fork River and/or its tributaries with potential interested irrigators.
- 3) Identify opportunities for water sharing with East Slope water users.
- 4) Provide recommendations for one or more ATM projects to be implemented in Phase 2.

#### **TASKS**

### Task 1: Summarize Municipal Projected Firm Yield Demands

Review existing data and reports related to municipal water needs in time, location, amount, and hydrologic year type. Consultant team will review and summarize the City water intake structures and locations, municipal water demand data and projections, and available streamflow data at critical intake locations. Consultant team will characterize projected firm yield deficits to inform ATM project demands. This task will be informed by previous work by the City and its consultants and may include analysis of proposed infrastructure and facilities.

Deliverable: A memorandum describing the municipal projected firm yield demands will be developed.

# Task 2: Summarize Environmental Flow Needs for the Upper Roaring Fork River and Key Tributaries

Review existing data and reports related to environmental flow needs and flow shortages in time, location, amount, and hydrologic year type. Consultant team will obtain and compile data from a variety of sources to identify environmental flow needs. These sources include non-consumptive needs databases or reports, such as SWSI or Basin Implementation Plans; as well as any instream/environmental flow quantification data. This information will be used to summarize the streamflow required to meet the legal thresholds required for instream flow use. This initial review will also include an analysis of streamflow data to identify the nature and extent of flow shortages in the project area that might impact the health of the natural environment. For streams where data is not available, streamflow estimates may be derived using modeling techniques, water official and water user interviews, or other means. This information provides the basis for determining the need for environmental flows, including location, amount and timing.

Deliverable: A memorandum describing the environmental flow needs will be developed.

Task 3: Exploration of Potential ATM Water Supplies in the Upper Roaring Fork River Basin Explore agricultural water rights diverting at or upstream of critical locations of the upper Roaring Fork River and key tributaries to determine ATM opportunities. Characterizations of the water rights will be made including location, diversion rate, adjudicated priorities, summarization of diversion records, and a preliminary analysis of yield performance of the water right under various hydrologic conditions. A description of the historical agricultural use of these water rights will also be included. At a minimum, this will include a description of the historical crops and livestock operations, estimated acreages/head count and crop yields, and irrigation methods. Previous work characterizing water rights in the study area may be incorporated in this task.

Deliverable: A memorandum describing the results of this task will be included.

#### Task 4: Develop and Implement Outreach Strategies to Potential Agricultural Partners

Consultant team will meet with and educate agricultural water users about the voluntary nature and economic, water rights, and environmental benefits of potential ATM projects, as well as the types of water transactions that may be available, and the processes for approval. Example of existing ATM projects and specific ways in which irrigators are benefiting from agreements and payments will be shared.

Deliverable: Consultant team will document input from outreach participants regarding their possible participation in an ATM, as well as concerns and potential barriers to participation in ATM projects.

### Task 5: Identification of ATM Opportunities for ISFs and Municipal Uses

Based on the tasks above, the team will identify and evaluate potential ATM projects in the Roaring Fork River basin that will provide water for environmental flows and/or municipal use. The following subtasks will be evaluated for potential ATM projects the emerge with irrigator partners.

#### **Yield Analysis**

Consultant team will provide a preliminary estimate of environmental benefits and municipal firm yield that each of the identified potential ATM projects may provide. The yield analysis will consider what kind of ATM is proposed; such as an interruptible water supply agreement (i.e. 3 out of 10 years), partial year irrigation, and/or deficit irrigation.

### **Due Diligence**

Preliminary due diligence on water rights identified with interested irrigators will be conducted to determine their feasibility for potential ATM projects. The analysis may include review of decrees, ditch company bylaws, deeds, encumbrances, and relevant agreements, and will identify and fatal flaws or challenges such as shared ownership, shepherding, shared infrastructure, augmentation requirements, or potential injury to other water rights. The data reviewed will be from publicly available records.

#### **Economic Analysis of ATM Concepts**

To provide an accurate understanding of the economic considerations of the potential agricultural partners in an ATM strategy, the economic baseline conditions of the agricultural operation(s) will be established to calculate an estimate of baseline net farm income under full water and, potentially, limited water conditions. These baseline conditions can then be compared to operations under an ATM to help determine the water's value to the operator and provide a rational starting point for negotiating the ATM price. To further inform the team, identified water rights will be compared to recent sales of water rights in the vicinity to help determine current value. Also included in this task will be an analysis and recommendation for a method of price adjustment for the ATM.

**Identifying Required Water Court and/or Administrative Processes for Specific ATM Strategies**The legal analysis will identify the appropriate transaction mechanism based on statutory limitations and water user preference. The legal analysis will describe the approval process that will be necessary for implementation of a potential ATM project.

#### **Evaluate Potential ATM Projects**

Based on the analysis described above, the Consultant team will develop evaluation criteria to identify the advantages and disadvantages for each of the ATM concepts, including competing or complimentary interests between instream flows and municipal uses.

Deliverable: Consultant team will provide a written summary of the analysis of the potential ATM project.

#### Task 6: Develop Conceptual Plans of Operation for ATMs

Consultant team will develop conceptual plans of operation for selected ATM projects (to be determined in consultation with the Project Team). These plans will describe the baseline conditions, recommend a water sharing strategy (e.g. interruptible water supply agreement, partial season irrigation, etc.) and outline key terms that the water sharing agreement should include such as timing, amounts of water and legal mechanisms necessary to implement the transfer of water.

Deliverable: Consultant team will provide plans of operation for all viable ATM projects.

### Task 7: Identifying Opportunities for Water Sharing with East Slope Water Users

This task will identify and analyze water sharing opportunities with East Slope water users that are currently diverting from the Roaring Fork River basin. Specifically, the consultant team will examine opportunities and constraints associated with water sharing strategies involving the Twin Lakes Tunnel and/or the Boustead Tunnel. Considering the complexity of any such water sharing agreement, the consultant team will identify any potential partners willing to discuss a possible water-sharing ATM strategy and facilitate a meeting managers and operators of the projects as well as water users that own water rights in those projects.

Deliverable: Consultant team will summarize any potential water sharing opportunities to pursue in Phase 2.

#### Task 8: Public Outreach and Communication

To ensure that the community is kept apprised of the project, the Consultant team will provide updates and/or presentations to City Council, Colorado River Basin Roundtable and other community groups and interested stakeholders as requested by the Project Team.

Deliverable: For any outreach requested by the Project Team, Consulting Team will document meetings, attendees, and key discussion points.

### **Task 9: Project Management**

This task involves the management of the project, including conducting team meetings, calls and grant management responsibilities including submitting regular progress reports and invoicing. This task also includes directing subcontractor efforts to complete the deliverables of the project.

Deliverable: Regular progress reports and invoicing including providing the City materials ready for submission to the CWCB to invoice for grant reimbursement.

#### Task 10—Final Report

Consultant team will produce a final report to the CWCB describing the project's findings and recommendations.

Final Deliverable: A final report describing the ATM project will be provided to the CWCB in digital format.

# EXHIBIT B PROFESSIONAL SERVICES AGREEMENT

# Schedule and Budget

Task	Start Date	Finish Date
Task 1: Identify Municipal Projected Firm Yield Demands	NTP	NTP + 6 mos
Task 2: Identify Environmental Flow Needs for the Upper Roaring Fork River and Key Tributaries	NTP	NTP + 6 mos
Task 3: Investigations of Potential ATM Water Supplies in the Upper Roaring Fork River Basin	NTP	NTP + 6 mos
Task 4: Develop and implement outreach strategies to potential agricultural partners	NTP	NTP + 10 mos
Task 5: Identification of ATM opportunities for ISFs and Municipal uses	NTP + 6 mos	NTP + 12 mos
Task 6: Develop Conceptual Plans of Operation for ATMs	NTP + 12 mos	NTP + 20 mos
Task 7: Identifying Opportunities for Water Sharing with East Slope Water Users	NTP	NTP + 22 mos
Task 8: Public outreach and communication	NTP	NTP + 26 mos
Task 9: Project Management	NTP	NTP + 26 mos
Task 10—Final Report	NTP + 16 mos	NTP + 26 mos

Project Personnel:	l .	M Project Ianager	Enş	gineering	F	Economist		Legal	ISF Project Manager		Agronomist		Outreach & Comm Specialist		Admin.		Total Labor Costs
Hourly Rate:		\$160		\$150		\$190		\$250		\$115		\$125		\$100		\$75	
Task 1: Summarize Municipal Projected Firm Yield Demands	\$	1,500.00	\$	3,000.00	\$	1,520.00			\$	-							\$6,020.00
Task 2: Summarize Environmental Flow Needs for the Upper Roaring Fork River and Key Tributaries	\$	1,500.00	\$	-	\$	-			\$	5,000.00							\$6,500.00
Task 3: Investigations of Potential ATM Water Supplies in the Upper Roaring Fork River Basin	\$	4,000.00	\$	6,000.00	\$	4,560.00			\$	-							\$14,560.00
Task 4: Develop and Implement Outreach Strategies to Potential Agricultural Partners	\$	2,400.00	\$	3,600.00	\$	10,640.00			\$	2,000.00			\$	2,500.00			\$21,140.00
Task 5: Identification of ATM opportunities for ISFs and Municipal uses	\$	5,500.00	\$	6,000.00	\$	-	\$	1,500.00	\$	4,000.00	\$	2,500.00					\$19,500.00
Task 6: Develop Conceptual Plans of Operation for ATMs	\$	8,000.00	\$	8,400.00	\$	12,160.00	\$	2,000.00	\$	2,000.00	\$	1,500.00					\$34,060.00
Task 7: Identifying Opportunities for Water Sharing with East Slope Water Users	\$	10,500.00	\$	3,600.00	\$	1,520.00	\$	5,000.00	\$	2,000.00							\$22,620.00
Task 8: Public outreach and communication	\$	4,000.00	\$	6,000.00	\$	1,520.00			\$	1,020.00			\$	2,500.00			\$15,040.00
Task 9: Project Management	\$	7,500.00	\$	1,800.00	\$	-			\$	-					\$	3,000.00	\$12,300.00
Task 10: Final Report	\$	5,500.00	\$	3,600.00	\$	4,560.00	\$	1,000.00	\$	1,460.00	\$	500.00	\$	1,000.00			\$17,620.00
Total Hours:		315.00		280.00		192.00		38.00		152.00		36.00		60.00		40.00	
Total Labor Costs:		\$50,400		\$42,000		\$36,480		\$9,500		\$17,480		\$4,500		\$6,000		\$3,000	\$169,360.00
																	Total Direct Costs
Direct Costs:																	
Mileage	\$	6,500		3,500		1,500	_	,	_	- ,	-	1,500					\$17,500.00
Lodging	\$	1,600	\$	1,000	\$	600	\$	500	\$	1,000	\$	400					\$5,100.00
Misc. Expenses	\$	1,000	\$	500	\$	200			\$	100	\$	100					\$1,900.00
Copies (including final report)	\$	100						`									\$100.00
Total Direct Costs:	\$	9,200	\$	5,000	\$	2,300	\$	1,500	\$	4,600	\$	2,000					\$24,600.00
10% Administration																	\$19,396.00
												Total Project Costs:					\$213,356.00
												Cash Match Amount					\$30,000.00
												CWCB ATM Grant Request:					\$183,356.00



#### **MEMORANDUM**

**TO:** Mayor Torre and Aspen City Council

**FROM:** Robert Schober, Capital Asset Project Manager

**THROUGH:** Gena Buhler, Executive Director Wheeler Opera House

**MEMO DATE:** March 16, 2020

**MEETING DATE:** March 24, 2020

RE: Wheeler Opera House Infrastructure & Modernization Phase 1

Scope

#### **REQUEST OF COUNCIL:**

Request approval of releasing the remaining Phase 1 scope for the Wheeler Opera House Modernization & Infrastructure Project upgrades to Aspen Constructors Inc. which includes structural, mechanical, plumbing & electrical work.

#### **SUMMARY AND BACKGROUND:**

Mills and Schnoering Architects was awarded a contract via Resolution #74 on July 8<sup>th</sup>, 2019, to design and develop construction drawings for the Wheeler Renovation. Construction documents have been completed for the Phase 1 project scope (see below for phasing schedule) and submitted to the building department for permit.

Aspen Constructors (ACI) was awarded a contract to perform pre-construction services for the project. The freight elevator modernization scope of the project was released on January 28<sup>th</sup>, 2020 via resolution #10-2020

Due to time constraints (the Wheeler has a hard construction window in spring of 2020 from April – June during which the facility will be dark with no scheduled operations), the logistical challenges of working inside the Aspen Core and the breadth of work required for the project, the project team will be phasing construction. This will also mitigate the impacts to the already busy Mill St. Hyman Ave. corridor as several other projects in that area are currently underway. The current phasing plan is as follows:

### A. Phase 1- April to June 1, 2020

Elevator, overhead door. Select portions of electrical, mechanical & plumbing improvements. Removal and sampling of stone.

B. Phase 2- Spring 2021. 1 month-5 weeks prox.

Utility upgrades (City of Aspen electric), Black Hills, parking lot, loading sidewalk, remaining mechanical, electrical.

- C. Phase 3- Fall 2021. 2.5 months. Labor Day until stop for inclement weather.S. Mill Street East masonry replacement/repairs
- D. Phase 4- Spring 2022. April 1 until Food and Wine festival. Hyman Street - South masonry replacement/repairs
- E. Phase 5A- Fall 2022 S. Mill Street sidewalks
- F. Phase 5B- Fall 2022 Hyman Street sidewalks

#### **DISCUSSION:**

Staff is requesting approval of awarding the remaining phase 1 scope in the amount of seven hundred thousand, six hundred four dollars (\$704,604) to Aspen Constructors (Exhibit A). The summary of the work to be performed is as follows:

- New overhead loading door installation & associated relocation of mechanical equipment on the west side of the Wheeler Opera House loadout area
- Sampling of existing stone & selection of new exterior stone for phased exterior masonry repairs and testing of materials & methods
- Rework of plumbing vent piping and boiler vent piping including the relocation of an existing boiler (preparation for future phase upgrades)
- Installation of control wiring and hardware to tie in relocated boiler with existing controls system
- Renovate existing freight lobby room including relocation of mechanical equipment for new load-in/out lighting and heaters
- Install new electrical infrastructure for future service upgrades and upcoming phases of the project

Considering the current Covid-19 situation, ACI will not commence with any of the Phase 1 scope until the City has issued a formal notice to proceed. We will continue to evaluate the situation on a day/day basis and the health and safety of the workers and public will remain at the forefront of any decision to proceed with work.

#### FINANCIAL IMPACTS:

This request is funded through a 2019 Capital Project via the Wheeler Opera House Fund #120; Capital Project #51041: Wheeler Building and Site Improvements, which will be included in the spring supplemental to roll into 2020. Current project funding is as follows:

Current Project Budget	\$2,283,420
Total Obligated	\$1,000,288
ACI Freight Elevator Modernization	\$399,573.35
ACI Remaining Phase 1 Scope Items	\$705,840.04
Remaining Project Funds	\$177,718.61

#### **ENVIRONMENTAL IMPACTS:**

This project will complete a portion of the electrical scope in preparation for an electrical service upgrade in order to position the Wheeler Opera House to leverage renewable electricity for heating/cooling and snowmelt in the future.

#### **ALTERNATIVES:**

#### **RECOMMENDATIONS:**

Council award Aspen Constructors Inc. the remaining project phase 1 scope in the amount seven hundred thousand, six hundred four dollars (\$705,840.04)

### **CITY MANAGER COMMENTS:**



#### **RESOLUTION # 22**

(Series of 2020)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, APPROVING A CONTRACT CHANGE ORDER FOR THE WHEELER OPERA HOUSE PHASE 1 PROJECT BETWEEN THE CITY OF ASPEN AND ASPEN CONSTRUCTORS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT CHANGE ORDER ON BEHALF OF THE CITY OF ASPEN, COLORADO.

WHEREAS, the City and Aspen Constructors have proposed a change order for the Wheeler Opera House Phase 1 project, a copy of which is attached hereto as Exhibit A; and,

WHEREAS, the City Council has determined that it is in the best interest of the City of Aspen to approve the Contract Change Order for this project pursuant to the terms thereof.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO,

That the City Council of the City of Aspen hereby approves the attached Contract Change Order between the City of Aspen and Aspen Constructors and does hereby authorize the City Manager to execute the Contract Change Order on behalf of the City of Aspen.

INTRODUCED, READ AND ADOPTED by the City Council of the City of Aspen on the  $24^{th}$ , day of March 2020.

Torre, Mayor	

I, Nicole Henning, duly appointed and acting City Clerk do certify that the foregoing is a true and accurate copy of that resolution adopted by the City Council of the City of Aspen, Colorado, at a meeting held, March 24, 2020.





March 17, 2020 City of Aspen 130 South Galena Street Aspen, CO 81611 (970) 920-5079

# **Wheeler Opera House Phase 1**

To all it may concern:

Aspen Constructors Incorporated (ACI), is honored to submit a Change Order for the Wheeler Opera House Phase 1. The scope of this phase of the project will comprise the following:

- Installation of Loading Dock Door and Man Door
- Reconfiguration of Electrical/Mechanical Elements
- Mock-ups of Exterior Masonry and Painting Restoration

We appreciate the opportunity to work with the City of Aspen on the upgrade of the Wheeler Opera House.

Sincerely,

Michael L. Tanguay, President



# WHEELER OPERA HOUSE (Phase 1) - PRELIMINARY SCHEDULE OF VALUES \*\*\*For T&M budgeting only. This does not constitute a bid, proposal or guarantee.

	SPEC SECTION	DESCRIPTION OF WORK	QUANTITY	UNIT OF MEASURE	TYPE OF COST	UNIT COST	SUB AMOUNT	MATERIALS	EQUIPMENT	ACI LABOR
DIVISION 1	GENERAL	\$186,993.33					\$64,748.33	\$0.00	\$0.00	\$122,245.00
01-050	Preconstruction	Allowance for Superintendent and Assistant Project Manager to facilitate testing and approval of all materials in Phase 1, Unit cost based on a average hourly rate. Does not include the Preconstruction Budget (8.28.2020) for \$44.893.96	120	Hours	Allowance	\$130.00				\$15,600.00
01-100	Project Manager	Allowance for Project Manager to procure and assemble information for the completition of the project.	135	Hours	Allowance	\$95.00				\$12,825.00
01-110	Proejct Engineer	procurement and documentation of the project. 15 hrs a week for 8 weeks	120	Hours	Allowance	\$53.00				\$6,360.00
010-140	Assistant Project Manager	Allowance for 8 weeks of project coordination services at 35 hours per week. Does not include Project Manager Hours budgeted in the Elevator Modernization Change Order #002 (1.23.2020), for \$28,500.00	280	Hours	Allowance	\$75.00				\$21,000.00
01-200	Superintendent	Allowance for a full time superintendent 40 hours per week for 10 weeks. For the duration of the project + 1 week for project setup. Does not include Superintendent Hours budgeted in the Elevator Moderization Change Order #002 (1.23.2020), for \$24,700.00	430	Hours	Allowance	\$130.00				\$55,900.00
01-210	Foreman									
01-215	Skilled labor									
01-220	General Labor/Clean-up	Allowance for 1 full time general labors to help with material moving, staging & ongoing site organization	320	Hours	Allowance	\$33.00				\$10,560.00
01-300	Engineering & Testing									
01-310	Permits & Fees	Permit for Encroachment, to allow work for mockups on the building	1	Lump Sum	Allowance	\$2,405.94	\$2,405.94			
01-340	General Liability Insurance	INCLUDED BELOW								
01-400	Mobilzation/Demobilization									
01-410	Jobsite Truck	Included in the Elevator Modernization Change Order #002 (1.23.2020), for \$2,500.00								
01-420	Jobsite Trailer									
01-430	Temporary Toilet	Allowance for 2 temporary toilets cleaned twice a week for 2 months	2	Months	Allowance	\$450.00	\$900.00			
01-440	Trash Removal									
01-460	Temporary Utilities									
01-470	Equipment Rental	Allowance for scaffolding for Mock up work, which includes delivery, set up, inspection, and disassembly	30	Days	Allowance	\$1,000.00	\$30,000.00			
01-500	Shipping & Delivery	Allowance to ship materials for Sampling, testing and approval	3	Shipments	Allowance	\$3,714.13	\$11,142.39			
01-510	Reprographics	Allowance for permit set of drawings and construction drawings on site.	1	Lump Sum	Allowance	\$1,800.00	\$1,800.00			
01-600	Security									<u> </u>
01-700	Final Clean	Allowance for 2 person cleaning crew for 2 days	40	Hours	Allowance	\$50.00	\$2,000.00			<u> </u>
01-750	Temporary Office	Allowance for temporary office supplies	1	Lump Sum	Allowance	\$500.00	\$500.00		ļ	ļ
01-825	Parking on Job Sites	Allowance for 4 parking passes for 40 days from the city of Aspen	40	Days	Allowance	\$400.00	\$16,000.00			
		·							1	1



S	SPEC SECTION	DESCRIPTION OF WORK	QUANTITY	UNIT OF MEASURE	TYPE OF COST	UNIT COST	SUB AMOUNT	MATERIALS	EQUIPMENT	ACI LABOR
DIVISION 2	SITEWORK	\$41,474.11					\$8,012.06	\$0.00	\$0.00	\$33,462.05
02-100	Asbestos Abatement									
0E 100	Assested Abdrement	Allowance to demolish existing metal door, frame, and threshold.(D1/D-1.1)(D1/D-3.0) Remove existing CMU and brick masonry wall.(D2/D-1.1)(D2/D-3.0) Remove the								
02-110	Loading Dock Demolition	existing metal ramp, cables, and related accessories.(D5/D-1.1)(D5/D-3.1) Remove existing CMU + brick for new mechanical piping + hood salvage brick for infill areas.(D13/D-3.0)	1	Lump Sum	Allowance	\$26,662.05				\$26,662.05
02-200	Surveying & Layout									
02-210	Radon	Allowance for Radon subcontractor to move radon vent pipes further south on west side of building. (D10/D-3.0)(P6/A-1.1)(E4/A-3.3)(D1/A-6.1)(001/MD-201-PH1) (2/ED100PH1)(2/E100PH1) Radon pipe vents tight to ceiling (A-2.1)(005/MD-201-PH1)	1	Lump Sum	Allowance	\$6,332.81	\$6,332.81			
02-220	Testing & Inspections									
02-300	Sitework									
02-310	Dewatering									
02-320	Soil Treatment									
02-400	Wells									
02-500	Fencing/Temp Fencing	Allowance for the rental of chain link fencing with tarp covering for the duration of the project.	1	Lump Sum	Allowance	\$1,679.25	\$1,679.25			
02-700	Paving									
02-900	Landscaping									
02-955	Site Protection	Allowance for protection of existing finishes in areas affected by construction.	6800	Sqft	Allowance	\$1.00				\$6,800.00
DIVIDION O	201107	<b>***</b>					40.00	40.00	***	*0.00
DIVISION 3	CONCRETE	\$0.00					\$0.00	\$0.00	\$0.00	\$0.00
03-100	Concrete Cutting									
03-200	Concrete Foundations									
03-400	Concrete Flatwork	Refer to Line Items 06-100 Labor and 06-150 Materials								
03-500	Precast Concrete									
03-600	Concrete Protection									
03-700	Misc. Concrete									
DIVISION 4	MASONRY	\$23,239.00					\$21,699.00	\$0.00	\$0.00	\$1,540.00
231011 7	10011111						<b>42.,300,00</b>	75100	73,00	Ţ.,5 lolo0
04-400	Masonry	Allowance to Remove at least one stone in hatched areas of each course to determine original fastening. Replace with new stone to match existing, color, texture, composition + original profile + fastening typ. at all levels. (E10/A-3.1) Provide microabrasive mockup for paint removal and further evaluation of stone condition at hatched areas assume 3 S.F. Min. (E11/A-3.1) Provide retooling sample where indicated. (E13/A-3.1)	1	Lump Sum	Allowance	\$21,699.00	\$21,699.00			

3/17/2020



04-410 Load 04-600 Mas  DIVISION 5 MET  05-150 Sho  05-200 Stru	asonry Infill @ New boading Dock Door asonry Paving  ETALS  moring  tructural Steel	Allowance to Add masonry infill at new loading dock door, and around new louver. (D9,D14/D-3.0)(E3/A-3.3)(D1/A-6.1)(514/PD-201-PH1)  \$32,180.00  Allowance for temporary needle beam shoring to allow for work on expandad garage door opening (6)(2/S-1.1). Allowance for ACI and Steel subcontractor to install New steel lintel and columns for rollup door support (P5/A-1.1)(D3&D5/A-6.1)(D1,D2&D3/A-6.2)(S-1.1), Steel subcontractor to install steel angle/threshold and steel plates for jambs (D3&D5/A-6.1)(D1&D2/A-6.2) Allowance for New steel ladder frame around existing sprinkler piping (P4/A-1.1)(A-2.1)(1&6/S-1.1),	1	Hours  Lump Sum	Allowance	\$70.00 \$27,980.00	<b>\$27,980.00</b> <b>\$27,980.00</b>	\$0.00	\$0.00	\$1,540.00 \$4,200.00
05-150 Sho 05-200 Stru	ETALS  noring  tructural Steel	Allowance for temporary needle beam shoring to allow for work on expandad garage door opening (6)(2/S-1.1). Allowance for ACI and Steel subcontractor to install New steel lintel and columns for rollup door support (P5/A-1.1)(D3&D5/A-6.1)(D1,D2&D3/A-6.2)(S-1.1), Steel subcontractor to install steel angle/threshold and steel plates for jambs (D3&D5/A-6.1)(D1&D2/A-6.2) Allowance for New steel ladder frame around existing sprinkler piping (P4/A-1.1)(A-2.1)(1&6/S-1.1),	1	Lump Sum	Allowance	\$27,980.00		\$0.00	\$0.00	\$4,200.00
05-150 Sho	noring tructural Steel	Allowance for temporary needle beam shoring to allow for work on expandad garage door opening (6)(2/S-1.1). Allowance for ACI and Steel subcontractor to install New steel lintel and columns for rollup door support (P5/A-1.1)(D3&D5/A-6.1)(D1,D2&D3/A-6.2)(S-1.1), Steel subcontractor to install steel angle/threshold and steel plates for jambs (D3&D5/A-6.1)(D1&D2/A-6.2) Allowance for New steel ladder frame around existing sprinkler piping (P4/A-1.1)(A-2.1)(1&6/S-1.1),	1	Lump Sum	Allowance	\$27,980.00		\$0.00	\$0.00	\$4,200.00
05-200 Stru	ructural Steel	work on expandad garage door opening (6)(2/S-1.1). Allowance for ACl and Steel subcontractor to install New steel lintel and columns for rollup door support (P5/A-1.1)(D3&D5/A-6.1)(D1,D2&D3/A-6.2)(S-1.1), Steel subcontractor to install steel angle/threshold and steel plates for jambs (D3&D5/A-6.1)(D1&D2/A-6.2) Allowance for New steel ladder frame around existing sprinkler piping (P4/A-1.1)(A-2.1)(1&6/S-1.1),	1	Lump Sum	Allowance	\$27,980.00	\$27,980.00			
05 225 Labo	iructural Steel	work on expandad garage door opening (6)(2/S-1.1). Allowance for ACl and Steel subcontractor to install New steel lintel and columns for rollup door support (P5/A-1.1)(D3&D5/A-6.1)(D1,D2&D3/A-6.2)(S-1.1), Steel subcontractor to install steel angle/threshold and steel plates for jambs (D3&D5/A-6.1)(D1&D2/A-6.2) Allowance for New steel ladder frame around existing sprinkler piping (P4/A-1.1)(A-2.1)(1&6/S-1.1),	1	Lump Sum	Allowance	\$27,980.00	\$27,980.00			
		Allana de la Caracada de La Caracada de La Caracada de La Caracada de Caracada								
0.0	Structural Steel	Allowance for 2 carpenters to temporary brace structure for steel installation.	60	Hours	Allowance	\$70.00				\$4,200.00
DIVISION 6 WO	OOD & PLASTICS	\$49,500.00					\$0.00	\$7,500.00	\$0.00	\$42,000.00
06-100 Lab		Allowance for 3 Carpenters to do misc. work insupport of subcontractors through the duration of the project.	600	Hours	Allowance	\$70.00				\$42,000.00
06-150 Mate	aterials .	Allowance for misc. materials used throughout the project.	1	Lump Sum	Allowance	\$7,500.00		\$7,500.00		
	HERMAL & MOISTURE ROTECTION	\$0.00					\$0.00	\$0.00	\$0.00	\$0.00
DIVISION 8 DOG	OORS & WINDOWS	\$18,604.46					\$12,904.46	\$1,500.00	\$0.00	\$4,200.00
00.100										<b></b>
		Allowance to Replace existing, with new loading dock man door.(P1/A-1.1)(D1/A-6.1)	1	Lump Sum	Proposal	\$1,500.00		\$1,500.00		
08-300 Load	pading Dock Door	Allowance for the Fabrication, freight and install new 10' x 12' loading dock door (P2/A-1.1)(E2/A-3.3) (D1&D3/A-6.1)(D1&D2/A-6.2)(S-1.1)	1	Lump Sum	Allowance	\$12,904.46	\$12,904.46			
08-350 Doc	abor to Install Loading ock Door	Allowance for 2 carpenters to assist install loading dock door.	60	Hours	Allowance	\$70.00				\$4,200.00
	ntry Doors									<del>                                     </del>
	rindows kylights									<del></del>
	ardware			1						
	irrors & Glazing									
	lass Shower Doors									



S	PEC SECTION	DESCRIPTION OF WORK	QUANTITY	UNIT OF MEASURE	TYPE OF COST	UNIT COST	SUB AMOUNT	MATERIALS	EQUIPMENT	ACI LABOR
DIVISION 9	FINISHES	\$14,200.00					\$14,200.00	\$0.00	\$0.00	\$0.00
09-100	Stucco									
09-200	Drywall & Plaster	Allowance to Remove and replace GWB as needed.(A-2.1)	1	Lump Sum	Allowance	\$2,500.00	\$2,500.00			
09-250	Samples									
09-300	Tile & Stone									
09-400	Wood Flooring									
09-500	Carpet									
09-600 09-650	Epoxy Flooring Resilient Flooring									
09-800	Acoustical Treatment									
09-900	Painting & Staining	Allowance to Prep and paint new steel man door and frame, located in dock area (D1/D-3.0)(D1/A-6.1); Paint steel ladder frame used to protect sprinkler piping (P4/A-1.1); Patch and repaint toilet room ceiling to match existing (A-2.1); Provide one window mockup for: wood paint removal, epoxy repairs at wood trim including verticals, horizontals, and sill, prep, repaint wood sash + trim. (E12/A-3.1) Provide mockup of prep + painting metal cornice, for full width of mockup zone.(E14/A-3.1) Prep and paint existing clam shell door, frame, and threshold, repair areas of damage from demolished ramp attachment points.(E1/A-3.2) Paint new roll-up loading dock tube steel header, door jambs, and threshold (E2/A-3.3)(D1/A6.1).	1	Lump Sum	Allowance	\$11,700.00	\$11,700.00			
DIVISION 10	SPECIALTIES	\$0.00					\$0.00	\$0.00	\$0.00	\$0.00
DIVISION 10	SPECIALTIES	\$0.00					<b>\$0.00</b>	Ψ0.00	Ψ0.00	Ψ0.00
10-300	Fireplace & Stoves									
10-500	Specialties									
10-800	Toilet & Bath Accessories									
10-900	Maint. Materials & Supplies									
DIVISION 11	EQUIPMENT	\$0.00					\$0.00	\$0.00	\$0.00	\$0.00
11-100	Appliances			<del> </del>			-			
11-500	Specialty Equipment			<del>                                     </del>			<del> </del>			
11-500	орестану Ечирппени									
DIVISION 12	FURNISHINGS	\$0.00					\$0.00	\$0.00	\$0.00	\$0.00
	T OTTAIN TO THE TOTAL THE TOTAL TO THE TOTAL TOTAL TO THE	Ţ					40.00	<del></del>	<b>V</b> 0.00	<b>V</b> 0.00
12-100	Window Coverings									
12-500	Specialty Furnishings									
DIVISION 13	SPECIAL CONSTRUCTION	\$2,500.00					\$2,500.00	\$0.00	\$0.00	\$0.00
13-100	Pools & Spas									
13-600	Solar									
13-700	Security & Alarm Systems	Allowance to redo automated access to Freight Elevator Lobby	1	Lump Sum	Allowance	\$2,500.00	\$2,500.00			
13-900	Specialty Construction	10007		İ						
							1		İ	



	SPEC SECTION	DESCRIPTION OF WORK	QUANTITY	UNIT OF MEASURE	TYPE OF COST	UNIT COST	SUB AMOUNT	MATERIALS	EQUIPMENT	ACI LABOR
DIVISION 14	CONVEYING SYSTEMS	\$0.00					\$0.00	\$0.00	\$0.00	\$0.00
14-200 14-800	Elevators Scaffolding	Allowance for Thyssenkrupp to modernize the service elevator for the Wheeler Opera House. This line item is included in #002 (1.23.2020) Change Order								
		A.A A (A					410-0-10		40.00	40.00
DIVISION 15	MECHANICAL	\$107,077.42					\$107,077.42	\$0.00	\$0.00	\$0.00
15-300	Fire Protection	Allowance to relocate sprinkler heads in Freight Elevator Lobby and Mechanical Mezzanine	1	Lump Sum	Allowance	\$2,500.00	\$2,500.00			
15-400	Plumbing	Allowance for reconfiguring and rerouting of existing plumbing vent pipe (P7/A-1.1); existing boiler to be relocated and hung from ceiling, Existing 6" flue ductwork from boiler (007/MD-201-PH1), (A-2.1); Existing 4" waste/grease pipe to be reconfigured inside building (A-2.1)(501/PD-201-PH1); Basement PVC vent and sanitary piping to be resealed (504/P-200-PH1); Reroute 4" vent pipe from basement, through ceiling and into stairwell, connecting it to existing 4" vent pipe (513/P-200-PH1).	1	Lump Sum	Allowance	\$44,473.00	\$44,473.00			
15-600	Refrigeration	Allowance for Existing mechanical equipment and rack to relocated, Route piping to reconnect in freight lobby.(D7/D-3.0)(A-2.1)(E7/A-3.3)(725/MD-201-PH1)(020/M-201-PH1)	1	Lump Sum	Proposal	\$3,412.92	\$3,412.92			
15-700	HVAC	Allowance to relocate mechanical equipment (P10/A-1.1) For new misc. mechanical piping (D13/D-1.1); replacement of louver and frame (D9/D-3.0)(006/MD-201-PH1); Remove existing mechanical vent (D14/D-3.0)(006/MD-201), New mechanical louver/vent (P8/A-1.1)(E9/A-3.3)(117/M-201-PH1), Install ductwork (A-2.1), Existing 10" outside air ductwork to be relocated (009/MD-201-PH1), Existing boiler and associated hot water supply and return piping to be relocated(722/MD-201-PH1) Reconnect new outside air ductwork to FCU-1(E) and FCU-2(E)(109/M-201-PH1). Because of a wide range of Bids, the Sub Amount was the average of 4 bids.	1	Lump Sum	Allowance	\$56,691.50	\$56,691.50			
15-900	Test & Balance									
DIVISION 46	EL ECTRICA!	\$61,542.00					\$61 E42 00	\$0.00	\$0.00	\$0.00
DIVISION 16	ELECTRICAL	\$61,542.00					\$61,542.00	\$0.00	\$0.00	\$0.00
16-100	Electrical-120/240 Volt	Allowance for relocation of light fixtures and addition of infrared heating units in freight lobby (D15/D-3.0), (A-2.1); demolition of existing disconnects for condensing units, relocation under new work (1/ED-100-PH1); Demo existing Genset generator (1/ED200PH1); Demo and relocate various electric utilities (1-6/ED201PH1), (1/E100 PH1), (1/E200PH1), (2/E200PH1), (1/E201 PH1), (2/E201 PH1).	1	Lump Sum	Allowance	\$61,542.00	\$61,542.00			



SPEC SECTION	DESCRIPTION OF WORK	QUANTITY	UNIT OF MEASURE	TYPE OF COST	UNIT COST	SUB AMOUNT	MATERIALS	EQUIPMENT	ACI LABOR
16-400 Audio Visual									

		Subcontract	Materials	Equipment	ACI Labor		Contingency
Subtotal	\$537,310.32	\$320,663.27	\$9,000.00	\$0.00	\$207,647.05	20%	\$107,462.06
Contingency	20%	\$107,462.06					
Contractor Fee	10%	\$32,966.33	10%	10%			
General Liability Insurance	1.5%	\$8,059.65	1.5%	1.5%	1.5%		
Builders Risk Insurance	0.5%	\$2,686.55	0.5%	0.5%	0.5%		
Bond	3.23%	\$17,355.12	3.23%	3.23%	3.23%		
Total Fee	\$168,529.72						

TOTAL \$705,840.04

#NAME? Cost / SF



# **CHANGE ORDER**

OWNER ARCHITECT City of Aspen M+S Architects CONTRACTOR

Aspen Constructors, Inc.

PROJECT: Wheeler Opera House (Phase 1)

CHANGE ORDER NUMBER: 004

DATE:

3/17/2020

CONTRACTOR:

CONTRACT DATE:

ASPEN CONSTRUCTORS, INC. 309 A.A.B.C., SUITE G ASPEN, COLORADO 81611

PROJECT #: 2019-092

Summary of Scope of Work

Building exterior stone repairs/replacement, new loading dock door, new loading dock man door, redo automated access to freight elevator lobby, relocate sprinkler heads in freight elevator lobby and mechanical mezzanine.

CHANGE ORDER DESCRIPTION	\$565,411.64
DIVISION 1 GENERAL CONDITIONS	\$215,094.65
01-050 Preconstruction - Superintendent and Asst. Project Manager facilitate testing and approval of materials in Phase 1. ACI Labor	\$15,600.00
01-100 Project Manager - Procure and assemble information for completion of the project. ACI Labor	\$12,825.00
01-110 - Project Engineer - Procure and document the project. ACI Labor	\$6,360.00
01-140 Asst. Project Manager - 8 weeks of project coordination services. ACI Labor	\$21,000.00
01-200 Superintendent - Full time superintendent for the duration of the project plus 1 week for project setup. ACI Labor	\$55,900.00
01-220 General Labor/Clean-up - Full time general laborer to help with material moving, staging and ongoing site organization. ACI Labor	\$10,560.00
01310 Permits & Fees - Permit for encroachment to allow work for mockups on the building.	\$2,405.94
01-330 Builders Risk Insurance.	\$2,686.55
01-340 General Liability Insurance.	\$8,059.65
01-350 Performance/Maintenance Bond	\$17,355.12
01-430 Temporary Toilet - 2 temporary toilets cleaned twice per week for 2 months.	\$900.00
01-470 Equipment Rental - Scaffolding for mockup work, including delivery, set up, inspection, disassembly.	\$30,000.00
01-500 Shipping & Delivery - Ship materials for sampling, testing and approval.	\$11,142.39
01-510 Reprographics - Allowancce for permit set of drawings and construction drawings on site.	\$1,800.00
01-700 Final Clean - 2 person cleaning crew for 2 days.	\$2,000.00
01-750 Temporary Office - Temporary office supplies.	\$500.00
01-825 Parking on Job Site - 4 parking passes for 40 days from City of Aspen	\$16,000.00
DIVISION 2 SITEWORK	\$41,474.11
02-110 Loading Dock Demolition - Demolish existing metal door, frame and threshhold, existing CMU and brick masonry wall. Remove existing metal ramp, cables, and related accessories. ACI Labor	\$26,662.05
02-210 - Radon - Radon subcontractor to move radon vent pipes further south on west side of building. Radon pipe vents tight to ceiling.	\$6,332.81
02-500 Fencing/Temp. Fencing - Rental of chain link fencing with tarp covering for duration of project.	\$1,679.25
02-955 Site Protection - Protection of existing finishes in areas affected by construction. ACI Labor	\$6,800.00
DIVISION 4 - MASONRY	\$23,239.00
04-400 Masonry - Remove at least one stone in hatched areas of each course and replace with new stone to match. Provide microabrasive mockup for paint removal and further evaluation of stone condition at hatched areas. Provide retooling sample where indicated.	\$21,699.00
04-410 Masonry Infill at New Loading Dock Door - Add masonry infill at new loading dock door and around new louver. ACI Labor	\$1,540.00
DIVISION 5 - METALS	\$32,180.00



	needle beam shoring, new steel lintel and columns for rollup on ngle/threshold and steel plates for jambs. New steel ladder fra		\$27,980.00
05-225 Structural Steel Labor - 2 ca	rpenters to build temporary brace structure for steel installation	n. ACI Labor	\$4,200.00
DIVISION 6 - WOODS & PLASTICS			\$49,500.00
	orm miscellaneous work in support of subcontractors for the du	ıration of the	\$42,000.00
06-150 Materials - Miscellaneous ma	aterials used throughout the project.		\$7,500.00
DIVISION 8 - DOORS & WINDOWS			\$18,604.46
	sting with new loading dock man door.		\$1,500.00
08-300 Loading Dock Door - Fabrica	ation, freight and installation of new 10' x 12' loading dock door	r,	\$12,904.46
08-350 Labor Loading Dock Door - 2	2 carpenters to assist installation of loading dock door. ACI La	abor	\$4,200.00
DIVISION 9 - FINISHES			\$14,200.00
09-200 Drywall & Plaster - Remove	and replace GWB as needed.		\$2,500.00
toilet room ceiling to match existing. trim. Provide mockup of prep and p	nd paint new steel man door and frame, steel ladder frame. Perovide one window mockup for wood paint removal, epoxy rainting metal cornice. Prep and paint existing clam shell door, dock tube steel header, door jambs and threshold.	repairs at wood	\$11,700.00
DIVISION 13 - SPECIAL CONSTRUCTION	N		\$2,500.00
	Redo automated access to Freight Elevator Lobby.		\$2,500.00
DIVISION 15 - MECHANICAL			\$107,077.42
	rinkler heads in Freight Elevator Lobby and Mechanical mezza		\$2,500.00
reconfigured inside building. Basem	be relocated and hung from ceiling. Existing 4" waste/grease nent PVC vent and sanitary piping to be resealed.		\$44,473.00
15-600 Refrigeration - Relocate exis lobby.	ting mechanical equipment and rack. Route piping to reconne	ect in freight	\$3,412.92
	al equipment. Remove existing mechanical vent and install ne ductwork to be relocated. Reconnect new outside air ductwork		\$56,691.50
DIVISION 16 - ELECTRICAL			\$61,542.00
	ocate light fixtures and add infrared heating units in Freight Lol units, relocate under new work. Demolish existing Genset ge rical utilities.;		\$61,542.00
Contingency (20%)			\$107,462.06
Contractor Fee (10%)			\$32,966.33
			and the second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second second s
	Estimated Change Amount:  *** This is only an estimate and is not considered final	al projected cost	\$705,840.03
The original Estimated Contract Price was Net change by previously authorized Change Orde The Estimated Contract Price prior to this C	rshange Order was	\$	44,893.96 \$413,603.10 \$458,497.06
The Estimated Contract Price will be incre The new Estimated Contract Price including	ased by this Change Order in the amount of	\$	\$705,840.03 1,164,337.09
	oproved and implemented at a later date, schedule and cost im		
Not valid until signed by the Owner and	Contractor.		
The <b>Contract Time is anticipated to be <u>i</u></b> The date of Substantial Completion as of t		х	days. X/XX/XXXX
	Aspen Constructors Inc.	ity of Aspen	
ARCHITECT		VNER	
		30 South Galena Street	
ADDRESS		oress spen, CO 81611	-
BY DATE	DATE 3-17-20 BY	/ ATE	
DATE	ONIE OF ITTOO		



TO: Mayor and City Council

FROM: Karen Harrington, Director of Quality

Rebecca Wallace, Operations Manager, Community Development

THROUGH: Phillip Supino, Community Development Director

MEETING DATE: March 24, 2020

RE: Amendment Extension for Publicis Sapient Annual On-Demand Support

Contract

#### REQUEST OF COUNCIL:

Staff is seeking approval of an extension to the latest contract amendment for the Publicis Sapient Annual On-Demand Support Contract, which is providing technical support and enhancements to the City's permits management, land use planning, and code enforcement software system, Salesforce. The amendment extension provides additional functionality requested by departments, as well as funding for ongoing technical support.

## PREVIOUS COUNCIL ACTION:

On September 24, 2018, the City approved an Annual Contract with Publicis Sapient for the services described above. Since that time, Council has approved three amendments to this contract to continue funding the technical support required for this complex system.

## BACKGROUND:

Publicis Sapient (formerly Vertiba) began developing this system in late May 2017. The system went live with the first six permit types in June of 2018, providing enhanced functionality for staff and managers, and an online application and management portal for the development community. During the same time, the system went live with the ability to handle contractor licenses and professional certifications for those in the construction field.

This new system, which uses an app called BasicGov on the Salesforce platform, is integrated with GIS and the Bluebeam online plans review software. In addition, configured output files supply financial information for Oracle, and the system consumes configured input files from Innoprise to provide information on whether applicants have required City business licenses.

In March 2019, staff rolled out an additional eight permit types (Phase 2 permits). The remaining permits (seven total), including building permits, went live over the summer 2019. Staff are now focusing on the full deployment of the land use planning functionality, the violations functionality, and the public portal.

#### **DISCUSSION**

At this time, the amount of funding desired to continue the On-Demand technical service contract until October 1 is \$50,000, so this item is being brought forward for Council approval. All work performed under these amendments is on a time and materials basis.

RECOMMENDATIONS: Approve the proposed contract amendment extension to provide necessary support for the City's permits, licensing, planning, and violations management software system.

FINANCIAL/BUDGET IMPACTS: The funding for these amendments was included within the 2020 operational budget for the Building Dept (\$75,000 in total). No new funds are being requested.

ENVIRONMENTAL IMPACTS: The system will provide electronic end-to-end processing of permits, planning cases, and code enforcement, reducing paper use.

ALTERNATIVES: Council could forego approving the contract amendment extension.

PROPOSED MOTION: That the Council approve Resolution #024, Series of 2020, a contract amendment extension to the Annual VOD Support Contract with Publicis Sapient, specifically Amendment three.

CITY MANAGER COMMENTS:		
	 <del></del>	 

#### **RESOLUTION #024**

(SERIES OF 2020)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, APPROVING A PROPOSED EXTENSION TO CONTRACT AMENDMENT 3 BETWEEN THE CITY OF ASPEN AND PUBLICIS SAPIENT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT EXTENSION ON BEHALF OF THE CITY OF ASPEN, COLORADO.

WHEREAS, the City of Aspen has previously entered into a contract with Publicis Sapient for services related to the support of a permits, licensing violations, and land use application management sytem; and,

WHEREAS, there has been submitted to City Council a request to approve necessary amendments to said contract (Project number contract number 2018-105, dated September 24, 2018) for the purposes of providing the following additional services and functionality:

- Expert professional support services
- Automation, changes and system enhancements, as requested by staff and prioritized by Directors

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO

That the City Council of the City of Aspen hereby approves the referenced amendment extension for the continued development and implementation of the City's permits, licensing, land use planning, and violations management sytem, between the City of Aspen and Publicis Sapient, and does hereby authorize the City Manager to execute the amendment extension on behalf of the City of Aspen.

INTRODUCED, READ AND ADOPTED by the City Council of the City of Aspen on the 24th day of March

2020.		
	Torre, Mayor	_
3 3	cting City Clerk, do certify that the foregoing is a true opted by the City Council of the City of Aspen, Colorado	
	Nicole Henning, City Clerk	_

# EXTENTION OF AMENDMENT 3 TO ANNUAL VOD CONTRACT WITH PUBLICIS SAPIENT

(contract number 2018-105) March 17, 2020

# **Contract Support Provided**

This amendment extends the contract with Publicis Sapient by \$50,000.00 to continue funding for ongoing technical support for the City's permits management system, Salesforce, until October 1, 2020. Publicis Sapient will engage with Client to implement the services described below:

#### **On-Demand Support Services**

- User maintenance (adding and modifications, de-activating, password resets, role management, profile management, public groups, queues)
- Security model management (record sharing, accessibility settings, password & session settings, delegated administration)
- Configuration Changes (creation or modification of custom objects, record types, fields, workflows, approval processes, page layouts, custom links and buttons, report types, Apps, tabs, labels, validation rules, assignment rules, auto-response rules)
- Modification of standard objects (Ideas, Campaigns, Products, Assets, Contracts, Leads, Account, Opportunities, Activities, Cases, Solutions, Users)
- Analytics support (creation, modification and management of views, reports and dashboards)
- · Template support (create, edit email templates, mail merge templates, letterhead)
- AppExchange package support (installation, management or removal of AppExchange packages)
- Trigger Development (develop, test, deploy triggers that can be completed in 8 hours or less)
- Feature activation requests
- Data management (import of records; mass transfer; mass delete services. Assumes data is provided by customer in formatted CSV file)

# Out of Scope

Project work, including development of new applications or major functionality within an existing application, automation of new processes, integration to new systems, change management and other services not listed above are considered out of scope.

# Support Response Time

Publicis Sapient's technical support staff is available Monday through Friday, 6:00 a.m. to 6:00 p.m. Mountain Standard Time, and will respond to all requests within the schedule below. With this response, Publicis Sapient support staff will provide an estimated time for completion of the requested work or a request for further clarification to facilitate its resolution.

While Service Requests are initiated online, when required, phone calls will be arranged.

Severity	Initial response	Further follow-up	Description
1 - Critical	Immediate	4 Business hours	System down* or a critical defect inhibiting the majority of users from performing key tasks with no workarounds.
2 - High	Immediate	1 Business Day	Important defect that significantly impacts performance of a large number of users, but a workaround exists.  A critical defect inhibiting a small number of users from performing key tasks with no workarounds.  User changes, e.g. add, edit, reset passwords, or inactivate end users from the application.
3 - Medium	Immediate	5 Business Days	Enhancement that improves usability for the majority of users or a non-critical defect.
4 - Low	Immediate	10 Business Days	Enhancement that improves usability for a small set of users or is cosmetic in nature.  Configuration changes (completion time varies with scope)  Publicis Sapient will respond with either an estimated time for completion of the requested work or a request for further clarification on the request to facilitate scoping within 3 business days. Publicis Sapient will endeavor to complete the work as soon as possible, but does not guarantee any specific response time for configuration work.

# Rates and Staffing

This amendment incorporates new staff and discounted rates, for a broader-based group of Publicis Sapient support. The staff roles and rates are:

Solution Architect: \$190 per hour
Technical Architect: \$190 per hour
Salesforce Consultant: 190 per hour
Developer: 190 per hour

Rates will be charged on a times and materials basis. Weekly reporting of hours and funding consumed will be provided to the City.

# **LOE Estimates**

Publicis Sapient will provide Level of Effort (LOE) estimates for work anticipated to take more than 5 hours of time to research and repair. In those instances, work can only start on the item after approval by the City project manager.

# **Contract Cost**

This contract is not to exceed \$50,000.  Any unused hours will be rolled over integration.  Jason English	ces being rendered. 03/17/2020		
Publicis Sapient Authorized Rep Name	Publicis Sapient Authorize Rep Signature		Date
Phillip Supino Community Developmen	t Director D	ate	
Sara Ott, City Manager			

<sup>\*</sup>System down issues should be logged with Salesforce.



#### **MEMORANDUM**

TO: Mayor and City Council

FROM: Sara Ott, City Manager

**DATE:** March 19, 2020

RE: Request for Emergency Response Appropriations from the

**General Fund Balance, Resolution 25-2020** 

**SUMMARY:** Resolution #025-2020 provides new appropriations of \$200,000 from the City's General Fund for the purpose of aiding City of Aspen residents experiencing housing, childcare and food insecurity due to the drastic reduction of employment opportunities resulting from the impacts of COVID-19.

These financial resources are proposed to be transferred to Pitkin County Human Services to administer through its existing qualifications framework. This includes Pitkin County verifying income, household size, needs, and leveraging eligibility for existing state and federal aid programs.

An intergovernmental agreement (IGA) would be executed by the Aspen city manager with Pitkin County to document details of tracking and reporting on the funds used for City of Aspen residents.

These funds may be eligible for reimbursement in the future through state and federal relief packages; however, there is no guarantee. Further, reimbursement processes take time, while the need is immediate for the City's economically vulnerable residents.

**BACKGROUND:** The City of Aspen has been under a local disaster emergency declaration since March 12, 2020 due to COVID-19. Since the declaration, several Public Health Orders from local and state public health officials, as well as an Executive Order from Governor Polis, has halted most aspects of Aspen's hospitality economy. This has put some residents in immediate financial hardship for the most basic living needs as unemployment rises in the City.

As of March 19, 2020, midday, at least 50% of the 382 requests for relief that have been from City of Aspen residents. For these applications, County staff are conducting interviews and qualifying people as quickly as reasonably possible. Based on initial estimates from County staff, assistance is projected to be typically \$100-\$800/month for food plus additional dollars for housing assistance depending upon income and family size.

Without greater specifics at this time, an initial contribution of \$200,000 is proposed to add a significant boost to the County's efforts as bridge funding.

**FINANCES:** This is a new appropriation request from the fund balance of the City's General Fund. While the City's collections (from taxes and fees) will be muted for 2020 relative to previous forecasts assumed when the 2020 Budget was adopted, this additional \$200,000 can be supported from current reserves and will be factored into future spending authority decisions for this year.

**STAFF RECOMMENDATION:** Staff recommends approval of Resolution 025, Series 2020.

# RESOLUTION NO. 025 (SERIES OF 2020)

# A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO ADOPTING EMERGENCY APPROPRIATIONS TO THE 2020 MUNICIPAL BUDGET IN RESPONSE TO COVID-19 SUPPORT

**WHEREAS**, the City of Aspen declared a local disaster emergency on March 12, 2020 pertaining to the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from COVID-19; and

**WHEREAS**, whereas the City of Aspen commenced and continues to support crisis response efforts (through both personal and other resources) led by the Pitkin County Incident Management Team; and

**WHEREAS,** on March 17, 2020 Pitkin County Board of Commissioners adopted emergency spending authority for its Public Health Emergency Response programs to provide additional resources for rental, food and childcare assistance for those experiencing financial distress as a result of the COVID-19 impact; and

WHEREAS, current resources dedicated within Pitkin County's budget appropriation are likely to be insufficient to address the aggregate demands for relief, including those from City of Aspen residents;

**NOW THEREFORE,** be it resolved by City Council, that the budget for the City of Aspen, Colorado for fiscal year 2020 be amended to include an additional one-time emergency appropriation of \$200,000 from the City of Aspen's General Fund. These additional resources shall be released to Pitkin County under an Intergovernmental Agreement (IGA) for the purpose of providing financial relief to City of Aspen residents in the areas of rental, food and childcare assistance under the existing Pitkin County qualification's structure for relief. City Council does hereby authorize the City Manager of the City of Aspen to execute such IGA on behalf of the City of Aspen, subject to the approval of the City Manager and the City Attorney

Adopted this 24th, day of March 2020	
	Torre, Mayor
I, Nicole Henning, duly appointed and acting Cit hereby certify that the foregoing is a true and acc City Council at its meeting held on the 24th day	curate copy of the Resolution adopted by the
	Nicole Henning City Clerk

# RULES AND PROCEDURES FOR ELECTRONIC PARTICIPATION IN ASPEN CITY COUNCIL MEETINGS ADOPTED PURSUANT TO SECTION XX, CITY COUNCIL RULES AND REGULATIONS.

WHEREAS, to comply with the declaration, restrictions, and orders entered by the Pitkin County Public Health Director and the City's Declaration of Local Disaster Emergency, the Aspen City Council adopted Resolution #21 (Series of 2020), which amended the City Council Rules and Regulations, previously adopted pursuant to Resolution #51 (Series of 2005), to address the conduct of and attendance at meetings during a period in which an local disaster emergency has been declared; and,

WHEREAS, the amendment to Council Rules and Regulations adopted pursuant to Resolution #21 (Series of 2020) added the following Section XX:

The City Manager, with consultation and consent of the City Attorney, may adopt rules and procedures for the conduct of and attendance at City Council meetings through electronic means for City Council members and members of the public during a period in which a local disaster emergency has been declared;

and,

WHEREAS, following consultation with the City Attorney, the City Manager has determined that the following Rules and Procedures for the conduct of and attendance at City Council meetings through electronic means for City Council members and members of the public are in the best interest of the health, safety and welfare of the City of Aspen and its citizens.

NOW, THEREFORE, THE CITY MANAGER OF THE CITY OF ASPEN HEREBY ADOPTS THE FOLLOWING RULES AND PROCEDURES FOR THE DURATION OF THE CURRENTLY DECLARED LOCAL DISASTER EMERGENCY:

#### A. Council Electronic Participation in Meetings.

If a City Council member reasonably determines that his or her personal attendance at a City Council meeting would not be prudent, such Council member may listen by telephone, video conferencing, or other electronic means to any Council meeting ("Electronic Participation"). Such Council member listening via telephone or other electronic means shall be deemed present for purposes of determining a quorum. The member of City Council may not participate nor vote in a quasi-judicial public hearing; however, the Council member may maintain the electronic connection and monitor and listen to the hearing. The member of City Council may participate and vote in all administrative and legislative matters. Electronic Participation is also available to a City Council member during an executive session. The City Council may discontinue the use of Electronic Participation by one or more members during a meeting where the participation results in delays or interference in the meeting process; e.g., where the telephone connection or connection by other electronic means is repeatedly lost, the quality of the connection is unduly noisy or otherwise problematic to the conduct of the meeting, or the listening member is unable to hear speakers using a normal speaking voice amplified to a level suitable for the meeting audience in attendance. Whenever a City Council member is allowed to participate in a City Council meeting by Electronic Participation pursuant to this Rule, the following additional rules shall be observed:

- a) All members of the City Council must be able to hear one another or otherwise communicate with one another, and be able to hear all discussion and testimony in a manner designed to provide maximum notice and participation;
- b) Members of the public present at the meeting location or participating electronically must be able to hear all discussions, testimony, and votes;
- c) All votes held at the meeting shall be conducted by roll call;
- d) At least one member of City Council is present at the regular meeting location, unless not feasible due to the emergency declaration;
- e) Minutes of the meeting are taken and promptly recorded, and such records are open to the public inspection;
- f) To arrange to participate via Electronic Participation, a Council member shall:
  - i. Contact the Mayor, City Manager or the City Clerk in advance of the meeting to determine if an arrangement for such participation via Electronic Participation is possible. Council members shall endeavor to advise the City of their intent to participate via Electronic Participation at the earliest possible time and not less than twenty-four (24) hours prior to the requested participation; and,
  - ii. The City shall initiate the Electronic Participation not more than ten (10) minutes prior to the scheduled time of the meeting. Upon disconnection during a meeting, the City Clerk shall make at least one attempt to re-initiate the connection.
- g) To the extent possible, full and timely notice shall be given to the pubic advising that one or more members of the City Council may participate in the meeting electronically.

#### B. Public Viewing and Participation

- a) <u>Viewing Opportunities</u>. City Council Meetings will continue to be broadcast to the public through three separate sources: Grassroots TV, Granicus and Facebook. Grassroots TV may not be live at all times. If one of these live platforms is unavailable another platform will be obtained. If no live broadcast is available, the Council meeting will be continued until such time as at least one live broadcast is available.
- b) Public Participation in City Council Meetings. During the duration of the declaration of local disaster emergency, the presentation of public comment at the commencement of each regular meeting of City Council or for the presentation of testimony in a public hearing before City Council, may only be done via telephone. For such telephone participation, the following rules will apply:
  - Individual members of the public wishing to participate remotely may submit a request to comment via telephone by providing notice to the Clerk's Office for the City of Aspen by phone or email, 970-920-5001 or <a href="mailto:citizencalls@cityofaspen.com">citizencalls@cityofaspen.com</a> at least fifteen (15) minutes prior to the commencement of the meeting. Such individuals will then be provided a call-in telephone number, which each individual must call no later than five minutes prior to the commencement of the meeting. The

- individual wishing to comment shall wait on the call-in line to comment until called on by the mayor.
- ii. Members of the public participating via telephone must follow all applicable rules for public participation, including time limitations. Following an individual's presentation of public comment, that individual's ability to comment will be terminated.
- iii. The City Council may discontinue the use of telephonic participation by members of the public during a meeting where the participation results in delays or interference in the meeting process; e.g., where the telephone connection is repeatedly lost, the quality of the connection is unduly noisy or otherwise problematic to the conduct of the meeting, or the listening Council member is unable to hear the speaker using a normal speaking voice amplified to a level suitable for the meeting audience in attendance.

# C. Staff Participation.

To the extent possible, staff required for a matter shall participate electronically.

#### D. Notice.

These Rules shall be posted on the City of Aspen website and in a prominent location inside and/or outside City Hall and on the door outside of City Council Chambers.

#### E. Amendment.

These Rules may be amended at any time by the City Manager, upon review and approval of the City Attorney.

Done this 19% day of March 2020, at 3.39% .m.

Sara G. Ott

City Manager of the City of Aspen

Approved:

James R. True

City Attorney of the City of Aspen

At 5:00 p.m. Mayor Torre called the regular meeting to order with Councilmembers Richards, Hauenstein, Mesirow and Mullins present.

#### SCHEDULED PUBLIC APPEARANCES:

Mayor Torre introduced a team closest to the corona issue. Gabriel Muething is the Copa 19 Incident Commander for Unified Command. Joey DiSalvo, Pitkin County Sheriff, and Karen Koehnman, Director of Public Health. Mr. DiSalvo started off with a history lesson and said that in 1987, we were one of the first counties to take incident command from the feds and we embraced it. We have the highest standard of incident command structure in Colorado and we became a level 4 management team. We have the respect of the state and get called to major incidents throughout the state. Our role is to stay out of their way. We aren't used to not being in charge, but Gabe is now my boss as long as this issue is going on. He's discouraging everyone from sharing sensitive information. This has to be kept within the team. Some of the information isn't fully baked yet. We've never been in better hands. We've handled a lot bigger than this and Gabriel dealt with the Lake Christine fire as well. It was controlled with good structure. He went on to explain the roles of the structure.

Ms. Koehnman said the flu is here to stay, but we're trying to prevent the corona virus from becoming an endemic. All we have so far are non-pharmaceutical interventions. We're trying to slow the spread of the virus. A lot of monies have been put into vaccine development and we are ensuring the most vulnerable aren't getting sick. Folks over 80 are mostly affected. This is a new virus and began with animal to human transmission and then human to human. It's a new corona virus. The corona family has been around for a long time. She reminded everyone of basic preventative care, cover coughing, wash hands, stay home when sick. She explained the process of dealing with the girl from Australia. Their press release will be out before the state issues theirs. This all takes time while respecting this person's privacy. We are asking people to be patient.

Councilman Hauenstein asked if based on incubation, that we can assume it came from Australia and Ms. Koehnman said we can't assume that. She said someone from CDHP is arriving tonight since they are leading the response on this.

Mayor Torre asked about contact info, where to check, etc. Ms. Koehnman said there is a one stop shop on the public health website via pitkincounty.com with a Covid 19 link. It is being updated daily with the best information. If you need a screening, call the state 303-692-2700, which is an epidemiology line.

Councilman Hauenstein asked about dogs and Ms. Koehnman said it's not known if dogs can transmit the virus.

Councilman Mesirow asked about testing. Mr. Muething said it is pointless to take the test if you are not showing symptoms. He said there is a screening tool at the CDC where someone can do who is having symptoms plus a known exposure to someone who test positive for Covid. Mr. Muething said if you are sick, stay home. This is the quickest way illnesses get spread around. This virus is very easy to kill and can be done with typical household products. Take the time to wipe down doorknobs and countertops.

Ms. Koehnman said we are working on updating the website every Friday and we will continue to release press releases before the state.

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Councilman Mesirow asked about business owners and managers regarding guiding documents from the CDC on the web for different organizations.

Councilman Hauenstein asked for clarification on the virus and the illness. Ms. Koehnman said that S-Covid-2 is the virus and Covid 19 is the illness and Corona is the family that it sits under.

#### CITIZEN COMMENTS:

Peter Fornell – Mr. Fornell said he is a longtime Aspen resident. He is lucky to be a part of this town. He refers to himself as the reluctant developer. He always builds within the regulations and guidelines and responsibilities to give back to the community. He said there are egregious violators, and he can't help but to pursue the right thing. As you may be aware, the property that I purchased on Gibson Avenue; 777 Gibson. He soon discovered that his neighbor, had violated building code and built two parcels without a permit or permission, and against his allowable FAR. 13 months ago, he informed the city of this shed, and he has since donated his property to the city, but the neighbor still has ownership of his property. He mentioned Jim True writing a letter to this neighbor, and there's been no action or enforcement ever since. He's here tonight for a response about people doing whatever they want, and he wants an update.

Mr. True said he doesn't have a lot to report. We inherited that litigation from Mr. Fornell, as there are violations. He did remove the deck behind his house, and the structure that Mr. Fornell is referring to is a carport and it's still up and is part of the litigation. He's got a quiet title action. We have not, at this point, taken further steps to have it removed, but it doesn't mean that it's not on our radar. He agrees that it's been a while, but we did get into a contentious discussion regarding 777 Gibson, and we took action that we felt was appropriate, ultimately acquiring the property through Mr. Fornell and is still a matter we are working on.

Councilman Hauenstein understands his concerns and emotions.

Mr. Fornell said it's especially offensive to him when he works so hard to make sure he's within the regulations and guidelines. If he needs help removing it, he's happy to help.

Mr. True said we agree with Mr. Fornell on the position.

Lee Mulcahy – Mr. Mulcahy said he is grateful for many things. He said he doesn't know why the crisis management team didn't take questions from the public so we can know where they were, what airplanes they flew on, etc. There are questions, and he's worried about his 84-year-old mom. He said that the sheriff called what is happening to him and his home, a witch hunt. He spoke about his house and APCHA. He asked to put a court order in the public record, and Mr. True said it's a public record already and doesn't know the status of that case. Mr. Mulcahy said he is currently in the supreme court with the Ski Co. as well but doesn't expect to win. His freedom is in peril.

Amos Underwood – of 301 W. Hyman wants to ask about 312 W. Hyman because it has sat empty for over a year and wants to know why we can't we put someone in it. Mayor Torre said we are trying to sell it. Mr. Underwood said he is surprised there isn't a single city employee looking for housing or anyone else in the community. Councilman Hauenstein said it isn't up to code and couldn't further expand. Mr. Underwood asked to keep updated on this. Mayor Torre there has been a lot of turnover

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that has happened and there's been more negotiations going on and more than just trying to sell it. He said he's happy to look into it and it isn't their first choice to let it sit empty.

## **COUNCILMEMBER COMMENTS:**

Councilman Hauenstein expressed a level of comfort and confidence in management handling the Covid-19 virus. He witnessed them in action at the X-Games. He is impressed with the level of confidence. He doesn't want people to panic, but just take measures that have been pointed out. He reminded people to text c virus to 888777 to get on Pitkin alerts for updates. We'll get through this.

Councilman Mesirow said please don't panic but do prepare. Remember that you're protecting yourself and others.

Councilwoman Mullins said she appreciates the group being here. She said Karen's explanation was a very even-tempered explanation that does not lead to panic. She said the messaging system has been great. The government has issued a state of emergency for Colorado, but it is not to scare people, but just to be first in line to have the resources we need. Good for him for being proactive.

Councilwoman Richards asked if we might have some time on an upcoming work session with a request from the housing board. it's a matter that she and Skippy disagreed on for the housing board. The request is to be able to increase the resale price of single-family homes. She supports the goals and said we don't have a capital reserve program on single family homes. This is going to take a lot of diligence and thought. This is an issue for them to check in with council on before it comes for a final vote with APCHA.

Councilwoman Mullins said she supports having a work session on this as well.

Mayor Torre said he's supportive of a work session. He asked if this is the appropriate venue to have this discussion and forward comments to APCHA. Ms. Ott said it wouldn't be appropriate to forward to the APCHA board, but to your voting members and have them pass on. It is appropriate for the council to have this discussion. She said this convo is very timely and she will inquire on APCHA's staff ability to come present to council.

Mayor Torre said that tomorrow night at the Limelight is a climate action modeling exercise from 6-7:00 p.m. and will be a panel discussion regarding Roaring Fork Valley resiliency. After, head to the Wheeler for comedy with Paula Poundstone on Thursday.

#### AGENDA AMENDMENTS: None.

#### **CITY MANAGER COMMENTS:**

Ms. Ott thanked the incident management team who showed up tonight. She wants to make everyone aware of an advisory that came out from Pitkin County public health today. There are a lot of inquiries about hosting events or gatherings. The advisory is addressing making these choices and how to use a guide from the CDC. These are the same guidelines that city staff will also use. We are making internal preparations regarding staffing, etc. and we will follow up offline. Next Tuesday is the joint meeting with the BOCC commissioners. We will be talking about Covid-19. The BOCC also updated their goals for 2020 and would like to share those. She said to let her know if you have other thoughts or plans for this meeting.

Councilman Hauenstein asked about the city of Aspen declaring a state of emergency. Ms. Ott said there are misconceptions about declaration. Your needs are beyond local means. I think we will wait to see what the test results are. The mayor and manager have the ability to make a declaration, which council can approve or deny in an extension of the resolution. A declaration also enacts the emergency procurement provisions of the city to obtain resources more quickly and she can then report to council on the expenditures. Either position has the authority to make the declaration; mayor or manager.

#### **BOARD REPORTS:**

Councilwoman Richards said the Northwest Council of Governance Water will be having their meeting virtually this Friday. She has a conflicting meeting. Friday is a Club 20 meeting for her. Councilwoman Mullins said she and Torre were down in Denver at the CAST meeting and she will let Torre speak about it. Regional POD is tomorrow, and RFTA is Thursday. Mayor Torre said at the CAST meeting, they received a legislative update from Kevin at CML. They had a professor from the University of Colorado who spoke to them about statewide economics in regard to ski counties. He will share the talk with everyone once it's available to us. He shared some amazing data.

#### **CONSENT CALENDAR:**

Councilman Hauenstein pulled Resolution #013, which was Councilwoman Mullins choice as well.

<u>RESOLUTION #013, SERIES OF 2020</u> – Pete Rice and Jack Dannenberg of the City of Aspen Engineering Department

Councilman Hauenstein said he is intrigued with the porous pave and asked if it will be used. Mr. Rice said the one in front of the affordable housing, they will have to have a separate discussion on and are trying to find a test case for it. Councilman Mesirow asked for the benefits of this and Mr. Dannenberg said we are trying to decrease impervious area to decrease the run-off pollutants that make it to the river.

Councilwoman Mullins asked about the experiment we did right outside of City Hall. Mr. Rice said we have a couple places by the bus stop and the Galena Plaza roadway and said this is a little different. Councilwoman Mullins said she would like another work session to take a look at sidewalk master plan, which was first developed in 2003 and perused in 2015. We should really decide if we want urban character downtown. She would also like to see the "safe routes for kids" program implemented.

Trish Aragon, City Engineer, said we use this plan to decide if a development needs a sidewalk. We used this plan to find where there are gaps in the sidewalks and where the city should step in to fill those gaps. To look at a deferred zone is a bigger issue. There are people on both sides of the table, who want sidewalk and don't want sidewalk. We can have an open community discussion.

Councilwoman Richards said maybe it's just a refresher for the council.

Councilwoman Mullins said she would like a bigger community discussion. She also asked for Engineering's work plan review and Ms. Ott said it's scheduled for May 5<sup>th</sup>.

Councilwoman motioned to approve the consent calendar; Councilwoman Richards seconded. All in favor, motion carried.

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<u>CALL UPS:</u> 234 W. Francis – Conceptual Major Development, Setback Variations, and Floor Area Bonus Sarah Yoon

This was seen by HPC on November 13<sup>th</sup> and an approval was given February 12<sup>th</sup>. There is a two-story historic Victorian on the property and a one-story miners cabin. Restoration work being proposed and the removal of non-historic additions and details. The applicant is eligible to receive up to a max of 5000 square foot bonus. Staff recommends council uphold HPC's decision. HPC had a unanimous 6-0 vote.

Councilwoman Richards said she is not interested in calling this up.

Councilwoman Mullins noted that the fence was designed by Bayer.

201 E. Main Street – Minor Development, Commercial Design, GMQS, Relocation, and Setback Variations

Sarah Yoon

HPC reviewed this proposal on September 11<sup>th</sup>, 2019 and was continued for restudy. The applicant provided a completely redesigned project, which was presented on January 8<sup>th</sup>. Ms. Yoon continued to explain the project and said that HPC voted unanimously in support and staff recommends that HPC's decision be upheld.

Councilwoman Richards is not interested in calling this up and Councilwoman Mullins agreed.

320 E. Hyman Avenue – Wheeler Opera House – Minor Development Review, Commercial Design Review

Amy Simon

Ms. Simon explained the freight elevator replacement and the mechanical equipment on the roof, which is a chiller that needed replacing and was an emergency action and the addition of solar panels to the roof. HPC approved this project, 4-0. Staff is asking to uphold their decision.

Mayor Torre asked about benefit and capacity. Ms. Simon said there is a complete analysis in the packet application, but they will see a 12% offset of annual demand and \$240,000 in REMP fees.

Councilwoman Richards has a hard time wanting to see these on historic buildings but accepts why. The hesitation is because she wants to see the full structural engineering before adding more weight to the roof.

Scott Miller said he's been involved in all renovations going several years back and nothing has been added without a complete structural analysis. We wouldn't' touch it without a structural engineer telling us it's ok.

Councilman Mesirow said he gets the historic structure, but he really enjoys the solar approach and protecting where we've come from and where we're going.

Mayor Torre asked about city of Aspen power and adding solar and how this integrates. Mr. Miller said this is for offsetting electrical use and is really an efficiency measure.

Councilwoman Mullins said the panels are appropriate

Councilwoman Richards said she is not interested in calling this up and she appreciates HPC's hard work.

Mayor Torre suggested a five-minute break.

ORDINANCE #03, SERIES OF 2020: First Reading – Adoption of Wireless Communications Facilities Design Guidelines and Amendment to Land Use Code, Chapter 26.505

Ben Anderson, City Planner and Justin Foreman, Utilities Operations Manager

Mr. Anderson said this ordinance adopts design guidelines for small cell facilities for the right of way. This pulls all of this around design out of the land use code into the stand alone document and giving clarity to the review processes. From a previous work session, there were five topics highlighted: height, design of luminaire, relationship of small cell facilities to street light systems, densification, adding a few additional sites to historically designated spots. As far as height, 25 feet is the most restrictive in any community in Colorado. On the luminaire design, the conversation was around the color of the lighting. After the conversation with council, we went back to P&Z and HPC, and both groups were concerned with the historical properties in town. Staff wants to protect what we need to protect and we have put all 300 properties on a discouraged list. We haven't included this yet, and saff is concerned about neighborhoods and how restrictive this might be and trying to find a balance. We would like some feedback from council on this.

Councilwoman Richards said we would have to include this on first reading and remove it on second reading. You can't go from first and expand into second.

Mr. True said the suggestion here is to get your feelings about it and move forward. It can be reduced on the second reading. But might be hard to say on the second reading that something is prohibited. Councilwoman Richards said maybe we can look for some more expansive language other than 'discouraged'. It's not a hard no for her.

Mr. True said it depends on the nature of changes. You have a lot of leeway here to modify it and based on the public hearing that you will have.

Councilwoman Richards asked who has the discretion to choose and Mr. Anderson said it's up to the carrier and we are trying to put as many parameters around this as we can. We need to have a discussion regarding 'suggested' and 'prohibited' and work arounds.

Councilman Hauenstein is concerned about a fully functioning system with the distance limits and Mr. Anderson said, right now we're being told that 600 feet is sufficient. This distance may change in the future and the design guidelines are flexible to accommodate changes in technology.

The council thanked Ben and Justin for all of their hard work.

Councilwoman Richards motioned to read Ordinance #03, Series of 2020; Councilwoman Mullins seconded. Ms. Henning read the ordinance.

Councilman Mesirow said he still thinks 20 feet is better because 25 feet is going to feel really imposing. The height is relative to existing features and 20 feet is a more appropriate height limit.

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Mayor Torre said that staffs recommendation is 25 feet. Mr. Anderson said it's not impossible but related to the vendors who make these poles, 25 feet is even pushing it if you're looking at having more than one vendor on a pole. Taller poles give more coverage and 25 is just kind of the limit.

Councilman Hauenstein asked what our tallest light poles are in town and Mr. Anderson said just under 20 feet.

Councilwoman Richards moved to approve Ordinance #03, Series of 2020 on 1<sup>st</sup> reading with addition of language on 300 historic properties; Councilwoman Mullins seconded. Roll call vote: Mullins, yes; Hauenstein, yes; Mesirow, yes; Torre, yes; Richards, yes. 5-0 motion carried.

Councilman Hauenstein motioned to adjourn; Councilman Mesirow seconded. All in favor, motion carried.

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Nicole Henning, City Clerk

At 3:00 p.m. Mayor Torre called the regular meeting to order with Councilmembers Richards, Mesirow, Mullins and Hauenstein present.

Mayor Torre read a release from city council. He said we care about everyone in this unprecedented time in Aspen, the country and in the modern world. We are facing challenges never faced before and must keep level heads, take proactive measures and have compassion. We have declared a state of emergency, so that we are eligible for federal resources and to signal to the community that we are being as proactive as possible. There are ten known cases and all ten are in voluntary isolation. We will be closing non-essential facilities, following best practices, setting examples for other organizations, and businesses, while discouraging public gatherings. Our essential services are still open and running. We encourage people to do business via phone or web and we will keep the community updated. We are all in this together as it is an incredible opportunity to protect ourselves. We are in uncharted territory and we need to come together to support one another. These measures are being taken to shorten the length of time the virus is active in the valley. We are continuing to advocate for the health and safety suggestions found on pitkincounty.com and the CDC website. It's important that this council remind everyone to avoid contact and stay home and avoid social gatherings.

#### RESOLUTION #20, SERIES OF 2020 – Extension of the Declaration of Emergency

City Attorney, Jim True, said that yesterday at 2:00 p.m.; pursuant to state statute, Sara Ott issued a declaration of emergency for the city of Aspen. This declaration will only last seven days unless city council will extend via resolution. The declaration will stand until city council chooses to terminate it.

Councilwoman Richards said thank you to Sara and Jim and city staff working behind the scenes. She wants to add to the 5<sup>th</sup> "whereas", she would like to add the words "finds appropriate to protect property and civil order". She thinks it's an important component as we ask the public to stay calm. Mayor Torre asked if this is an appropriate place to make this change and Mr. True said it's appropriate. Ms. Ott said she has no comments on the matter.

Councilwoman Mullins said she would support the change.

Councilman Hauenstein said he would like to set some definition of when we will come out of the emergency, whether it be 14 days after last neg test. He has a certain level of discomfort without a specific date. Mr. True said that council will make an action to terminate. Defining when to do this would be very difficult. He's not sure what kind of definition to put into this or how appropriate it would be.

Councilwoman Richards doesn't want to create false expectations by creating a deadline too soon. It's more about the national response. We may have a first wave and then more to come and she would rather leave this indefinite and have council's ability to terminate it at a later date.

Mayor Torre said he is in Rachel's camp on this.

Councilman Mesirow agreed and said he has full trust in this body to visit this as we go.

Councilwoman Mullins supports it as well.

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Councilwoman Richards motioned to approve Resolution #20, Series of 2020 with the amendment; Councilman Mesirow seconded.

Mr. True said he sent a copy to council earlier today with one addition adding a line that the prior declaration was attached. Councilwoman Richards said she acknowledged that the prior resolution is attached.

All in favor, motion carried.

<u>RESOLUTION #21, SERIES OF 2020</u> – Amending City Council Rules and Regulation to Address Meetings During Times of Emergency.

Mr. True said this amends the rules and regulations adopted by council in Resolution #51, Series of 2005. It gives the city manager authority the ability to provide rules and procedures for conducting city council meetings and other boards and commissions through electronic means. As we move forward, there may be desire for people to participate electronically. There are actions that council can take for council to be present virtually at meetings instead of in person. Whether it's the public participating or council, we are trying to set forth rules which would allow this, and we are trying to amend the rules and regulations which would allow this to be done.

Councilwoman Mullins said she would love to see video and not just audio.

Ms. Ott said we are trying to ensure equity of access and this may present a challenge for some people.

Councilwoman Mullins said she would like to see an end date on this one because she doesn't want future meetings to move to this virtual place. Mr. True said that was the intent and we are not currently looking at this for a broader use.

Councilwoman Richards thanked everyone. She said she would add one thing under the "be it resolved" section to ensure media access, required under the sunshine laws. How do we just state for the record our intent is for access. Ms. Ott said this resolution does not do that and she does not want to call out certain groups.

Councilwoman Richards said that an emergency declaration does not get rid of sunshine laws.

Mr. true said that we will prepare it in a manner that is completely compliant.

Councilwoman Richards said she accepts this as sufficient.

Councilwoman Mullins motioned to approve Resolution #21, Series of 2020; Councilman Mesirow seconded.

Councilman Mesirow said the expansion of citizen participation through digital means was a good idea before the crisis and it will remain a good idea.

<u>CITY MANAGER COMMENTS:</u> – Ms. Ott said there is a lot going on and we are continuing to push out information to the community and coordinating with the incident management team. We are assisting businesses and trying to convey in layman terms around the public health order. We are encouraging the public health department to do this as well. The environmental health department is here to give support to the restaurants as well to figure out how they can keep everything sanitary. Restaurants will also be changing to carry out or delivery options. We are taking steps to ensure containment for the

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community. On a bigger picture, she's very proud of our staff. As of Sunday, they are making extended sick leave available and they are also looking at intermittent part time people who are eligible and how are we going to support these folks. We will monitor closely community transmission and data and this was a trigger point for yesterday's emergency declaration. We as a community need to take action and our facilities need to enact social distancing. We will try as quickly as possible to open back up. We're here to listen and help be a conduit and we can help get your questions to the right places.

Councilman Hauenstein said we are in a constant state of flux. One of the concerns is hourly wage workers aren't as capable of staying home and working when they are sick. He asked if we help fund these people with symptoms to stay home. Ms. Ott said we are monitoring that closely and we are hoping the state can help provide some clarity for our work force for neighbors and friends here in Aspen.

Councilwoman Richards said we are going to continue to look for ways to assist the public and she looks forward to future conversations.

Mayor Torre said that over the last couple of days, we are looking for next steps and looking to stay ahead of this. Ms. Ott agreed and said we've had some service interruptions. The impact to the community is minimal, but we are feeling it internally. For the community, we are honestly still in the response stage and haven't hit recovery yet. We are looking at sales and lodging tax collections for economic impact to design policies and be informed for the long haul. For the short haul, social distancing is still encouraged. We have a compassionate community that understands and it's unprecedented to take these steps, but it's key. We are working with the incident management team to encourage and mandate changes going forward. All the city council and board meetings have been canceled for next week.

Councilwoman Mullins said in terms of response, she's confident that we will be very understanding and open to ideas. To change rules, to support etc. and she hopes everyone remains open to new ideas to get us through this situation. Councilwoman Mullins said thanks to the staff, city and county. Everyone has done an unbelievable job. concerned regarding the health of population. We are positioning ourselves to support the city and mitigate. There might be temptation to isolate, but we need to follow protocol. We need to be aware of anyone who needs support and be aware of what is going on around us. We must do this and beat this as a community.

Councilwoman Richards said this is top of mind. We've seen a statewide and national declaration of emergency. It's important to take this seriously and that is what we're asking of the public. She spent a lot of time as restaurant cook and you learn better safe than sorry and when in doubt throw it out. We all have to be better safe than sorry right now. This is unprecedented for us as a country, but not the world. We must lead by example. We are cancelling and postponing, as well as cleaning and using products. We are asking that people be calm, but not complacent; be proactive, but don't panic. She mentioned the movie Apollo 13 with Tom Hanks and she cited a quote regarding this being NASA's finest moment. She said that Aspen needs to pull together to make this our finest moment in protecting our citizen's health.

Councilman Hauenstein said he is a citizen, a human, and a council member. He said eight years ago, he bought a new car and he hit a bear on the way home and the car never saw Aspen. The bear became his totem. He purchased a Hopi bracelet with a bear on it in Santa Fe. He was told that if the bear faced

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towards him, it gives him strength, but if it faces outwards, it gives other people strength. He's always worn it facing him, but now he's turning it around to face the community. It's time we need it. He read several quotes and read off a list of events that have been cancelled such as NBA and the NCAA tournament and March Madness. Council and staff will come up with the solutions and answers together. We are in this together. Citizens should engage in this endeavor. This challenge has been placed upon us by destiny. We need to do our part to follow protocols. We will succeed. Be prepared for the recovery period to be elongated. Thank you to all city staff, council, and city manager.

Councilman Mesirow said thank you to everyone. This will be difficult, but I think we are lucky compared to most others even with the economic impacts. Many places have to choose between health and economic outcomes, but these are the same for us. We are lucky to have had one of the best seasons to date, but Aspen effectively self-quarantines in the off season. In taking the best efforts to stop the spread right now, we can demonstrate that Aspen is safe again this summer. We are lucky to be in this position. He will keep everyone up to date through his social media channels. Walking into this building, despite the difficulty of the situation, there have been aggressive and healthy steps to protect everyone. He is grateful to be at this table.

Councilwoman Richards thanked all the members of the media who have been reporting on this accurately and consistently.

Mayor Torre said everyone has had frustration with some of the information over the past five days. We are working on this and with the local agencies to get better information out to the community. We have a long list of next measures for community containment. Please take every precaution you can. This is our number one priority right now with social distancing.

Councilwoman Richards motioned to adjourn; Councilman Hauenstein seconded. All in favor, motion carried.

Nicole Henning, City Clerk	



#### **MEMORANDUM**

**TO:** Mayor Torre and Aspen City Council

**FROM:** Justin Forman, P.E., Operations Manager, Utilities;

Ben Anderson, AICP, Principal Planner, Community Development

**THRU:** Trish Aragon, P.E., City Engineer

Andrea Bryan, Assistant City Attorney Tyler Christoff, P.E., Director of Utilities

Paul Schultz, Director of Information Technology

Phillip Supino, AICP, Community Development Director

**MEMO DATE:** March 19, 2020

**MEETING DATE:** March 24, 2020

**RE:** Wireless Facility Design Guidelines and Related Land Use Code

Amendment; Second Hearing - Ordinance No. 3, Series of 2020

#### REQUEST OF COUNCIL:

Council is requested **to continue** the public hearing for Ordinance No. 3, Series of 2020 at Second Reading until April 28, 2020.

The Ordinance would approve the *Wireless Communications Facilities Design Guidelines* and a related Amendment to Land Use Code Chapter 26.505, Wireless Communications Facilities and Equipment.

Due to concerns related to COVID-19 and the desire to honor the nature and purpose of a public hearing, staff felt it was inappropriate to consider the Ordinance during the March 24, 2020 City Council Meeting.

#### **DISCUSSION:**

Staff will return to Council on April 28, 2020 for Second Reading of this Ordinance in a continued public hearing. If social distancing recommendations or other concerns remain for the regular meeting on April 28th, Staff will propose a further continuance to a future date certain.

While staff has been working expediently to get the Wireless Design Guidelines and related Land Use Code amendment adopted, this delay of consideration by City Council should not cause any significant impacts at this time.

FINANCIAL IMPACTS: N/A

**ENVIRONMENTAL IMPACTS:** N/A

**ALTERNATIVES:** N/A

# **RECOMMENDATION:**

Staff recommends that City Council continue the public hearing of Ordinance No. 3, Series 2020, on Second Reading to April 28, 2020.

# Recommended Motion:

"I move to continue the public hearing for Ordinance No. 3, Series of 2020, on Second Reading until April 28, 2020.

# **CITY MANAGER COMMENTS:**