

AGENDA

CITY COUNCIL REGULAR MEETING

August 12, 2019

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



I. CALL TO ORDER

II. ROLL CALL

III. SCHEDULED PUBLIC APPEARANCES

III.A. APD - Bear Aware Campaign Update

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)

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 #86, Series of 2019 - Truscott Phase 1 Roofing Replacement Contract

VI.B. Resolution #89, Series of 2019 - Wheeler Carpet Replacement Project
Please approve Resolution #89 - a contract with Handcrafted Flooring to replace carpet in the lobby, along the stairs, and balcony areas of the Wheeler Opera House

VI.C. Resolution #93, Series of 2019 – Calling for and establishing the date for the Coordinated General Election and authorizing the City Clerk execute the IGA with Pitkin County.

VI.D. Resolution #92, Series of 2019 - Design Guidelines for Small Cell Infrastructure Contract with HRGreen, Inc.
Council approve contract.

VI.E. Minutes - July 22, 2019

VII. NOTICE OF CALL-UP

VIII. POLICY RESOLUTION

VIII.A. Resolution #75, Series of 2019 - Sandwich Board Signs - Policy Resolution

IX. FIRST READING OF ORDINANCES

IX.A. Ordinance #18, Series of 2019 - Sandwich Board Signs

X. PUBLIC HEARINGS

X.A. Ordinance.#19, Series of 2019 - Request to Table Item: Major Subdivision Approval to vacate a western portion of South Aspen Street (Approximately 5,228 sq. ft.)

X.B. Resolution #91, Series of 2019 - Silver City Ice Rink Temporary Use - 433 E. Durant Ave.

X.C. Ordinance #20, Series of 2019 - Adding a second alternate to the Commercial Core and Lodging Commission

XI. ACTION ITEMS

XI.A. Letter to Senator Donovan regarding funding the Colorado Water Plan

XI.B. Potential meeting day change for regular council meetings

XII. ADJOURNMENT

MEMORANDUM

TO: Mayor and City Council

FROM: Evan Pletcher, Project Manager, Capital Asset Management

THRU: Jeff Pendarvis, Capital Asset Manager
Cindy Christensen, APCA Deputy Director

DATE OF MEMO: July 29th, 2019

MEETING DATE: August 12th, 2019

RE: Resolution #86, Series of 2019

REQUEST OF COUNCIL: Staff requests approval of a contract between CRW Inc. (Exhibit B) and the City of Aspen to remove and replace the roofing assembly, gutters, downspouts and snow stops at Truscott Housing buildings 400-1000.

PREVIOUS COUNCIL ACTION: The previous Council approved the 2019 Truscott Phase 1 – 400-1000 Roof and Gutter Replacement Project in the amount of \$500,000.

BACKGROUND: The roofs of Truscott buildings 400-1000 have reached the end of their useful lifespan and require replacement.

DISCUSSION: The construction of Truscott Buildings 400-1000 was completed in 1998. The roofing assembly is original to the buildings and has reached the end of its useful lifespan. Staff anticipated the need for replacement of the roofs of these buildings and requested funding in the amount of \$500,000 for this phase of the project. Staff hired CMW roofing consulting to assemble a drawing and specification package for the project and to clearly define the scope of the project to prospective bidders. Of the bids received, CRW Inc. Roofing provided the most comprehensive bid package at the best price. Their base price for the selected EPDM roofing material is \$516,023.

FINANCIAL/BUDGET IMPACTS: As stated above, the \$500,000 in funding was approved to be used for a 2019 Truscott 400-1000 roof replacement capital project. The contract price for the low bidder is \$516,023. We have also hired a roofing consultant to assist us with this project which we anticipate will add an additional \$38,200 to the overall price. In the event of any unforeseen conditions, we feel that a 20% contingency should be added to the overall cost of the project in the amount of \$103,204. This will bring the total project cost to \$657,427. Staff

requests that an additional \$157,427 in funding be made available to ensure this project can be completed. This is summarized in the table below.

Item	Cost
CRW Inc. Roofing Contract Cost	\$516,023
20% Contingency	\$103,204
CMW Roofing Consulting	\$38,200
PROJECT TOTAL:	\$657,427
Current Funding:	\$500,000
Additional Request:	\$157,427

Funding for the additional request of \$157,427 will be provided from the 491 Truscott I Affordable Housing Fund.

Note: The Council should be reminded that the 150 Affordable Housing Development Fund is currently subsidizing the 491 Truscott I Housing Fund as it cannot support the annual debt service payment and maintenance and capital costs with yearly rental income. This subsidy is roughly \$1 million in 2019 and again in 2020 (debt service is retired after 2021). As such, an increase in project costs must be subsidized by an additional transfer from the 150 Fund.

RECOMMENDED ACTION: Staff requests approval of a contract between CRW Inc. and the City of Aspen to remove and replace the roofing assembly, gutters, downspouts and snow stops at Truscott buildings 400-1000. Staff also recommends an additional \$157,427 be provided from the 491 Truscott I Affordable Housing Fund to complete this project.

PROPOSED MOTION: “I move to approve Resolution #86, Series of 2019”

CITY MANAGER COMMENTS: _____

ATTACHMENTS:

- *Exhibit A – Resolution #86, Series of 2019*
- *Exhibit B – CRW Inc. Contract for Truscott Housing Roof Replacement Services*

RESOLUTION #86
(Series of 2019)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, APPROVING A CONTRACT BETWEEN THE CITY OF ASPEN AND CRW INC. 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 contract for Truscott Housing Roof Replacement, between the City of Aspen and CRW Inc., a true and accurate copy of which is attached hereto as Exhibit “B”;

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

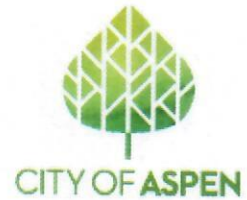
That the City Council of the City of Aspen hereby approves that Contract for Truscott Housing Roof Replacement, between the City of Aspen and CRW Inc., a copy of which is annexed hereto and incorporated herein, and does hereby authorize the City Manager to execute said agreement on behalf of the City of Aspen.

INTRODUCED, READ AND ADOPTED by the City Council of the City of Aspen on the 12th day of August, 2019.

Torre, Mayor

I, Linda Manning, 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, August 12th, 2019.

Linda Manning, City Clerk



CONTRACT FOR CONSTRUCTION

THIS AGREEMENT, made and entered into on July 22, 2019, by and between the **CITY OF ASPEN**, Colorado, hereinafter called the "City", and **CRW Inc.**, hereinafter called the "Contractor".

WHEREAS, the City has caused to be prepared, in accordance with the law, specifications and other Contract Documents for the work herein described, and has approved and adopted said documents, and has caused to be published, in the manner and for the time required by law, an advertisement, for the project: **2019-51072 Truscott Roof Replacement**, and,

WHEREAS, the Contractor, in response to such advertisement, or in response to direct invitation, has submitted to the City, in the manner and at the time specified, a sealed Bid in accordance with the terms of said Invitation for Bids; and,

WHEREAS, the City, in the manner prescribed by law, has publicly opened, examined, and canvassed the Bids submitted in response to the published Invitation for Bids therefore, and as a result of such canvass has determined and declared the Contractor to be the lowest responsible and responsive bidder for the said Work and has duly awarded to the Contractor a Contract for Construction therefore, for the sum or sums set forth herein;

NOW, THEREFORE, in consideration of the payments and Contract for Construction herein mentioned:

1. The Contractor shall commence and complete the construction of the Work as fully described in the Contract Documents.
2. The Contractor shall furnish all of the materials, supplies, tools, equipment, labor and other services necessary for the construction and completion of the Work described herein.
3. The Contractor shall commence the work required by the Contract Documents within seven (7) consecutive calendar days after the date of "Notice to Proceed" and will complete the same by the date and time indicated in the Special Conditions unless the time is extended in accordance with appropriate provisions in the Contract Documents.
4. The Contractor agrees to perform all of the Work described in the Contract Documents and comply with the terms therein for a sum not to exceed **Five Hundred Sixteen Thousand Twenty Three (\$516,023.00) Dollars** or as shown on the BID proposal using EPDM materials.
5. The term "Contract Documents" means and includes the documents listed in the City of Aspen General Conditions to Contracts for Construction (version GC97-2) and in the

Special Conditions. The Contract Documents are included herein by this reference and made a part hereof as if fully set forth here.

6. The City shall pay to the Contractor in the manner and at such time as set forth in the General Conditions, unless modified by the Special Conditions, such amounts as required by the Documents.
7. This Contract for Construction shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns. Notwithstanding anything to the contrary contained herein or in the Contract Documents, this Contract for Construction shall be subject to the City of Aspen Procurement Code, Title 4 of the Municipal Code, including the approval requirements of Section 4-08-040. This agreement shall not be binding upon the City unless duly executed by the City Manager or the Mayor of the City of Aspen (or a duly authorized official in his/her absence) following a resolution of the Council of the City of Aspen authorizing the Mayor or City Manager (or a duly authorized official in his/her absence) to execute the same.
8. This agreement and all of the covenants hereof shall inure to the benefit of and be binding upon the City and the Contractor respectively and their agents, representatives, employees. Successors, assigns, and legal representatives. Neither the City nor the Contractor shall have the right to assign, transfer or sublet his or her interest or obligations hereunder without the written consent of the other party.
9. 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 the Contractor or the City may assign this Contract for Construction in accordance with the specific written consent, any rights to claim damages or to bring suit, action or other proceeding against either the City or the Contractor because of any breach hereof or because of any of the terms, covenants, agreements or conditions herein contained.
10. No waiver of default by either party of any terms, covenants or conditions hereof to be performed, kept and observed by the other party shall be construed, or operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained, to be performed, kept and observed by the other party.
11. The parties agree that this Contract for Construction was made in accordance with the laws of the State of Colorado and shall be so construed. Venue is agreed to be kept exclusively in the courts of Pitkin County, Colorado.
12. In the event that legal action is necessary to enforce any of the provisions of this Contract for Construction, the prevailing party shall be entitled to its costs and reasonable attorney's fees.
13. This Contract for Construction was reviewed and accepted 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 this Contract for Construction.
14. The undersigned representative of the Contractor, as an inducement to the City to execute this Contract for Construction, represents that he/she is an authorized representative of the Contractor for the purposes of executing this Contract for

Construction and that he/she has full and complete authority to enter into this Contract for Construction for the terms and conditions specified herein.

15. 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 ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.
16. Certification and Supplemental Conditions to Contract for Services - Conformance with §8-17.5.101, *et seq.*

Purpose. During the 2006 Colorado legislative session, the Legislature passed House Bill 06-1343 that added a new article 17.5 to Title 8 of the Colorado Revised Statutes entitled "Illegal Aliens – Public Contracts for Services." This new law prohibits all state agencies and political subdivisions, including the City of Aspen, from knowingly employing or contracting with an illegal alien to perform work under a contract, or to knowingly contract with a subcontractor who knowingly employs or contracts with an illegal alien to perform work under the contract. The new law also requires that all contracts for services include certain specific language as set forth in the statutes. This Certification and Supplemental Conditions has been designed to comply with the requirements of this new law.

Applicability. The certification and supplemental conditions set forth herein shall be required to be executed by all persons having a public contract for services with the City of Aspen.

Definitions. 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.

"Contractor" means a person having a public contract for services with the City of Aspen.

"Public Contract for Services" means any type of agreement, regardless of what the agreement may be called, between the City of Aspen and a Contractor for the procurement of services. It specifically means the contract or agreement referenced below.

"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.

PURSUANT TO SECTION 8-17.5-101, C.R.S., et. seq.:

By signing this document, Contractor certifies and represents that at this time:

- (i) Contractor does not knowingly employ or contract with an illegal alien; and
- (ii) Contractor has participated or attempted to participate in the Basic Pilot Program in order to verify that it does not employ illegal aliens.

The Public Contract for Services referenced below is hereby amended to include the following terms and conditions:

1. Contractor shall not knowingly employ or contract with an illegal alien to perform work under the Public Contract for Services.
2. Contractor shall not enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the Public Contract for Services.
3. Contractor has verified or has attempted to verify through participation in the Federal Basic Pilot Program that Contractor does not employ any illegal aliens; and if Contractor has not been accepted into the Federal Basic Pilot Program prior to entering into the Public Contract for Services, Contractor 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. Contractor 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 Contractor 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.
4. Contractor 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.
5. If Contractor obtains actual knowledge that a subcontractor performing work under the Public Contract for Services knowingly employs or contracts with an illegal alien, Contractor shall:
 - (i) Notify such subcontractor and the City of Aspen within three days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 - (ii) 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 illegal alien; except that Contractor 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.
6. Contractor 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.

7. If Contractor 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 Contractor's violation of Subsection 8-17.5-102, C.R.S.

8. 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.

IN WITNESS WHEREOF, the parties agree hereto have executed this Contract for Construction on the date first above written.

ATTESTED BY:

CITY OF ASPEN, COLORADO

By: _____

Title: _____

APPROVED AS TO FORM:

By: _____
City Attorney

CONTRACTOR:

_____ CRW, Inc. _____

By: John R. T. _____

Title: Agent _____

Note: Certification of Incorporation shall be executed if Contractor is a Corporation. If a partnership, the Contract shall be signed by a Principal and indicate title.

CERTIFICATE OF INCORPORATION

(To be completed if Contractor is a Corporation)

STATE OF Colorado)
COUNTY OF Mesa) SS.

On this 24 day of July, 20 19, before me appeared
Zane Pinn, to me personally known, who,
being by me first duly sworn, did say that s/he is Agent of
_____ and that the seal affixed
to said instrument is the corporate seal of said corporation, and that said instrument was signed
and sealed in behalf of said corporation by authority of its board of directors, and said deponent
acknowledged said instrument to be the free act and deed of said corporation.

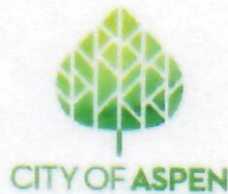
WITNESS MY HAND AND NOTARIAL SEAL the day and year in this certificate first above
written.

Kyaira Reed
Notary Public

2487 Industrial Blvd #1 Grand Jct CO 81505
Address

My commission expires: 9/29/21

KYAIRA REED
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20174040619
MY COMMISSION EXPIRES
SEPTEMBER 29, 2021



BID PROPOSAL FORM

PROJECT NO.: 2019-51072

BID DATE: June 24, 2019

PROJECT: Truscott Roof Replacements Buildings 400-1000

PROPOSAL SUBMITTED BY: CRW, Inc.
CONTRACTOR

CONTRACTOR'S PROPOSAL

TO: The Governing Body of the City of Aspen, Colorado

The undersigned responsible bidder declares and stipulates that this proposal is made in good faith, without collusion or connection with any other person or persons bidding for the same work, and that it is made in pursuance of and subject to all the terms and conditions of the advertisement for bid, the invitation to bid and request for bid, all the requirements of the bid documents including the plans and specifications for this bid, all of which have been read and examined prior to signature. The bidder agrees to keep this bid open for Sixty (60) consecutive calendar days from the date of bid opening.

The Contractor agrees that construction shall start immediately following a mandatory pre-construction conference held by the Engineering Department, which also constitutes the *Notice to Proceed*. Submission of this proposal will be taken by the City of Aspen as a binding covenant that the Contractor will finish construction within the time specified in the Special Conditions of this contract document.

The City of Aspen reserves the right to make the award on the basis of the bid deemed most favorable to the City, to waive any informalities or to reject any or all bids.

The City shall not pay the Contractor for defective work and/or for repairs or additional work required for successful completion of the project. All work not specifically set forth as a pay item in the bid form shall be considered a subsidiary obligation of the Contractor and all costs in connection therewith shall be included in the prices bid for the various items of work. Prices shall include all costs in connection with furnishing the proper and success completion of the work.

BP1-971.doc

*BP1
Page 1

J.P.

Contractor's Initials

including furnishing all materials, equipment and tools, and performing all labor and supervision to fully complete the work to the City's satisfaction.

Poor quality and workmanship shall not be paid for by the City. Such work product must be removed immediately and replaced properly at no cost to the City.

All quantities stipulated in the bid form at unit prices are approximate and are to be used only as a basis for estimating the probable cost of work and for the purpose of comparing the bids submitted to the City. The basis of payment shall be the actual amount of materials furnished and work done. The Contractor agrees to make no claims for damages, anticipated profit, or otherwise on account of any differences between the amount of work actually performed and materials actually furnished and the estimated amount of work.

The City reserves the right to increase or decrease the amount of work to be done on the basis of the bid unit price and up to plus or minus **Twenty Five (25) Percent** of the total bid.

By signing this document, Contractor 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 it does not employ illegal aliens.

I hereby acknowledge receipt of ADDENDUM(s) numbered 1 through 2.

Base Bid

Description

Removal and disposal of existing roofing assembly down to substrate.
Install new, fully adhered EPDM roofing assembly, metal flashings,
Gutter and downspouts, snow stops, and other accessories listed in the
Specifications.

Base Bid in Numbers \$ 516,023.00

Base Bid in Words Five hundred sixteen thousand twenty three and ⁰⁰/₁₀₀ dollars

Base Bid Contract Time for Completion in Calendar Days 120 days

Alternate Bid for Gravel surfaced Built-Up Roofing in lieu of EPDM base bid per specification.

J.P.

\$ 990,000.00 Alternate Bid Contract Time in Calendar Days 120

Alternate Bid for TPO Roofing in lieu of EPDM base bid per specification.

\$ 516,682.00 Alternate Bid Contract Time in Calendar Days 120

Alternate Bid for PVC Roofing in lieu of EPDM base bid per specification.

\$ 539,657.00 Alternate Bid Contract Time in Calendar Days 120

Additional Bid Items

Removal and replacement of deteriorated wood decking: \$ 3.65 per square foot.

Removal and replacement of deteriorated fascia (no paint) \$ 3.95 per lineal foot.

Removal and replacement of deteriorated wood/Masonite siding (no paint): \$ 3.85 per square foot.

I acknowledge that in submitting this bid it is understood that the right to reject any and all bids has been reserved by the owner.

Authorized Officer: Zane Piment, Title: PM/Authorized Agent
Full name signature: Zane Piment
Company address: 2487 Industrial Blvd. #1
Grand Junction, CO 81505
Telephone number: 270 241-1018
Email: zane@crwroofing.com

Attested by: Kyaira Reed
Kyaira Reed

J.P.

**City of Aspen
Qualification Statement**

Project No.: 2019-51072 Truscott Roof Replacement

1. Firm Name, Business Address, Contact Person & Telephone Number: CRW, Inc. 2487 Industrial Blvd H-I, Grand Junction, CO 81505 Zone Print 01970-241-1018, C 970-270-3011		2. Year Present Firm Established: 2004	3. Date This Form Prepared: 6/24/19
4. Type of Ownership: S-CORP		<input checked="" type="radio"/> A. Small Business <input type="radio"/> B. Minority Owned <input type="radio"/> C. Women Owned	
5. Names of not more than two principals to contact: Title/Telephone: a) Pete Holt, President, 720-348-0438 b) Lie Holt, Vice President, 720-348-0438			
6. Project Examples, Last 5 Years:			
Project Name, Location & Brief Description:	Owner's Name, Address & Telephone:	Cost of Work (X \$1,000)	Date Completed
1. Holy Cross Energy 3799 Hwy 82, Glenwood Springs, CO 81602 30 Yr. 90-Mil EPDM Roof Replacement	Holy Cross Energy PO Box 2450, Glenwood Springs, CO 81602 970-945-3491	176,325	7/17
2. Rearing Fork School District Admin Bldg. 1405 Grand Ave, Glenwood Springs, CO 81601 30 Yr. 90-Mil EPDM Tear-off + Re-roof	Rearing Fork School District Admin Bldg. 1405 Grand Ave, Glenwood Springs, CO 81601 970-384-6000	150,048	12/17
3. Pitkin County River Park Bldg. 123 Emma Rd., Basalt, CO 81621 20 Yr. 60-Mil TPO Tear off + Re-roof	Board of County Commissioners Pitkin County 123 Emma Rd., Basalt, CO 81621 970-920-5396	156,448	9/17
4. Delta Montrose Electric Association 1925 L300 Rd, Montrose, CO 81402 20 Yr. 60-Mil TPO Rhinobond Tear off + Re-roof	Delta Montrose Electric Assoc. PO Box 910, Montrose, CO 81402 817-687-3632	403,395	11/17
5. Palisade High School 3679 G Road, Palisade, CO 81526 20 Yr. 60-Mil EPDM Ballast Swap Out	Mesa County School District 51 2115 G Road Ave, Grand Junction, CO 81501 970-254-5100	954,825	12/18
6. Grand Mesa Middle School 582 3 1/2 Rd, Grand Junction, CO 81504 20 Yr. 60-Mil EPDM Ballast Swap Out	Mesa County School District 51 2115 G Road Ave, Grand Junction, CO 81501 970-254-5100	549,211	8/18
7.			
8.			
9.			
10.			

Project Name, Location & Brief Description:	Owner's Name, Address & Telephone:	Cost of Work (X \$1,000)	Date Completed
11.			
12.			
13.			
14.			
15.			
16.			
17.			
18.			
19.			

7. Bank References, Contact Person, Telephone Number:

- a) First Bank - 303-347-5901, Lauren Cheney, 101 W County Line Rd., Littleton, CO 80129
b)
c)

8. Trade References (material suppliers, subcontractors, etc.), Contact Person and Telephone Number:

- a) Elite Roofing Supply - 303 309-1677, Mike Lesisko
b) Johns Manville - 1-800-345-4597, Andrew Hahn
c) Peachtree Tree Valve - 970 245-1736, Don Kelly

9. Name of Bonding Company and Insurance Company, Agent's Name. Describe current liability insurance coverage:

Surescape Insurance Services, LLC
7800 S Elati St., Ste. 100, Littleton, CO 80120
303-225-8050
Cindy Burnett

CoWest Insurance Group
PO Box 910, Castle Rock, CO 80104
303-683-9597
Stacie Barton

*Please see attached

I hereby certify that the above Qualification Statement is accurate and true. I hereby authorize the City of Aspen to contact any and all of the persons/firms listed above to obtain further information regarding the qualifications of my firm.

Signature

Title



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER CO WEST INSURANCE GROUP P.O. Box 910 Castle Rock CO 80104		CONTACT NAME: ColWest Corporate PHONE (A/C, No, Ext): (303) 688-9597 E-MAIL ADDRESS: info@cowest.com FAX (A/C, No): (303) 688-8858																			
INSURED Crw Inc PO Box 631067 Highlands Ranch CO 80163		INSURER(S) AFFORDING COVERAGE <table border="1"><tr><td>INSURER A:</td><td>Acuity</td><td>NAIC #</td></tr><tr><td>INSURER B:</td><td>Pinnacol Assurance</td><td>41190</td></tr><tr><td>INSURER C:</td><td>SCUI/Lloyd's</td><td></td></tr><tr><td>INSURER D:</td><td></td><td></td></tr><tr><td>INSURER E:</td><td></td><td></td></tr><tr><td>INSURER F:</td><td></td><td></td></tr></table>		INSURER A:	Acuity	NAIC #	INSURER B:	Pinnacol Assurance	41190	INSURER C:	SCUI/Lloyd's		INSURER D:			INSURER E:			INSURER F:		
INSURER A:	Acuity	NAIC #																			
INSURER B:	Pinnacol Assurance	41190																			
INSURER C:	SCUI/Lloyd's																				
INSURER D:																					
INSURER E:																					
INSURER F:																					

COVERAGES**CERTIFICATE NUMBER:** Master 19/20**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR VWD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			ZC5278	03/26/2019	03/26/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 250,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000
	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			ZC5278	03/26/2019	03/26/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Medical payments \$ 5,000
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			ZC5278	03/26/2019	03/26/2020	EACH OCCURRENCE \$ 14,000,000 AGGREGATE \$ 14,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A	4083602	08/01/2018	08/01/2019	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Subcontractor & Material Supplier List

Name: Elite Roofing Supply, Phone #: 303-309-1677
Address: 4780 Vasquez Blvd, Denver, CO 80216
Service or Product: Roofing Membrane / Accessories

Name: Peachtree True Value, Phone #: 970-245-1736
Address: 2963 North Ave, Grand Junction, CO 81504
Service or Product: Building Materials / Lumber

Name: _____, Phone #: _____
Address: _____
Service or Product: _____

Name: _____, Phone #: _____
Address: _____
Service or Product: _____

Name: _____, Phone #: _____
Address: _____
Service or Product: _____

Name: _____, Phone #: _____
Address: _____
Service or Product: _____

BID BOND

KNOW ALL PERSONS BY THESE PRESENTS, That we, the undersigned,

CRW, INC.

1850 West Baker Avenue, Englewood, Colorado 80110

of
as Principal, hereinafter

referred to as "Principal", and WESTFIELD INSURANCE COMPANY

a corporation organized under the laws of the State of Ohio, and
qualified to transact business in the State of Colorado, as "Surety" are held and firmly bound unto
the City of Aspen, Colorado, as obligee, hereinafter referred to as "City," in the penal sum of:

Five Percent (5%) of the Total Amount of the Bid

Dollars

(\$), lawful money of the United States of America, for the Payment of which
sum, well and truly to be made to the City, we bind ourselves, and our heirs, executors,
administrators, successors, and assignees, jointly and severally, by these presents:

WHEREAS, said Principal has submitted a bid for construction of 2019-51072 Truscott Roof Replacement.

NOW THEREFORE, if the City shall accept the bid of the Principal and the Principal shall enter into a Contract for Construction with the City in accordance with the terms of such Bid, and given such bond or bonds as may be specified in the Bid Package or Contract Documents with good and sufficient surety for the faithful performance of such contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract for Construction and give such bond or bonds, if the Principal shall pay to the City the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Principal may in good faith contract with another party to perform the work covered by said Bid, then this shall be null and void, otherwise to remain in full force and effect in law.

SIGNED AND SEALED this 24th day of June, 2019.

PRINCIPAL: CRW, INC.

(seal)

By:

Attest: By:

Title:

SURETY:

WESTFIELD INSURANCE COMPANY

(seal)

By:

Cynthia M. Burnett

Title:

Attorney-in-Fact

Witness:

Attest:

By:

Zach Rothey, Littleton, Colorado

(Accompany this bond with certified copy of General Power of Attorney from the Surety Company to include the date of the bond.)

THIS POWER OF ATTORNEY SUPERCEDES ANY PREVIOUS POWER BEARING THIS SAME POWER # AND ISSUED PRIOR TO 03/13/15, FOR ANY PERSON OR PERSONS NAMED BELOW.

POWER NO. 0500202 07

General
Power
of Attorney

Westfield Insurance Co.
Westfield National Insurance Co.
Ohio Farmers Insurance Co.
Westfield Center, Ohio

CERTIFIED COPY

Know All Men by These Presents, That WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, corporations, hereinafter referred to individually as a "Company" and collectively as "Companies," duly organized and existing under the laws of the State of Ohio, and having its principal office in Westfield Center, Medina County, Ohio, do by these presents make, constitute and appoint
CYNTHIA M. BURNETT, DOUGLAS J. ROTHEY, JOINTLY OR SEVERALLY

of **LITTLETON** and State of **CO** its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings, or other instruments or contracts of suretyship.

LIMITATION: THIS POWER OF ATTORNEY CANNOT BE USED TO EXECUTE NOTE GUARANTEE, MORTGAGE DEFICIENCY, MORTGAGE GUARANTEE, OR BANK DEPOSITORY BONDS.

and to bind any of the Companies thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the applicable Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. Said appointment is made under and by authority of the following resolution adopted by the Board of Directors of each of the WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY:

"Be It Resolved, that the President, any Senior Executive, any Secretary or any Fidelity & Surety Operations Executive or other Executive shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

The Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed by the President and sealed and attested by the Corporate Secretary."

"Be It Further Resolved, that the signature of any such designated person and the seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signatures or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached." (Each adopted at a meeting held on February 8, 2000).

In Witness Whereof, WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY have caused these presents to be signed by their National Surety Leader and Senior Executive and their corporate seals to be hereto affixed this 13th day of MARCH A.D., 2015.



WESTFIELD INSURANCE COMPANY
WESTFIELD NATIONAL INSURANCE COMPANY
OHIO FARMERS INSURANCE COMPANY

By: *Dennis P. Baus*
Dennis P. Baus, National Surety Leader and
Senior Executive

On this 13th day of MARCH A.D., 2015, before me personally came Dennis P. Baus to me known, who, being by me duly sworn, did depose and say, that he resides in Wooster, Ohio; that he is National Surety Leader and Senior Executive of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, the companies described in and which executed the above instrument; that he knows the seals of said Companies; that the seals affixed to said instrument are such corporate seals; that they were so affixed by order of the Boards of Directors of said Companies; and that he signed his name thereto by like order.

Notarial
Seal
Affixed



State of Ohio
County of Medina ss.:

David A. Kotnik

David A. Kotnik, Attorney at Law, Notary Public
My Commission Does Not Expire (Sec. 147.03 Ohio Revised Code)

I, Frank A. Carrino, Secretary of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; and furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Westfield Center, Ohio, this 24th day of June A.D., 2015.



Frank A. Carrino Secretary
Frank A. Carrino, Secretary

BPOAC2 (combined) (06-02)



LIQUIDATED DAMAGES
for
FAILURE TO COMPLETE THE WORK ON TIME
2019-51072 Truscott Roof Replacement

The undersigned contractor declares his/her full awareness of the content and terms of this contract and affirms that the contractual time is the period mentioned in the contract Specifications plus the time extension(s), if any, granted by the City of Aspen for successful completion of project. The undersigned contractor further acknowledges he/she understands and agrees to liquidated damages to be deducted from moneys due to him/her for any delayed calendar day beyond the total time at the rate of **\$1,000.00 per day**. This amount and the total allowed time by the City shall not be negotiable under any conditions.

Attest:

Corporate Seal _____

CRW, Inc.

Contractor

By: [Signature]

STATE OF COLORADO)
) SS.
COUNTY)

Before me Kyaira Reed, a notary public and for Mesa

County, Colorado personally appeared Zane Pirt known to
me personally to be the person(s) whose signature(s) in my presence this 24th day of
June, 2019, A.D. 2014.

My commission expires: 9/29/21

[Signature]

KYAIRA REED
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20174040619
MY COMMISSION EXPIRES
SEPTEMBER 29, 2021



AFFIDAVIT OF COMPLIANCE
PROJECT NUMBER: 2019-51072

The undersigned contractor has read a copy of the Contract Documents including the construction plans, for this project and understands and hereby affirms that he/she does not now, nor will he/she in the future, violate the provisions of said Contract Documents, so long as he/she is under the Contract to the City of Aspen for the performance of a Contract. The undersigned further acknowledges he/she understands and agrees to all terms and conditions of the Aspen Municipal Code and its being part of the Contract with the City of Aspen.

Attest:

Corporate Seal _____

CRW, Inc.

Contractor

By: [Signature]

STATE OF COLORADO)

COUNTY Mesa)

SS.

Before me Kyaira Reed, a notary public and for Mesa
County, Colorado personally appeared Eane Poot known
to me personally to be the person(s) whose signature(s) in my presence this 24th
day of June, A.D. 2019.

My commission expires: 9/29/21

(Seal)

Kyaira Reed
Notary Public

AC1-971.doc

*AC1

KYAIRA REED
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20174040619
MY COMMISSION EXPIRES
SEPTEMBER 29, 2021

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS: That we, the undersigned, as, CRW, INC.

_____ having a legal business
(Principal's Name)
address at 1850 West Baker Avenue, Englewood, Colorado 80110

a Corporation as Principal, hereinafter called "Principal", and
(Corporation, Partnership, or Individual)
WESTFIELD INSURANCE COMPANY

(Name of Surety)
P. O. Box 5001, Westfield Center, Ohio 44251-5001
(Address of Surety)

a corporation organized under the laws of the State of Ohio, and qualified to transact business in the State of Colorado, hereinafter called "Surety", are held and firmly bound unto the City of Aspen, a Colorado home rule municipality, as Obligee, hereinafter called "City", in the amount of:

FIVE HUNDRED SIXTEEN THOUSAND TWENTY THREE AND NO/100 DOLLARS (\$ 516,023.00),
in lawful money of the United States for payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly unto these present.

WHEREAS, Principal has by written agreement dated July 22, 2019, entered into a contract with City for **2019-51072 Truscott Roof Replacement** in accordance with the Contract Documents which Contract Documents is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, if Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions and agreements of said Contract during the original term thereof, and any extensions thereof which may be granted by the City, with or without notice to the Surety and during the guaranty period, and if Principal shall satisfy all claims and demands incurred under such Contract, and shall fully indemnify and save harmless City from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the City all outlay and expense which the City may incur in making good any default, then this obligation shall be void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the City.

Whenever Principal shall be, and declared by City to be in default under the Contract, the City having performed City's obligation hereunder, the Surety may promptly remedy the default or shall promptly:

- (1) Complete the Contract in accordance with its terms and conditions, or
- (2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the City elects, upon determination by the City and Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and City, and make available as work progresses (even though there should be a default or succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract price" as used in this paragraph, shall mean the total amount payable by City to Principal under the Contract and any amendments thereto, less the amount properly paid by City to Principal.
- (3) Any contract or succession of contracts entered into hereunder for the completion of the Contract, shall also be subject to this bond as part of the original Contract obligations.

This bond is intended to be in satisfaction of, and in addition to, the bond required pursuant to Section 38-26-106, C.R.S., as amended.

This bond, as a penalty and indemnification bond, shall also entitle City to recover as part of the completion of the Contract or the payment of any labor or material costs hereunder, actual and consequential damages, liquidated and unliquidated damages, costs, reasonable attorneys fees and expert witness fees, including, without limitations, the fees of engineering or architectural consultants.

Surety, for value received, hereby stipulates and agrees that to indemnify and save harmless the City to the extent of any and all payments in connection with the carrying out of the contract which the City may be required to make under the law by any reason of such failure or default of the Principal.

Further, Surety and Principal shall protect, defend, indemnify and save harmless the City's officers, agents, servants, and employees from and against all claims and actions and all expenses incidental to the defense of such claims or actions, based upon or arising out of injuries or death of persons or damage to property caused by, or sustained in connection with, this Contract by conditions created thereby, and on request of the City will assume the defense of any claim or action brought against the City.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the City named herein or the employees, agents, administrators or successors of City.

SIGNED AND SEALED this 22nd day of July, 2019.

PRINCIPAL: CRW, INC.

(seal)

By: [Signature]

Attest: By: [Signature]

Title: Agent

SURETY:

WESTFIELD INSURANCE COMPANY

(seal)

By: [Signature]

Douglas J. Rothey

Title: Attorney-in-Fact

Witness:

Attest:

By:

[Signature]
Cynthia M. Burnett, Littleton, Colorado

NOTE: Accompany this bond with certified copy of General Power of Attorney from the Surety to include the date of the bond. (Date of Bond must not be prior to date of Contract.) If Principal is Partnership, all partners should execute Bond.

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS: That we, the undersigned, as,

CRW, INC. _____ having a legal business

(Principal's Name)

address at 1850 West Baker Avenue, Englewood, Colorado 80110

(Principal's Address)

a Corporation _____, as Principal, hereinafter called "Principal", and

(Corporation, Partnership, or Individual)

WESTFIELD INSURANCE COMPANY

(Surety's Name)

P. O. Box 5001, Westfield Center, Ohio 44251-5001

(Surety's Address)

a corporation organized under the laws of the State of Ohio, and qualified to transact business in the State of Colorado, hereinafter called "Surety", are held and firmly bound unto the City of Aspen, a Colorado home rule municipality, as Obligee, hereinafter called "City", in the amount of :

FIVE HUNDRED SIXTEEN THOUSAND TWENTY THREE AND NO/100 DOLLARS (\$ 516,023.00-----), in lawful money of the United States for payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly unto these present.

WHEREAS, Principal has by written agreement dated July 22, 2019, entered into a contract with the City for a project entitled: **2019-51072 Truscott Roof Replacement**, in accordance with the Contract Documents which Contract Documents is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal shall promptly make payment to all claimants hereinafter defined, for all labor and material used or reasonably required for the use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A Claimant is defined as having a direct contract with the Principal or with subcontractor of the Principal for labor, material, or both, used or reasonably required for the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment directly applicable to the Contract.

2. The above-name Principal and Surety hereby jointly and severally agree with the City that every claimant as herein defined who has not been paid in full before the expiration of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed or materials were furnished by such claimant, may sue on this bond for use of such sums as may be justly due claimant, and have execution thereon. The City shall not be liable for the payment of any costs or expenses of any such suit.

3. No suit or action shall commence hereunder by any claimant:

(a) Unless claimant, other than one having a direct contract with the Principal shall have given written notice to any of the following: The Principal, the City, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the material for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work of labor was done or performed. Such notice shall be served by mailing the same registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, City or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the State of Colorado.

(b) After the expiration of one (1) year following the date on which Principal ceased work on said Contract, it being understood, however, that if any limitation embodied in this Bond is prohibited by any law controlling the

construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

(c) Other than in a state of competent jurisdiction in and for the County of Pitkin, State of Colorado.

4. The amount of this Bond shall be reduced to the extent of any payment or payments made hereunder, inclusive of the payment by surety of liens or claims which may be filed of record against the improvement(s), whether or not claim for the amount of such lien be presented under and against this Bond.

5. This Bond is intended to be in satisfaction of, and in addition to, the bond required pursuant to Section 38-26-105, C.R.S., as amended.

6. No final settlement between the City and Principal shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

SIGNED AND SEALED this 22nd day of July, 2019.

PRINCIPAL: CRW, INC. (seal)

By: [Signature]

Attest: By: [Signature]

Title: Agent

SURETY: WESTFIELD INSURANCE COMPANY

(seal)

By: [Signature]

Witness:

~~Attest~~

By:

[Signature]

Cynthia M. Burnett, Littleton, Colorado

Douglas J. Rothery

Title: Attorney-in-Fact

NOTE: Accompany this bond with certified copy of General Power of Attorney from the Surety Company to include the date of the bond. (Date of Bond must not be prior to date of Contract). If Principal is a Partnership, all partners should execute Bond.

MAINTENANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS, That we, the undersigned, as CRW, INC.

_____, of 1850 West Baker Avenue, Englewood, Colorado 80110, as
Principal, hereinafter referred to as "Principal", and

WESTFIELD INSURANCE COMPANY

a corporation organized under the laws of the State of Ohio, and qualified to transact business in the State of Colorado, as "Surety" are held and firmly bound unto the City of Aspen, Colorado, as obligee, hereinafter referred to as "City," in the penal sum of:

FIVE HUNDRED SIXTEEN THOUSAND TWENTY THREE AND NO/100
Dollars (\$516,023.00), lawful money of the United States of America, for the Payment of which sum, well and truly to be made to the City, we bind ourselves, and our heirs, executors, administrators, successors, and assignees, jointly and severally, by these presents:

WHEREAS, said Principal has entered into a written Contract with the obligee dated July 22, 2019, for furnishing all equipment, labor, tools and materials for: **2019-51072 Truscott Roof Replacement** in accordance with detailed plans and specifications on file in the office of the City Clerk of said City, a copy of which Contract is attached hereto and made a part hereof.

NOW THEREFORE, The conditions of the foregoing obligations are such that if the said Principal shall well and truly perform all the covenants and conditions of this Contract on the part of said Principal to be performed, and repair or replace all defects for a period of two year(s) as provided herein, and protect and save harmless the City of Aspen, Colorado, from all loss and damages to life or property suffered or sustained by any person, firm or corporation, caused by said Principal or his agents or his employees, in the performance of said work, or by, or in consequence of any negligence, carelessness, or misconduct in guarding and protecting same, or from any improper or defective equipment or materials used in the work, or other damages, costs and expenses and set forth in such Contracts, then this obligation shall be void otherwise to remain in full force and effect in law.

This Bond guarantees that the material and equipment furnished and used, and workmanship employed in the performance of the work described in this Contract will be of such character and quality as to insure it to be free from all defects and in continuous good order and in a condition satisfactory to the Governing Body of the City of Aspen for a period of two year(s) from the date of the issuance of the Certificate of Completion.

This Bond guarantees that the said Principal will keep and maintain the subject work without additional charge or cost to the City of a period specified, and make such repairs or replacement of any defective construction as the City may deem necessary.

The said Principal shall not be required to maintain any part of the improvement under this guarantee which, after its completion and acceptance shall have been removed or altered by the City or its agent.

SIGNED AND SEALED this 22nd day of July, 2019.

PRINCIPAL: CRW, INC.

By: [Signature] (seal)

Title: Agent

Attest: By: [Signature]

SURETY:

WESTFIELD INSURANCE COMPANY

By: [Signature]

Douglas J. Rothery
Title: Attorney-in-Fact

Witness:

~~Attest:~~

By: [Signature]
Cynthia M. Burnett, Littleton, Colorado

(Accompany this bond with certified copy of General Power of Attorney from the Surety Company to include the date of the bond.)

General
Power
of Attorney

CERTIFIED COPY

POWER NO. 0500202 07

Westfield Insurance Co.
Westfield National Insurance Co.
Ohio Farmers Insurance Co.
Westfield Center, Ohio

Know All Men by These Presents, That WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, corporations, hereinafter referred to individually as a "Company" and collectively as "Companies," duly organized and existing under the laws of the State of Ohio, and having its principal office in Westfield Center, Medina County, Ohio, do by these presents make, constitute and appoint
CYNTHIA M. BURNETT, DOUGLAS J. ROTHEY, JOINTLY OR SEVERALLY

of **LITTLETON** and State of **CO** its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings, or other instruments or contracts of suretyship.

LIMITATION: THIS POWER OF ATTORNEY CANNOT BE USED TO EXECUTE NOTE GUARANTEE, MORTGAGE DEFICIENCY, MORTGAGE GUARANTEE, OR BANK DEPOSITORY BONDS.

and to bind any of the Companies thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the applicable Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. Said appointment is made under and by authority of the following resolution adopted by the Board of Directors of each of the WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY:

"Be it Resolved, that the President, any Senior Executive, any Secretary or any Fidelity & Surety Operations Executive or other Executive shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

The Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed by the President and sealed and attested by the Corporate Secretary."

"Be it Further Resolved, that the signature of any such designated person and the seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signatures or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached." (Each adopted at a meeting held on February 8, 2000).

In Witness Whereof, WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY have caused these presents to be signed by their **National Surety Leader and Senior Executive** and their corporate seals to be hereto affixed this 13th day of **MARCH** A.D., 2015.

Corporate
Seals
Affixed



WESTFIELD INSURANCE COMPANY
WESTFIELD NATIONAL INSURANCE COMPANY
OHIO FARMERS INSURANCE COMPANY

By: *Dennis P. Baus*

Dennis P. Baus, National Surety Leader and Senior Executive

State of Ohio
County of Medina ss.:

On this 13th day of **MARCH** A.D., 2015, before me personally came **Dennis P. Baus** to me known, who, being by me duly sworn, did depose and say, that he resides in **Wooster, Ohio**; that he is **National Surety Leader and Senior Executive** of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, the companies described in and which executed the above instrument; that he knows the seals of said Companies; that the seals affixed to said instrument are such corporate seals; that they were so affixed by order of the Boards of Directors of said Companies; and that he signed his name thereto by like order.

Notarial
Seal
Affixed



David A. Kotnik

David A. Kotnik, Attorney at Law, Notary Public
My Commission Does Not Expire (Sec. 147.03 Ohio Revised Code)

State of Ohio
County of Medina ss.:

I, **Frank A. Carrino**, Secretary of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; and furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Westfield Center, Ohio, this 22nd day of July A.D., 2019



Frank A. Carrino Secretary
Frank A. Carrino, Secretary

TO: Mayor Torre and Aspen City Council
THRU: Gena Buhler, Wheeler Opera House Executive Director
Jeff Pendarvis, Capital Asset Director
FROM: Evan Pletcher, Project Manager Capital Asset Management
DATE OF MEMO: August 2, 2019
MEETING DATE: August 12, 2019
RE: Wheeler – Carpet Project for Auditorium and Balcony

REQUEST OF COUNCIL: Staff requests Council to approve Resolution 89 (Exhibit A) to approve the Contract for Handcrafted Flooring (Exhibit B) to replace solid and custom border carpets in the auditorium and balcony areas.

BACKGROUND: The carpet in the Wheeler Opera House auditorium and balcony areas is generally replaced on a 10-year schedule. The last replacement project was in 2009 (orchestra) and 2013 (balcony). During orchestra seating replacement in 2018 and the upcoming hearing loop install, the carpet in the auditorium must be removed and recut. Staff recommendation is to replace the carpet in the orchestra level at this time due to wear and tear of carpet during this process

DISCUSSION: In May 2019, the City of Aspen solicited bids from carpet company's for replacement of the carpet in the lobby, along the stairs, and balcony areas. The specification of the bid includes coordination of installment with the closure schedule of the facility.

Two bids were received during the procurement process for the same product plus labor costs ranging from approximately \$68,000.00 to approximately \$82,000.00. All contracts over \$50,000 require City Council approval.

FINANCIAL/BUDGET IMPACTS: FINANCIAL/BUDGET IMPACTS: The 2019 includes \$54,645 in spending authority specific to the "Wheeler Interior" project budget. These resources, plus \$13,592 in unused authority from the "Orchestra Seating Replacement" project budget (with the seating replacements completed) are sufficient to cover this carpeting project as proposed.

RECOMMENDED ACTION: Staff recommends approving the Handcrafted Flooring contract for \$68,237 to re-carpet designated areas of the Wheeler by adopting Resolution #89.

PROPOSED MOTION: "I move to approve Resolution #89"to approve the contract with Handcrafted Flooring to replace carpet in the lobby, along the stairs, and balcony areas of the Wheeler Opera House."

CITY MANAGER COMMENTS: _____

ATTACHEMENTS:

- *Exhibit A – Resolution #89, Series of 2019*
- *Exhibit B – Handcrafted Flooring Contract for Wheeler Carpet Replacement*

RESOLUTION 89
(Series of 2019)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO,
APPROVING A CONTRACT BETWEEN THE CITY OF ASPEN AND HANDCRAFTED
FLOORING 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 one contract for Supply Procurement and Professional Services to replace carpet at the Wheeler Opera House between the City of Aspen and Handcrafted Flooring, 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 that contract between the City of Aspen and Handcrafted Flooring, a copy of which is annexed hereto and incorporated herein and does hereby authorize 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 12th of August 2019.

Torre, Mayor

I, Linda Manning, 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 on the 12th of August 2019.

Linda Manning, City Clerk



CITY OF ASPEN STANDARD FORM OF AGREEMENT - V2010

SUPPLY PROCUREMENT AND PROFESSIONAL SERVICES

City of Aspen Project No.: 2019-51030.

AGREEMENT made as of 24th day of July, in the year 2019.

BETWEEN the City:

The City of Aspen
c/o Michelle Bonfils Thibeault
130 South Galena Street
Aspen, Colorado 81611
Phone: (970) 920-5055

Contract Amount:

Procurement:	\$58,520.25
Professional Services:	\$ 9,716.75
Total:	\$68,237.00

And the Professional:

Handcrafted Flooring
c/o Matt Chartier
1117 Village Road
Carbondale, CO 81623
Phone: (970) 963-7472

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: _____

Resolution No.: _____

For the Following Project:

Replace carpet in the auditorium and balcony including custom border carpet.

Exhibits appended and made a part of this Agreement:

Exhibit A: List of supplies, equipment, or materials to be purchased.
Exhibit B: Scope of Work.
Exhibit C: Hourly Fee Schedule.

The City and Professional agree as set forth below.

SUPPLY PROCUREMENT

1. Purchase. Professional agrees to sell and City agrees to purchase the supplies, equipment, or materials as described in **Exhibit A**, appended hereto and by this reference incorporated herein, for the sum of set forth above.
2. Delivery. (FOB Wheeler Opera House, 320 E Hyman Ave, Aspen, CO 81611).
3. Contract Documents. This Agreement shall include all Contract Documents as the same are listed in the Invitation to Bid or Request for Proposals and said Contract Document are hereby made a part of this Agreement as if fully set out at length herein.
4. Warranties. (manufacturer's warranty applies).
5. Successors and Assigns. 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.

PROFESSIONAL SERVICES

6. Scope of Work. Professional shall perform in a competent and professional manner the Scope of Work as set forth at **Exhibit B** attached hereto and by this reference incorporated herein.
7. Completion. 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 the installation in the auditorium pursuant to this Agreement shall be completed between October 28, 2019 and November 1, 2019. The installation in the balcony work will be determined as it relates to other work taking place in the balcony area. 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.
8. Payment. 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 C** 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.

9. Non-Assignability. 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.

10. Termination of Procurement. 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.

11. Termination of Professional Services. 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.

12. Independent Contractor Status. 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.

13. 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.

14. 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 FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) for each accident, FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) disease - policy limit, and FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) 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 ONE MILLION DOLLARS (\$1,000,000.00) each occurrence and ONE MILLION DOLLARS (\$1,000,000.00) 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 by 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 \$150,000.00 per person and \$600,000 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.

15. City's Insurance. 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.

16. Completeness of Agreement. 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.

17. Notice. 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.

18. Non-Discrimination. 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.

19. Waiver. 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.

20. 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.

21. Illegal Aliens – CRS 8-17.5-101 & 24-76.5-101.

(a) Purpose. 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) Definitions. 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 employ 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.

22. 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.

23. Fund Availability. 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.

22. 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.

23. Electronic Signatures and Electronic Records. 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 ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

24. Liquidated Damages. Handcrafted Flooring declares his/her full awareness of the content and terms of this contract and affirms that the contractual time is the period mentioned in the contract and any time extension(s), if any, granted by the City of Aspen for successful completion of project. Handcrafted Flooring further acknowledges he/she understands and agrees to liquidated damages to be deducted from moneys due to him/her for any delayed calendar day beyond November 1, 2019 for the auditorium installation at the rate of **\$5,000.00 per day**. This amount and the total allowed time by the City shall not be negotiable under any conditions.

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

CITY OF ASPEN, COLORADO:

[Signature]

By: _____
[Name]

Title: _____

Date: _____

PROFESSIONAL:

[Signature]

By: Alasha Zegarski
[Name]

Title: Office Manager

Date: 8/2/19

Approved as to form:

EXHIBITS A, B, and C

Exhibit A - Items to be Purchased

Description	Qty	Cost	U/M	Total
Field Carpet Masland Custom color W953	485	62.80	Sq.yds	30,458.00T
Rubber Tread Moore	605	7.25	Sq.yds	4,386.25T
Custom Border	150	149.34	Sq. yds	22,401.00T
Carpet and pad glue	15	85.00	each	1,275.00T

Exhibit B

Handcrafted Flooring shall provide the labor, equipment, materials, supplies and expertise to remove the old flooring and dispose it in a proper way, and install the new carpet, border and rubber trim.

Exhibit C

Freight	1	984.25		984.25
Remove old carpet and haul away	485	2.00	Sq.yds	970.00
Install Carpet Double Stick	485	8.50	Sq.yds	4,122.50
Border Labor	32	65.00	hour	2,080.00
Upholstery Labor	24	65.00	hour	1,560.00

Total labor, freight, and disposal costs are \$9,716.75

Total materials purchased are \$58,520.25

Total Cost \$68,237.00

The City shall pay a deposit toward the purchase of the carpet, border and rubber trim of \$44,354.00. The balance shall be paid NET 30 upon approving the final invoice and completion of the work.



MEMORANDUM

TO: Mayor and City Council
FROM: Linda Manning, City Clerk
THROUGH: Jim True, City Attorney
MEMO DATE: August 5, 2019
MEETING DATE: August 12, 2019
RE: Resolution #93, Series of 2019 – Calling for and establishing the date for the Coordinated General Election and authorizing the City Clerk execute the IGA with Pitkin County.

REQUEST OF COUNCIL: Staff is recommending Council establish participation in the Coordinated November Election and authorize the City Clerk to execute the IGA.

SUMMARY AND BACKGROUND: The attached resolution calls for and sets the date for the Coordinated General Election for November 5, 2019 and authorizes the City Clerk to execute the Intergovernmental Agreement with the Pitkin County Clerk and Recorder concerning that election. Staff will be recommending to Council a ballot question seeking authorization from the electorate to retain the excess funds collected from the tobacco sales tax for the November 5, 2019 coordinated election.

DISCUSSION: To coordinate with the County for the November election there are several time deadlines that must be met. The first is calling for the election by resolution and execution of the IGA prior to August 27, 2019. The second deadline to consider is that all ballot content must be delivered to the County by September 6, 2019. At the Council meeting on August 26th, Staff will recommend ballot language for the question related to the tobacco sales tax funds. Council can still add ballot questions or issues up to the September 6 date either at the next regularly scheduled meeting or, if needed by holding a special meeting.

FINANCIAL IMPACTS: Political Subdivision (City of Aspen) shall pay to the County Clerk its pro rata share of the direct costs and expenses actually incurred and paid by the County Clerk in order to prepare for and conduct the election, including without limitation post-election activities such as the post-election audit, canvass and certification of official results. Political Subdivision's prorated share of such costs and expenses shall be based on a) the total number of registered electors residing within the columnar length in inches, of ballot content certified to the County Clerk by the Political Subdivision. The minimum charge for participation in the election is \$1,000.

ENVIRONMENTAL IMPACTS: None

ALTERNATIVES: The only elections where a TABOR question can be placed on the ballot are in a state general election, biennial local district election or on the first Tuesday in November of odd-numbered years. If Council chooses not to place the question on the ballot in November, the next opportunity would be November of 2020.

RECOMMENDATIONS: Staff is recommending Council adopt Resolution #93, Series of 2019 to set the election date for the coordinated general election and authorize the City Clerk to sign the IGA.

CITY MANAGER COMMENTS: In early 2019, City staff was directed to prepare a strategic expenditure proposal for tobacco sales tax revenue collected in 2018. During that discussion, Council also directed staff to prepare a ballot question to request voters approve keeping approximately \$114,000 in revenue above the year one collection estimate. A full report on this matter is scheduled for Council's work session on August 13, 2019. The nature of the timing of the election deadlines requires Council to consider approval of the election IGA before presentation of the spending plan. The approval of this IGA preserves the current Council's ability to place a ballot question through legislative action after the tobacco work session. - SGO

RESOLUTION # 93
(Series of 2019)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, CALLING FOR AND ESTABLISHING A DATE FOR THE CITY OF ASPEN TO COORDINATE WITH PITKIN COUNTY FOR THE 2019 GENERAL ELECTION TO BE CONDUCTED ON NOVEMBER 5, 2019 AND AUTHORIZING THE CITY CLERK TO EXECUTE THE INTERGOVERNMENTAL AGREEMENT CONCERNING THE 2019 GENERAL ELECTION.

WHEREAS, there has been submitted to the City Council an intergovernmental agreement for the 2019 General Election, between the City of Aspen “Political Subdivision” and Pitkin County Clerk and Recorder, a true and accurate copy of which is attached hereto as Exhibit “A”; and

WHEREAS, the City Council desires to place before the Aspen electorate certain ballot questions; and

WHEREAS, the City Council may add such additional questions to the ballot as it may hereafter deem appropriate,

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

Section 1:

The City of Aspen shall coordinate with the General Election established for Tuesday, November 5, 2019 for the purposes of submitting ballot questions regarding retaining excess funds collected from the tobacco tax and any other questions to be determined by the City Council at a future date.

Section 2:

Pursuant to Ordinance No. 31, Series of 1996, the coordinated election shall be conducted in accordance with the Uniform Election Code of 1992, as amended. The City Clerk shall take all steps necessary to negotiate with the Pitkin Clerk and Recorder for the preparation of an intergovernmental agreement in accordance with Section 1-7-116, C.R.S., concerning the conduct of the November 5, 2019 Coordinated General Election according to law. The City Clerk shall be authorized to execute the intergovernmental agreement concerning the 2019 general election.

Section 3:

If any section, subsection, sentence, clause, phrase, or portion of this resolution is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

INTRODUCED, READ AND ADOPTED by the City Council of the City of Aspen on the 12th day of August 2019.

Torre, Mayor

I, Linda Manning, 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, August 12, 2019.

Linda Manning, City Clerk

INTERGOVERNMENTAL AGREEMENT FOR CONDUCT OF
2019 COORDINATED ELECTION

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is entered into between the Pitkin County Clerk and Recorder (hereinafter referred to as "Clerk") and City of Aspen (hereinafter referred to as "Political Subdivision").

This agreement must be signed and delivered to the Clerk by **August 27, 2019, 4:30 p.m.**, no later than 70 days prior to the Election.

I. PURPOSE

The Clerk & Political Subdivision agree to schedule a Coordinated Election on November 5, 2019, (hereinafter referred to as "Election"). This Agreement sets forth the responsibilities between the Clerk and Political Subdivision for the preparation and conduct of the Election.

The parties agree as follows:

II. APPLICABLE LAW

The Election is to be held under the provisions of Title I of the Colorado Revised Statute (C.R.S.), and the Secretary of State Election Rules. If any Political Subdivision encompasses territory in more than one county, this Agreement applies only to the portion of the Political Subdivision within Pitkin County.

III. DESIGNATION OF OFFICIALS

A. Clerk's Designated Election Official

The Clerk designates the following person as the Designated Election Official, i.e. contact person, to act as the Clerk's primary liaison with the Political Subdivision for all purposes relating to the Election. The Contact Officer acts under the authority of the Clerk.

DEO Name: Elizabeth Granado

Mailing Address: 530 E. Main Street, Suite 104, Aspen, CO 81611

Phone Number: 970-429-2711

Fax Number: 970-445-3007

Email Address: Elizabeth.granado@pitkincounty.com

B. Political Subdivision's Designated Election Official

The Political Subdivision designates the following person as the Designated Election Official ("DEO") for purposes of the 2019 Coordinated Election. The DEO is the primary liaison between the Political Subdivision and the Clerk.

DEO Name: Linda Manning

Mailing Address: 130 S Galena St Aspen, CO 81611

Phone Number: 970-429-2685

Fax Number: 970-920-5197

Email Address: Linda.Manning@cityofaspen.com

Alternate DEO: The Political Subdivision designates Nicole Henning, phone 970-429-2687 as an alternate DEO if the primary DEO is unavailable for unforeseen circumstances.

IV. DUTIES OF THE CLERK: Election Preparation

The Clerk must:

- i. Provide Political Subdivision with an address library report which lists all residential street addresses situated within the Political Subdivision's boundaries according to Colorado's statewide voter registration database ("SCORE").
- ii. Manage and update all voter registration records.

- iii. Supply, deliver, and set up all voting equipment and other items necessary to conduct the Election.
- iv. Appoint eligible electors as election judges, arrange for their compensation and provide all training to election judges in advance of the Election.
- v. Include on the ballot all content timely certified by Political Subdivision.
- vi. Contract and arrange for payment for printing of ballots, ballot envelopes, and other printed materials reasonably necessary to conduct the Election.
- vii. Publish notice of polling center locations no later than 20 days before the Election in compliance with C.R.S.
- viii. Perform all required acceptance testing, hardware diagnostic testing and logic and accuracy testing of voting equipment and its components.
- ix. Designate the proper number of voter service and polling centers (VSPCs), early voting centers and mail ballots drop off locations, ensuring the VSPCs are accessible to electors with disabilities.

V. DUTIES OF THE CLERK: Election Conduct

The Clerk must:

- i. Provide for the security and processing of all mail ballots by receiving, verifying voter signatures, and counting ballots.
- ii. Issue mail ballots to and accept voted mail ballots from military and overseas voters in compliance with deadlines and delivery methods under state and federal law.

- iii. Provide for the security and reconciliation of official ballots supplied for or cast at the VSPCs and mail ballot processing center.
- iv. Provide provisional ballots for use by electors and process them in accordance with C.R.S.
- v. Prepare and conduct the Canvass of Votes within the time required by law.
- vi. Certify and provide official results to all political subdivisions participating in the Election.
- vii. Conduct any post-election audit as required by state or federal law.
- viii. Conduct any mandatory or permissive recount.
- ix. Preserve all election records relating to the Election for at least twenty-five months, as required by C.R.S.

VI. DUTIES OF POLITICAL SUBDIVISION: Election Preparation

The Political Subdivision must:

- i. Determine whether a ballot issue, ballot question, candidate contest or candidate is eligible or properly certified for the ballot.
- ii. Verify and certify to the Clerk the address library report the Clerk provides is accurate and complete by August 27, 2019, 4:30 p.m., 70 days before the Election. Political Subdivision will notify the Clerk of any address ranges or street names in the address library report that are inaccurate, incomplete, or omitted in its certification.

NOTE: If certification is not provided by August 27, 2019, the Political Subdivision may not participate in the Election, or alternatively,

the Clerk, in her discretion, may build the Election on the assumption that the address library report is complete and accurate.

- iii. Deliver to the Clerk a certified copy of the ordinance or resolution authorizing the Political Subdivision to participate in the Election according to the terms of this Agreement by August 27, 2019, 4:30 p.m., 70 days before the Election, and identifying person(s) authorized to execute this Agreement.
- iv. Provide a certified copy to the Clerk of all ballot content in the format provided for in Section VII.
- v. Post or publish any legal notices required of the Political Subdivision not expressly agreed to be the responsibility of the Clerk in this Agreement.

VII. ADDITIONAL DUTIES FOR SPECIAL DISTRICT ELECTIONS:

The Special Districts must:

- i. Certify the list of property owners eligible to vote for special district elections under section 31-2-806 C.R.S. by September 13, 4:30 p.m.
- ii. Notify eligible property owners within the Political Subdivision of the option to contact the Clerk for a property owner mail ballot. Clerk will provide a draft of property owner affidavit to DEO for mailing.

VIII. DUTIES OF POLITICAL SUBDIVISION: Ballot Content

The Political Subdivision must:

- i. Certify and email ballot content to the Clerk no later than September 6, 2019, 4:30 p.m., 60 days before the election.

- ii. Use the exact language and order ballot content is to appear on the printed official and sample ballots for the Election for all certified ballot content.
- iii. Limit ballot content to 200 words, including title, unless the Clerk provides written consent in advance.
- iv. Submit and Format Ballot Content in the following format:

- 1. Microsoft Word '97 or later
- 2. Font Type: Arial
- 3. Font Size: 8 point
- 4. Justification: Left
- 5. Spacing: Single
- 6. All Margins: 0.5 inches
- 7. Language: English
- 8. Ballot Title: Bold and lower case
- 9. Audio File Type: Wave Sound, file extension.wav

NOTE: The Political Subdivision's certified content will be final upon receipt by the Clerk. The Clerk will not be responsible for making any changes after Political Subdivision's certification of its ballot content. If changes are requested, the Clerk, in her discretion, may allow changes and charge the Political Subdivision accordingly.

- v. Designate an agent to appear in person to proofread and approve ballot content certified by Political Subdivision as it appears on ballot artwork before printing within one business day after Clerk notification. The

Political Subdivision designates the following as their agent to approve
ballot artwork:

Name: Linda Manning

Phone Number: 970.429.2685

Cell Phone Number: _____

Fax Number: 970.970.5197

Email Address: Linda.Manning@cityofAspen.com

NOTE: Changes will be made to ballot artwork only if ballot artwork does
not match the certified ballot content provided by the Political Subdivision.

IX. BALLOT ISSUE NOTICE ("TABOR NOTICE"): Political Subdivision duties

The Political Subdivision will:

- i. Ensure timely preparation, accuracy, and legal sufficiency of any TABOR notice content.
- ii. Provide a local office address and telephone number in its TABOR notice.
- iii. Email pro and con statements and required fiscal information to the Clerk by September 23, 2019, 4:30 p.m., no later than 43 days to the Election.
- iv. Submit pro and con statements in the following format:
 1. Microsoft Word '97 or later
 2. Font Type: Arial
 3. Font Size: 8 point
 4. Justification: Left
 5. Spacing: Single
 6. All Margins: 0.5 inches
 7. Language: English

- v. Designate an agent to proofread and approve via email Political Subdivision's TABOR notice content before printing within four hours after receiving TABOR notice artwork from the Clerk. The Political Subdivision designates the following as their agent to approve TABOR notice artwork:

Name: Linda Manning

Phone Number: 970. 429. 2685

Cell Phone Number: _____

Fax Number: 970. 920. 5197

Email Address: Linda.Manning@City of Aspen.com

- vi. Mail its TABOR notice content to all property owners within the Political Subdivision who are eligible to vote on the ballot issue, except for electors to whom the Clerk mails the combined TABOR notice.
- vii. Pay the prorated amount of the total cost to produce and mail the complete TABOR notice, based on the total number of registered voters residing within the Political Subdivision as reflected by the voter registration records as of the voter registration deadline for the Election, and by the columnar length in inches, rounded to the nearest quarter inch, the Political Subdivision issues occupy in the TABOR notice.

X. BALLOT ISSUE NOTICE ("TABOR NOTICE"): Clerk's duties

The Clerk will:

- i. Prepare and mail a combined TABOR notice no less than 30 days prior to the Election.

- ii. Mail TABOR notice to eligible electors at each address in Pitkin County where one or more registered voters of the Political Subdivision and of any other participating political subdivision resides.
- iii. Determine the least cost method for mailing the TABOR notice.
- iv. Refer inquiries concerning the substance of ballot issues and ballot questions or Political Subdivision operations to the Political Subdivision DEO named in this Agreement.

XI. ELECTION COSTS

- i. The Clerk will keep accurate accounts of all costs incurred to conduct the Election, including, but not limited to, costs for supplies, printing, ballot mailing, TABOR, election notices, temporary labor, compensation of election judges, and other expenses attributable to conducting the Election on behalf of the Political Subdivision.
- ii. The Clerk will determine the cost allocation for each Political Subdivision participating in the Election. The cost is determined on the basis of the total number of registered voters within each Political Subdivision and the amount of space, in inches, the Political Subdivision uses on the ballot or ballot issue notice.
- iii. The Clerk will charge and allocate to the Political Subdivision its share of expenses incurred by the Clerk to remedy, resolve, or reconcile the Political Subdivision's failure or omission to timely perform any of its obligations under the Agreement, without regard to whether the Political Subdivision rescinds its intent to participate in the Election.

- iv. There will be a minimum charge for participation in the Election of \$1000, and in no event will any district pay less than \$1000.
- v. The Clerk will submit to the Political Subdivision an invoice, within 90 days of the Election, for their pro rata share of costs incurred in participating in the Election.
- vi. The Political Subdivision must reimburse the Clerk for Election costs as allocated within 30 days of receiving the invoice of its pro rata costs.
- vii. In the event of a recount, mandatory or permissive, of a candidate contest, ballot issue, or ballot question certified by the Political Subdivision, the Clerk will charge expenses reasonably incurred to conduct any such recount or ballot contest to the Political Subdivision. If more than one Political Subdivision participating in the Election is involved in any such recount or election contest, the costs will be prorated between the Political Subdivision and other participating entities.

XII. CANCELLATION OF THE ELECTION:

- i. If the Political Subdivision opts to cancel its Election, the Political Subdivision must notify the Clerk immediately.
- ii. The Political Subdivision must pay the Clerk all amounts due, including production and mailing costs incurred before and after the Clerk received cancellation notice.
- iii. The Political Subdivision must provide notice of publication of the cancellation of its Election. A copy of the publicized notice must be posted in the office of the Clerk, office of the D.E.O., and if the Political

Subdivision is a special district in the office of the Division of Local Government.

- iv. The Political Subdivision cannot cancel its participation in the Election after October 11, 2019, 4:30 p.m., 25 days prior to the Election

XIII. ADDITIONAL TERMS:

- i. In the event a court of competent jurisdiction finds the Election for the Political Subdivision was void or otherwise defective as the sole result of the failure of the Clerk to perform in accordance with this Agreement or federal and state Election laws, the Political Subdivision will be entitled to recover expenses or losses caused by such breach or failure up to the maximum amount paid by the Political Subdivision to the Clerk. This will be the exclusive remedy for breach available to the Political Subdivision. The Clerk will not be held liable for any expenses, damages, or losses in excess of the amounts paid by Political Subdivision under this Agreement.
- ii. If requested by Clerk, Political Subdivision shall designate eligible electors of Pitkin County to participate in ballot counting, recounts, testing and auditing of voting equipment used in the Election, and the canvass, and to serve as election judges and on various boards and panels convened to oversee the Election. In the event Clerk does not request the Political Subdivision to designate eligible electors under this section, all election judges, boards and panels will be comprised of registered electors affiliated with the major political parties and nominated by the county chairpersons thereof; provided, however, that Clerk reserves the right to

appoint unaffiliated electors or electors affiliated with minor political parties if the county chairpersons of the major political parties are unable or fail to nominate a sufficient number of registered electors affiliated with the major political parties.

- iii. No portion of this Agreement creates a cause of action to anyone who is not a party to this Agreement.
- iv. This Agreement does not waive any privileges or immunities otherwise possessed or enjoyed by the parties, their agents, representatives, or employees, unless expressly stated.
- v. Any proposed Political Subdivision not identified by a tax code in the Pitkin County Assessor records must provide the Clerk with a certified legal description, map and locator, identifying all "high/low" ranges for street addresses within the proposed Political Subdivision by 180 days before the Election. If the locator data is not provided by 180 days the proposed Political Subdivision will not participate in the Election.
- vi. Statutory requirements under the Election Code, TABOR, and Secretary of State Election Rules apply to the completion of any duties or tasks required under this Agreement.
- vii. The Clerk agrees to perform the services specified in this Agreement in consideration of the Political Subdivision's timely payment of costs and performance of its other obligations as set forth.
- viii. The Political Subdivision warrants it has sufficient funds available in its approved budget to pay all amounts due to the Clerk.

ix. The Agreement is effective as of the day of signing.

Signed this ____ day of _____, 2019.

Janice K. Vos Caudill Date

Political Subdivision:

By: _____
Date

Title: _____



MEMORANDUM

TO: Mayor and City Council

FROM: Justin Forman, P.E., Division Manager Engineering Department
Paul Schultz, Director of Information Technology
Tyler Christoff, P.E., Interim Director of Utilities
Trish Aragon, P.E., City Engineer

THROUGH: None

MEMO DATE: August 5th, 2019

MEETING DATE: August 12th, 2019

RE: Design Guidelines for Small Cell Infrastructure – Consent for Professional Services Contract, Resolution #92, Series of 2019

REQUEST OF COUNCIL: Staff recommends Council approve the Design Guidelines for Small Cell Infrastructure with HRGreen, Inc. in the amount of \$64,000.00.

SUMMARY AND BACKGROUND:

State and Federal law surrounding “Small Cell” wireless infrastructure has been rapidly evolving. In late 2017 Colorado state law was amended to, among other things, create a “use by right” for Small Cell facilities in any zone district, and subjects applications for Small Cell facilities to new “shot clocks” that require expedited processing of all Small Cell applications. More recently, a ruling issued by the FCC, and which is currently in effect, significantly reduces local control of Small Cell wireless infrastructure.

To address this changing landscape, the City adopted new Wireless Regulations in March of this year. These regulations outline the requirements for any wireless deployment on private property, in the public right of way, and on City property. As part of this work, the City has sought guidance from a telecommunications attorney to ensure our regulations meet state and federal requirements, while also going as far as possible to protect Aspen’s unique small-town character.

These regulations, initial interim Design Guidelines, and the applications requirements are available online at: <https://www.cityofaspen.com/1223/Small-Cell-Facilities>

The recently updated amendment to Aspen’s Land Use Code related to wireless responds adequately to the requirements of the new FCC rules and protects Aspen from some of the negative impacts of this federal mandate. In addition to the update to the Land Use Code, a new land use application specifically for wireless facilities has been developed as has an improved process that better coordinates land use and building

permit review. These changes will help the City comply with the review timelines established by the new federal regulation.

It should be noted that the recent Land Use Code change was completed as a stop gap measure. When these changes were adopted in March of 2019, Council directed staff to update the City's Design Guidelines on new wireless deployments. These Design Guidelines will outline and standardize Small Cell wireless applications on private property and within public right-of-way.

Once the Design Guidelines are completed, Community Development staff will initiate an amendment to the land use code to coordinate the new document with the code and related review process.

DISCUSSION:

The creation of a more robust Design Guideline document will outline and standardize Small Cell wireless applications within the City of Aspen both on private property and within public right-of-way.

The Design Guidelines for Small Cell Infrastructure project was advertised for proposals through the Bidnet Direct website. Three (3) proposals were received and opened on June 28th, 2019.

Staff put together a comprehensive scope of work that will include: background information on Small Cell facilities, shot clock requirements, pole design, pole caisson design, concealment and color schemes, equipment mounting/attachment, landscaping/trees, lighting design, electric meter placement, height limits, placement requirements for attached and standalone facilities, hierarchy of placement, historic districts and designated properties, designs that do not comply in Aspen, and other various technical and non-technical details. Additional items discussed at the August 5th City Council Work Session will be incorporated into the scope of this project as necessary.

Due to the technical nature of these standards, HRGreen, Inc. will work with staff and if required a public relations firm to help incorporate community/Council feedback into their final Design Guideline document.

The criteria for selection of the winning firm were as follows:

- Firm Experience: 20%
 - Experience with similar Small Cell Municipal Design Applications, firm to provide case studies of previous small cell guidelines and deployments.
 - Experience with similar Small Cell Design Applications in resort communities
 - Experience with communities with historic preservation efforts/districts
 - Experience on other City of Aspen projects
- Team Experience: 15%
 - Team organization
 - Professional Engineer Registered in the State of Colorado

- Planning and Land-Use Experience in the State of Colorado
 - Project lead, including qualifications and resume
- Project understanding: 25%
- Understanding of Project Scope
 - Approach of project
 - Proposal for document organization – design guidelines, preferred installations, prohibited installations, etc.
 - Proposal for inclusion of the following elements: technical, visual and narrative descriptions, process flow chart of how new guidelines and process standards relate to Aspen's existing regulatory framework
 - Perception of Aspen-specific opportunities and constraints
- Project Completion Timeline: 25%
- Proposed timeline for completion of deliverable document
 - Description of firm's capacity for project completion
- Cost: 15%

Proposal fees received from the three (3) consultants as summarized below:

HRGreen, Inc.	\$64,000.00
Comptek	\$58,240.00
NeuComm	\$48,500.00

HRGreen, Inc. was unanimously identified by staff as the most qualified bidder through the selection criteria mentioned above.

FINANCIAL IMPACTS:

The 2019 Budget includes \$85,000 in spending authority within the Community Development department's General Fund budget for this purpose and can fund this contract.

ENVIRONMENTAL IMPACTS:

Currently none

ALTERNATIVES:

Currently none

RECOMMENDATIONS: Staff recommends Council approve the Design Guidelines for Small Cell Infrastructure contract with HRGreen, Inc. in the amount of \$64,000.

CITY MANAGER COMMENTS: _____

Attachment A – Resolution #92, Series of 2019
Attachment B – Contract with HRGreen, Inc.
Attachment C – HRGreen, Inc. Proposal

RESOLUTION #92
(Series of 2019)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, APPROVING A CONTRACT BETWEEN THE CITY OF ASPEN AND HRGREEN, INC. 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 contract for, between the City of Aspen and, a true and accurate copy of which is attached hereto as Exhibit “ B”;

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

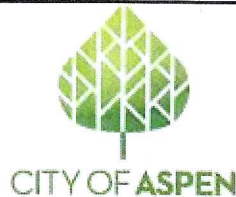
That the City Council of the City of Aspen hereby approves that Contract for, Design Guidelines for Small Cell Infrastructure between the City of Aspen and HRGreen, Inc. a copy of which is annexed hereto and incorporated herein, and does hereby authorize the City Manager to execute said agreement on behalf of the City of Aspen.

INTRODUCED, READ AND ADOPTED by the City Council of the City of Aspen on the 12th day of August 2019.

Torre, Mayor

I, Linda Manning, 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, August 12th, 2019.

Linda Manning, City Clerk



PROFESSIONAL SERVICES

City of Aspen Contract No.: 066-2019.

AGREEMENT made as of 2nd day of August, in the year 2019

BETWEEN the City:

The City of Aspen
c/o Justin Forman
130 South Galena Street
Aspen, Colorado 81611
Phone: (970) 920-5079

Contract Amount:

Total: \$ 64,000

And the Professional:

HRGreen, Inc.
c/o Mike Connor
5619 DTC Parkway, Suite 1150
Greenwood Village, CO 80111
Phone: 720-602-4999

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: August 12th, 2019

Resolution No.: #92



For the Following Project:

Design Guidelines for Small Cell Instructure

Exhibits appended and made a part of this Agreement:

Exhibit A: Scope of Work – Module 1 – Task 1 & 2, Module 2 Tasks 1-4 & Hourly Rate as defined in proposal sent to City on June 28th, 2019.
Exhibit B: Hourly Rate Schedule

The City and Professional agree as set forth below.

1. Scope of Work. 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. Completion. 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 **December 31, 2019**. 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. Payment. 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. **Approved invoices shall be paid by the City to the Professional within 30 days after receipt of the invoice.** 
4. Non-Assignability. 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. Termination of Procurement. 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. Termination of Professional Services. 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. Independent Contractor Status. 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. ~~pursuant to this Agreement.~~

(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 ONE MILLION DOLLARS (\$1,000,000.00) each occurrence and ONE MILLION DOLLARS (\$1,000,000.00) 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.

Commercial

(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.

~~The Professional's Commercial General Liability and Commercial Automobile Liability policies~~
(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.~~ , with ten (10) day exception for non-payment of premium has been given to the City. Professional further agrees to provide direct notification to the City at least thirty (30) days in advance of any proposed policy termination, or material reduction or restriction in policy coverages to be effective by endorsement to the existing policies. gsw

(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.~~ gsw

(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. City's Insurance. 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. Completeness of Agreement. 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. Notice. 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. Non-Discrimination. 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. Waiver. 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) Purpose. 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) Definitions. 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 ^{represents} ~~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. JW

(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. Fund Availability. 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. Electronic Signatures and Electronic Records 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. Successors and Assigns. 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. Third Parties. 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. Attorney's Fees. 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. Waiver of Presumption. 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. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion. 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. Integration and Modification. 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. Authorized Representative. 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:

[Signature]

By: _____
[Name]

Title: _____

Date: _____

PROFESSIONAL:

[Signature]

By: GEORGE A. WENTZ
[Name]

Title: VICE PRESIDENT

Date: AUG. 5, 2019

Approved as to form:

City Attorney's Office

EXHIBIT A PROFESSIONAL SERVICES AGREEMENT
Proposal Sent to City of Aspen Date June 28, 2019

EXHIBIT B PROFESSIONAL SERVICES AGREEMENT

Fee Schedule

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
Principal-in-Charge/Program	\$200-225
Project Manager	\$175-200
Senior Professional Engineer	\$150-185
Professional Engineer	\$150-175
Associate Engineer	\$135-160
Assistant Engineer	\$110-140
Administrative Assistant	\$ 60- 85

SUBMITTED BY



JUNE 28, 2019

DESIGN GUIDELINES FOR SMALL CELL INFRASTRUCTURE

Project Number #066-2019

Presented to
CITY OF ASPEN

HR Green, Inc.

5619 DTC Parkway, Suite 1150
Greenwood Village, CO 80111
Phone 720.602.4999 + Web HRGreen.com

Mike Connor | mconnor@hrgreen.com



TABLE OF CONTENTS



Executive Summary	3
Section 1: Introducing Our Firm and Our Team	4
Section 2: Our Qualifications and Experience	11
Section 3: Our Approach to the Project	19
Section 4: Fee Proposal and Schedule	28
Appendix.....	
Proposal Acknowledgement.....	
Public Outreach Consultant / Blakely + Company.....	

EXECUTIVE SUMMARY

The City of Aspen is unique in many ways and foresees adopting a set of Small Cell Design Guidelines that are equally distinctive in order to preserve this identity.

We have developed a set of solutions with a keen sensitivity to this goal.

Our Strengths

Industry Leaders - We were one of the first civil engineering firms nationally to recognize the opportunities and foresee the challenges of the small cell revolution for municipalities. For the past several years, we have been leading the push for proactive codes that protect a community's identity while delivering 5G technology to residents, business owners, entrepreneurs, students, visitors and first responders.

Customized Approach - For this project, we bring an understanding of the specialized needs of resort communities and the understanding of the sensitivity required to maintain historic district aesthetics through our work with Colorado communities of Breckenridge, Bachelor's Gulch/Beaver Creek, Black Hawk and the Town of Eagle. We also bring an understanding of the high expectations of upscale constituents through our work in just the last few months with the City of Laguna Beach in California, Front Range communities including Thornton, Greenwood Village, Manitou Springs, Highlands Ranch/Douglas County, Woodland Park and El Paso County as well as numerous communities in the Midwest. We are proud of our ability to customize our approach to meet the needs of the project and the client.

It will be the goal of HR Green to work with the City of Aspen to create a consistent design for small cell poles to be used to upgrade the streetlight and traffic signal systems throughout your community. With proper regulations and standards, Aspen can upgrade the community aesthetics, control the proliferation of unsightly small cells, now often known as "Frankenpoles" and not only reduce the cost of street lighting, but also using innovative strategic methods to possibly convert them into a significant revenue sources. These fees are already detailed in the FCC order and we intend to use every opportunity to Aspen's advantage.

Perhaps even more importantly, rather than simply using a "templated" or "cut and paste" approach from other cities, we highly stress the importance of working proactively with the carriers to develop an Aspen-specific, mutual



understanding of their needs and the city's context sensitive design and historic concerns. Our approach would be to strive to work toward an innovative approach in which partnerships, resource sharing and public involvement will result in not only an acceptable series of regulations and permitting procedures, but developing (if desired) a "plug and play" approach for the carriers. In other words, by strategically pre-selecting a variety of topographically and technically acceptable locations for future small cell sites and provisioning them with shared conduits containing fiber optic cables and electrical conductors, the inevitable 5G deployment can occur, exceeding the city's context-sensitive and historic requirements.

Experienced Team - We bring both a technical perspective and a first-hand knowledge of municipal processes. All team members have "walked in your shoes", having served on the staffs of Colorado cities, such as Colorado Springs, Centennial, Littleton, Lakewood, Boulder, Parker and Commerce City. The team we have assembled for this project has an average career length of 25 years, and the Principal-in-Charge is a Professional Engineer registered in the State of Colorado, which is a requirement of your RFP. We also have planning and land-use experience through our work with Aurora Highlands and Highlands Ranch, where we have helped build fiber deployment into the developer's design.

Project Understanding - We have comprehensive experience on all relevant components involving small cell design, guidelines, installations (preferred and prohibited), FCC rulings, right-of-way (ROW) management and telecom carrier agreements. Because we are an independent civil engineering firm not affiliated with a carrier or product manufacturer/distributor, we will provide an objective deliverable that has the best interests of the City of Aspen and your constituents in mind.

SECTION 1 INTRODUCTION OF FIRM AND TEAM





For over a century, municipal clients have partnered with HR Green to deliver innovative solutions that **build communities** and **improve lives**.

Who We Are

Since 1913, municipal clients have been partnering with HR Green for multi-disciplined professional services, including planning, technical consulting, engineering, broadband and construction services.

HR Green is one of America's longest operating design and construction firms, consistently ranked among ENR's Top 500 Design Firms in the United States. Founded in Cedar Rapids, Iowa, the firm now employs 500+ nationwide. Our local offices in Denver and Colorado Springs bring award-winning engineering expertise to municipalities throughout Colorado.

Your Project Leader



"We help communities develop small cell design guidelines that are sensitive to local or regional identities.

For the City of Aspen, where residents and visitors expect a high level of service and aesthetics, this will be a critical goal."

MIKE CONNOR, PROJECT MANAGER

HR GREEN, INC.

5619 DTC Parkway, Suite 1150, Greenwood Village, CO 80111
Phone 720.602.4999 | Email mconnor@hrgreen.com

What We Do



TRANSPORTATION

Meeting a community's mobility and infrastructure needs with project design, construction, funding, innovative geometry, environmental sensitivity, sustainability and aesthetics.



WATER

Helping clients achieve reliable, cost-effective, and forward-thinking solutions for potable and process water, wastewater, and water resources management.



GOVERNMENTAL SERVICES

Combining creativity with reliability to deliver staff augmentation and consulting services that include municipal engineering, building & code, fiber & broadband, small cell 5G, Smart Cities and program management.



LAND DEVELOPMENT

Unifying engineering, surveying, construction, land planning, and landscape architecture consultants into a single, integrated team that can take a project from concept to ribbon cutting.



CONSTRUCTION

Bringing experienced construction professionals to bridges, roads and highways; storm and sanitary sewers; water distribution systems; water treatment facilities; wells, pumps and lift stations; and wastewater facilities.

Our Capabilities in Small Cell/5G | Smart Cities | Broadband | Fiber

Small Cell Policy Development	Fiber Optic-based Traffic Signal Interconnection	Telecommunications Network Design
Regional Collaboration	Master Planning & Civil Engineering	Project & Program Management
Operational Modeling	Business Model Assessment	Construction Management
Telecommunications Co-Location Consulting	Grant Writing & Administration	Smart Grid Analysis
Regulatory Compliance	Right-of-Way Survey & Policies	Smart Grid Design & Implementation
Community Engagement	Market Assessment	Street Lighting Analysis & Design
ITS Design & Implementation	GIS Mapping	Fiber Capability Evaluation



Design Guidelines for Small Cell Infrastructure

▷ City of Aspen

SECTION 1: INTRODUCTION OF FIRM AND TEAM | 5

KEY STAFF



Project Manager

Mike Connor

Mike has more than 25 years of administrative, management, and local government-related experience, focused on delivering diverse public services and community development projects to municipalities in Colorado. Mike has been involved in fiber and broadband initiatives in numerous jurisdictions throughout Colorado.

He has served as Assistant City Manager and Deputy Director of Public Works. With his significant public sector experience, Mike ensures that the municipality’s best interests are top-most during decision making.

Principal-In-Charge

Dave Zelenok, PE

Dave is internationally known for his knowledge of emerging **Smart City technologies** and has spoken on the impacts of small cells on communities, including an April 2018 keynote speaking engagement in Aspen’s Center for Environmental Studies (ACES) kicking off the Downtown Colorado Inc (DCI) annual conference.

Lighting Design Engineering

Steve Junod, PE

Steve has nearly 30 years of electrical engineering experience, with **extensive experience designing aesthetically-sensitive street lights and traffic signals**. He is a clear communicator who helps other team members understand the electrical implications of their design decisions, thus producing a more integrated, cohesive design that also is aligned with the project objectives.

Community Technology & Public Policy

Ken Price, CGCIO

Ken brings expertise in planning and implementing both **short-term and long-term strategies of digital systems** including information technology, Geographic Information Systems (GIS), networks, and telecommunications. He led **Littleton’s Small Cell Program**, collaborating with Community Development, Public Works, the City Attorney’s Office, and multiple cellphone service providers. He has developed small cell design guidelines for cities nationwide.

Municipal Broadband Guidelines

Ken Demlow

Ken brings over 20 years of experience in the industry, from working in field construction installing fiber, to Google and Verizon projects, and several FTTH projects. **He is nationally known for his industry knowledge of Smart Meters and Smart Grid**. Ken works directly with clients to assess existing fiber and broadband circumstances, develop broadband visions and strategies, and assess financial costs and feasibility.

Senior Project Engineer

John Merritt, PE

John brings over 45 years of experience in the industry. **He has expertise in street lighting and telecommunications, fiber optic systems, review, transportation and traffic engineering**. While working for the City of Centennial, John worked collaboratively with Arapahoe County to guarantee both agencies benefited from fiber and conduit installations, developing a fiber and conduit integrated, comprehensive system.

PROJECT TEAM EXPERIENCE MATRIX

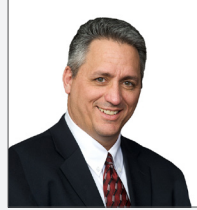
	Years of Experience	Front Line Municipal Experience	EXPERIENCE WITH SCOPE														PROJECT TYPES		
			Project / Program Management	Small Cell Regulations	Lighting Design Engineering	Municipal Policy Making	Application & Permitting Processes	DOT Experience	Colocation	Electrical Meter Placement	Municipal Design & Identity	Commercial / Residential Zoning & Codes	Historic Districts / Designated Properties	Utility Coordination	ROW Requirements	Presentations & Community Engagement	Streets & Neighborhoods	Small Cell / 5G / Broadband / Fiber	Utilities
Mike Connor	25+	■	■	■		■	■	■	■		■	■	■	■	■	■	■	■	■
Dave Zelenok, PE	25+	■	■	■		■	■		■		■			■	■	■	■	■	■
Steve Junod, PE	30+		■		■			■	■	■	■	■	■	■		■	■		■
Ken Demlow	20+		■	■		■			■	■	■			■		■	■	■	■
Ken Price, CGCIO	20+	■	■	■		■			■						■	■	■	■	■
John Merritt, PE	45+	■	■	■	■	■		■	■		■	■	■	■	■	■	■	■	■

These HR Green staff have completed small cell design guideline projects for 5 Colorado municipalities in April 2019 alone.

MIKE CONNOR
Project Manager

Education:

MBA, Business Administration
BS, Environmental Engineering



Affiliations:

American Planning Association

Mike brings 25+ years of administrative, management, and local government-related experience, focused on delivering diverse public services and transportation projects to municipalities in Colorado, including Superior, Commerce City, Lakewood, Thornton, Centennial, Lakewood, and El Paso County.

Mike has been Project Manager for five area/regional traffic improvement projects and has served as Assistant City Manager, Deputy Director of Public Works.

Mike was a community planner (acting and assistant planning director) at the Town of Parker during a period of rapid growth where he facilitated the processing of development applications of every type, scale and scope including annexations, rezonings, subdivisions, and site plans.

SELECT EXPERIENCE

- ▷ **Small Cell Design Standards | City of Thornton** - The City asked HR Green to develop interim small cell design standards that addressed aesthetic and spacing requirements for small cell installations in the public right-of-way, within conformance to the FCC ruling.
- ▷ **Public Works Department Assessment | Town of Breckenridge** - In tandem with an operations assessment of the Public Works Department, The Town engaged HR Green to conduct a Broadband Vision Study. HR Green gathered and studied the Town's community fiber assets and needs. The scope included assessing the community's current broadband availability, network assets, business models and financing/funding options to formulate a direction for the Town's broadband future.

DAVE ZELENOK, PE
Principal-in-Charge

Education:

MS, Engineering
BS, Civil Engineering



Registration:

PE/Colorado - 19877

Dave brings 25+ years of municipal management and engineering experience in Colorado, having served as City Engineer, Public Works Director, Transportation Director, Chief Innovation Officer, and Interim City Manager. Dave focuses on innovative service delivery methods and emerging technologies for small cells, fiber-optic based telecommunications, converting street lighting from a cost item to a municipal revenue source as well as coordinating related civil engineering, transit, & transportation engineering, public works operations, and maintenance services.

He has played a key role in forming regional coalitions and integrating small cell strategies, fiber-optic based municipal broadband deployments, ITS, traffic, street lights, communication systems and broadband to reduce congestion, enhance mobility, generate sustainable revenue streams, and improve operational efficiency.

SELECT EXPERIENCE

- ▷ **Smart City/Broadband/Fiber Assessment / Small Cell Deployment** - Dave worked on initiatives for a number of agencies including Colorado cities of Breckenridge, Beaver Creek (Bachelor Gulch MD), Black Hawk, Greenwood Village, Superior, Buena Vista, Fountain, El Paso County, Highlands Ranch/ Douglas County, Woodland Park, Bayfield and Manitou Springs as well as the resort community of Laguna Beach CA.
- ▷ **Municipal Broadband/Fiber Management - City of Centennial** - As Director of Public Works/Chief Innovation Officer, Dave planned and oversaw the technical design of a fiber optic and wireless network supporting the City and the Denver Tech center area. He was also responsible for outreach, planning and education efforts with future broadband users and coordinated extensively with Douglas and Arapahoe Counties on regional initiatives.

STEVE JUNOD, PE
Lighting Design Engineer

Education:

BS, Electrical Engineering



Registrations:

PE/IA - 13829; PE/IL - 062-065800; PE/MN - 25307; PE/NE - E-8852; PE/SD - 6540; PE/TX - 110487

Steve's 30+ years of design engineering experience includes electrical power distribution, standby power systems and motor control using variable frequency drives and soft-start techniques. He has designed process controls including SCADA systems, information networks, telemetry, programmable logic controllers and process instrumentation. He specializes in roadway lighting design including photometric analysis for all classifications of streets and highways. Steve has performed energy efficient retrofit studies and has designed retrofit implementations utilizing LED lighting technology enabling clients to significantly save on energy costs. Steve is a clear communicator who helps other team members to understand the electrical implications of their design decisions, thus producing a more integrated, cohesive design.

SELECT EXPERIENCE

- ▷ **Traffic Signal and Street Lighting Design, Various Cities Nationwide** - Steve has been Lighting Design Engineer responsible for performing photometric analysis and electrical power distribution, photometrics, and lighting control systems design for municipal and DOT projects. Project lighting design included the determination and layout of tower, mast heads, and roadway lighting, including aesthetic lighting at key areas along roadways. The ITS infrastructure design included the layout of conduit, fiber optic cable, pole structures, and electrical power for the

KEN DEMLOW
Municipal Broadband
Guidelines Advisor

Education:

BA, American Studies



Ken brings 20+ years of experience in the industry, from working in field construction installing fiber, to Google and Verizon projects, and several Fiber-to-the-Home (FTTH) projects. He is nationally known for his industry knowledge of Smart Meters and Smart Grid.

SELECT EXPERIENCE

- ▷ **Broadband Strategic Plan | El Paso County** - Project work in the County has been focused on creating a Strategic Plan that will drive economic development by identifying the most crucial needs and then creating policies that would drive fiber penetration deeply into the area while facilitating private sector investment. Ken has helped the County analyze options by preparing a report spotlighting ways to finance fiber projects (either County-owned or with a private partner).
- ▷ **Broadband Strategic Plan | Town of Eagle/ Town of Gypsum/Eagle County** - As these municipalities were considering participation in Project Thor, a middle mile broadband fiber network providing a redundant internet ring to northwestern Colorado, Ken has been leading an HR Green team conducting research for a network plan that explored the technical and economic viability of utilizing Project Thor or other state-of-the-art technologies. Network plans evaluated a community anchor strategy, a last mile strategy and a deployment plan.
- ▷ **Small Cell Policy Deployment | Clive, Coralville, Custer County, Grimes, Johnston (IA)** - HR Green is guiding municipalities as they establish standards of design, construction and installation of antenna and street pedestals (location, spacing, color, height, decorative requirements, aesthetics, view preservation, streetscape and infrastructure density) relating to small cell and 5G wireless infrastructure.

KEN PRICE, CGCIO
**Community Technology &
Public Policy Advisor**

Education:

MS, Computer Information
Systems
BS, Computer Information
Systems



Ken brings 20+ years expertise in planning and implementing both short-term and long-term strategies, work plans, budgets, and projects that provide for the planned, orderly, business justified, and cost-effective development, installation and operation of digital systems including information technology, Geographic Information Systems (GIS), networks, and telecommunications technologies.

Ken has worked on small cell initiatives for a number of agencies including Colorado cities of Greenwood Village, Fountain, El Paso County, Highlands Ranch/Douglas County, Eagle, Gypsum, Woodland Park, and Bayfield as well as the resort community of Laguna Beach CA and numerous Iowa cities.

SELECT EXPERIENCE

- ▷ **Small Cell Program | City of Littleton (CO) - Information Services Director** Responsibilities included working with Community Development, Public Works, the City Attorney's Office, and multiple cellphone service providers to create a Small Cell Program Master License Agreement (MLA) for each provider, and a comprehensive documented / streamlined drawing approval process to provide small cells within Littleton. He also worked with Community Development, Public Works, the City Attorney's Office, and City Council to revise city code regarding wireless communication facilities (WCFs) to allow the city to better manage and regulate WCFs including smart cell facilities. Ken also developed and led the ongoing implementation of the organization's fiber-optic master plan and Smart City strategy that focuses on smart transportation, smart digital infrastructure, citizen engagement, smart and big data, data visualization, and leadership and vision. He led Littleton through a digital transformation to become a Smart City, by developing a Digital City strategy, and became a founding member of the Colorado Smart Cities Alliance.

JOHN MERRITT, PE
Senior Project Engineer

Education:

MS, Transportation
Engineering
BS, Transportation
Engineering



John brings 45+ years of diverse engineering experience, including fiber optic systems, review, transportation and traffic engineering. He has served as Traffic Engineer to the Cities of Centennial and Boulder and the Town of Superior, Principal Traffic Engineer to the City of Colorado Springs, and Transportation Administrator and Engineer to the City of Lakewood. He has expertise in street lighting and telecommunications, such as the installation of a 350 mile fiber optic system, the development of a right-of way colocation permit system requiring telecommunication companies to install City conduit at the time of their bore work, and led negotiation efforts for the takeover of the Colorado Springs' street light system. While working for the City of Centennial, John worked collaboratively with Arapahoe County to guarantee both agencies benefited from fiber and conduit installations, developing a fiber and conduit integrated, comprehensive system.

SELECT EXPERIENCE

- ▷ **Smart City / Broadband / Fiber Assessment and Deployment, Various CO Jurisdictions** Technology/IT Analysis Task Leader for Smart City/Broadband/Fiber Assessment (Breckenridge, Fountain, and El Paso County) and Staff Augmentation Engineer for Fiber Deployment (Manitou Springs Urban Renewal Authority).
- ▷ **Small Cell Experience** John was instrumental in the development of the Thornton Small Cell design guidelines as well as technical analysis for the Greenwood Village streetlight project.
- ▷ **Traffic Engineering, City of Louisville and Town of Superior, CO.** Over the past two years John has been spearheading a regional traffic signal master system connecting Louisville and Superior.

SECTION 2 QUALIFICATIONS & EXPERIENCE



EXPERIENCE WITH SIMILAR PROJECTS

Small Cell 5G | Broadband | Fiber Experience Matrix

COLORADO AGENCY CLIENTS	ASSESSMENTS					PLANNING & PROGRAM MANAGEMENT								DESIGN & IMPLEMENTATION				
	Broadband / Fiber / Small Cell 5G	Technology Needs	Regulatory	Wireless	Market / Financial	Project / Program Management	Infrastructure Inventory	Business Modeling	Community Engagement	Master Planning	Public Policy Development	Wireless Assessment	Grant Writing / Funding Sourcing	Utility Coordination	GIS Mapping	Permit Coordination	Design	Construction Management
Town of Buena Vista	•	•	•		•	•	•	•	•	•			•	•	•	•		
El Paso County	•	•	•	•	•	•	•	•	•	•	•	•		•	•	•	•	•
Delta-Montrose Electric Association (DMEA)*	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Mountain Parks Electric, Inc.*	•	•	•	•	•	•	•	•	•	•	•	•		•	•			
City of Fountain	•	•	•			•	•			•	•			•	•	•		
City of Centennial*	•	•	•	•	•	•	•	•	•	•	•	•		•	•	•		
City of Manitou Springs	•	•	•	•	•	•		•		•			•	•				
Aurora Highlands*	•	•	•	•	•	•	•	•		•	•	•		•	•		•	
City of Thornton	•		•			•	•									•	•	•
Town of Breckenridge		•	•		•	•	•					•		•	•			
Town of Superior	•	•				•	•			•	•			•	•	•	•	•
Arapahoe County			•	•		•								•		•		
Community of Highlands Ranch	•		•	•							•							
City of Greenwood Village	•	•	•		•	•	•	•			•			•			•	
County of Eagle	•	•			•	•	•	•	•	•			•		•		•	
Town of Eagle	•	•			•	•	•	•	•	•			•		•		•	
Town of Gypsum	•	•			•	•	•	•	•	•			•		•		•	
Town of Bayfield	•	•			•	•	•	•	•	•			•		•		•	

* Indicates projects \$1 Million and above



SMALL CELL DESIGN STANDARDS

City of Thornton, Colorado

SIMILAR FEATURES

- Small cell guidelines
- Application and permitting process
- ROW management
- Design characteristics for each City zone
- Review of utility and telecom franchise agreements
- Technical and aesthetic specifications

TEAM INVOLVEMENT

- Dave Zelenok, PE
- Ken Price, CGCIO
- Mike Connor
- John Merritt, PE

REFERENCE

Darrell Alston, PE, PTOE
Traffic Engineer
City of Thornton
darrell.alston@cityofthornton.net
303.538.7200

THE ISSUES: The City Thornton was seeking interim small cell design standards that would guide aesthetic and spacing requirements for small cell installations in public right-of-way (ROW). In particular, they wanted standards that were objective, clearly defined and in compliance with the FCC small cell ruling issued in September of 2018.

The standards were to cover requirements for design, construction and installation of small cell antennas, poles, cabinets and pedestals, including:

- Location and spacing
- Color
- Height
- Concealment and camouflage
- Decorative poles
- Colocation
- View preservation
- Compatibility with zoning or special interest areas
- Existing infrastructure density

THE SOLUTION: In conjunction with the City's Traffic Engineering and Operations Division, HR Green reviewed the City's existing small cell standards and determined any revisions, additions or deletions necessary to maintain aesthetics while achieving compliance. Tasks included:

- Reviewing the City's current small cell permitting process
- Reviewing the City's zoning code to understand design characteristics for each zone
- Reviewing the City's franchise agreements with Xcel Energy and United Power and their current small cell guidelines
- Reviewing the City's ROW management, zoning districts and wireless telecom codes
- Reviewing existing small cell ROW agreements between Thornton and telecom providers

THE OUTCOME: HR Green prepared an interim small cell standards manual that was integrated with the City's current permit review process, along with clearly defined goal statements for aesthetic and spacing requirements for small cell installations.



SMALL CELL DESIGN GUIDELINES

Highlands Ranch Metropolitan District, Colorado

SIMILAR FEATURES

- Small Cell Guidelines
- Historical Considerations
- Review of Utility Agreements
- FCC Shot Clock Orders
- Colocation Considerations
- Above Ground Aesthetics
- Underground ROW Requirements
- Policy Recommendations
- Permit Processing Recommendations

TEAM INVOLVEMENT

- Dave Zelenok, PE
- John Merritt, PE
- Ken Price, CGCIO

REFERENCE

Forrest Dykstra
 Director of Public Works
 Highlands Ranch Metropolitan
 District
 303.791.0430, ext. 4925
fdykstra@forrestranch.org

THE CHALLENGE: Like many communities, the citizens in Highlands Ranch Metropolitan District (HRMD), which is located in Douglas County, Colorado, are asking about the potential for improvements in high speed internet connectivity which may include fiber, 5G, broadband, cable, cellular, and small cell distribution systems.

The District is aware that some cell carriers have entered into Master License Agreements with Xcel Energy for small cells and that they have agreements with some cities in the Denver Metro area and perhaps Douglas County. Some carriers have approached Douglas County to work out agreements or arrangements to expand their systems, but the County is looking to the District for some advice or perhaps partnerships on these.

As a Special District, HRMD has a unique position in the cell tower debate. At play are the right of way strips of land that telecommunications carriers want for their towers. Since HRMD is not a town, city or county, they don't own the rights to their public right of way (which fall under the jurisdiction of Douglas County). Yet the wording of recent legislation offered opportunities of dispute for Special Districts. HRMD contacted HR Green for clarity.

SOLUTION: HR Green developed a 20-page primer on small cell 5G technology with examples of action by nearby municipalities and recommendations for next steps. Our team then provided an easy-to-understand explanation of the federal ruling by the FCC and the Small Cell Law enacted by Colorado so that HRMD would better understand their position. Although carriers have submitted multiple permit requests to site small cells within HRMD boundaries, the district has delayed any activity until guidelines are developed.



SMART CITY TECHNOLOGY ASSESSMENT

Town of Breckenridge, Colorado

TEAM INVOLVEMENT

- Dave Zelenok, PE
- John Merritt, PE
- Mike Connor

REFERENCE

James Phelps
Director of Public Works
Town of Breckenridge
970.453.3131
jamesp@townofbreckenridge.com

THE ISSUES: Tourists have been overwhelming the community, straining its ability to provide adequate Public Works services including parking, traffic congestion, snow removal and telecommunications. While increased visitation to the Town was a positive outcome, it also brought challenges. Their questions:

- ▷ How could Smart City concepts enhance economic development, traffic flow, and pedestrian and bicycle safety?
- ▷ How could a technology plan mesh with the community's "Breck Forward" initiative?

THE SOLUTION: HR Green was retained to review the Town's Public Works operations and create a technology plan for the Town. Our team proposed five key technology solutions that would not only advance their fiber but their broader community objectives. Based on the Town's "Breck Forward" initiative to keep the town moving, HR Green identified current trends and challenges, focusing largely on Public Works now and in the future. The team has made recommendations for the implementation of state-of-the-art Smart City technology applications including a fresh look at small cell and telecommunications infrastructure.

THE RESULTS: Utilizing results from HR Green, the Town has adopted dozens of initiatives and is now deploying a fiber optic system to every home in town using a combination of infrastructure elements including wi-fi and small cells, and is establishing new economic development-focused programs to manage parking, increase transit services, expand affordable housing options, enhance traffic flow and provide improved pedestrian-friendly environments.



TEAM INVOLVEMENT

- Dave Zelenok, PE
- Ken Price, CGCIO
- John Merritt, PE

REFERENCE

John Sheldon
Deputy City Manager
City of Greenwood Village
303.486.5746
jsheldon@greenwoodvillage.com

THE ISSUES: The City of Greenwood Village sought to revise its management of small cells and engaged HR Green to develop an assessment about the costs, benefits and alternatives related to improving the ownership and management of the 700+ Xcel Energy streetlights within City limits. Of interest was the goal of reducing the energy component of a typical streetlighting bill to 10% of the total cost of a municipal street light system. More importantly, HR Green advised the City to coordinate its management of small cell deployments with ownership of its street lighting in a comprehensive analysis

For consideration:

- ▷ Could the City rethink its management of small cells, public illumination and “municipalize” its streetlights in order to reduce costs and position itself for emerging technologies?
- ▷ Should the City repurpose its underground conduits, using them for new small cells, electrical conductors, telecommunications and/or extending fiber optic networks?

THE SOLUTION: HR Green conducted a multi-phase approach. The first step was to collect various data points such as billing invoices, then review streetlight inventories, attributes and locations, and re-examine how monthly bills are derived. The second step was to conduct an analysis of the possibility of municipalizing the City’s existing streetlighting infrastructure based on the collected data, analysis of costs and expected purchase price. The analysis was accepted by Greenwood Village staff and the City Council voted to pursue the purchase of the system. They view this step as key to their 5G strategy. Their goal is modernize the streetlight system with a standardized small cell pole. This can only be accomplished with the municipal ownership of the streetlight system.



SMALL CELL CONSULTATION City of Laguna Beach, California

TEAM INVOLVEMENT

- Dave Zelenok, PE
- Ken Price, CGCIO

REFERENCE

Gavin Curran
Director of Administrative
Services
City of Laguna Beach
949.497.0360
gcurran@lagunabeachcity.net

THE ISSUES:

Due to the artistic and viewshed characteristics of the City, the community was very concerned about the impacts of the FCC's new regulations to streamline the introduction of 5G wireless technology. The City has already received over 30 applications from multiple providers for new fiber installations that are pending final approval from the Public Works Department, and the Community Development Department is currently processing entitlement applications for nine small wireless facilities under the new "shot clock" federal requirements. Based on preliminary discussions with industry representatives, staff anticipates receiving requests for an additional nine such facilities in the near future. If comprehensive City-wide coverage is to be provided, and given the aforementioned coverage limitations, the 5G network would necessarily include sites within neighborhoods where presently no or few such facilities are currently sited. While these new small cell systems are expected to greatly improve capacity by providing more data at faster speeds, the challenge for Laguna Beach is the aesthetic and construction impacts these new infrastructure projects will have on residents and businesses.

THE SOLUTION:

HR Green was engaged to provide an overview of new technologies that will impact community and telecommunications providers; an overview of some of the challenges involved in complying with the new FCC order; and a discussion of strategies to help address these new challenges. City Council directed city staff to create a strategy and broadband master plan for adding small cell sites and expanding wireless infrastructure in general which HR Green will be tasked to complete. This Plan will include several components, including guidelines on how to go about processing small cell 'deployments, developing best practices in public policy, and reviewing how the City can leverage existing infrastructure to facilitate small cell deployment, and will provide policies to help further manage rights-of-way in anticipation of the deployment of 5G technology. The Plan will also help review both long-and short-term wireless broadband infrastructure needs, propose additional design guidelines, and evaluate a dig-once policy and co-location incentives to help minimize the number and scale of excavations when installing fiber infrastructure in rights-of-way. The goal of the Plan is to control where structures may be placed, how they are disguised from view, and establish standardized aesthetic requirements in addition to the criteria recently adopted by the City Council in its update to the Guidelines for Site Selection and Visual Impact and Screening of Telecommunications Facilities.



COMMUNITY ENGAGEMENT | DIGITAL PARITY

El Paso County, Colorado

TEAM INVOLVEMENT

- Mike Connor
- Ken Demlow
- Ken Price, CGCIO
- Dave Zelenok, PE
- John Merritt, PE

REFERENCE

Jeff Eckhart
Chief Information Officer
El Paso County
719.520.6346
jeffeckhart@elpaso.com

HR Green is currently assisting has assisted El Paso County with the creation of a county-wide Broadband Strategic Plan. While Colorado Springs is well-served in one of five commissioner districts, there are frequent complaints by residents in the County's unincorporated rural areas and its more rural towns and cities. Commissioners authorized the study and the creation of a strategic plan in order to evaluate the County's wired and wireless infrastructure and to develop a long-term plan to address improvements in order to remain economically competitive and viable.

The highlights of this study include a major public involvement initiative that surveyed residents and businesses, and included outreach to Potentially Affected Institutions (PAIs) to determine the extent of issues across this geographically and economically-diverse county. HR Green conducted more than 80 hours of outreach with these groups to help the commissioners develop a Vision for the County's role in solving identified challenges.

The study was completed in nine months. The resultant Strategic Plan established the County's role and create a roadmap for the County to facilitate future improvements that benefit the County and region.

RESULTS:

Cities of Manitou Springs, Woodland Park, and Green Mountain Falls are preparing to receive 5G speed broadband via wireline / wireless infrastructure.

SECTION 3

PROJECT APPROACH

PROJECT UNDERSTANDING

PROJECT COMPLETION



APPROACH TO PROJECT



We will utilize our front line public sector experience to put Aspen's needs first.

Project Understanding



Our key objective is to give the City of Aspen the means to effectively deploy 5G without impacting city aesthetics.

There are a few main aspects to these regulations:

- ▶ Local agencies cannot “prohibit or have the effect of prohibiting the installation of small cell deployments”.
- ▶ Fees must be “nondiscriminatory (competitively neutral) and represent a reasonable approximation of the locality’s reasonable costs”.
- ▶ Time allowed for review of an application AKA “shot clock” is limited to 60 days for a small cell facility to be mounted on an existing structure and 90 days to review a small cell facility to be mounted on a new structure. Local agencies must establish and publish all standards required for an application, promptly review the application and identify any shortcomings quickly.
- ▶ Aesthetic regulations are permitted to the extent that the aesthetics of other infrastructure in the rights of way are also regulated in the municipality, objective in nature and published in advance.

- ▶ Any provider may submit an application for a batch of installations but no limit as to the maximum number of installations is identified.
- ▶ While regulations applying to safety issues are mentioned, there is little to no guidance provided in this matter. If a small cell installation is proposed to be added to a manufactured streetlight pole or other facility that is not designed for that purpose it may create forces on the structure that may accelerate deterioration of the facility and void any warranty.
- ▶ Additionally, the jury is still out regarding the potential health risks associated with radiation from small cell transmitters and what is a safe distance vertically or horizontally from an active transmitter.

HR Green has assisted many communities in many states to establish design guidelines for the installation of small cell facilities. We consistently look to develop standards that are tailored to the client’s wishes.

Scope Requirements

Background

The final document will be based upon the existing small cell regulations that were adopted by the City of Aspen earlier this year. HR Green will analyze the interrelationship between Federal, State and other local regulations applicable to the installation of small cell facilities. The final document will summarize the various regulations and describe how the proposed regulations comply with these regulations while preserving the unique character that is such an integral part of the City of Aspen.

While the City of Aspen has a unique character as a whole, there are many subareas of Aspen such as historic locations, the pedestrian mall and other important sites that need to have context sensitive solutions to preserve the aesthetic values that the community demands. Aspen’s strict height

Because we are not affiliated with a telecom carrier or small cell product seller, we can be completely objective, maintaining the City’s best interest in all decision making.



regulations will need to be considered against the FCC requirements that local regulations cannot be so strict as to “prohibit or have the effect of prohibiting the provision of personal wireless services.” (pg 6, paragraph 17, FCC 18-133). HR Green will strive to find a solution to balance the limitations from FCC 18-133 and the City’s desires to maintain its current aesthetic values.

Any small cell facility mounted on an existing building needs to be designed to match the building’s architectural character so that it blends in rather than stands out.

Shot Clock

FCC 18-133 caps the municipality’s processing time to 60 or 90 days once a complete application has been submitted depending on how it is mounted. In order to assure that the City’s values are maintained, Aspen needs to have a clear set of application requirements and standards that will be applied along with highly refined processes.

The regulations need to address “any and all permits necessary for the construction of the proposed wireless facility”. HR Green will identify a complete table listing all permits that may apply to any application based upon how the small cell facility is mounted. Each of the applications must have detailed requirements specified.

A detailed process will be established to review the application and protect the City’s right to reject incomplete applications within the limitations of FCC 18-133.

Design Guidelines & Requirements

Regulations focused on context sensitive solutions which minimize visual distractions are at the center of the desired outcome for this project. Design guidelines must

be integrated with existing codes and ordinances. HR Green will review all codes and regulations to insure any conflicts are identified and mitigations to those conflicts are recommended. These new design guidelines must contribute to a clear regulatory framework for small cell applications in the City of Aspen.

Building mounted facility – Any facility that is mounted to a building must be done in a manner that augments the architectural style and character of the building.

Other existing facility – HR Green will recommend that no proposed installation should be mounted on an existing traffic signal or streetlight unless the applicant can demonstrate that the structure was specifically designed and intended to accommodate the proposed small cell facility. Any supporting equipment must be buried or screened in order to minimize visual impact. This may require the city to separately adopt specific standards that apply to all other infrastructure in the public right of way to be in full compliance with FCC 18-133.

New facility - New facilities, including the replacement of an existing facility to accommodate a small cell installation should be limited to standard preapproved designs which are designed to include all small cell equipment in a comprehensive and unified design. With HR Green’s assistance the City can create a streetlight/small cell standard pole that will enhance and complement the high standards of the community. HR Green staff have contacts with a number of pole manufacturers that have indicated they would be receptive to developing pole designs that would be unique to a community. We will engage with these manufacturers at Aspen’s direction to investigate the potential of a unique Aspen pole(s).

Technical details - To the extent that universal or preferred standard details for equipment mounting, cabling and other items can be created, HR Green will provide detailed and annotated specifications. Some items such as mounting a small cell facility to an existing building will vary widely based on manufacturer, weight, base structure and materials. These details should be provided by the applicant for review by the building department on a case by case basis.

Lighting design - HR Green is including our highly experienced electrical engineer Steve Junod, PE, who has completed hundreds of outdoor lighting designs on our team. Steve will work to develop standards which blend into the existing standards to provide consistent lighting throughout the City.

Hierarchy – HR Green will work with the City to develop a hierarchy of the various installation options to guide applicants toward the preferred alternatives which minimize adverse impacts.

Historic Districts – Depending on the size of any historic district, HR Green will examine the potential of restricting installations in these areas to the extent that the restriction would be consistent with FCC18-133 if an acceptable facility design such as a streetlight cannot be selected.

If the City so chooses HR Green can provide the services of Kyle Blakely, of Blakely + Company, for any support needed in public presentations, community outreach and social media development.

Value-Add Services

Having spoken to Aspen officials at the recent MountainConnect Conference, we understand you also have specific needs associated with the review and processing of small cell permit applications. Municipal policy development, implementation, plan review, and permit processing are core services we provide in Colorado and throughout the United States. Our scope of work offers maximum flexibility for a turnkey solution to small cell deployment by offering various optional services to meet your current and ongoing needs to future proof your community.

Scope of Work and Tasks

The flexible structure of HR Green's scope of work allows the City to either bundle various tasks or modules in a logical manner in keeping with your current and future needs and desires.

Summary:

Module 1 - Develop a small cell “background document” and provide a clear explanation of the FCC ruling and the State law.

Task 1 Develop a “background document” on what constitutes a small cell

Task 2 Provide a clear explanation of the rights the FCC ruling and the State law

Module 2 - Small Cell / 5G Consulting

Task 1 Create Maps of Existing Infrastructure

Task 2 Provider Outreach and Stakeholder Engagement

Task 3 Create and Map Priority Small Cell Locations Citywide

Task 4 Develop Design Standards and Specifications

Task 5 Public Policy Recommendations (optional)

Task 6 Develop Wireless Master Concept Plan (optional)

Task 7 Permit Processing / Approval (optional)

Task 8 Oversee Small Cell, 5G, Installation (optional)

Task 9 Staff Augmentation to assist in execution (optional)

Detail:

Module 1 - Develop a small cell “background document” and provide a clear explanation of the FCC ruling and the State law.

Like many communities, the citizens in Aspen are asking about the potential for improvements in high speed internet connectivity which may include fiber, 5G, broadband, cable, cellular, and small cell distribution systems. Recently, this issue is gathering momentum, especially with publicity of publicly funded projects by some communities in the region as well as marketing and the City is trying to stay ahead of the game.

The City of Aspen is aware that there is a definition of small cell facilities relating to coverage, height and mass, and maybe location, such as it has to remain in ROW. The City would like a small cell “background document” so they can be better informed about small cells.

The City is also aware that the FCC has granted certain rights to carriers for small cell facilities as it relates to zoning and approval timeframes. The City would like a clear explanation of the FCC rules and Colorado state law.

To complete this task, the HR Green will:

- ▷ Develop a “background document” on what constitutes a small cell that includes a definition of small cell facilities relating to coverage, height and mass and any requirements for location, such as it has to remain in the ROW.

- ▷ Provide a clear explanation of the rights the FCC and the State have granted to carriers for small cell facilities as it relates to zoning and approval time frames.

Deliverables

- ▷ Produce “background document” document.
- ▷ Produce FCC ruling and State law explanation document.
- ▷ Meet with City stakeholders to present both documents.

If desired, the team will provide a Kickoff meeting, a minimum of two “Milestone” updates and a Final meeting presenting the study’s findings to City’s stakeholders. These updates will include a progress report of activities to date and an overview of the project status.

A key issue in the second Milestone meeting will be an overview of total billable work completed to date (typically about 75% at that point), compared to the project scope. A discussion will be proposed to address any possible changes in scope and/or adjustments in the contract that may be needed as a result of the findings and progress made to date.

Module 2 - Small Cell / 5G Consulting

Task 1 – Create Maps of Existing Infrastructure

HR Green has robust internal GIS capabilities. Our GIS platform is intended not only to visually demonstrate current information, but also to provide project costing information. This gives you the ability to do near-real-time “what if” modeling, a key for fluid evaluations like this one.

The HR Green team will work with the City of Aspen to identify current City, regional and (where available by providers) private sector small cell, 5G, and fiber deployment; traffic signal and street light placement; and municipal assets and their applicable characteristics that can be placed in geospatial layers to help inventory your assets and more effectively manage public rights-of-way and your tracks. In some cases, carriers may be reluctant to openly share the attributes of their fiber optic network (e.g., location, strand count, network diagrams, etc.) so our efforts may be limited by their willingness to share information and, in some cases, require a Non-Disclosure Agreement in order to facilitate their involvement. In that regard, we may require the involvement of City legal counsel and staff to acquire and develop the database needed to complete our study and recommendations.

Deliverable:

- ▷ GIS database and maps of existing infrastructure

Task 2 – Provider Outreach and Stakeholder Engagement

To leverage the City’s negotiation on small cell policies and placement, it is critical to promote buy-in from key stakeholders, especially telecommunication providers.

HR Green will meet with a representative from the following stakeholders, including, but not limited to: Holy Cross Energy, Verizon, AT&T, Sprint, T-Mobile, incumbent broadband providers, neighboring communities, key internal City staff, and regional emergency agencies. Having recently worked for Eagle County, Gypsum, and the Town of Eagle, we are very well acquainted with Holy Cross Energy. Since they are not a client, we anticipate no conflicts of interest in serving Aspen to the fullest extent.

The various goals include identifying design expectations, evaluating carrier willingness to support incentive programs, collaborating with neighboring communities and regional entities, and identifying opportunities to restructure and streamline the City’s public policies and permitting system.

Meetings will gather input on proposed specifications and determine the interest of providers to participate in the deployment of small cell/5G within the City. Staff will share proposed specifications with providers and seek input on proposed standards/specifications, permit processes, and deployment methods.

Note: HR Green assumes one meeting with each of the telecommunication carriers and one public meeting (would be facilitated by our community engagement consultant).

Deliverables:

- ▷ Agenda, meeting minutes, notes, and correspondence
- ▷ Identification of levels of need from major providers
- ▷ Creation of agreements in principal regarding cost and deployment methods.

Task 3 – Create and Map Priority Small Cell Locations Citywide

HR Green will do a site reconnaissance, assess existing City-owned infrastructure assets (including street lights, traffic signals, poles, and other City structures), engage in conceptual site optimization, and prioritize a list of possible small cell locations.

Deliverables:

- ▷ Conceptualize potential small cell locations for Citywide coverage
- ▷ Graphics illustrating enhancements to a possible City-owned fiber optic “ring” for possible shared and dedicated use by the public and private sectors
- ▷ Conceptualize route maps to create future telecommunications small cell coverage aligned with future transportation and land use planning

Task 4 – Develop Design Standards and Specifications

HR Green will assist in creating Design Standards and a Specification Manual for the City that establishes standards of design, construction and installation of

Pole Design With coordination with COA staff, Identify and recommend preferred pole style(s). Provide a minimum of 3 designs (neutral host, light, no light) and appropriate diagrams and details (including mounts and foundations). Include images of existing street lighting standards for comparison of mass, scale, and general review. Include a pole base design that can accommodate an electric meter and disconnect.

Pole Caisson A professional engineer will design at minimum 3 concrete caissons associated with item “Pole Design” (neutral host, light, no light) for use in the City of Aspen and CDOT ROW. Designs shall be compliant with the latest CDOT specifications and COA Engineering Standards may be applicable.

Concealment and Color Schemes Collaborate with City staff to determine appropriate language and diagrams for stealth and color schemes. Pole based structures must match the color and sheen of the existing COA street light standard. Provide other options for accepted concealment.

Equipment mounting/attachment Include detailed language and diagrams/photos for attaching to existing poles/building.

Equipment/Components/Cabling/Cabling Trays include a standard detail of the typical cabling and junction boxes that reside in close proximity to the small cell pole installation

Landscaping/Trees relationship of facilities to COA landscaping requirements and tree regulations

Colocation including unified design solutions when multiple carriers are present

Lighting Design proposed small cell poles with lighting standards to mimic the existing City of Aspen street lighting standard. When small cells are proposed for placement in the Aspen Pedestrian Mall, a modified version of the street light standard to blend with mall installation will be considered.

Location/Detailing of Electrical Meter Placement COA is considering allowing for unmetered use of these facilities. HR Green is well-acquainted with Holy Cross Energy staff which will streamline collaboration on the topic.

Height limits defined for both attached and standalone facilities – in coordination with Aspen’s Land Use Code and any federal or state regulations that may supersede.

Placement Requirements for Attached and Standalone Facilities Including but not limited to spacing radius, location in public right-of-way, and location on private property.

Other Design Considerations Items such as fencing, screening, noise, lighting, setbacks, preservation of view corridors.

Preferred Designs/Installations in Aspen

Hierarchy of Placement

HR Green will provide an explanation and depiction of standard detail(s) for a Community-minded hierarchy of preferred facility placement. Examples include: on rooftop, side of building, on the ground, in City right-of-way, neutral hosting in City right-of-way.

Historic Districts and Designated Properties

HR Green will work with City Community Development Department to include appropriate language and diagrams related to historic preservation efforts and the relation to federal regulation.

Designs That Do Not Comply in Aspen

Identify facility types and applications that will not be allowed in Aspen.

Technical Specifications

Engineering Details Providing language/diagrams that are consistent with existing City of Aspen Engineering Design Standards.

Utility Services Working with the local service providers (including but not limited to City of Aspen, Holy Cross, CenturyLink, Comcast), to determine preferred design considerations including: number of conduits, underground layout, appropriate separations, meter locations, mounting, handholds, equipment cabinets, equipment that can be located in City data center(s), etc.

Specifications will outline features such as location (depth and alignment), antenna, pole, mast arm, luminaire, duct bank construction, equipment cabinet, conduit, trenching, foundation, spacers, backfill and inspection requirements. This specification manual will be developed in conjunction with the City Engineering Department, and include drafting and revisions to create a final document. Since it is impossible to predict the reaction of affected carriers to the City's proposed changes, we will meet with the potentially affected interest groups and deliver a final draft for the City's consideration. Although we have never encountered a protracted, legal dispute with the carriers over the adoption of proposed restrictions to, and City involvement in their activities; should one arise, we may need an adjustment in scope to accommodate such an extraordinary situation.

Deliverables:

- ▷ Small cell infrastructure design guidelines as outlined in the RFP
- ▷ Specification manual as outlined in the RFP

Task 5 – Public Policy Recommendations (optional)

The City of Aspen has the ability to make key public policy decisions that can protect its interests while incentivizing deployment within preferred public right-of-way locations; expedite the small cell application review and approval process that incorporates aesthetics, colocation, view preservation, and incentives; and establish permit fees for small cell deployments. We will evaluate the City's current policies and help to determine how we can further the City's goals via changes to public policy designed to achieve smart,

timely, and successful deployment of small cell and 5G facilities and services.

- ▷ To illustrate, the kinds of programs which are inter-related that should be developed concurrently include:
- ▷ Joint-Build initiatives with the private sector
- ▷ Piggybacking and dig-once ordinances enacted by the City Council
- ▷ Incentives to discourage utility open trenching, and to encourage co-location, aesthetic considerations, and deployment in City-designated locations and considerations
- ▷ Undergrounding of appurtenant structures to preserve views, enhance safety, minimize impact on pedestrian circulation in key areas and mitigate impacts to the public rights-of-way
- ▷ Required co-locations for carriers and specifications for new developers
- ▷ Exploring street cut and pavement degradation fee exemptions and other complementary initiatives

Revenue Recovery

Communities are frequently asked to leverage staff, equipment and time in order to support contractors who are implementing projects for private projects. In most cases, support for these "cost causers" is provided without recovering the costs being incurred by the community. Our revenue recovery package will develop Policies and supporting processes related to these projects, and integrate these policies into existing City codes and ordinances, in order to create a new revenue stream for COA.

Deliverables:

- ▷ Pavement degradation policy
- ▷ Street cut fee policy
- ▷ Traffic control policy
- ▷ Meeting/Public input (two public meetings, two staff meetings, one City Council meeting)

Co-Location

Communities who seek to develop advanced communications infrastructure have a unique opportunity to deploy assets at a fraction of the cost of overbuilding individually. By developing a co-location policy and standards, the community can require builders with open trenches and boring projects to deploy conduit and/or fiber on behalf of the community.

Deliverables:

- ▷ Conduit/Fiber/Small cell colocation policy
- ▷ Create Draft Ordinance language for review by Legal Counsel and adoption
- ▷ Meeting/Public Input (Two staff meetings, including one presentation “dry run” and one Council meeting with presentation)

Task 6 – Develop Wireless Master Concept Plan (optional)

HR Green will develop a draft Wireless Master Concept Plan for the City to review and consider. This plan will take into account our finds and conclusions from tasks 1-4.

Deliverables:

- ▷ Wireless Master Concept Plan (carrier neutral) in which key, possibly incentivized locations for future CMRS and public sector antennas may be preserved within the City. This effort will include conceptual locations, but will not include precise siting, right-of-way work, public process or engineering needed to begin construction of these facilities.
- ▷ Draft report

Task 7 – Permit Processing / Approval (Optional - Hourly Basis)

HR Green will develop a streamlined process for the review and approval of small cell and 5G in the City. This will include establishing a streamlined process, updating application forms, checklists, tracking logs, and other documentation; and proactively coordinating with applicants, carriers, and utilities. HR Green has been an industry leader in developing a paperless process for the review, approval, and installation of facilities and infrastructure construction. This is increasingly becoming the preferred collaborative and transactional method by utilities, permittees, developers, and local jurisdictions, and may be a key consideration given the new FCC Order limiting the review/approval time. Should the City desire to leverage this option, we can establish the framework and provide staff to implement paperless protocols and solutions. This could include, but not be limited to electronic plan review, leveraging an automated permitting system, and staff support (plan reviewers, permit counter technicians, etc.).

Deliverables:

- ▷ Permit Application Forms

- ▷ Plan Review Checklists
- ▷ Plan Review Comments
- ▷ Tracking Logs

Task 8 – Small Cell and 5G Installation Support (Optional - Hourly Basis)

As needed, HR Green will create final specifications to be integrated into planned small cell and 5G deployment. HR Green's team will be available to coordinate and answers questions from carriers as needed on communication infrastructure on behalf of the City.

Deliverable:

- ▷ Final specifications

Task 9 – Staff Augmentation (Optional - Hourly Basis)

As needed, HR Green can help you manage your small cell and 5G program from a municipal management, code compliance, engineering, public works, and construction management/inspection perspective. Our experienced staff includes City Managers, Public Works Directors, City Engineers, Economic Development Directors, Traffic Engineers, Utility Managers, Planning Directors, Chief Building Officials, and certified specialists. Our professionals have successfully implemented the policy framework, supporting programs, and hands-on management to make better decisions, enhance workflow processes, optimize the integration and interconnection of your infrastructure assets, and execute infrastructure asset, fiber optic, and broadband initiatives.

Deliverable:

- ▷ Support installation to be determined

Schedule

Due Date	Task	Team
8/1/19	Kickoff Meeting	City Stakeholders, HR Green Team
8/1/19	Module 1 – Task 1: Begin work on Small Cell/5G Background Document	HR Green Team
8/6/19	Module 1 – Task 1: Complete work Small Cell/5G Background Document	HR Green Team
8/7/19	Module 1 – Task 2: Begin work on a clear explanation of the FCC small cell rules and state law	HR Green Team
8/9/19	Module 1 – Task 2: Complete work on a clear explanation of the FCC small cell rules and state law	HR Green Team
8/12/19	Module 1: If requested, meet with City stakeholders to present documents from Task 1 and 2.	City Stakeholders, HR Green Team
8/12/19	Module 2- Task 1: Begin the creation of maps of existing infrastructure	City GIS Staff, HR Green Team
8/16/19	Module 2- Task 1: Complete the creation of maps of existing infrastructure	HR Green Team
8/19/19	Module 2 - Task 2: Begin the provider outreach and stakeholder engagement	City Stakeholders, HR Green Team, Providers, Community Partners, etc.
8/23/19	Module 2 - Task 2: Complete the provider outreach and stakeholder engagement	HR Green Team
8/26/19	Module 2 - Task 3: Begin the creation and mapping of the priority small sell locations citywide	HR Green Team
8/30/19	Module 2 - Task 3: Complete the creation and mapping of the priority small sell locations citywide	HR Green Team
9/2/19	Module 2 - Task 4: Begin the development of the design standards and specifications	HR Green Team
9/27/19	Module 2 - Task 4: Complete the development of the design standards and specifications	HR Green Team
9/30/19	Module 2: present the design standards and specifications	City Stakeholders, HR Green Team

Staff Capacity

With a core group of nationally recognized small cell thought leaders responsible for the recent development and implementation of small cell design guidelines throughout the country, HR Green has the staff capacity for completing your project in a timely and cost-effective manner. We have nimbly supported the multi-faceted needs of public agencies related to small cell deployment in Colorado and around the U.S. We will commit the individuals shown on the organization chart to the City of Aspen to the maximum extent required to meet your performance and schedule objectives.

SECTION 4 FEE PROPOSAL AND SCHEDULE



FEE PROPOSAL AND SCHEDULE

Module 1 - Develop a small cell “background document” and provide a clear explanation of the FCC ruling and the State law

Task	Fee
Task 1 – Develop a “background document” on what constitutes a small cell	\$3,000
Task 2 – Provide a clear explanation of the rights the FCC ruling and the State law	\$2,000

Module 2 - Small Cell / 5G Consulting

Task	Fee
Task 1 – Create Maps of Existing Infrastructure	\$1,500
Task 2 – Provider Outreach and Stakeholder Engagement	\$7,000
Task 3 – Create and Map Priority Small Cell Locations Citywide	\$1,500
Task 4 – Develop Design Standards and Specifications	\$44,000
LUMP SUM TOTAL	\$59,000
Expenses (not-to-exceed)	\$5,000

OPTIONAL TASKS IN MODULE 2 (will be negotiated separately, as desired by the City on an hourly basis)

Task 5 – Public Policy Recommendations

Task 6 – Develop Wireless Master Concept Plan

Task 7 – Permit Processing / Approval

Task 8 – Small Cell 5G / Installation Support

Task 9 – Staff Augmentation to assist in execution

Hourly Rate Schedule

CLASSIFICATION	HOURLY RATE
Principal-in-Charge/Program Manager	\$200-225
Project Manager	\$175-200
Senior Professional Engineer	\$150-185
Professional Engineer	\$150-175
Associate Engineer	\$135-160
Assistant Engineer	\$110-140
Administrative Assistant	\$ 60- 85

Note: Additional staff classifications available upon request

Professional Reimbursement and Overtime:

The hourly billing rates include the cost of salaries of the HR Green employees, plus sick leave, vacation, holiday and other fringe benefits. The percentage added to salary costs includes indirect overhead costs and fee (profit). For overtime all employees classified as “non-exempt” by the U.S. Department of Labor will be compensated at 1-1/2 times salary, as per state and Federal wage and hour laws. Billing rates will be calculated accordingly for these overtime hours.

Expedited Review:

Should an applicant request expedited reviews, the percentage surcharge for these expedited plan reviews will be 150% if over-time is required.

Direct Expenses:

Reimbursement for direct expenses, as listed below, incurred in connection with the work, will be at cost plus twelve and one-half (12.5%) percent (Unless otherwise negotiated with the City) for items such as:

- a. Maps, photographs, reproductions, printing, equipment rental and special supplies related to the work.
- b. Subconsultants and other outside services, if needed.
- c. Specific telecommunications and delivery charges.
- d. Special fees, insurance, permits, and licenses applicable to the work.
- e. Outside computer processing, computation, proprietary programs purchased for the work and other equipment.
- f. Mileage and vehicle costs directly related to City services.
- g. Travel expenses (e.g., hotel, meals, transportation, etc.)

Our hourly fees/rates shall remain effective through December 31, 2019 and may be adjusted annually thereafter as negotiated and agreed to by the City.

APPENDIX

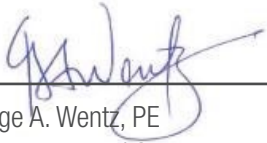
PROPOSAL ACKNOWLEDGEMENT

PUBLIC OUTREACH CONSULTANT / BLAKELY + COMPANY



PROPOSAL ACKNOWLEDGEMENT

The RFP prepared June 19, 2019, is acceptable to HR Green. We acknowledge the receipt of Addendum 1 & 2. It is our understanding that the City will entertain amendments to the agreement upon selection. We are confident that we can negotiate terms that are agreeable to both the City of Aspen and HR Green, Inc.



George A. Wentz, PE
Practice Leader / Governmental Services
HR Green, Inc.

City of Aspen

Design Guidelines for Small Cell Infrastructure Public Outreach

OVERVIEW

Public Outreach will play a critical role in the development of the design guidelines for small cell infrastructure in Aspen. Over time, design standards for public facilities has become a bigger issue in almost every community, and the single biggest issue leading to after-the-fact problems is poor, or lack of, public outreach. Add in the fact that property values in Aspen are higher than average and you have an environment for potential conflict if the public does not feel they have participated in the process, and been heard.

Following is an initial outline of a public outreach process to address the need for Aspen residents to be involved in the design guideline process and provide meaningful input.

PUBLIC OUTREACH PLAN

Goals and Objectives

- A strong public outreach plan will start with the goals and objectives of the project so the communications strategies can be developed to achieve those objectives. The suggested strategies below might change some after the objectives are established, but these should provide a framework for a plan outline that can be effective for this project.

Messages/Talking Points

- Develop consistent messages for City staff and project team so that regardless of the meeting or setting, residents are getting a

Website Content

- The City's website will be one of the key resources for residents to find information about the project. The site should include:
 - Project Overview
 - Project Schedule
 - Public Meeting Schedule
 - Phone number for email for inquiries and questions
 - Form to leave questions or comments
 - Form to sign up to receive project emails

Social Media

- Consistent updates about the project should be distributed through the City's social media activities, plus we should be encouraging community partners and stakeholders to share the posts and information whenever possible.
- We would develop six to eight posts per month for the City to use in their normal social media program.

Email Newsletters

- Developing a good email database is important. Using lists already on hand for residents and businesses is a good place to start, but gathering additional emails at events or through the website is important too. After the website, this could potentially be the second most popular way for residents to receive information about the project.

Collateral Materials

- A small brochure with information about the study will help spread the word. These can be left at businesses around town, or can be handed out at community events. The materials should direct people to the website for more information.

Public Relations/Media

- The public outreach efforts should include press releases and coordination with local media about the project and public meetings.

Public Meetings

- This will also be a critical part of the public input process. Allowing residents to hear about the project in person, plus ask questions and provide their thoughts and opinions, will help them feel more connected to the study and process.
- For this project, we would recommend at least two community-wide meetings at the beginning of the study, then two more after the design guidelines have been developed.

Small Group Meetings

- To supplement the larger public meetings, we recommend doing some smaller group meetings, such as homeowners associations or neighborhood areas, and business associations (Chamber of Commerce). We are not sure how many of these might be needed at this point, but the costs provided here are based on doing six of these meetings at the beginning of the project.

Timeline

- The last part of the Public Outreach Plan will be a detailed timeline of when materials will be developed and when the public meetings and small group meetings will take place.

COSTS

Public Outreach Plan Finalized	\$ 600.00
Website Content Development	1,000.00
Social Media Post Development (6 per month; 5 mos.)	1,500.00
Email Newsletters (3)	2,250.00

Collateral Materials (includes printing)	2,000.00
<ul style="list-style-type: none"> Includes printing Small brochure 	
Public Relations/Media	2,500.00
<ul style="list-style-type: none"> Five press releases during project Media follow-up included 	
Public Meetings (4)	6,000.00
<ul style="list-style-type: none"> Preparation, facilitation and meeting summaries 	
Small Group Meetings (6)	4,200.00
<ul style="list-style-type: none"> Preparation, facilitation and meeting summaries Done over a two-day period 	

Note: Travel expenses, would be additional.

ABOUT BLAKELY + COMPANY

Blakely + Company is a Colorado Springs-based, marketing communications and public communications firm founded in September 2001. Over the past few years we have worked with HR Green some Municipal telecommunications projects in Colorado, including a Broadband Strategic Plan for El Paso County, a Broadband Feasibility Study in Buena Vista, and a Broadband Vision and Planning Study in Bayfield. In all instances we provided public outreach media relations and public meeting facilitation, along with the implementation of online surveys. Agency CEO, Kyle Blakely, has 33 years of experience in communications and was the primary person working with the HR Green team on these studies.

Contact Info:

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 Blakely + Company
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 719.439.4890



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SCHEDULED PUBLIC APPEARANCES – Sister Cities Award	2
CITIZEN COMMENTS	2
COUNCIL COMMENTS	3
CITY MANAGER COMMENTS	3
BOARD REPORTS	3
CONSENT CALENDAR	4
ORDINANCE #20, SERIES OF 2019 – 2 nd alternate member to the CCLC	5
ORDINANCE #2 AND #15, Series of 2019 – Re-adoption of the updated Construction Management Plan Requirements Manual to Title 29, Re-adoption of the Water Distribution Standards, Re-adoption of the Engineering Standards (combination of the updated Design Standards and the updated Excavation and Construction Standards); and other amendments to Title 21 and Title 29.....	5
ORDINANCE #17, SERIES OF 2019 – 730 E Cooper Avenue (Base 1 Lodge) Minor Amendment to a Project Review	6
ORDINANCE #16, SERIES OF 2019 – 981 King Street – Minor Subdivision Amendment to Remove On-site Affordable Housing Unit.....	11

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

SCHEDULED PUBLIC APPEARANCES – Sister Cities Award

Mayor Torre said tonight we have an unscheduled public appearance. Last week there was a meeting in Houston that Ward attended regarding Sister Cities. It was an international conference of the Sister Cities organization. Aspen won another award. Mayor Torre asked the board members to stand and be recognized. The award is the best overall award. Defining excellence in your program and presented to Aspen Sister Cities. Councilman Hauenstein said my involvement tells me it takes people with commitment, passion and time. Aspen has seven Sister Cities. It is something we can all be proud of.

CITIZEN COMMENTS

1. Ruth Harrison presented council with a bunch of issues including hope that lift 1 corridor will go away, buy the Su Casa building and offer spaces to locals to own their own businesses, Smuggler parking issues, Hopkins stop sign, Mill Street is not safe, Maroon Creek Road and the round about.
2. Lee Mulcahy – gave out handouts. The APCA guidelines that were in effect in 2015 said 60 days from date of first letter a notice of violation will be sent. The first letter was sent on July 17th. That means the notice of violation could not have gone out until September 15. It was sent on August 25. APCA jumped the gun. This is all based on a premature notice of violation.
3. Sandy Mulcahy said on Friday we received notice that APCA's attorney has requested to appoint the transfer of title to a third party. They have the power and authority to come to our home and say you are trespassing. I'm not leaving that home.
4. Ziska Childs said one of the first things the Wheeler board asked for from council was help for the mission statement for the board and the directors. The board would be able to serve better with a mission statement.
5. Peter Fornell said the new city offices are in the best interest of town. We can trust you to develop and design a building both functional and architecturally unique. Having a centralized environment is critical. Concerned we may be entering into a project that may contain more than city offices need. He questions the necessity of a meeting space. 6 designated meeting spaces belong to the city. We need to know if there is pressure on our existing spaces or not. All meeting spaces are scheduled through the clerk's office. Not once have I heard anyone talk about the occupancy rate of these rooms.
6. Toni Kronberg said transportation should be one of council's top goals. She asked if Taster's has a lease. Hopes lift 1 doesn't go away. Asked about Arc funding for the fitness center and outdoor pool.
7. Chris Bryan said he is here with the Brown family. There has been a problem with Georgia Brown. They have a lease at the Ute City building but have been denied the opportunity to have a store front presence in the Saturday Market there. Their entrance is blocked by another vendor. They didn't have a lease by the December 31 deadline. They didn't have a lease until June. They would like to be present at the Saturday Market. Mayor Torre asked did they go to the CCLC meeting. Mr. Bryan replied yes. Councilwoman Mullins said I went to CCLC and they explained what they wanted and why they should get the space. CCLC also made a very good argument as to why they should not get the space. Mr. Bryan said they did not finish the market

last year because their lease expired. Councilwoman Richards said we are not supposed to make decisions at the table that aren't part of the agenda. You will not get direction from us to change anything but direction to have staff look in to it. We are not going to take an action to cure your issue tonight. Councilman Mesirow said this is the 4th or 5th time someone has approached me as to how people are selected. Councilman Hauenstein said I've been going to CCLC meetings for 2 years. They have spent considerable time and effort for a fair matrix as to who gets in to the market. There is a protocol. I think it is transparent. Jim True, city attorney, said staff is not going to make a determination but we will bring forth the CCLC position. Sara Ott, city manager, said staff is not involved as a decision maker for the market. Mr. True said the city is not blocking their store. The sidewalk is clear and empty. CCLC heard the arguments and made a determination. That can be brought to you at another meeting. If you want to discuss it further after you've seen the minutes from their meeting. Mayor Torre said we will get the minutes from the CCLC meeting. We will think about it. I understand time is of the essence, but we are just seeing you here. We cannot guarantee you action between now and Saturday morning

COUNCIL COMMENTS

Mayor Torre gave kudos to the Pathfinders 5K. It was an amazing event for the first year. Amanda Boxtel for Bridging Bionics hosted a fantastic event at the Jerome. The Sheriff's Cup last Monday raised \$170,000 for Huts for Vets. He has concerns from the airport group. We are almost half way through the one year process. If you're not paying attention you should. He did not feel as if Aspen's voice is being heard. There has been talk about forming a Pitkin County caucus that represents the City of Aspen. Contact me for more information.

CITY MANAGER COMMENTS

Ms. Ott introduce Tracy Truelove, communications director. Tracy said she is excited to be here.

Pete Rice, engineering, spoke about the Hallam pedestrian way outreach. July 31 is a neighborhood social. There are 4 more public outreach events planned as well. The bikeway is a critical commuter connection. Very excited to get this started. August 12th will be the start date.

BOARD REPORTS

Councilwoman Mullins attended the CCLC meeting. She is impressed with the energy and ideas and is very encouraged. CCLC is on the right track.

Councilwoman Richards attended the Club 20 meetings in Snowmass Village. They had a progressive agenda and good information. They discussed transportation, telecommunications and 5G.

Councilman Hauenstein attended the Houston international sister cities conference. He made great connections especially with millennials. Sister Cities was established in 1956 to promote world peace through citizen diplomacy. There are opportunities for expansion for our program. The people is what makes the program work.

Mayor Torre said I got my introduction to sister cities through Jill and Don Sheeley. Many thanks to Don and the entire family.

Councilman Mesirow attended his first northwest council of governments meeting. There is a bill out there for tax revenues that leave ski areas and get disbursed to be retained by ski areas. Staffers from both CO senator offices were there. DOLA has 6 Million set aside for census outreach. They talked about the 2008 second home study. There is a question as to if we should do it again. Significant interest in a study

that focused on short term rentals. Ms. Ott said currently there is a position funded in the finance department for auditing lodging tax for these short term rentals. Working with APCA on it as well. Approached by one of the major platforms to enter into an agreement but we feel it does not represent the community's interest. CAST also does work in this area.

Mayor Torre attended RFTA as the alternate. 2 agenda items; approve audit and board support for the solar farm. He also attended the board of health. The BOCC is looking at the tobacco tax county wide. Looking to mirror what the City of Aspen has done. Councilwoman Mullins said the other important thing with the transition of Torre is when the board was formed it was an experienced based board of city and county representatives. One of the changes they made at the meeting is they need alternates.

CONSENT CALENDAR

Councilwoman Richards moved to amend item 6C citizen board appointments to add Ann Mullins as city alternate to the Board of Health once the guidelines have been updated. Seconded by Mayor Torre. All in favor, motion carried.

Councilwoman Mullins moved to adopt the consent calendar with items 6B, 6C, 6D and 6E; seconded by Councilwoman Mullins. All in favor, motion carried.

Reso #82 – Garmisch and Main

Mayor Torre said he would like more discussion about the project. What are alternatives here. I looked at the contract and thought the scope was rather large. Is there something that can be implemented easier. Trish Aragon, engineering, said we have been limping this area along for a while. Severe safety issues in the area. This has been something identified as to do. Mr. Rice said the phasing is broken out with phase 1 to do homework, property lines and utility information. Phase 2 looks at what are the problems, start the public outreach, get bus information and develop more detail plans. We will sit back down with you to review the problems and potential solutions. Phase 3 starts the construction documents. Mayor Torre asked what is the budget. Mr. Rice said next year we will come back for the remaining budget of \$340,000. Construction is estimated at \$750,000.

Councilwoman Mullins asked what is the total contract. Mr. Rice said 458,000 is the total.

Councilwoman Richards said she would like to see the project proceed. When I'm a motorist I can't tell you the number of times I've seen a pedestrian almost hit. I think of this like the project at the castle creek bridge area. At the end of the day it has greatly enhanced the public safety to use the mass transit system. It does look inadequate to me now. It is pricy to work like this. She would like to reach out to C dot and RFTA for potential funding. Doing this in phases allows us to see that it is worth proceeding. Mayor Torre asked has C Dot, RFTA or the EOTC been approached to share funding. Mr. Rice said we are starting that process. Ms. Aragon said C Dot wants to know what they are funding before they commit to it. If you want to be successful this is the way to do it.

Councilman Mesirow asked how do you evaluate the safety aspects. Ms. Aragon replied the feedback we've got from police, bike safety team and RFTA. Mr. Rice said the numbers are tough to do for that. Councilman Hauenstein said we previously had a work session where we went around and looked at sidewalk areas. There will be obstacles here when the Molly Gibson is redeveloped. This is a public safety improvement. The citizens demand public outreach and it doesn't come for free.

Mayor Torre said he will vote against this tonight. It is definitely an area where I want to see improvement. Concerns about the Molly Gibson and pending construction. Phase 1 and 2 contracts lead to other contracts that I may or may not support in the future.

Councilwoman Mullins said I'm in that area frequently. That area is very confusing for bus drivers and the people trying to get on the bus. It is a very messy situation and we are trying to create a seamless transportation where people are comfortable and safe. I think it is very important to go ahead with this. Mayor Torre said you are right. Things need to happen here, but I don't think this contract is the best way

to do it. Councilman Mesirow said he is struggling with this. It is a good project and he sees the need from a safety standpoint. It is a big price tag but does not strike me as the most acute need.

Councilwoman Richards said I don't know how to value a human life opposed to a housing unit. To me human life is at risk here. For me it is public safety and that is a prioritization.

Councilwoman Richards moved to adopt Resolution #82, Series of 2019; seconded by Councilwoman Mullins. All in favor except Mayor Torre. Motion carried.

ORDINANCE #20, SERIES OF 2019 – 2nd alternate member to the CCLC

Councilman Hauenstein moved to read Ordinance #20, Series of 2019; seconded by Councilwoman Richards. All in favor, motion carried.

ORDINANCE NO. 20

(SERIES OF 2019)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, AMENDING
ORDINANCE NO. 43, SERIES OF 2007 TO ADD A SECOND ALTERNATE MEMBER TO THE
COMMERCIAL CORE AND LODGING COMMISSION.

Councilman Hauenstein said the current chair is an alternate member. Alternate members carry every bit as much weight as a regular member. We have more people interested, qualified and passionate about the board.

Councilwoman Richards moved to adopt Ordinance #20, Series of 2019 on first reading; seconded by Councilwoman Mullins. Roll call vote. Councilmembers Richards, yes; Mesirow, yes; Hauenstein, yes; Mullins, yes; Mayor Torre, yes. Motion carried.

ORDINANCE #2 AND #15, Series of 2019 – Re-adoption of the updated Construction Management Plan Requirements Manual to Title 29, Re-adoption of the Water Distribution Standards, Re-adoption of the Engineering Standards (combination of the updated Design Standards and the updated Excavation and Construction Standards); and other amendments to Title 21 and Title 29.

Ms. Aragon said this is part of the 2019 work plan. Title 21, 25 and 29 revisions to include Title 21 to clarify the appeal process for engineering permits and comply with proposed accessibility requirement. CMP regulations were relocated to Title 29. CMP enforcement policies adopted into Title 29.

Recommended to have enforcement in the code. We took the design standards and excavation standards and integrated both documents into one. The standards have been updated to address current industry standards.

Tyler Christoff, utilities, said Title 29 water distribution standards are now referenced. Last time they were updated was 2014. It is a user friendly document and best practices. Ms. Aragon said modifications since first reading include Ordinance 2 revised to include the reference to title 21. Engineering design standards are now called engineering standards and include the excavation and construction standards. Mr. Christoff said there is additional specificity around commercial agriculture use of potable water system.

Raquel Flinker, engineering, said questions include are property owners responsible for cost of undergrounding electric services, yes. What is cost for McSkimming undergrounding. Holy Cross is responsible for that area. We asked them for numbers. What undergrounding model was used for the base of smuggler. We are unable to find the records. The history of undergrounding in Aspen started in 1976 when the downtown undergrounding project was created. It was financed by a utility revenue bonds. 1987 local underground district 1 created for west and east side of Aspen. Each lot was responsible for the cost related to the benefits received. 1990 improvement district 2 for Cemetery Lane was created.

Councilwoman Richards said they were all special improvement districts. We would have the history for how long it took to pay back. It would be helpful to have that information.

Mayor Torre opened the public comment.

1. Gordan Baym said he is concerned with the overhead power lines in Aspen grove. He spoke about fire danger related to utility lines above ground.

Mayor Torre closed public comment.

Mayor Torre asked have we done an assessment on the undergrounding issue. Ms. Aragon replied that is Holy Cross's realm. They are highly motivated to have lines under ground.

Councilman Hauenstein asked about the process between the City, Holy Cross and the homeowners. I understand that the home owners are responsible for the cost to bring the underground connector to their house. He asked about the cost for undergrounding. Would we do an ordinance that says that Aspen Grove needs to have under ground power lines then Holy Cross would have to come in and underground the feed. He asked about the logistics. Ms. Aragon said council can chose to outline this area as an improvement district. Holy Cross is not going to pay for the undergrounding. It would be those citizens that are in that district or other means to pay for it. The other way of creating an improvement district is from the neighborhood themselves. They can come forward with more than 50 percent of the neighborhood onboard. In the past the funding of the district has been the homeowners responsibility.

Councilman Hauenstein asked do you know if Holy Cross has financed this in the past. Ms. Flinker replied from the historical records it seems like they have not. Ms. Ott said typically in a process like this there would be a negotiation with the utility on design fees. After comes the conversation of who's paying for what. Holy Cross makes a payment to the city annually and that would be the extent of their financial commitment. Councilman Hauenstein said a next step might be to get 50 percent buy in from your neighborhood. Ms. Ott replied if it is a community issue it is at the council table. If it is a neighborhood issue it is up to them.

Councilwoman Richards said this is a specific and discrete issue. I don't think it is something we are going to mandate into our codes. I think we should take a look at it. I consider this a work session item not related to this public hearing.

Councilwoman Mullins said I agree.

Councilwoman Richards moved to adopt Ordinance #2, Series of 2019; seconded by Councilman Hauenstein. Roll call vote. Councilmembers Hauenstein, yes; Mullins, yes; Richards, yes; Mesirow, yes; Mayor Torre, yes. Motion carried.

Councilwoman Richards moved to adopt Ordinance #15, Series of 2019; seconded by Councilman Mesirow. Roll call vote. Councilmembers Mullins, yes; Mesirow, yes; Hauenstein, yes; Richards, yes; Mayor Torre, yes. Motion carried.

ORDINANCE #17, SERIES OF 2019 – 730 E Cooper Avenue (Base 1 Lodge) Minor Amendment to a Project Review

Mike Kraemer, community development, said this is a minor amendment to a project review.

Background on existing conditions include the Buckhorn lodge constructed in the 1960's. There is basement and 1st floor commercial with 2nd floor lodge units. CL zoning. 2015 conceptual approval for MU lodge with 42 units around 177 square feet each. 2,500 square feet of ground floor commercial. At the time there were variances for height, affordable housing and parking. There is a code requirement for the plan submission deadline. They did not meet the deadline. Council reinstated the resolution and approved with removing all zoning variations at the time. 2016 final approval was for 42 lodge units and 200 square feet per unit. Today it complies with all commercial zoning requirements. Sublevel parking

garage and amenity space. 2018 vested rights extension for approvals. Certain ideas floated around a change of use. The vesting is until July 7, 2020.

The request is for a minor amendment to a project review. The applicant is requesting to eliminate a sub grade level. 2 options. Eliminate the amenity space and retain the parking or eliminate subgrade parking level and retain the amenity level. The dig is almost as deep as the building is tall. There are a few other requests including convert roof top mechanical to roof top bathroom. Currently there is a 6 foot height exemption for mechanical which is not the same for bathrooms. During staff review we noticed an elevator overrun clarification. The maximum height of 48 feet for the overrun. In the approved plan set there is a 49'10" overrun and inconsistent with previous approvals. Staff would like affirmation of the 48 feet.

At the last meeting there was discussion around lodge amenity space. It functions as part of the lodge, spa, ski storage, fitness room. Is not commercial net leasable mitigation. There is ground floor commercial for a tenant. The sub grade level is amenity space. Not generally open to the public. Pedestrian amenity – commercial design that connects the public through active outdoor space, patios, 2nd level decks, rooftop decks. Examples are Volk plaza or paradise bakery. Base 1 is code compliant in the amenity requirements. Majority of space is the rooftop bar/restaurant. They will be open to the public. The public access easement was secured for public access.

On affordable housing, the small lodge unit incentives reduced the mitigation. Base 1 has 200 square feet lodge unit sizes which equal a 10% mitigation rate. MU lodging gets 10% mitigation for lodge and commercial FTE generation.

Analysis – if subgrade parking is selected a car elevator will be needed and commercial net leasable will drop to 2,348 square feet. It is less than 400 square feet of the approved amount.

Councilwoman Richards said on the original application wasn't there a car elevator shown then. Mr. Kraemer replied there was a car elevator. Councilwoman Richards asked what caused the drop in square feet.

Mr. Kraemer replied if lodge amenity is selected the car elevator is not needed and the full 2,745 of commercial net leasable can be developed. Construction of rooftop bathrooms creates a displacement and reduction in 2 lodge units. If no rooftop bathrooms there would be 36 lodge units.

Mayor Torre asked where are current bathrooms to be accessed on the rooftop. Mr. Bendon replied they are on the next floor below.

Mr. Kraemer said there are a lot of different numbers that are analyzed. We don't want to discredit or not give them their due at the hearing. Generally speaking the greater the number of lodge units and commercial net leasable the higher the affordable housing mitigation and parking requirements. In contrast, the lesser number of lodge units and commercial net leasable the lower the affordable housing and parking requirements.

This is a problematic request and staff can't support the removal of subgrade parking. Today we don't have an application submitted for any off site parking. The applicant has identified Benedict Commons and the Rio Grande garage for offsite lodge parking. Both sites are problematic and staff cannot support either location. There is a parking constraint in the downtown and if we take leases away from those spaces it will exacerbate the problem.

Staff recommendations – approve the removal of the basement lodge amenity and retain the parking. Approve a lodge unit density of 36 units. Approve commercial net leasable area of 2,348. Approve affordable housing mitigations and requirements. Approve a minimum of 15 parking spaces and allow cash in lieu to satisfy the remaining. Deny conversion of rooftop mechanical to bathrooms. Reaffirm maximum elevator overrun height shall not exceed 48 feet.

Councilwoman Richards said she is concerned the loss of the amenity level will detract from the usability of really small hotel rooms. She asked if there was a way to have assurance as to what amenities would be moved in to the rooms including microwaves and coffee makers. Where will ski lockers be now if not

in the amenity level. Suggested some of the commercial space needed to be dedicated to the amenity level so the rooms work. Concerned with it turning into a high end boutique lodge. Mr. Kraemer said Rachael asked staff to create a depiction on the floor of what a 200 square foot unit would be. What is on the floor is 16.5 feet by 12 feet.

Councilman Mesirow said on the request for bathrooms, currently the allotted overrun is 6 feet. Mr. Kraemer said the code height exemption is for mechanical of 6 feet. Rooftop bathrooms do not get the same exemption. Councilman Mesirow said he understand the displacement of 2 rooms. When did it go from 42 to 38. Mr. Kraemer replied that happened earlier. The previous approval was 177 square foot size per room. Councilman Mesirow asked how does it work if the room configuration changes. Mr. Kraemer stated should the applicant in the future want to combine units they would have to amend the approval. At that time we would recalculate. If it goes to the next level they would have to pay the additional mitigation.

Applicant

Chris Bendon, representing the applicant, said there was a sister project at the time that was not approved. He reviewed the design inspiration. Rooms are small but nicely appointed. We want it to feel like you are staying in a high end place but very small. With the small size comes a small price tag for room rate. The approval is for 2 basement levels. The deepest is a valet parking service. It is a deeper garage so cars can be stacked. The regular level basement is the guest amenity. Main floor is commercial, 2 primary spaces. Commercial tenants need ADA pathways. We also need a transformer. All of this is eating away net leasable. Office, check in and ski storage on the main level. 2nd floor is 20 lodge units. The current plan is for 38 lodge rooms. 3rd floor is 18 lodge units. 2 of those are currently bathrooms to serve the rooftop deck. The deck is amenity space with public access. There are 2 mechanical areas on the rooftop that are fully enclosed. Two areas with equipment that is sitting on the roof. The enclosed areas are full head height. There is not an allowance for bathrooms to get an exemption on height. We are not requesting the bathrooms be there. It could trigger a ref 1 vote. We have allotments for 40 lodge units. We want to keep the remaining 2 allotments so if the code is amended we can move the bathrooms to the roof and change the bathrooms to lodge rooms.

Councilwoman Richards said that makes sense. She would like more elaborations on the rooftop. The deck is open. Is there a roof over the restaurant component. Mr. Bendon said it is basically an open roof bar. Mark Hunt, applicant, said the idea was communal use. Early on it was a question of that space is there, we are not asking for any more height. It is not just losing the 2 rooms. The space is open to the public then you are going into a level with guest rooms. It is more of a security issue. Mr. Bendon said it is a very busy corner. An amenity on ground level would not be as desirable.

Councilman Mesirow asked for clarification on the Ref 1 comment. Mr. True said the concept is if there is a broad base amendment to allowances within a zone district that does not kick in Ref 1 as long as it is not associated to a specific project. They are asking for the request to change the code not the application.

Mayor Torre asked are there rooftop deck plans other than a bar. What is the programming up there. Mr. Hunt replied it is not fully programmed. I could see a hot tub up there potentially.

Mr. Bendon showed a profile of the building. The tallest things are the elevator overruns. Since the approvals, we went through construction drawings and pricing. The cost to build is more expensive from the sidewalk down then the sidewalk up. It is a deep hole and the shoring is expensive. It is at the point where the project doesn't work. It is not even close to working. We had that discussion with council. We first wanted to reimagine the building as affordable housing. If not housing maybe a simple one story commercial building. That is what happened to Base 2. It is going to be a bank. That conversation migrated back to is there a way to rescue this. We've suggested one of the basement floors need to be sacrificed. We feel it should be one of the parking ones. The amenity space is partial to the guest experience and we feel it is important. Parking is a necessary evil. The cars will go somewhere. If you

drop keys to a valet you don't know where it is going. As long as the car comes back it works. Our preference is to keep the amenity space. We understand your hesitancy of where will the car go. With 1 basement level we can park the minimum on site. If we find an appropriate location we can come back and talk about the amenity space. We can find places on the ground floor to be amenity. We would like to rehouse some of the existing tenants as independent commercial businesses. We do have ski storage. The bar area is an amenity, whether it is a separate business or not. Typically these spaces are designed with a little place for everything. We could get there in terms of an in room amenity. Council is aware there could be a risk of us coming back asking for 6 rooms instead of 38. It would require a full review and go back to council. The purpose of the project is lots of rooms, well designed but small. The town is the amenity.

Mr. Hunt said micro hotels are fascinating and fun. They are small rooms but well appointed. The whole point is a small room with a great shower and great bed. There is fun stuff in the basement and on the rooftop. Something is going to have to give. For something that hits the mark it is hard to believe that 12 to 15 parking spaces is going to wag the dog. I'm confident we will find the parking. Give us the ability to find something that is viable. Based on the properties that we have, we have to be able to find 12 parking spaces. No one will experience the parking garage except the valet. We believe in the project. If this is something that you believe in we are here asking for your help to get us to the finish line. Mr. Bendon said in the recorded plan set an elevator shaft is 49'10". Where it is measured is 48 feet. We are fine with the 48 foot limitation. We comply with it and don't plan on asking for anything higher. Mayor Torre said tell me more about your experience with micro hotels. Mr. Hunt said they are some of the most successful hotels in the country. Citizen M is typically more urban, NYC, Boston and LA. They are looking in to resort markets. Hotel rooms here are outrageously expensive. We don't want to get in to an affordability conversation. It opens the door here. I enjoy staying in them. They generally have great public amenity spaces. You are there to sleep and take a shower. This product works very well in places that are very expensive where the price point is so high they become successful. Also in areas where you are not going to hang out in your room. Aspen is one of those places.

Councilman Hauenstein said when you came back and asked about removing a sublevel I asked what do you want to build here. Mark said this. Mr. Bendon said the current approval has the parking spaces stacked. Our proposal is one regular size level. We can get 15 spaces there. Councilman Hauenstein said if you had stacked parking you would need a deeper basement. If you did that would there be space for the amenity level. Mr. Hunt replied we tried that. If you shared the bottom level it would need 2 stair cases. Then you lose the parking. Councilman Hauenstein asked if you were to drop the whole building a few feet could you have bathrooms on the roof. Mr. Kraemer replied it would have to go down at least 7.5 feet for that to work.

Councilwoman Richards asked where would the mechanical go if they were bathrooms. Why 2 not 1. Mr. Bendon replied one would work. There is outdoor mechanical space as well. We would have to put more in the basement as well.

Councilman Mesirow said he would love to see this be successful. Diversity in our lodging base is something we lack. When this was initially proposed part of the pitch was base 1 and base 2. Mr. Hunt said our hope is we could find other places for these types of hotels. Councilman Mesirow said if we eliminate the amenity there is reduced commercial and parking in a deeper basement. I assume removing the amenity versus the parking would have a larger impact on the bottom line of the project. Mr. Hunt said I think that is fair. Councilman Mesirow said if we chose the amenity are you comfortable with working with staff on the parking. Jen Phelan, community development, said if you kick the can down the road you could be triggering ref 1 because we don't know how you will be accommodating parking. Right now, the code does not allow for offsite parking, it is through special review with P&Z. Does council feel approving a resolution saying we will provide off site parking to satisfy ref 1. Mr. True said ref 1 requires that a variation which reduces the requirements in amount of off street parking requires a vote. As long as you are not changing the amount it would not kick in ref 1. You would have to provide at least some specific provision as to when that would be provided. That would assure it is complying

with the requirement for the amount. I believe there needs to be a definitive statement as to when that would be provided. Otherwise it would be varying the amount.

Mayor Torre opened public comment.

1. Peter Fornell said I can't imagine an easier decision for all of you to make. We all go on vacations. We research the places we are going to go to. If I research a hotel and it says no dogs I either leave my dog at home or find another hotel. I'm guessing they will market the hotel with no parking. Either I don't bring my car to Aspen or I find another hotel. It will be more important for the guest to have a cup of coffee and read the ski report then go where is my car. We have a chance to have a hotel here that will serve a different group of people. If I was a resident living in this part of down town I would be thrilled to hear the new commercial building doesn't have parking and disincentivizes it. It is pretty simple to me. I think we need to look at this hotel on its merits. Give the guests a public amenity and forget about the parking. Encourage the operator to market themselves as such.
2. Toni Kronberg said I don't agree with staff recommendation to remove the amenity and leave the parking. What is a lodge without amenities. We are a transit oriented community. Aspen boasts about car free. Not putting the bathrooms on the roof lose 2 lodge units. The car elevator takes away commercial space. Talked about impacts of digging a double basement. They are not allowed in residential zones because of construction impacts and the neighbors. Hope you can make this work for the community at large.
3. Jim Farrey said I am a friend and work associate of Mark. I'm dying for this project to commence and be built already. I trust he doesn't get his CO without the parking. The alternative is a single level building.

Mayor Torre closed the public comment.

Councilwoman Mullins said there is a neighborhood and a strong one in that part of town. On parking, it would be great if we could do these projects with a minimal amount of parking and push alternative modes of transportation. You tried it with Base 2 and didn't get the support of the community. If the parking disappears it would have to go to ref 1 and we take the chance of the whole project disappearing. I want the project to happen. I don't want to put the burden on the neighbors. In terms of the amenities, maybe the synergy can be built up between here and the crystal palace. There are amenities in the first floor and on the rooftop. The whole town is an amenity. I don't think the people staying at this hotel will be at a loss for amenity. If parking is not provided in the hotel the burden falls on the neighbors. I support the parking in the basement.

Councilwoman Richards said I agree with Ann on this. I'm open to coming back to convert the parking if another solution is worked out. This is a neighborhood. I wish I could make the numbers work for you. I wish ref 1 had not come in. I can't lose the parking. I want to see it go forward and see it successful.

Councilman Mesirow said keeping flexibility for the bathrooms make sense. He feels strongly the amenities are more important for the project success. It will make it a better project for the people staying in it and a better project for the community. I would rather have a vibrant fun spot over the concern that there may be some parking impositions in my neighborhood. My preference would be go with the amenity and guarantee as a requirement that the parking is provided and wherever it is landed there is full support from that group and staff so it is not impinging on a neighborhood.

Councilman Hauenstein said one of the things about Base 1 is it complies with the underlying zoning where Base 2 did not. The code as applied and in place now requires parking but does not require an amenity. I would like to see this built with parking and the amenities. I understand the numbers don't crunch that way. I don't feel it is fair or just to the neighborhood or to the town to push parking off on the streets. I want the parking to be on site. If there is a way to work in the amenities I'm open to it. I cannot in good conscious put the burden of this parking on the neighborhood. I want to see this built and be successful but not at the expense of the neighbors or the rest of town.

Mayor Torre said I've stayed in micro hotels and haven't use the amenity space. I wasn't supportive of the changes. This project went through a lot of work just to get here. It is difficult doing an amendment

to a previous council's decision making. For me I would not support keeping the amenity and eliminating the parking. More favorable to maintaining the parking. It is difficult for me to make a decision just based on the applicant's financial hardship. I support parking remaining and the amenity going.

Mr. Kraemer said some of the numbers need to be firmed up and we would like the ability to work with the applicant to ensure we have the correct numbers. Mr. True said I understand and think you could amend the ordinance to reflect the determination of the correct net leasable floor area. Section 1 subparagraph E is commercial net leasable. You are not sure that number is accurate. Mr. Kraemer said the approval hinges in on the numbers. Staff had 36 numbers, Chris had 38. If we change the 36 to 38 on paragraph c of section 1. On net leasable the square feet keeps moving. I would like to have a buffer in there to migrate 5 to 10 percent as determined by staff.

Councilman Hauenstein said I would favor going one floor below for the bathroom and only have 1. Mr. Bendon said there is a question about the occupancy and if 1 is permitted.

Mr. Kraemer asked is it alright to just acknowledge the math is correct and figure out that we have the correct numbers prior to council signing. Mr. True said the mechanism needs to be final. Ms. Phelan asked could we say baseline of 38 up to 40. Mr. True replied you could as well as amend the ordinance to say net commercial floor area. You can continue it and come up with the exact numbers.

Councilwoman Richards suggested continuing this for tomorrow to approve the ordinance with the correct numbers.

Councilwoman Richards moved to suspend the item and move on to the next item and continue at the meeting tomorrow. Seconded by Councilwoman Mullins. All in favor, motion carried

ORDINANCE #16, SERIES OF 2019 – 981 King Street – Minor Subdivision Amendment to Remove On-site Affordable Housing Unit

Kevin Rayes, community development, said the request is to remove the onsite affordable housing requirement. It is a minor subdivision amendment. APCHA reviewed this in April. Existing conditions – lot 4 of Astor subdivision. Located in R6 zone district. 17,800 square feet. There is a duplex dwelling on site. One side is a deed restricted affordable housing, category 2 unit. It is required to be on the property as prescribed in the original subdivision agreement. The other side of the duplex is the main residence. The request is to remove the affordable housing unit. The property owner is planning on tearing down and building a single family dwelling. He showed photos of existing condition.

The history behind the subdivision includes it being annexed into the city in 1971 and originally consisted of 3 lots. In the 70's the subdivision had 2 duplexes on it. Lot 3 was a vacant lot. Around 1980 the owner of the subdivision requested to rezone from R15 to R6. It was a controversial request at the time. Neighbors felt it was inconsistent with neighboring properties. It was Ms. Astor's intention to provide affordable housing on each parcel if she was permitted to increase the density. Ordinance 2 of 1983 completed the rezoning with the condition that permanent employee housing would exist on site. A subdivision agreement was also approved. 2 dwelling units per lot. Occupancy in 3 of 6 units is restricted to low, moderate and middle income occupants. 14 years later an amendment added a 4th lot to the subdivision. In order to add the additional lot, the lot lines were reconfigured and lots renumbered. Part of the approval was a condition that says the new lot also has to provide an affordable housing unit on site. Lot 1 has a category 1 unit on site. Lots 2, 3 and have category 2 units on site. Owner of lot 4 is requesting to remove the onsite affordable housing unit.

There are two criteria to consider when removing an onsite affordable housing unit. The amendment responds to issues raised during the original review or addresses an issue that could not have been reasonably anticipated during the review. Staff finds it is not met. Representations made to council during the subdivision clearly show they had to weigh the option of a community benefit of onsite affordable housing with the potential of rezoning an area inconsistent with surrounding neighborhood. 1979 memo stated intention to develop 3 duplexes and see 50% of these units deed restricted as employee

units. Highly desirable in seeing 3 dwelling units for affordable housing in perpetuity. P&Z recommended approval 5 to 1 to retain employee housing. Criteria 2 states the amendment is consistent with the approved subdivision. Staff finds this is not met. On site affordable housing is included in the original subdivision agreement. Restricts occupancy to APCHA qualified tenant. APCHA recommends council deny the request. Staff requests council deny the request. Received a public comment over the phone from Tony and Kathy Welgos. Hope council deny the request. Affordable housing is difficult enough and we should not be removing it. Negative precedent for properties that have same requirement.

Councilwoman Richards said for the affordable housing credit program and the future occupant of the unit, are they renting it or buying half of it. Ms. Phelan replied with the credit how does it currently operate. Typically, the developer will develop the housing voluntarily and put it up for sale at a certain category. The units sell but they get credits based on the number of employees housed per unit. That is what sells on the open market. Councilwoman Richards said she will not support this application for other reasons. There is a point if you allow people to buy off mitigation from an existing unit you are only getting half the value for it. I have a hard time with going against the other recommendations.

Applicant

Steev Wilson and Ryan Lee, Forum Phi, said we don't agree with staff. Does this address an issue that could not be addressed during initial review. The credit program didn't exist then. We are ok with one unit and one affordable housing unit. We just want to use a credit to mitigate for that. Does it diminish the community benefit. No. We are willing to purchase it. The 1980 unit doesn't meet APCHA criteria now. We could retire this deed restriction in favor of the best thinking we have right now. The credit program delivers fantastic results. Employees should live in town and above grade. They don't here. Other benefits include converting to a modern deed restriction. We would have to deliver the credits prior to demolition. Not sure why it is considered a detriment. The program is doing everything we wanted it to do. APCHA voted against this because they viewed it as a loss of a unit. This supports the credit program and retires a substandard unit.

Mayor Torre opened the public comment. There was none. Mayor Torre closed the public comment.

Councilman Mesirow said staff has it right. The criteria are set. While supporting the credit program is important, I would like to keep lived in units in town. I'm against the ask.

Councilwoman Mullins said you made a good case. I go back to the intent of the previous councils and respect what they were trying to do. I don't want to overturn that. The credit program is great but we need to continue to have options. I support staff recommendation.

Councilman Hauenstein said the thing I keep going back to is in perpetuity. The subdivision was created with affordable housing units on site in perpetuity. I support staff recommendation.

Councilwoman Richards said I agree the historical research was important. I agree with Ward and in perpetuity. It is also about having diverse neighborhoods and dispersed housing. I think when the property was purchased it was known what the deed restriction was. Giving up the location of this is not a bargain I would be willing to make.

Mayor Torre said I agree with council on this. This is kind of a bummer. It is not a win all around. When you get rid of a material unit and trade it for cash or credit it doesn't trade at the same. We are losing actual housing and what we gain is not enough to make up for it. I will support staff recommendation.

Mr. True said he requests someone move to deny ordinance #16 based on comments made by council and exhibit A.

Councilwoman Mullins moved to deny for reasons stated by council, staff and exhibit A. Seconded by Councilman Mesirow. Roll call vote. Councilmembers Richards, yes; Hauenstein, yes; Mesirow, yes; Mullins, yes; Mayor Torre, yes. Motion carried.

At 10:05 p.m. Councilman Hauenstein moved to continue this meeting to July 23 at 4:00 to consider ordinance 17 and executive session; seconded by Councilwoman Richards. All in favor, motion carried.

7-23-19

At 4:00 P.M. Mayor Torre called the continued meeting to order.

Mr. Kraemer said this is a continuance of the discussion from last night. Further discussion on honing in on some of the lodge densities and commercial space. There have been revisions to the ordinance throughout the day. We wanted more precision on the lodge densities. Changes of minimum of 38 lodge units to a maximum of 40. Affordable housing FTE generation numbers as well as commercial net leasable. Maximum is 2,600 square feet for commercial net leasable. These are not construction documents and there will be further refinement. FTE generation rates will be calculated at building permit. Parking changed a bit. Included section 4 regarding combining or reconfiguring unit size. Further city review is required.

Councilwoman Mullins said the ordinance says convert rooftop mechanical to rooftop bathroom, she does not recall approving that. Mr. Kraemer said that is what the applicants request was. There is a second whereas that states council does not approve that.

Councilman Hauenstein said the storage on the roof top amenity are reserved if zoning changes they can be traditional lodge units. Mr. Bendon said those spaces could be used to relocate the bathrooms. Where the bathrooms are now on the 3rd floor they could be converted to lodge units. The occupancy is too great for 1 bathroom.

Councilman Mesirow said he respects the differing opinion at the table on what to prioritize below grade. I will vote no. I hope this goes forward and is successful.

Mayor Torre said your preference was to eliminate the amenity space. Does this move you towards the ability to complete the project. Mr. Hunt replied we do. Our preference was not the parking. I'm still hopeful we can find something that may open the door to something more vibrant. We will move forward with this project. Mayor Torre said I will support this. I am struggling with the 10% mitigation rate.

Councilwoman Richards moved to adopt Ordinance #17, Series of 2019; seconded by Councilwoman Mullins. Roll call vote. Councilmembers Richards, yes; Mullins, yes; Hauenstein, yes; Mesirow, no; Mayor Torre, yes. Motion carried.

Mayor Torre suspended the meeting for the work session.

At 7:37 council resumed the continued meeting. Mr. True recommended Council go in to executive session pursuant to C.R.S. 24-6-402(a) The purchase, acquisition, lease, transfer or sale of any real, personal or other property interest; (b) Conferences with an attorney for the local public body for the purposes of receiving legal advice on specific legal questions and (e) Determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations and instructing negotiators regarding the potential sale of property.

Councilwoman Mullins moved to go in to executive sessions; seconded by Councilman Hauenstein. All in favor, motion carried.

July 30, 2019 – special meeting for the purpose of executive session.

At 4:10 p.m. Mayor Torre called the special meeting to order with Councilmembers Mullins, Mesirow, Richards and Hauenstein present.

Jim True, city attorney, recommended Council go in to executive session pursuant to C.R.S. 24-6-402 (f)(I) Personnel matters to discuss the city manager candidates.

Councilman Hauenstein moved to go in to executive session; seconded by Councilwoman Mullins. All in favor, motion carried.

Linda Manning
City Clerk



Memorandum

TO: Mayor and City Council

FROM: Phillip Supino, Principal Long-Range Planner

THRU: Jennifer Phelan, Interim Community Development Director

RE: Policy Resolution No. 75, 2019: Reed-Compliant Sandwich Board Sign Code Amendments, and
Ordinance No. 18, 2019: Reed-Compliant Sandwich Board Sign Regulations

MEETING DATE: August 12, 2019

SUMMARY:

Resolution No. 75, 2019 authorizes the Community Development Department to undertake code amendments to Land Use Code Chapter 26.510, Signs. Ordinance No. 18, Series 2019 provides recommended code language to allow existing, permitted sandwich board signs to remain under certain conditions for an additional year.

The objective of the proposed code amendments is to comply with the requirements of the United States Supreme Court decision in Reed v. Town of Gilbert, Ariz. (2015) while permitting permit holders to display sandwich board signs. This code amendment will ensure that the City's sandwich board sign regulations and enforcement regime remain in compliance with federal law and provide permitted access to certain types of commercial signage until such time as Council amends the Land Use Code.

STAFF RECOMMENDATION:

Staff recommends Council approve Ordinance No. 18, Series 2019 at First Reading.

BACKGROUND:

In August 2017, City Council approved Ordinance No. 22, 2017 overhauling the sign regulations in Land Use Code Section 26.510. This code amendment was in response to the June 2015, U.S. Supreme Court ruling in Reed v. Town of Gilbert, Ariz. (Reed) that municipal sign code regulations must be "content neutral". This means sign regulations must be focused on the size, type, location and appearance of signs, not the content of or entity displaying the signage. Simply stated, the Supreme Court ruled that if one must read the sign to determine if it complies, then the regulation is not content neutral.

At the time of adoption of Ordinance No. 22, 2018, Council's over-arching policy objective was to "maintain the status quo" to the extent possible. Ultimately, staff provided Council with four options for addressing sandwich boards. Each option created challenges for meeting Council's policy directive to "maintain the status quo" relative to the old sign regulations. In Ordinance No. 22, 2017, Council directed staff to eliminate sandwich board signs as a permitted sign type. Council approved that ordinance 4-1 and directed staff to delay enforcement of the new regulations until one year from the ordinance effective date, September 28, 2018.

In June 2018, staff began reaching out to the business community to remind them of the pending change in sign regulation enforcement. With input from staff, the public, and the business community, Council approved Ordinance No. 24, 2018, which extended for one year the date by which sandwich board sign permits would expire: September 28, 2019. Council extended the date, and the policy remains in place allowing existing sandwich board signs to remain while not issuing new sandwich board sign permits. With no action taken by the previous Council to modify sandwich board sign regulations, existing sandwich board sign permits are set to expire on September 28th.

DISCUSSION:

The Land Use Code requires that Council first pass a Policy Resolution before amending the regulations in the Code. Resolution 75, 2019 simply states that there is adequate justification for amending the land use code to extend the expiration date of existing sandwich board signs. Given previous, extensive public input from the business community regarding the importance of sandwich board signs, and Council's desire to make those sign types available to hard to find business locations, the continuation of existing permits is reasonable. Additionally, allowing the exiting permits to expire would remove a sign type from permit holders with little advanced notice or clarity as to alternatives available to those businesses. Resolution 75 authorizes the Community Development Department to amend the Code extending those permits.

Ordinance 18, 2019 formally amends the Land Use Code. Section 1 includes language extending the expiration date of sandwich board permits by one year, to September 28, 2020. This is the only section of the code amended by Ordinance No. 18.

Passage of Ordinance No. 18 would provide time for Council and staff to collaborate on a permanent solution to the sandwich board sign question, which remains unresolved from the 2017 code amendment process. Should Council choose to pass Ordinance No. 18, staff will work with Council to schedule a sandwich board sign regulation work session in the coming months. The work session, combined with public outreach to the public and business community, will provide staff with the direction needed to propose a permanent sandwich board sign solution to Council in 2020.

PUBLIC OUTREACH:

Public outreach is proposed to commence upon direction from Council to amend the sign regulations at a subsequent sandwich board sign work session. In the past, public outreach on sign code amendments has consisted of direct outreach to City business owners and managers (in collaboration with the Downtown Services Director and CCLC), public meetings and open houses, an AspenCommunityVoice.com page, and Community Development Newsletter content. Staff will seek direction from Council at a future work session as to the appropriate scale of public outreach.

RECOMMENDED MOTION (ALL MOTIONS ARE PROPOSED IN THE AFFIRMATIVE):

"I move to approve Resolution 75, Series 2019."

AND

"I move to approve Ordinance 18, Series 2019, at First Reading, and set the Second Reading for August 26, 2019."

ATTACHMENTS:

Exhibit A: Staff Findings

**RESOLUTION NO. 75
(SERIES OF 2019)**

**A RESOLUTION OF THE ASPEN CITY COUNCIL REQUESTING CODE AMENDMENTS
TO THE CITY'S SIGN REGULATIONS AS THEY RELATE TO SANDWICH BOARD SIGNS.**

WHEREAS, pursuant to Section 26.310.020(A), a Policy Resolution is required to initiate the process of amending the City of Aspen Land Use Code; and,

WHEREAS, the United State Supreme Court found in the case of *Reed v. Town of Gilbert, Ariz. (2015) (Reed)* that commercial and non-commercial signage are forms of speech protected under the First Amendment to the Constitution of the United States; and,

WHEREAS, the *Reed* ruling requires that governmental sign regulations be content neutral, and that the regulation of commercial and non-commercial signage be limited to the quantity, physical and locational characteristics of signs in the community; and,

WHEREAS, pursuant to Section 26.310.020(B)(1), the Community Development Department has previously conducted Public Outreach with community members, business owners, stakeholders, and City Council regarding past Reed-compliant amendments to the sign code; and,

WHEREAS, there is community interest in continuing to allow the use of sandwich board signs with previously approved permits, by certain business types, and in certain locations; and,

WHEREAS, previous Council action has extended the scheduled phase-out of existing sandwich board sign permits to continue to provide those signs to certain businesses while ensuring *Reed*-compliant sign code regulations; and,

WHEREAS, City Council has reviewed the proposed code amendment policy direction, and finds it meets the criteria outlined in Section 26.310.040; and,

WHEREAS, pursuant to Section 26.310.020(B)(2), during a duly noticed public hearing on August 12, 2019, the City Council approved Resolution No. 75, Series of 2019, requesting an amendment to sandwich board signs extending the expiration date of existing sandwich board sign permits; and,

WHEREAS, this Resolution does not amend the Land Use Code, but provides direction to staff for amending the Land Use Code; and,

WHEREAS, the City Council finds that this Resolution furthers and is necessary for the promotion of public health, safety, and welfare.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASPEN AS FOLLOWS:

Section 1: Code Amendment Objective

The goals and objectives of this code amendment is to:

1. Comply with the requirements of *Reed v. Town of Gilbert, Ariz. (2015)*; and,
2. Maintain public health, safety, and welfare by limiting sign clutter, distractions from roadways and obstructions from signage; and,
3. Provide opportunities for appropriate signage in commercial zone districts; and,
4. Limit the proliferation of signs in commercial zone districts; and,
5. Ensure that sign regulations meet the informational, advertising, wayfinding and speech needs of residents, businesses and visitors.

Section 2: Sign Code Amendment Direction from Council

City Council previously provided the following general direction related to sign code amendments which provide the basis for this limited code amendment:

1. Ensure sandwich board sign regulations comply with the requirement of *Reed v Town of Gilbert, Ariz.*
2. Continue to provide for the limited use of sandwich board signs in appropriate commercial zone districts while preventing the proliferation of such signs.

Section 3:

This resolution shall not affect any existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the resolutions or ordinances repealed or amended as herein provided, and the same shall be conducted and concluded under such prior resolutions or ordinances.

Section 4:

If any section, subsection, sentence, clause, phrase, or portion of this resolution is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

FINALLY, adopted this 12th day of August, 2019.

Torre, Mayor

ATTEST:

APPROVED AS TO FORM:

Linda Manning, City Clerk

James R True, City Attorney

Exhibit A: Staff Findings

26.310.040. Amendments to the Land Use Code standards of review – Initiation

In reviewing a request to pursue an amendment to the text of this Title, per Section 26.310.020(B)(2), *Step Two – Public Hearing before City Council*, the City Council shall consider:

A. Whether there exists a community interest to pursue the amendment.

Staff Findings:

Staff believes there is a community interest in amending the Land Use Code (LUC) to extend the deadline for the expiration of existing sandwich board sign permits in accordance with the requirements of the U.S. Supreme Court Case *Reed v. Town of Gilbert, Ariz.* The proposed amendments ensure that the sign code balances community aesthetics with the commercial, directional, and informational benefits of signage. The proposed amendments also ensure that the City's sign regulations remain in compliance with federal legal requirements.

B. Whether the objectives of the proposed amendment furthers an adopted policy, community goal, or objective of the City including, but not limited to, those stated in the Aspen Area Community Plan.

Staff Findings:

It is the objective of Council and City staff to ensure that the legality of the sign regulations in the Land Use Code is maintained. Furthermore, it is the goal of Council and City staff to ensure that the public is provided with access to commercial, civic, and wayfinding information in a manner that enhances public health, safety and welfare while preserving community aesthetics. These goals are supported by the following Aspen Area Community Plan Policies:

- V.2 Facilitate the sustainability of essential businesses that provide basic community needs.
- V.3 Ensure that the City Land Use Code results in development that reflects our architectural heritage in terms of site coverage, mass, scale, density and a diversity of heights, in order to:
 - Create certainty in land development.
 - Prioritize maintaining our mountain views.
 - Protect our small town community character and historical heritage.
 - Limit consumption of energy and building materials.
 - Limit the burden on public infrastructure and ongoing public operating costs.
 - Reduce short- and long-term job generation impacts, such as traffic congestion, and demand for affordable housing.

C. Whether the objectives of the proposed amendment are compatible with the community character of the City and in harmony with the public interest and the purpose and intent of this Title.

Staff Findings:

The proposed policies and code amendments support and enhance community character by balancing community aesthetics with the value of commercial, civic, safety, and wayfinding signage in appropriate quantities and locations. Further, the proposed policies and code amendments ensure the ongoing effectiveness and viability of the City's sign regulations by ensuring their compliance with the requirements of the *Reed* decision.



Memorandum

TO: Mayor and City Council

FROM: Phillip Supino, Principal Long-Range Planner

THRU: Jennifer Phelan, Interim Community Development Director

RE: Policy Resolution 75, 2019: Reed-Compliant Sandwich Board Sign Code Amendments, and
Ordinance 18, 2019: Reed-Compliant Sandwich Board Sign Regulations

MEETING DATE: August 12, 2019

SUMMARY:

The combined memo for Resolution No. 75, Series 2019 and Ordinance No. 18, Series 2019 is included in the packet materials for Resolution No. 75, Series 2019. Please refer to that memo for information about Ordinance No. 18 amending the Sign Code to extend the effective date of existing sandwich board sign permits.

STAFF RECOMMENDATION:

N/A

ORDINANCE No. 18
(Series of 2019)

**AN ORDINANCE OF THE ASPEN CITY COUNCIL ADOPTING CODE
AMENDMENTS TO LAND USE CODE CHAPTER 26.510 – SIGNS.**

WHEREAS, in accordance with Sections 26.208 and 26.310 of the City of Aspen Land Use Code, the City Council of the City of Aspen directed the Community Development Department to craft code amendments to amend the City’s sign regulations; and,

WHEREAS, signs are a form of speech protected under the First Amendment to the Constitution of the United States, and a 2015 United States Supreme Court decision (*Reed v. Town of Gilbert*) requires local governments to review and revise their sign regulations to ensure that those regulations emphasize the dimensional, design and location of signs rather than their content; and,

WHEREAS, pursuant to Section 26.310.020(B)(2), during a duly noticed public hearing on August 28, 2017, the City Council approved Ordinance 22, Series 2017, by a four to one (4-1) vote amending the land use code; and,

WHEREAS, the City regulates signs to:

- Protect the rights of all persons to freedom of expression; and,
- Protect the unique aesthetics and visual heritage of the City; and,
- Maintain public health, safety, and welfare by preventing sign clutter, distractions from roadways and obstructions from signage; and,
- Provide opportunities for commercial and non-commercial signs in commercial and residential zone districts; and,
- Limit the proliferation of excessive signs in commercial and residential zone districts; and,
- Ensure that sign regulations are adequate to accommodate the informational, advertising, wayfinding and speech needs of residents, businesses and visitors.

WHEREAS, the Community Development Department and consultants White & Smith, LLC conducted research into national best practices regarding sign code compliance with First Amendment principles to aid in the drafting of Ordinance 22, Series 2018; and,

WHEREAS, pursuant to Section 26.310.020(B)(1), the Community Development Department conducted Public Outreach with community members and stakeholders, the Planning & Zoning Commission, the Historic Preservation Commission, and City Council regarding the amendments to the sign code; and,

WHEREAS, the Aspen City Council met in work sessions on August 21, 2018 and provided direction on potential amendments to the City’s sign regulations related to sandwich board signs; and

WHEREAS, amending the Land Use Code to comply with First Amendment principles and allow for the limited use of sandwich board signs will ensure the ongoing effectiveness and viability of the sign regulations within the City of Aspen Land Use Code; and,

WHEREAS, pursuant to Section 26.310.020(B)(2), during a duly noticed public hearing on August 12, 2019, the City Council approved Resolution 75, Series 2019, by a five to zero (5 - 0) vote to direct staff to amend the land use code; and,

WHEREAS, City Council has reviewed the proposed code amendment policy direction, and finds it meets the criteria outlined in Section 26.310.040; and,

WHEREAS, the Aspen City Council finds that this Ordinance furthers and is necessary for the promotion of public health safety and welfare; and

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASPEN COLORADO THAT:

Section 1. Chapter 26.510.110 shall be deleted in its entirety and replaced with the following:

26.510.110 Sandwich board signs

The display of sandwich board and similar free-standing, two sided signs on public or private property is not permitted. Sandwich board signs with a valid City of Aspen permit may be displayed until September 28, 2020. Expired sandwich board permits will not be renewed, and sandwich board signs displayed without a permit must be removed in accordance with the City of Aspen Municipal Code.

Section 2: Any scrivener's errors contained in the code amendments herein, including but not limited to mislabeled subsections or titles, may be corrected administratively following adoption of the Ordinance.

Section 3: Effect Upon Existing Litigation.

This ordinance shall not affect any existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided, and the same shall be conducted and concluded under such prior ordinances.

Section 4: Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

Section 5: Effective Date.

In accordance with Section 4.9 of the City of Aspen Home Rule Charter, this ordinance shall become effective thirty (30) days following final passage.

Section 6:

A public hearing on this ordinance shall be held on the 24th day of September, 2018, at a meeting of the Aspen City Council commencing at 5:00 p.m. in the City Council Chambers, Aspen City Hall, Aspen, Colorado, a minimum of fifteen days prior to which hearing a public notice of the same shall be published in a newspaper of general circulation within the City of Aspen.

INTRODUCED, READ, AND ORDERED PUBLISHED as provided by law, by the City Council of the City of Aspen on the 12th day of August, 2018.

Attest:

Linda Manning, City Clerk

Torre, Mayor

FINALLY, adopted, passed and approved this 26th day of August, 2019.

Attest:

Linda Manning, City Clerk

Torre, Mayor

Approved as to form:

James R. True, City Attorney



TO: Mayor Torre and City Council

FROM: Kevin Rayes, Planner

THROUGH: Jennifer Phelan, Interim Community Development Director

MEMO DATE: July 29, 2019

MEETING DATE: August 12, 2019

RE: Request to Table Item: Major Subdivision Approval to vacate a western portion of South Aspen Street (Approximately 5,228 sq. ft.), Ordinance No. 19 (Series of 19)

REQUEST OF COUNCIL:

The applicant is requesting to table this item for a future hearing.

SUMMARY AND BACKGROUND:

The request of the application is to vacate a western portion of South Aspen Street (approximately 5,228 sq. ft.) to the benefit of the Shadow Mountain Village Condominium Apartments. City Council reviewed this request at first reading on July 8 and voted in favor of second reading by setting a public hearing date for August 12.

According to the applicant, the request to vacate South Aspen Street was a result upon the voter-approved site-plan and entitlements that were granted to the Lift 1 and Gorsuch Haus developments. Given the recent uncertainties related to these projects, the applicant is requesting to table the public hearing for a future date.

DISCUSSION:

Rather than continuing the hearing to a date certain, tabling an item requires the project to be re-noticed when the Council moves to open a public hearing for a date certain.

FINANCIAL IMPACTS:

N/A

ENVIRONMENTAL IMPACTS:

N/A

ALTERNATIVES:

Council could continue this item to a date certain. However, this would not provide updated notice of a meeting to adjacent neighbors. The applicant prefers that Council table the item instead, as tabling an item does not require setting a specific hearing date until the applicant is ready to move forward with the application.

RECOMMENDATIONS:

Staff recommends that Council table this item. The applicant plans to contact staff when they are ready to move forward with the application.

CITY MANAGER COMMENTS:



MEMORANDUM

TO: Mayor Torre and Aspen City Council

FROM: Phillip Supino, Principal Long-Range Planner

THRU: Jennifer Phelan, Interim Community Development Director

RE: Temporary Use Request - Silver City Ice Rink, 433 E. Durant Ave., Resolution No. 91, Series of 2019

MEETING DATE: August 12, 2019

APPLICANT: G.A. Resort Condo Association, Inc., c/o Hyatt Residence Club, Bob Weisman, President, 415 E. Dean St., Aspen, CO 81611

REPRESENTATIVE: Chris Bendon, BendonAdams, 300 S. Spring St. #202, Aspen, CO 81611

LOCATION: 433 E. Durant St.

CURRENT ZONING: P - Park

SUMMARY: The applicant seeks temporary use approval for an interim public amenity to be located in park area developed in conjunction with the Hyatt Grand Aspen. The existing ice-skating rink requires maintenance and eventual replacement. The temporary use approval is in lieu of a pending appeal of the revocation of a 2018 approval for the use of "synthetic ice" in place of the approved refrigerated ice-skating facility.

STAFF RECOMMENDATION: Staff recommends continuation of Resolution 91, 2019 to obtain additional information about the details of the proposed temporary use options. Staff further recommends Council provide the applicant with direction to either maintain the existing ice-skating facility as approved, or develop either the natural, unrefrigerated skating surface option or the park option, contingent upon the provision of management and site design plans. Finally, staff recommends discussing the appropriate duration for the Temporary Use approval.



Silver City Ice Rink

(Photo Courtesy of www.uncovercolorado.com)

REQUEST OF CITY COUNCIL: The applicant requests Temporary Use approval for a skating or park facility during the 2019-2020 winter season in accordance with Chapter 26.450, Temporary Uses, of the Land Use Code for a period of 140 days. The Code allows City Council to grant temporary use approval for up to 180 consecutive days within a calendar year. The applicant also requests City Council provide direction on the potential for an amendment to the current

approved use of the public amenity area to permit alternative programming to the existing refrigerated ice-skating facility. City Council is the final review authority.

LOCATION/BACKGROUND: The existing public amenity area is in the Park (P) zone district. It was approved in 1992 as part of the Hyatt Grand Aspen development, the timeshare lodge located at 415 E. Dean St. behind the public amenity space.



Figure 1: Area Map

Ordinance No. 12, Series 1992 granted approval for the development of the "Aspen Winter Garden", which was provided by the developers of the Grand Hyatt Aspen as a public park amenity. As part of Planned Unit Development, the dedication from the developers was provided in lieu of requirements for Subdivision, Growth Management for Essential Public Facilities, park and water tap fees. The park area also fulfills the development's open space requirements. The Grand Hyatt Aspen retains ownership over the property and is responsible for the park and associated uses.

Part of the ownership requirement is the upkeep of the ice refrigeration system which maintains the skating surface throughout the winter season. The approval stipulates several features and activities which must be present on the site to ensure it provides a public park amenity as originally approved by Council. The approval includes specific language about the type of refrigeration system provided and its maintenance. The approval requires that an ice-skating rink be provided in perpetuity until such time as the approval is amended or the property redeveloped.

In 2018, the applicant approached the City with a proposal to replace the refrigerated natural ice surface with "synthetic ice". The refrigeration system required increasing maintenance to function properly, and the coolant used in the system (CFC-22) is scheduled to be phased-out of use in 2020 by the EPA. Without CFC-22, modifications and additional maintenance of the

system would be required to continue to provide an ice-skating surface. Citing maintenance challenges and associated costs, as well as a desire to reprogram the site in the future, the applicant requested an Insubstantial Planned Development Amendment from the Community Development Department to replace the ice with a "synthetic ice" surface which does not require refrigeration.

That administrative amendment was granted November 19, 2018 based on representations made by the applicant appearing to meet the criteria for such an amendment. During the first few months of the 2019-2020 winter season, the Community Development Department received complaints from customers, members of the public, and City Council members about the suitability of the synthetic skating surface and the unsatisfactory user experience. On April 2, 2019, the Community Development Director revoked the approval via letter (attached as Exhibit B). The consequence of the revocation was the requirement that the applicant reinstate the ice-skating amenity as described in the 1992 approval.

Subsequently, the applicant has appealed the Director's action, the outcome of which is pending Council review of this Temporary Use application. Should the appeal go before the Hearing Officer and be granted, the use of the "synthetic ice" would be permitted to continue until such time as the applicant proposes an alternative. Should the appeal be denied, the applicant would be required to maintain the site, including the skating facility, in accordance with the original approval. The applicant has requested that the appeal be placed on hold while Council considers this temporary use request.

Finally, the applicant has stated a desire to discuss with Council potential future uses of the site. That discussion may impact Council's position relative to this land use request. However, the future use of the site beyond that approved as part of a Temporary Use is outside of the scope of this land use application.

CURRENT REQUEST: The applicant has proposed three uses for Council to consider under this Temporary Use application in lieu of the approved refrigerated ice-skating rink previously operated on the site: the continued use of the "synthetic ice", a natural, unrefrigerated ice-skating surface, or a park "... with outdoor seating and/or other outdoor activities for the public to enjoy." (Exhibit C, page 3) The three temporary use scenarios would provide the applicant with a Council-approved use of the park site in lieu of the ice-skating amenity required by the 1992 approval.

The first Temporary Use alternative offered by the applicant is the continued use of the "synthetic ice" surface originally approved in 2018 and revoked in 2019. This would be managed by the Hyatt Grand Aspen, as opposed to the operators of CP Burger who previously managed the skating operations. The applicant has stated that under this scenario, the skates and skating surface would be maintained in a manner which provides a satisfactory skating experience. The 2018 Insubstantial PD Amendment granting approval of the synthetic surface was revoked, in part, in response to visitor and resident complaints about the substandard skating experience it provided. Given the public perception of the surface and its inadequate provision of a suitable alternative to ice, staff does not support its continued use through approval of a Temporary Use.

Aside from a mosaic of conceptual images (included as Exhibit D), the specific design, activities, and amenities proposed under the two other alternatives have not been clearly outlined in the

application. Typically, the Community Development Department requires detailed descriptions of the operation, facilities, and impacts of proposed Temporary Uses. While the broad outlines of the use of the site are established by the original park approval, there are details which Council may require in consideration of the application and selection of a proposed alternative.

The proposed natural, unrefrigerated ice-skating surface would use “ambient air temperature” (Exhibit C) to freeze the skating surface. There are numerous factors aside from ambient air temperature which effect the quality and suitability of a natural skating surface, including sun exposure, precipitation, level of use, and maintenance regimen. Maintaining an unrefrigerated skating surface may require techniques beyond those previously employed on the refrigerated surface to ensure the ice is safe and in suitable condition to provide a quality skating experience. Staff suggests that, if Council is amenable to this alternative, a management plan for the ice surface be included in conjunction with the Temporary Use approval.

Similarly, the proposed park scenario does not describe what amenities or activities would be provided. The size of the parcel, its prominence downtown, and proximity to recreation, lodging and transportation makes it an important and visible site. Additionally, having been dedicated as a park in the 1992 Planned Development approval, the site is expected to provide an active, quality amenity for locals and visitors. Beyond the description included in the application cover letter (Exhibit C), no details are provided. The addition of park facilities to such a visible site may create unanticipated visual impacts or change the pedestrian and user experience in unanticipated ways. For these reasons, Council may consider requiring detailed site plans and depictions of the features and amenities proposed for the park option before granting Temporary Use approval.

Staff is sensitive to the applicant’s predicament regarding the life span of the refrigeration system and the impending phase-out of CFC-22. This was a primary motivation behind granting the 2018 Insubstantial PD amendment. However, Staff believes it is important that this site continue to provide an engaging and pleasant amenity to the public as envisioned in the 1992 approval. As such, staff supports a process to determine the future permanent use of the site. In the interim, staff supports a temporary use based on clearly defined site design and management plans, and which meets the intent of the existing land use approvals. Additional information may be required to ensure that an approved Temporary Use meets that standard.

STAFF FINDINGS: Staff has reviewed the applicant’s request against the relevant review criteria and finds the following:

Conceptually, the proposed Temporary Uses are consistent with the existing approval for the use of the park site. The 1992 approval envisioned ice-skating and other uses activating the space and providing a public amenity. The proposed uses would continue to provide that amenity while the applicant, Council, and the community discuss long-term solutions for the use of the site.

Based on the limited representations made by the applicant, the proposed uses would not increase impacts on the surrounding area. The design of the park option should be vetted to ensure that it meets this criterion.

All of the proposed Temporary Use Options are subject all applicable review criteria for Temporary Uses. Compliance with Commercial Design regulations and guidelines may be

required depending on the extent of improvement and site alterations to accommodate the natural, unrefrigerated ice or park options.

GROWTH MANAGEMENT: Because the proposed uses would replace an existing public amenity required as part of a previous site-specific approval, there is no Growth Management requirement for the proposed Temporary Use.

STAFF RECOMMENDATION: Staff recommends continuation of Resolution 91, 2019. Staff recommends Council provide the applicant with direction to develop either the natural, unrefrigerated skating surface option or the park option, contingent upon the provision of management and site design plans. Should Council favor the approval of a Temporary Use, staff recommends Council discuss the appropriate duration and terms of renewal of that Temporary Use. Staff further recommends Council provide direction to the applicant as to the appropriateness of consideration of alternative future uses of the site as part of a Planned Development Amendment process.

PROPOSED MOTION (WORDED IN THE AFFIRMATIVE): "I move to continue Resolution No. 91, Series of 2019 to a date certain."

Attachments:

- Exhibit A - Staff Findings
- Exhibit B - Synthetic Ice Approval Revocation Letter
- Exhibit C - Silver City Ice Rink, Temporary Use Application
- Exhibit D - Silver City Ice Rink, Conceptual Images

**RESOLUTION NO. 91
(SERIES OF 2019)**

**A RESOLUTION OF THE CITY OF ASPEN CITY COUNCIL APPROVING THE
TEMPORARY USE AT 433 E. DURANT AVE., LEGALLY DESCRIBED AS LOT 6,
ASPEN MOUNTAIN SUBDIVISION AND PLANNED UNIT DEVELOPMENT, CITY
AND TOWNSITE OF ASPEN, PITKIN COUNTY, COLORADO.**

Parcel ID: 273718285006

WHEREAS, the Community Development Department received an application from Chris Bendon of BendonAdams, LLC, on behalf of G.A. Resort Condo. Association, Inc., c/o Hyatt Residence Club, Bob Weisman, President, requesting a Temporary Use approval to develop one of the following on the Park site at 433 E. Durant Ave. 1) a synthetic ice skating rink, 2) a natural, unrefrigerated ice-skating rink, 3) a park, for one-hundred and forty (140) days per year, contingent upon the active development of plans and a land use application for the future use of the site; and

WHEREAS, pursuant to Chapter 26.450.050 of the Land Use Code, City Council may grant a temporary use approval for up to 180 days, and no more than ten (10) annual recurrences; and,

WHEREAS, via Ordinance 12, Series 1992, the site was previously approved as a Park and Ice-Skating Rink to provide a public amenity and open space in conjunction with the development of the Aspen Mountain Subdivision and the lodge property presently known as the Grant Hyatt Aspen; and,

WHEREAS, the City Council has reviewed and considered the development proposal under the applicable provisions of the Municipal Code as identified herein, has reviewed and considered the recommendation of the Community Development Director, and has taken and considered public comment at a duly noticed public hearing on August 12, 2019; and,

WHEREAS, the City Council approves the Temporary Use for one-hundred and forty (140) days per year and up to five (5) annual recurrences, contingent upon the active development of plans and a land use application for the future use of the site; and,

WHEREAS, the City Council finds that the request for the extended temporary use to be in accordance with the applicable development standards associated with the request; and,

WHEREAS, the City Council finds that this resolution furthers and is necessary for the promotion of public health, safety and welfare.

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

Section 1:

Pursuant to the procedures and standards set forth in Title 26 of the Aspen Municipal

Code, City Council hereby approves a Temporary Use request to allow the development of a _____ for one-hundred and forty (140) days per calendar year, from approximately November 21st, 2019 to March 31st, 2020.

Section 2:

The approved Temporary Use is subject to the criteria established in Land Use Code section 26.450.040 and the final site design, maintenance and management plans submitted to the Community Development Department. Additionally, the approved Temporary Use may be subject to review for compliance with applicable Commercial Design Guidelines and the Commercial Design Review regulations provided in Land Use Code section 26.412.

Section 3:

The Temporary Use on site must comply with the Outdoor Lighting Requirements outlined in Section 26.575.150 of the Land Use Code.

Section 4:

The approved Temporary Use on site does not modify the existing approved use of the site as described in Ordinance No. 12, Series 1992. Upon expiration of the approved Temporary Use, the use of the site shall be returned to its existing condition or modified in accordance with an approved Planned Development Amendment.

Section 5:

All material representations and commitments made by the Applicant pursuant to the temporary use proposal as herein awarded, whether in public hearing or documentation presented before the City Council, are hereby incorporated in such plan development approvals and the same shall be complied with as if fully set forth herein, unless amended by an authorized entity.

Section 6:

This resolution shall not affect any existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided, and the same shall be conducted and concluded under such prior ordinances.

Section 7:

If any section, subsection, sentence, clause, phrase, or portion of this resolution is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

APPROVED BY the City Council of the City of Aspen on this 12th day of August 2019.

Attest:

Linda Manning, City Clerk

Torre, Mayor

Approved as to form:

James R. True, City Attorney

Exhibit A Staff Findings

Section 26.450.030. Criteria applicable to all temporary uses.

When considering a development application for a temporary use or an insubstantial temporary use, the Community Development Director or City Council shall consider, among other pertinent factors, the following criteria as they or any of them, relate thereto:

A. The location, size, design, operating characteristics and visual impacts of the proposed use.

Staff Response: The application does not include site design and operational information to assess the specific characteristics and visual impacts of the proposed Temporary Uses. The original PD approval establishes hours of operation and basic site design, the continuation of which under a Temporary Use approval would not materially alter the character and visual impacts of the site. Additional site design and management information would provide clarity as to the applicability of this criterion.

B. The compatibility of the proposed temporary use with the character, density and use of structures and uses in the immediate vicinity.

Staff Response: Under the "synthetic ice" or natural, unrefrigerated ice scenarios, approval of the Temporary Use would not alter the relationship of the site and activities thereon to the immediate vicinity. Under the park alternative, assessment of the character, density and use of structures to the immediate vicinity would require additional site design and programming information beyond that provided by the applicant.

C. The impacts of the proposed temporary use on pedestrian and vehicular traffic and traffic patterns, municipal services, noise levels and neighborhood character.

Staff Response: The "synthetic ice" and natural, unrefrigerated ice Temporary Use options are not anticipated to alter the pedestrian and vehicular traffic and traffic patterns, municipal services, noise levels and neighborhood character from that currently experienced from the existing ice rink use. The applicability of these criteria to the park option would depend on the nature and extent of the improvements and amenities proposed.

D. The duration of the proposed temporary use and whether a temporary use has previously been approved for the structure, parcel, property or location as proposed in the application.

Staff Response: There are no active Temporary Uses on this property. It is used occasionally for permitted special events, which are approved through the Special Event, rather than a Temporary Use process. Staff finds this criterion to be met.

E. The purposes and intent of the zone district in which the temporary use is proposed.

Staff Response: The purpose of the Park zone district, as established for the site as part of the 1992 PD approval, was for the provision of public space and a recreation amenity to serve the development and the public. The three Temporary Use proposals in this application meet the intent of the zone district. Staff finds this criterion to be met.

F. The relation of the temporary use to conditions and character changes which may have occurred in the area and zone district in which the use is proposed.

Staff Response: The impending maintenance required for the refrigeration system and phase-out of CFC-22 create a short-term obstacle to the use of the site in its current configuration. The life-span of such equipment is finite, and the applicant is actively exploring options for the future use of the site. The proposed temporary uses would provide a stop-gap measure to ensure the site continues to provide a public space and amenity in lieu of the approved ice-skating rink. The eventual expiration or abandonment of the Temporary Use would be in conjunction with the development of a Council-approved permanent use of the site. Staff finds this criterion to be met.

G. How the proposed temporary use will enhance or diminish the general public health, safety or welfare.

Staff Response: The proposed Temporary Uses would meet the requirement that the site provide public space and recreation amenities which enhance the public health, safety and welfare. Staff finds this criterion to be met.



April 2, 2019

Mr. David Massarano, President
G.A Resort Condominium Association, Inc.
c/o Hyatt Residence Club, Grand Aspen
415 E. Dean Street
Aspen, CO 18611

(Via Certified Mail)

RE: Silver City Ice Rink Status

Dear Mr. Massarano,

On November 19, 2018, the City approved an application for an Insubstantial Planned Development (PD) Amendment to the Aspen Mountain Planned Development. The amendment was proposed for the specific purpose of replacing the ice on the Silver City Ice Rink with a synthetic substitute. The approval was recorded on November 21, 2018, and is attached to this letter as Exhibit "A". The purpose of this letter is to inform you that numerous complaints have been submitted to the City regarding the amendment and that following a review of the approval, the Community Development Department has determined that the amendment was inappropriately issued and that the approval of the amendment is hereby revoked and deemed void.

Pursuant to Land Use Code Section 26.445.110.A.1, the criteria to grant an Insubstantial PD Amendment, includes a requirement that "[t]he request does not change the use or character of the development." The substitute for ice being used is a "synthetic" ice known as "Global Synthetic Ice Super-Glide SLICK." The application represented that this material would function substantially similar to ice and that "[f]or a casual skater, the most notable difference would be the lack of wet and cold."

Specific statements, with emphasis added, which led the City to approve this application, included:

- "A warming climate has presented challenges in maintaining a natural ice skating surface throughout the winter season. This environmentally-friendly alternative will allow rink operations to maintain the hours and window of operation mandated in the project approvals. Moreover, this will allow visitors and locals to continue the outdoor winter experience of skating with their children and friends under the shadow of Aspen Mountain." Page 2 of Application Cover Letter.
- "Synthetic ice is used in public ice skating rinks all over the world. The natural ice would be replaced with Global Synthetic Ice Super-Glide SLICK™ material, which has been successfully used at the torch lighting of the 2014 Sochi Winter Olympics and for NHL celebrity games. Video of the product in use can be found here - www.globalsyntheticice.com." Page 2 of Application Cover Letter.
- "The rink will be replaced with Super-Glide SLICK material. The synthetic ice has been successfully skated on at the Sochi Olympic Touch Lighting, NHL celebrity games, and public rinks around the world. For a casual ice skater, the most notable difference will be the lack of wet and cold." Review Criteria Responses, 26.445.110.A.2. "The rink faces current operational challenges as a result of using

natural ice in a changing climate. Approvals state the rink be operational seven days a week from Thanksgiving to the end of March. Synthetic ice will allow rink operators to respond to the technical challenge presented by solar gain. Arguably, global warming was known in the 90ies but synthetic ice was likely not considered as a viable option at that time. The engineering of synthetic ice has improved 10-fold since it's advent several decades ago, allowing it to be considered for a suitable skating surface for a public skating rink." Review Criteria Responses, 26.445.110.A.4.

Further, the Hyatt indicated that the material proposed for the ice rink was chosen because of its similarity to natural ice, and the fact that the United States is phasing out the use of CFC-22 coolant, which is used to cool the original ice rink.

After a season of use, the City has determined that this synthetic ice has changed the character of the development, which is inconsistent with the requirements for the Insubstantial PD Amendment. While the product has been used in international skating rinks and events, what was not included in the application, nor in the information available during the land use review process on the company's website, is the fact that this surface is fundamentally different than natural ice. The friction of synthetic ice compared to natural ice is indisputably higher. Granted, experienced skaters may be able to train with a higher degree of efficiency given this greater resistance and even beginner skaters may learn to be better skaters by training on this surface. However, the purpose of the rink was to provide a skating experience to casual skaters and families. The casual skater is not able to glide as if on ice, and their experience is more like walking on a plastic surface than a gliding on an ice surface. It is factually false to say that "the most notable difference will be the lack of wet and cold." The evidence is clear that casual skaters are not able to skate.

Following the complaints received directly by the City of Aspen, we contacted CP Burger as the operator of the rink for additional information, and they provided additional information regarding complaints and refund requests that they had received. Attached as Exhibit B are copies of numerous complaints that have been received by the City, as well as those passed on to the City. A few quotes from these complaints include:

- "How disappointing that we have PLASTIC, rather than ICE, for ice skating. This may be acceptable for 'Holidays in Maui' ... but it sure is dismal for THE BEST, most iconic and highest profile Winter destination in the U S of A."
- "I am writing to you to express my great disappointment that we have lost our cherished Silver City Ice rink. It has been replaced by some plastic "space" that produces nothing but ridicule from passing pedestrians, and sadness from anyone who tried to use it."
- "My daughter can't skate is not ice. She was disappointed."
- "We've been coming up from Glenwood for years and were surprised to see fake ice, not real ice. We're pretty good skaters & couldn't skate on the fake ice. We were very disappointed!"
- "We were very disappointed to find the ice rink at the Hyatt now has synthetic ice! Arrived with our small children who had their brand new figure skates & told we/they could not use them. We came (and have come for the past four years) for traditional ice and a true Aspen/Christmas experience. From now on, we'll be skating at the ARC. ☹ This is not real skating!"
- "I brought my family out here for ice skating came to find out we were on plastic not ice, not working out at all. Ice is better."
- "The ice rink doesn't slide properly. Me and my two brothers tried to ice skate, however, it is impossible to slide on the fake ice."

- “Please add the ice back to the ice rink! Ridiculous & terrible this year!”
- “Synthetic ice is very hard to skate on – was not expecting being unable to skate.”
- “Refund! This is terrible! My kids are literally crying bc they can’t skate on this!”
- “NO ICE! The kids want to skate no walk on plastic!”

Attached as Exhibit C are a number of pictures taken on March 18, 2019, which show the surface of the synthetic ice damaged from clearing of snow. This type of damage is not seen on real ice, and again, creates a change to the character of the area.

Land Use Code Section 26.104.050, *Void Permits*, states as follows:

“All persons are presumed to know the terms and requirements of this Title and the extent of the legal authority of the City and its employees, boards and commissions to issue development approvals or permits. Any permit or approval issued in error or otherwise not in conformity with the requirements of this Title, shall be void. Similarly, any permit or approval issued in reliance upon or as a result of, a materially false statement or representation made in the process of obtaining the permit or development approval shall, likewise, be void. Any person having received a void or voidable permit or approval shall not be relieved from having to comply with all applicable terms and conditions of this Title and the City shall not be estopped from fully enforcing same.”

We recognize that the statements made were not made with the intention of misleading the City. Further, we recognize that phasing out the use of CFC-22 coolant may be environmentally appropriate. Nonetheless, the evidence clearly indicates that the statements which led to the issuance of the amendment were materially false, thus changing the use and character of the initial approval. Consequently, the City must consider the issuance of the approval as in error; thus, the approval is hereby deemed void. Ice, created by refrigeration and/or the natural environment, pursuant to the original project approvals, is required for the next winter season. Although CFC 22 is being phased out, numerous replacements are available and should not delay the return of an ice surface.

Given the circumstances, the City is happy to work with you to ensure necessary building permit review and issuance in time for the 2019-2020 winter season. Please let me know if you have any questions, or if you would like to meet to discuss the permitting process.

Best,

Jessica Garrow, AICP
City of Aspen
Community Development Director
130 S Galena Street
970.429.2780
Jessica.Garrow@cityofaspen.com

Exhibits:

Exhibit A: Copy of approval of Insubstantial Development Approval.

Exhibit B: Copies of complaints and refund requests

Exhibit C: March 18, 2019 Pictures of Silver City Ice Rink

CC:

Sara Ott, City of Aspen, Acting City Manager

James R. True, City of Aspen, City Attorney

Chris Bendon, BendonAdams, Owners Representative (via email)



RECEPTION#: 652128, R: \$23.00, D: \$0.00
 DOC CODE: APPROVAL
 Pg 1 of 3, 11/21/2018 at 03:47:20 PM
 Janice K. Vos Caudill, Pitkin County, CO

NOTICE OF APPROVAL

APPROVAL FOR AN INSUBSTANTIAL PD AMENDMENT FOR THE SILVER CIRCLE ICE RINK (433 E. DURANT STREET), LEGALLY DESCRIBED AS LOT 6, ASPEN MOUNTAIN SUBDIVISION, ACCORDING TO THE SEVENTH AMENDED PLAT OF ASPEN MOUNTAIN SUBDIVISION AND PLANNED UNIT DEVELOPMENT RECORDED FEBRUARY 9, 1993 IN BOOK 30 AT PAGE 69. COUNTY OF PITKIN, STATE OF COLORADO.

Parcel ID No. 2737-182-85-006

APPLICANT: David Massarano, President, G.A. Resort Condominium Association, Inc.
 c/o Hyatt Residence Club

REPRESENTATIVE: Chris Bendon, Bendon Adams

SUBJECT & SITE OF APPROVAL:

Insubstantial PD Amendment per Section 26.445.110.A, to allow for the conversion from natural ice to synthetic ice by installing a synthetic ice-skating surface over the Silver Circle Ice Rink. The Community Development Director may approve, approve with conditions or deny this request based on criteria found in Exhibit B of this memo.

Figure 1: Site Location

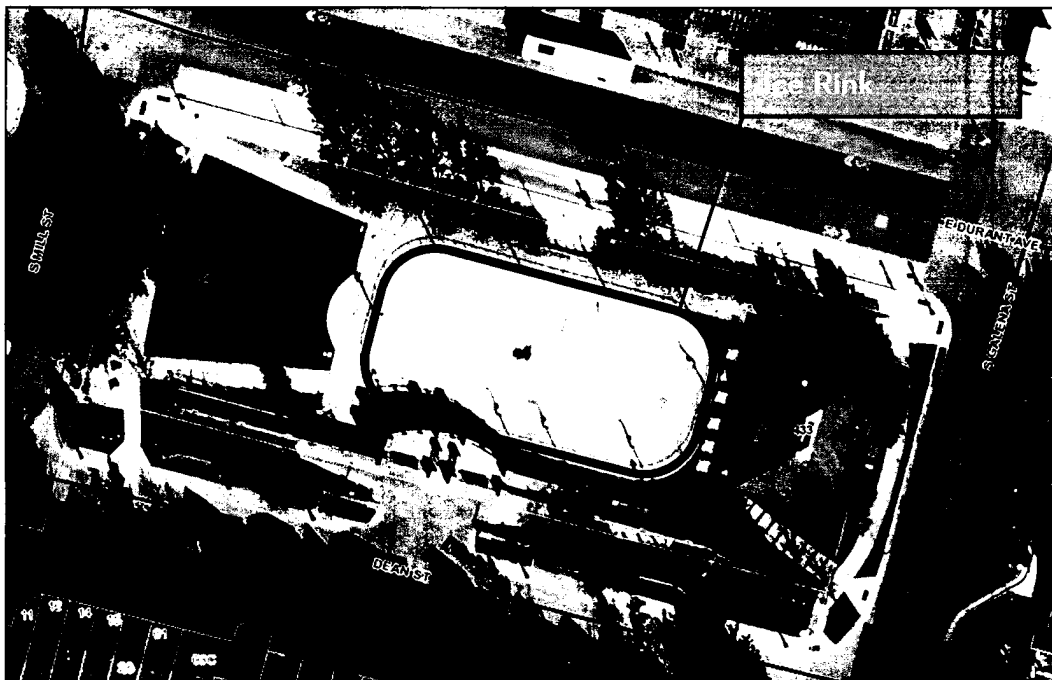


Exhibit A

SUMMARY:

Lot 6 of the Aspen Mountain Subdivision is zoned Public (P) with a Planned Development (PD) Overlay. In 1990, prior to receiving final approvals, Lot 6 was restricted as a community activity center and public ice skating rink unless otherwise consented to by the City, pursuant to a Declaration of Restrictive Covenant, Book 624, Page 51 (Exhibit B). Final Planned Development approvals, granted by Ordinance No. 12, Series of 1992, stipulated that the ice rink consist of a natural ice skating surface and that CFC-22 be used in the ice rink chilling system (Exhibit C). The applicant proposes to replace the ice in the rink with synthetic ice due to maintenance and mechanical issues.

STAFF EVALUATION:

Staff has reviewed the proposed changes against the review criteria for an insubstantial PD amendment and finds the following:

The request does not change the use or character of the development. The use of the winter garden and ice rink will not change as a result of synthetic rather than a cooled ice-skating surface. The request does not require any variations from the projects allowed use and no changes are proposed to the approved floor area, height or previously approved dimensional requirements. Replacement of the chilling system by installing synthetic ice would reduce the need for the ozone-depleting substance, CFC-22. Removing the existing system will reduce greenhouse gas emissions, helping the City meet its Climate Action Plan goals. Additionally, CFC-22 will no longer be available in the US after January 2020, meaning that the cooling system will soon become obsolete.

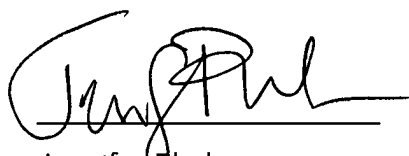
Staff finds the request to meet all the required criteria for an insubstantial PD amendment, as detailed in Exhibit D, Staff Findings.

DECISION:

The Community Development Director finds the application for an Insubstantial PD Amendment to convert natural ice to synthetic ice at the Silver Circle Ice Rink to be consistent with the review criteria (Exhibit D) and thereby approves the request, with the following condition:

- The surface of the synthetic ice will use colors that are consistent and match the color of natural ice.

APPROVED BY:



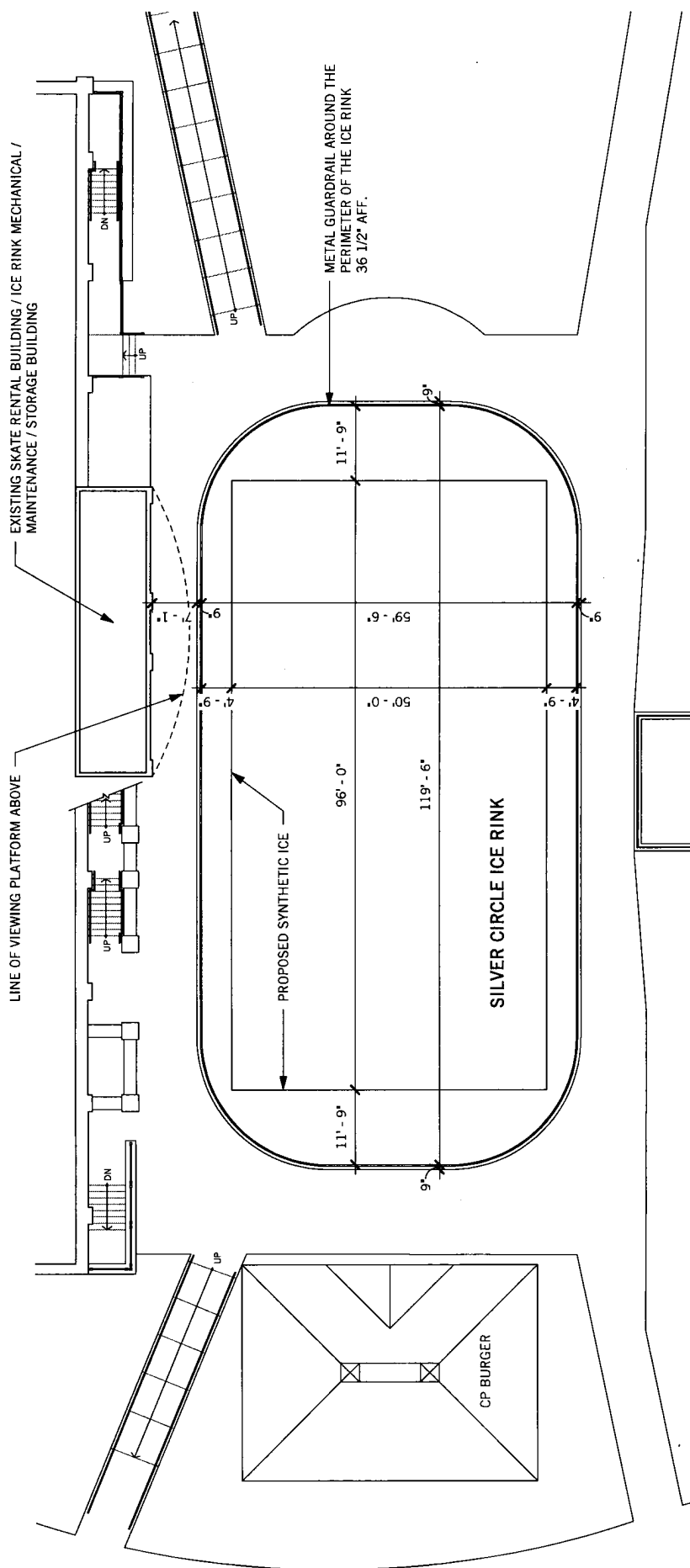
Jennifer Phelan
Deputy Planning Director

11/19/2018
Date

Attachments:

Exhibit A- Aspen Silver Circle Ice Rink Proposed Floor Plan (Recorded)
Exhibit B- Silver Circle Ice Rink Declaration of Restrictive Covenant (On File)
Exhibit C- Silver Circle Ice Rink Final Planned Development Approval (On File)
Exhibit D- Staff Findings (On File)
Exhibit E- Application (On File)

Exhibit A



E. DURANT AVE.

FLOOR PLAN

SCALE 1/16" = 1'-0"

—

Page 3 of 3

GRAND ASPEN SILVER CIRCLE ICE RINK

POSS ARCHITECTURE + PLANNING
805 EAST MAIN STREET ASPEN, COLORADO 81611
(714) 970-7925 4755 (714) 970-920 2850
© 1994 POSS ARCHITECTURE + PLANNING, P.A.
MEMBERSHIP IN THE AIA

EXHIBIT "A"
07/18/2018 11:46:23 AM

JAMES F. HUNTING

February 20, 2019

To: Aspen Hyatt
City of Aspen
CP Burger

From: James Hunting

Re: Silver Circle Ice Rink

Dear All,

I have lived in Aspen for 35 years, owned a business, and participated in many levels of real estate. I am married, and I have two children, ages 13 and 15.

I am writing to you to express my great disappointment that we have lost our cherished Silver Circle Ice rink. It has been replaced by some plastic "space" that produces nothing but ridicule from passing pedestrians, and sadness from anyone who tries to use it.

Aspen was once a great ski town, and now we are the town that tries to pass off a plastic cover as an ice rink. It cheapens our town, and diminishes the magic that we once had to offer. The image of children skating and laughing has been replaced by an empty plastic field. Should we next tear down our Victorian buildings for practical glass boxes?

As businesses, and as a ski town, you should be ashamed.

We were promised an ice rink in exchange for the approval of a questionably large building.

I hope you will honor your commitments to this community.

Sincerely,

James Hunting

Exhibit B

From: Tom Yoder <Yode@kemosabe.com>
Date: December 17, 2018 at 10:36:22 AM MST
To: Steve Skadron <steve.skadron@cityofaspen.com>
Cc: Jennifer Albright <jalbright@aspenchamber.org>, Steve Barwick <steve.barwick@cityofaspen.com>, Debbie Braun <dbraun@aspenchamber.org>, Wendy Kunkle <wendy@kemosabe.com>, Jeb Ball <jeb@redwheel.com>
Subject: RE: We're Better Than This ...

Your Honor

You have a thousand issues on your plate, so I'm flattered and impressed with this minor blip even getting your attention ...**THANK YOU!** As you know, success is all about the DETAILS.

I just want Aspen to be THE BEST. Snowmass has real ice skating, as does Vail, Beaver Creek, Sun Valley and pretty much every top winter resort. Regardless of the concerns of being more in tune with environmental matters, I'm disappointed. Besides, isn't plastic the #1 enemy to our planet?

Thanks Steve.

Your Friend,
Tom

From: Steve Skadron <steve.skadron@cityofaspen.com>
Sent: Monday, December 17, 2018 10:14 AM
To: Tom Yoder <Yode@kemosabe.com>
Cc: Jennifer Albright <jalbright@aspenchamber.org>; Steve Barwick <steve.barwick@cityofaspen.com>; Debbie Braun <dbraun@aspenchamber.org>; Wendy Kunkle <wendy@kemosabe.com>
Subject: Re: We're Better Than This ...

Hi-

Another thought...Apparently, plastic ice seems to be a trend in the ice rink business – due to increasing concerns over energy costs and impacts of refrigerants/CFCs. That was one reason the Hyatt was permitted to move forward.

Thanks again,



Steven Skadron
Mayor, City of Aspen

Exhibit B

130 South Galena St.
Aspen, CO 81611

p: 970.920.5199
www.cityofaspen.com



On Dec 14, 2018, at 1:34 PM, Tom Yoder <Yode@kemosabe.com> wrote:

Thanks for being involved, Your Honor.
It's just too bad that we're not at our BEST.

Tom

From: Steve Skadron <steve.skadron@cityofaspen.com>

Sent: Friday, December 14, 2018 11:17 AM

To: Tom Yoder <Yode@kemosabe.com>

Cc: Jennifer Albright <jalbright@aspenchamber.org>; Steve Barwick
<steve.barwick@cityofaspen.com>; Debbie Braun <dbraun@aspenchamber.org>; Wendy Kunkle
<wendy@kemosabe.com>

Subject: Re: We're Better Than This ...

Hi-

Responsibility for the rink falls to the Hyatt per their original development approval. I asked Comm Dev to review that ordinance and find the Hyatt's obligation.

Apparently, cost to maintain the rink's infrastructure has become prohibitively expensive forcing them to cheaper alternatives. Thus the plastic.

I agree with Tom that ice is better.

Thanks for the heads up,

.....

<image001.png>

Steven Skadron
Mayor, City of Aspen

130 South Galena St.
Aspen, CO 81611

p: 970.920.5199
www.cityofaspen.com

<image002.png> <image003.png> <image004.png>

Exhibit B

On Dec 14, 2018, at 9:59 AM, Tom Yoder <Yode@kemosabe.com> wrote:

Thanks Jennifer

Apparently we'll need to just accept this failure ... but darn, is it ever embarrassing.
Come see us in our "new" store. We are so proud of Kemo Sabe and want to show us off to you!

Your Friend,
Tom

From: Jennifer Albright <jalbright@aspenchamber.org>
Sent: Friday, December 14, 2018 9:33 AM
To: Tom Yoder <Yode@kemosabe.com>
Cc: Steve Barwick <steve.barwick@cityofaspen.com>; Steve Skadron <Steve.Skadron@cityofaspen.com>; Debbie Braun <dbraun@aspenchamber.org>
Subject: FW: We're Better Than This ...

Good Morning, Tom – Debbie forwarded your message to me, thank you for reaching out regarding your concern about the Silver Circle Ice Rink. It is ACRA's understanding that it is a significant infrastructure issue prohibiting the ability to produce ice at this time. Steve, do you have any further information? Regards – Jennifer

Jennifer Albright Carney
Vice President of Event Marketing

<[image002.jpg](#)>

ASPEN CHAMBER RESORT ASSOCIATION
590 North Mill Street
Aspen, CO 81611
tel. [970.920.7143](tel:970.920.7143) | fax [970.920.1173](tel:970.920.1173)

From: Debbie Braun <dbraun@aspenchamber.org>
Sent: Thursday, December 13, 2018 10:56 AM
To: Jennifer Albright <jalbright@aspenchamber.org>
Subject: Fwd: We're Better Than This ...

Sent from my iPhone

Begin forwarded message:

From: Tom Yoder <Yode@kemosabe.com>
Date: December 13, 2018 at 10:43:15 AM MST
To: "'steve.barwick@cityofaspen.com'" <steve.barwick@cityofaspen.com>, "Steve Skadron"

<steve.skadron@cityofaspen.com>, Debbie Braun <dbraun@aspetchamber.org>

Subject: We're Better Than This ...

Hello Mayor, Steve and Debbie

How disappointing that we have *PLASTIC*, rather than *ICE*, for ice skating. This may be acceptable for "Holidays in Maui" ... but it sure is dismal for THE BEST, most iconic and highest profile Winter destination in the U S of A.

Can we do anything to fix this? Kemo Sabe will be the first to pony up a donation, if it's a money issue.

Thanks in advance for anything the City or ACRA can do!

Tom

Exhibit B

February 25, 2019

Robert Weisman
Hyatt Grand Aspen

Dear Mr. Weisman,

My name is Heather Sinclair and I have lived in Aspen for over 20 years. Since 2000, I've worked as a Sales Executive on multiple Luxury Real Estate Projects, including the Hyatt Grand Aspen. You may remember me as I sold over \$100 million dollars of Inventory while at the Hyatt Grand Aspen.

As a member of the Aspen community, I was consulted by one of your Board Members for ideas on a new ice-skating surface. During this conversation, I gave examples of world-class ice-skating rinks at other high-end ski resorts; Beaver Creek, Vail, and Sun Valley. Although I was delighted this Board Member consulted me, I was beyond shocked when I saw the new surface. We live in the most exclusive and expensive town in the United States. How could you cut costs and present a new ice surface that looks and feels like plastic? The synthetic ice you selected should be in a residential backyard rink, not the heart of Aspen.

In the last year alone, I helped 22 new families purchase Real Estate in Aspen. Do you suggest I send them all to the new Base Village in Snowmass to have a fun ice-skating experience? I'm quite certain the answer is no.

Spring Break is right around the corner. The Hyatt HOA should strongly consider the negative image this new surface has created.

Please feel free to call me with any questions.

Best regards,

Heather

Heather Sinclair
Sales Executive
Dancing Bear Aspen
Timbers Real Estate
Wharton School of Business 2007
970-948-8834
heather@dancingbearaspen.com

Samantha Cordts-Pearce

From: Janette Buchanan <janettebuchanan@yahoo.com>
Sent: 25 February 2019 15:37
To: Samantha Cordts-Pearce
Subject: Ice Surface - Silver Circle, Aspen

Dear Samantha,

Please can you forward this email to city council.

Each year the Aspen Skating Club participates in the Chamber's 12 Days of Aspen by holding a winter show at the Silver Circle. It has been a tradition for many years with 15-20 of our talented young skaters performing solos to holiday music and choreographed opening and closing group numbers. CP Burger has been very generous in allowing us to use this venue to delight both visitors and locals alike. It was with great sadness that we were unable to use the facility this year since the beautiful ice has been replaced with plastic. We were very fortunate that Snowmass Base Village allowed us to perform on their newly opened rink. The chamber supported the performance in Snowmass but since this is a Aspen event, it was a once only exception. We would love to keep this enjoyable holiday show going to delight and promote the fun and beauty of Figure Skating. However the ice surface is totally unsuitable and dangerous for our skaters.

Aspen is a winter sport destination and many visitors delight in the opportunity to skate in the idilic setting. Silver Circle is a show piece and often the first attraction that visitors see as they arrive at Ruby Park. Many must be shocked at the sight of plastic ice and there plans to enjoy a few hours of skating dashed. Often our members love to go skating for fun with their friends and family to enjoy a very different experience of skating outside and many have voiced their disappointment that this is not possible on the new ice surface.

Many cities all over the USA offer holiday skating, even in the heat of Los Angeles. Its an expectation that our city should be able to do likewise in our winter paradise. Seeing proficient ice skaters attract tourist and locals to participate in the number 1 most watched winter Olympic sport.

Sincerely,

Janette Buchanan
President
Aspen Skating Club

Exhibit B

From: Roehl, Lucile <Lucile.Roehl@stregishotels.com>
Sent: Saturday, December 22, 2018 10:10 AM
To: 00244, Festive <festive.butler@stregishotels.com>
Cc: Young, Jessica <Jessica.Young@stregishotels.com>; Sanchez Tuda, Miguel <miguel.sanchez4@stregishotels.com>
Subject: Ice Skating with the elf's

Good morning,

Mrs. Babaieamin room 440 wanted to share her feedback about her experience with the ice skating with the elf's.

The synesthetic ice made it very difficult for her kids to skate, even though they know how to skate. She mentioned that the elf's where more busy picking up falling kids then actually skating. Guest would not have booked it if she had known it was not real ice.

She would like someone to reach out to her on her cell phone at 858-610-3062 in regards of a refund. Guest also mentioned her experience with Santa and his sleigh was amazing.

Thank you,

Lucile Roehl
Concierge

The St. Regis Aspen Resort
315 East Dean Street Aspen, Colorado 81611
L. +1 970 429 9633
stregisaspen.com

Samantha Cordts-Pearce

From: Kevin McManamon <kevin@aspenout.org>
Sent: 22 February 2019 15:09
To: Samantha Cordts-Pearce
Subject: Aspen Gay Ski Week and CP Burger Ice Rink

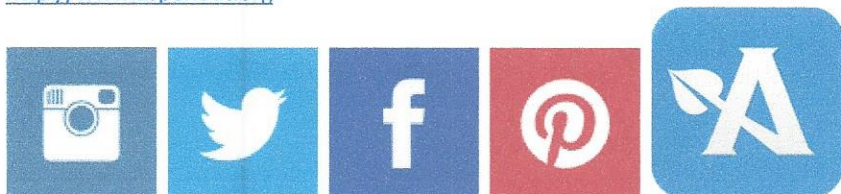
Dear Samantha,

I am writing you now to inform you that AspenOUT and Aspen Gay Ski Week will not be returning to the CP Burger ice rink. Although our inaugural youth event was very successful we will not be able to return because of the failure of the ice rink surface.

As you may know we had scheduled some of the professional skaters from our ice show to perform for the kids but they politely declined due to the surface. The skaters cited safety reasons for their decision.

Sincerely,

Kevin McManamon, Executive Director
AspenOUT
PO Box 3143
Aspen, CO 81612
(970) 236-6504
kevin@rfglcf.com
<http://www.aspenout.org>



Jody Edwards

From: Samantha Cordts-Pearce <samantha@cprestaurants.com>
Sent: Monday, March 11, 2019 11:17 AM
To: Jody Edwards
Subject: FW: Rink at CP Burger

Another email about the ice rink.

From: Lisa Baker <lisarbaker@gmail.com>
Sent: 09 March 2019 09:57
To: Samantha Cordts-Pearce <samantha@cprestaurants.com>
Subject: Rink at CP Burger

Hi Samantha,

I wanted to touch base regarding the rink at CP Burger. I'm curious if your plans are to maintain the rink as it is? The ice/plastic is not really working for either beginner or experienced skaters. In fact, my daughters are unwilling to take their own skates out there. Even long time skaters like my girls really can't get any momentum on the plastic. And, for beginners it looks impossible to learn to skate on.

I would hope that you would consider creating a real rink of ice there. It's been such a lovely gathering spot for so many years. It has been a true community asset where families looked forward to gathering and truly added to Aspen's idyllic reputation.

We really missed having the Holiday skate show at CP this year, too.

Let me know if there is anything I can do to help make this change.

Regards,

Lisa Baker

--

Lisa Baker
40 Glen Eagles Rd
Aspen, CO 81611
C) 512-968-1449

Samantha Cordts-Pearce

From: TERI K HOOPER <hoopertk@comcast.net>
Sent: 26 February 2019 07:51
To: Samantha Cordts-Pearce
Subject: Hyatt ice

To Whom it May concern,

As the Director of Aspen Skating Club and a coach and skater involved with skating in Aspen for 28 years, I feel the "Silver Circle" has been a great asset to the town of Aspen residents and tourists alike. The plastic ice installed this season is not satisfactory in giving a positive skating experience. I sincerely hope Aspen can have the wonderful outside skating experience again sometime in the near future. I have some knowledge in this area and would be happy to give any input, if you are interested.

Looking forward to having outside skating back in Aspen in the near future.

Sincerely,
Teri Hooper
970-379-5900

Samantha Cordts-Pearce

From: Todd Klindworth <cableguy@compuserve.com>
Sent: 26 February 2019 09:32
To: Samantha Cordts-Pearce
Subject: Silver circle

I have two young children I have raised here in Aspen, 11 and 13. We all look forward to our winter skating in the winter at the Silver Circle ice rink. Aspen is a real town, unlike all the other purpose built ski towns. The plastic fake ice smacks in the face of that authenticity! It belongs in Vail or Copper or Keystone. I hear from so many tourist friends visiting that it is disappointing to lose such a unique Aspen amenity. We had. All skated on the fake ice once, never again. We won't even go to CP now!! If NYC can have a real ice outdoor rink so should Aspen!!

Todd Klindworth
US Mobile 1-303-981-3053

Sent from my iPhone so probably
many mistakes

Exhibit B

From: Young, Jessica
Sent: Wednesday, December 12, 2018 4:29 PM
To: 'samantha@cprestaurants.com' <samantha@cprestaurants.com>
Subject: Jess Young - Marketing @ St Regis!

(below is feedback from one of the concierge on the residence side when asked about ice skating this winter and our skating with the elves event)

...felt a little blindsided that no one told them it was not real ice. A lot of our guests in that session left early since they could not actually skate. Also another thing to note is that the little "walker" things the kids push to help them skate, on the synthetic material, it was too heavy for them to actually push and use because it doesn't slide as easily as it does on the ice.

I know that if they have synthetic ice again next year most guests will not participate in the skating with the elves, and we unfortunately will not send them to skate there since the synthetic is not anywhere near what the ice skating on "real" ice experience is.

Lead Residence Concierge

The St. Regis Aspen Resort

Jessica Young

Director of Marketing

The St. Regis Aspen Resort

315 East Dean Street Aspen, Colorado 81611

L. +1 970 429 9543 m. +1 773 368 0307

stregisaspen.com

WHITMAN
FINE PROPERTIES

February 27, 2019

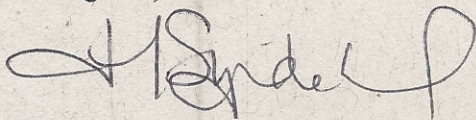
Craig & Samantha Cordts-Pearce
411 S. Monarch St.
Aspen, CO 81611

RE: Silver Circle Ice Skating Rink

Dear Craig & Samantha Cordts-Pearce:

We wanted to write a letter expressing our disappointment that the Silver Circle Ice Skating Rink in Aspen near CP Burger has not been working this winter season. Our office handles over 50 rentals in Aspen throughout the winter season and we are frequently asked for family-friendly activity recommendations. This year, due to the ice skating rink being out of order, we've had to recommend our clients go to Snowmass instead. We'd prefer to keep our Aspen rental clients in Aspen and supporting our local businesses. We also feel that the Silver Circle Ice Skating Rink is a family-friendly institution in Aspen and it should be repaired. Thank you for your time and consideration.

Regards,



Jenna L. Syrdahl, Esq.
legal@whitmanaspen.com

Exhibit B

In consideration of allowing Participant to participate in the Activity and for using the ski area facilities, THE UNDERSIGNED AGREE THAT ANY AND ALL CLAIMS for injury and/or death regarding an alleged incident SHALL BE GOVERNED BY COLORADO LAW AND EXCLUSIVE JURISDICTION of any claim shall be in the District Court residing where the alleged incident occurred or in Federal Court for the State of Colorado.

The undersigned parent or legal guardian acknowledges that he/she is also signing this release on behalf of the minor Participant, that he/she is WAIVING CERTAIN RIGHTS ON BEHALF OF THE MINOR PARTICIPANT that the minor Participant otherwise may have and that THE MINOR PARTICIPANT SHALL BE BOUND BY ALL THE TERMS OF THE RELEASE, THE MINOR PARTICIPANT'S PARENT OR LEGAL GUARDIAN VOLUNTARILY GRANTS PERMISSIONS FOR THE MINOR PARTICIPANT TO TAKE PART IN THE ACTIVITY AND ACKNOWLEDGES THAT BUT FOR SUCH GRANT OF, PERMISSION, THE MINOR PARTICIPANT WOULD NOT BE PERMITTED TO TAKE PART IN THE ACTIVITY. By signing this agreement without a parent or guardian's signature, Participant represents they are at least 18 years of age, or, if signing as the parent or guardian of the Participant, signer represents they are the legal parent or guardian of the minor Participant. This release shall be binding to the fullest extent permitted by law. If any part of this release is deemed to be unenforceable, the remaining terms shall be an enforceable contract between the parties. This release shall be binding upon the assignees, subrogors, distributors, heirs, next of kin, executors and personal representatives of the Undersigned.

PLEASE PRINT CLEARLY TO COMPLETE THE FOLLOWING INFORMATION

<u>Ruiz Mia</u>	<u>9</u>
Minor Participant #1-Last name, First Name	Age
<u></u>	<u></u>
Minor Participant #2-Last name, First Name	Age
<u></u>	<u></u>
Minor Participant #3-Last name, First Name	Age
<u></u>	<u></u>
Minor Participant #4-Last name, First Name	Age
<u></u>	<u></u>
Minor Participant #5-Last name, First Name	Age
<u></u>	<u></u>

I HAVE CAREFULLY READ THE FORGOING LIABILITY RELEASE. I UNDERSTAND IT'S CONTENTS AND SIGN IT WITH FULL KNOWLEDGE OF ITS SIGNIFICANCE. I AM AWARE THIS IS A RELEASE OF LIABILITY AND I SIGN IT OF MY OWN FREE WILL.

Date: 12/24 2018
Nieves Meiba
Last Name, First Name, MI (please print)

X [Signature]
Signature: Participant/parent/legal guardian

Last Name, First Name, MI (please print)

X [Signature]
Signature: Participant/parent/legal guardian

Address- Street address/ Mailing address (please print)

Address- City, State, Zip/Postal code, Country Code (please print)

Email Address

Date of Birth (MM-DD-YY)

Emergency Contact/Relation

Phone Number

*My daughter won't skate
it's not ice. She was
disappointed. Mella Nieves
832-231-8234*

Exhibit B

Refund

Check#: 540758
Date: 12/27/18
Table:
N/A

G
Server: CP
Time: 02:59pm
Dine In

CP Burger
433 East Durant St.
Aspen, CO 81611
970-925-3056

[Seat 1]

Subtotal	\$0.00
Tax:	\$0.00
Total	\$0.00

Thank You!!

Follow us on
Twitter and Facebook

Minor

I HAVE CAREFULLY READ THE FORGOING LIABILITY RELEASE
IT'S CONTENTS AND SIGN IT WITH FULL KNOWLEDGE OF IT
I AM AWARE THIS IS A RELEASE OF LIABILITY AND I SIGN IT ON

Date: 12-27-2018

Neuman, Jason
Last Name, First Name, MI (please print)

Neuman, Jason
Last Name, First Name, MI (please print)

Address- Street address/ Mailing address (please print)

Address- City, State, Zip/Postal code, Country Code (please print)

Email Address

Date of Birth (MM-DD-YY)

Emergency Contact/Relation

Phone Number

participate in the Activity and for using
EXCLUSIVE JURISDICTION of the
Federal Court for the State of Colorado

states that he/she is also signing
ON BEHALF OF THE
PARENT OR LEGAL GUARDIAN
TO TAKE PART IN THE ACTIVITY
THE MINOR PARTICIPANT
agreement without a parent or
parent or guardian of the Participant
shall be binding to the full
terms shall be an enforceable
distributors, heirs, next of kin


COMPLETE THE FOLLOWING

We've been coming up
from Glenwood for years
we were ~~surprised~~ to see
fake ice, not real ice.
We're pretty good skaters
I couldn't skate on the
fake ice. We were very
disappointed!

Hope to see real ice in
the future!

Neuman from
Glenwood
12-27-18

X 
Signature: Participant/p

X 
Signature: Participant/parent/legal guardian

MERCHANT COPY

Exhibit B

50 CENTS

Check #: 540650 Server: CP
Date: 12/26/18 Time: 01:58pm
Table: 0 no In
N/A

CP Burger
433 East Durant St.
Aspen, CO 81611
970-925-3056

---[Seat 1]--- \$0.00
New Sale \$13.00
2 Ice Skating
Subtotal \$16.00
Tax \$0.00
Total \$16.00
Outside LC \$16.00

Thank You!!

Follow us on
Twitter and Facebook

participate in the Activity and for using t
ND ALL CLAIMS for injury and/or deat
AND EXCLUSIVE JURISDICTION of
1 or in Federal Court for he State of Col

knowledges that he/she is also signing t
AIN RIGHTS ON BEHALF OF THE M
E MINOR PARTICIPANT SHALL BE
NT'S PARENT OR LEGAL GUARDI
IPANT TO TAKE PART IN THE AC
SSION, THE MINOR PARTICIPAN
g this agreement without a parent or g
as the parent or guardian of the Partic
is release shall be binding to the fulle
remaining terms shall be an enforcea
brogors, distributors, heirs, next of kin

Y TO COMPLETE THE FOLLOWI

law, Ella

law, Sylvia

Dear Hyatt,
Every winter, we ~~come~~
to Aspen with our two
kids to skate and eat
lunch at our favorite
spot - CP Burger.
This year, we came
in with our cousins
- five kids in total.
How sad... winter in
Aspen on "artificial"
ice - or I guess plastic.
It's a very sad
experience and I'm
sad for Aspen. I
hope you reconsider
for next year.

Sincerely,
Corey Azura
720-232-6418

I HAVE CAREFULLY READ THE FORGOING LIABILITY REL
IT'S CONTENTS AND SIGN IT WITH FULL KNOWLEDGE OI
I AM AWARE THIS IS A RELEASE OF LIABILITY AND I SIGN IT

Date: Dec 27 20 18

Last Name, First Name, MI (please print)
Yaw, Valerie

X
Signature: Participant/parent/legal guardian

Last Name, First Name, MI (please print)

X
Signature: Participant/parent/legal guardian

Address- Street address/ Mailing address (please print)

Address- City, State, Zip/Postal code, Country Code (please print)

Email Address

8/17/76
Date of Birth (MM-DD-YY)

mother, Val
Emergency Contact/Relation

(970)
948-8156
Phone Number

ING-HOLD-HARMLESS, RELEASE OF LIABILITY
AND INDEMNITY AGREEMENT

E SIGNING.
AND WAIVER OF CERTAIN LEGAL RIGHTS.

INDIVIDUAL LISTED ON THIS FORM PARTICIPATING IN THE ACTIVITY
"ID" MEANS EACH PARTICIPANT, AND WHEN A PARTICIPANT IS UNDER
"IPANT'S PARENT OR LEGAL GUARDIAN SIGNING ON BEHALF OF
F OF THE MINOR PARTICIPANT. THE UNDERSIGNED UNDERSTAND
ID USING SKI AREA FACILITIES, INCLUDING THE LIFTS, FOR ANY
IVITY") CAN BE HAZARDOUS AND PRESENTS A RISK OF PHYSICAL

L RISKS associated with Participant's participation in the activity, known or
rsigned agree and understand these risks include, but are not limited to, risks
stacles; slick or uneven walking surfaces; surfaces covered with ice and snow;
in unstable, inconsistent and/or non-maintained ice surfaces; diminished night-time
wildlife; strenuous activity; high altitude; collisions; sharing ski area facilities and
ed and/or not directly involved in the activity and following the direction of the
and and acknowledge: 1) Participant has been informed and understands all rules
ity; 2) Participant is responsible for reading, understanding and complying with all
e lifts; 3) Participant must have the physical dexterity and knowledge sufficient to
ticipant assumes the risks of riding the lifts and engaging in activities accessible
snowmaking, ice resurfacing equipment and equipment related to the Activity at
cur and that injuries are a common and ordinary occurrence of the Activity. The
A MINOR PARTICIPANT MAY PARTICIPATE IN THE ACTIVITY AND
SKI LIFTS WITHOUT AN ACTIVITY OFFICIAL OR OTHER ADULT
erstand that Participant has the opportunity to inspect the Activity venue prior to
e risk of all conditions, including but not limited to risks associated with design,

sociated with the Participant's participation in the Activity. IN
PARTICIPANT TO PARTICIPATE IN THE ACTIVITY, THE
MLESS, RELEASE, DEFEND, AND INDEMNIFY The Hyatt Vacation
Skating Rink, SSI Venture, LLC and all related affiliates (each hereinafter a
LIABILITY and/or claims for injury or death to persons or damage to property
the Activity, INCLUDING THOSE INJURIES AND DAMAGES CAUSED
D OR ACTUAL NEGLIGENCE OR BREACH OF ANY EXPRESS OR
take full responsibility for any injury or loss to Participant, including death,
le or in part out of the Activity. By execution of this release, THE
NY RELEASED PARTY and agree they are releasing any right to make a claim
The Undersigned further agree to defend and indemnify each Released Party for
third party arising in whole or in part from the Participant's participation in the
sts and attorney's fees incurred by any Released Party in defending a claim or
ed.

in good health and there are no special problems associated with Participant's
ensed physician and/or other medical care provider to carry out any emergency
Released party and/or their authorized
icipant or to transport the Participant to a medical facility or hospital if, in the
s needed; 3) agree that upon Participant's transport to any such medical facility
ive any further responsibility for Participant; 4) agree to pay all costs associated
Related transportation provided for Participant; and 5) shall indemnify and hold harmless the
Released Party from any and all liability and/or claims associated with such medical care and/or related transportation.

The Undersigned agree and understand that this release is applicable to each and every day Participant participates in the
Activity forever. The Undersigned irrevocably grant SSI Venture, LLC the right of publicity to own and use any image(s)
collected of participant while participating in the Activity.

____ Initials

We were very disappointed to find the ice rink at the Hyatt now has synthetic ice! Arrived with our small children who had their brand new figure skates & told we they could not use them. We came (and have come for the past four years) for traditional ice and a true Aspen/Christmas experience. From now on, we'll be skating at the ARC. ☹️ This is not real skating!!

no refund
wanted to
make a
complaint

To whom this may
Concern.

I Brought my family
out here for ice skating
came to find out we
were on plastic not
ice, not working out
at all. ice is Better.

hope to come back
some day to real ice
thankyou.

[Handwritten signature]

participate in the Activity and for using the ski area facilities, THE
ID ALL CLAIMS for injury and/or death regarding an alleged incident SHALL
AND EXCLUSIVE JURISDICTION of any claim shall be in the District Court
d or in Federal Court for he State of Colorado.

acknowledges that he/she is also signing this release on behalf of the minor
MAIN RIGHTS ON BEHALF OF THE MINOR PARTICIPANT that the minor
IE MINOR PARTICIPANT SHALL BE BOUND BY ALL THE TERMS OF
ANT'S PARENT OR LEGAL GUARDIAN VOLUNTARILY GRANTS
ICIPANT TO TAKE PART IN THE ACTIVITY AND ACKNOWLEDGES
MISSION, THE MINOR PARTICIPANT WOULD NOT BE PERMITTED TO
ning this agreement without a parent or guardian's signature, Participant represents
ing as the parent or guardian of the Participant, signer represents they are the legal
. This release shall be binding to the fullest extent permitted by law. If any part of
the remaining terms shall be an enforceable contract between the parties. This
, subrogors, distributors, heirs, next of kin, executors and personal representatives

ARLY TO COMPLETE THE FOLLOWING INFORMATION

ne

6

Age

ne

9

Age

ne

Age

ne

Age

ne

Age

READ THE FORGOING LIABILITY RELEASE. I UNDERSTAND
SIGN IT WITH FULL KNOWLEDGE OF ITS SIGNIFICANCE.
RELEASE OF LIABILITY AND I SIGN IT OF MY OWN FREE WILL.

[Handwritten signature]

X

Signature: Participant/parent/legal guardian

X

Signature: Participant/parent/legal guardian

(please print)

Country Code (please print)

Email Address

Date of Birth (MM-DD-YY)

Emergency Contact/Relation

Phone Number

Exhibit B

SKATES

Check#: 043361 Server: CP
Date: 01/06/19 Time: 01:16pm
Table: D no In
N/A

CP Burger
433 East Durant St.
Aspen, CO 81611
970-925-3056

---(Seat 1)---

Subtotal \$0.00
Tax: \$0.00
Total \$0.00

Thank You!!

Follow us on
Twitter and Facebook

participate in the Activity and for using the ski area facilities, THE
ND ALL CLAIMS for injury and/or death regarding an alleged incident SHALL
AND EXCLUSIVE JURISDICTION of any claim shall be in the District Court
d or in Federal Court for he State of Colorado.

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This release shall be binding to the fullest extent permitted by law. If any part of
he remaining terms shall be an enforceable contract between the parties. This
subrogors, distributors, heirs, next of kin, executors and personal representatives

RLY TO COMPLETE THE FOLLOWING INFORMATION

7 non-
Age Realistic,
Age too tough
Age on my
Age ankles
Age Im 45

I HAVE CAREFULLY READ THE FORGOING LIABILITY RELEASE. I UNDERSTAND
IT'S CONTENTS AND SIGN IT WITH FULL KNOWLEDGE OF ITS SIGNIFICANCE.
I AM AWARE THIS IS A RELEASE OF LIABILITY AND I SIGN IT OF MY OWN FREE WILL.

Date: 1/6/20

Last Name, First Name, MI (please print)

Last Name, First Name, MI (please print)

X
Signature: Participant/parent/legal guardian

X
Signature: Participant/parent/legal guardian

Address- Street address/ Mailing address (please print)

Address- City, State, Zip/Postal code, Country Code (please print)

Email Address

Date of Birth (MM-DD-YY)

970 379 7345 Maria
Emergency Contact/Relation Phone Number

age will
get to
you :)

Exhibit B

In consideration of allowing Participant to participate in the Activity and for using the ski area facilities, THE UNDERSIGNED AGREE THAT ANY AND ALL CLAIMS for injury and/or death regarding an alleged incident SHALL BE GOVERNED BY COLORADO LAW AND EXCLUSIVE JURISDICTION of any claim shall be in the District Court residing where the alleged incident occurred or in Federal Court for the State of Colorado.

- The undersigned parent or legal guardian acknowledges that he/she is also signing this release on behalf of the minor Participant, that he/she is WAIVING CERTAIN RIGHTS ON BEHALF OF THE MINOR PARTICIPANT that the minor Participant otherwise may have and that THE MINOR PARTICIPANT SHALL BE BOUND BY ALL THE TERMS OF THE RELEASE, THE MINOR PARTICIPANT'S PARENT OR LEGAL GUARDIAN VOLUNTARILY GRANTS PERMISSIONS FOR THE MINOR PARTICIPANT TO TAKE PART IN THE ACTIVITY AND ACKNOWLEDGES THAT BUT FOR SUCH GRANT OF, PERMISSION, THE MINOR PARTICIPANT WOULD NOT BE PERMITTED TO TAKE PART IN THE ACTIVITY. By signing this agreement without a parent or guardian's signature, Participant represents they are at least 18 years of age, or, if signing as the parent or guardian of the Participant, signer represents they are the legal parent or guardian of the minor Participant. This release shall be binding to the fullest extent permitted by law. If any part of this release is deemed to be unenforceable, the remaining terms shall be an enforceable contract between the parties. This release shall be binding upon the assignees, subrogors, distributors, heirs, next of kin, executors and personal representatives of the Undersigned.

PLEASE PRINT CLEARLY TO COMPLETE THE FOLLOWING INFORMATION

<u>Pasi Augusto Lorenzetti</u>	<u>17</u>
Minor Participant #1-Last name, First Name	Age
<u>Pedro Henrique Lorenzetti</u>	<u>12</u>
Minor Participant #2-Last name, First Name	Age
<u>João Gabriel Lorenzetti</u>	<u>5</u>
Minor Participant #3-Last name, First Name	Age
_____ Minor Participant #4-Last name, First Name	_____ Age
_____ Minor Participant #5-Last name, First Name	_____ Age

I HAVE CAREFULLY READ THE FORGOING LIABILITY RELEASE. I UNDERSTAND
IT'S CONTENTS AND SIGN IT WITH FULL KNOWLEDGE OF ITS SIGNIFICANCE.
I AM AWARE THIS IS A RELEASE OF LIABILITY AND I SIGN IT OF MY OWN FREE WILL.

Date: 01/07/2010 2010

Giselle Lorenzetti
Last Name, First Name, MI (please print)

Last Name, First Name, MI (please print)

X Giselle
Signature: Participant/parent/legal guardian

X _____
Signature: Participant/parent/legal guardian

Address- Street address/ Mailing address (please print)

Address- City, State, Zip/Postal code, Country Code (please print)

Email Address

Date of Birth (MM-DD-YY)

Emergency

The ice rink doesn't
slide properly. Me and my
two brothers tried to ice skate
however, it is impossible to slide
on the fake ice.

Exhibit B

Participant to participate in the Activity using the ski area facilities, THE
AGREE THAT ANY AND ALL CLAIMS for injury and/or death regarding an alleged incident SHALL
GOVERNED BY COLORADO LAW AND EXCLUSIVE JURISDICTION of any claim shall be in the District Court
residing where the alleged incident occurred or in Federal Court for the State of Colorado.

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PLEASE PRINT CLEARLY TO COMPLETE THE FOLLOWING INFORMATION

Yitz Bennett
Minor Participant #1-Last name, First Name

10
Age

Amy Bennett
Minor Participant #2-Last name, First Name

7
Age

Leora Bennett
Minor Participant #3-Last name, First Name

15
Age

Rahia Bennett
Minor Participant #4-Last name, First Name

14
Age

AS Bennett
Minor Participant #5-Last name, First Name

16
Age

I HAVE CAREFULLY READ THE FORGOING LIABILITY RELEASE. I UNDERSTAND
IT'S CONTENTS AND SIGN IT WITH FULL KNOWLEDGE OF ITS SIGNIFICANCE.
I AM AWARE THIS IS A RELEASE OF LIABILITY AND I SIGN IT OF MY OWN FREE WILL.

Date: _____ 20 _____

Last Name, First Name, MI (please print)

X Beth Bennett
Signature: Participant/parent/legal guardian

Last Name, First Name, MI (please print)

X
Signature: Participant/parent/legal guardian

Address- Street address/ Mailing address (please print)

Address- City, State, Zip/Postal code, Country Code (please print)

Email Address

Date of Birth (MM-DD-YY)

Emergency Contact/Relation

Phone Number

I ABSOLUTELY HAVE THIS PINIC

Exhibit B

\$16.00

Check#: 539926 Server: CP
Date: 12/24/18 Time: 01:04pm
Table: Dine In
N/A

CP Burger
433 East Durant St.
Aspen, CO 81611
970-925-3056

---(Seat 1)---

Subtotal \$0.00
Tax \$0.00
Total \$0.00

Thank You!!

Follow us on
Twitter and Facebook

IG-HOLD-HARMLESS, RELEASE OF LIABILITY
AND INDEMNITY AGREEMENT

SIGNING.

D WAIVER OF CERTAIN LEGAL RIGHTS.

DUAL LISTED ON THIS FORM PARTICIPATING IN THE ACTIVITY
' MEANS EACH PARTICIPANT, AND WHEN A PARTICIPANT IS UNDER
ANT'S PARENT OR LEGAL GUARDIAN SIGNING ON BEHALF OF
OF THE MINOR PARTICIPANT. THE UNDERSIGNED UNDERSTAND
USING SKI AREA FACILITIES, INCLUDING THE LIFTS, FOR ANY
(TY") CAN BE HAZARDOUS AND PRESENTS A RISK OF PHYSICAL

ISKS associated with Participant's participation in the activity, known or
med agree and understand these risks include, but are not limited to, risks
les; slick or uneven walking surfaces; surfaces covered with ice and snow;
unstable, inconsistent and/or non-maintained ice surfaces; diminished night-time
life; strenuous activity; high altitude; collisions; sharing ski area facilities and
ind/or not directly involved in the activity and following the direction of the
and acknowledge: 1) Participant has been informed and understands all rules
2) Participant is responsible for reading, understanding and complying with all
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ant assumes the risks of riding the lifts and engaging in activities accessible
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and that injuries are a common and ordinary occurrence of the Activity. The
MINOR PARTICIPANT MAY PARTICIPATE IN THE ACTIVITY AND
I LIFTS WITHOUT AN ACTIVITY OFFICIAL OR OTHER ADULT
and that Participant has the opportunity to inspect the Activity venue prior to
he risk of all conditions, including but not limited to risks associated with design,

associated with the Participant's participation in the Activity. IN
CONSIDERATION OF ALLOWING THE PARTICIPANT TO PARTICIPATE IN THE ACTIVITY, THE
UNDERSIGNED AGREE TO HOLD HARMLESS, RELEASE, DEFEND, AND INDEMNIFY The Hyatt Vacation
Management Corporation, The Silver Circle Skating Rink, SSI Venture, LLC and all related affiliates (each hereinafter a
"Released Party") FROM ANY AND ALL LIABILITY and/or claims for injury or death to persons or damage to property
arising from the Participant's participation in the Activity, INCLUDING THOSE INJURIES AND DAMAGES CAUSED
BY ANY RELEASED PARTY'S ALLEGED OR ACTUAL NEGLIGENCE OR BREACH OF ANY EXPRESS OR
IMPLIED WARRANTY. The Undersigned take full responsibility for any injury or loss to Participant, including death,
which Participant may suffer, arising in whole or in part out of the Activity. By execution of this release, THE
UNDERSIGNED AGREE NOT TO SUE ANY RELEASED PARTY and agree they are releasing any right to make a claim
or file a lawsuit against any Released Party. The Undersigned further agree to defend and indemnify each Released Party for
any and all claims of the Undersigned and/or third party arising in whole or in part from the Participant's participation in the
Activity. The Undersigned agree to pay all costs and attorney's fees incurred by any Released Party in defending a claim or
suit brought by or on behalf of the Undersigned.

The Undersigned represent that Participant is in good health and there are no special problems associated with Participant's
condition. The Undersigned: 1) authorize a licensed physician and/or other medical care provider to carry out any emergency
medical care for Participant; 2) authorize any Released party and/or their authorized
personnel to call for medical care for the Participant or to transport the Participant to a medical facility or hospital if, in the
opinion of such personnel, medical attention is needed; 3) agree that upon Participant's transport to any such medical facility
or hospital that the Released Party shall not have any further responsibility for Participant; 4) agree to pay all costs associated
with the medical care and related transportation provided for Participant; and 5) shall indemnify and hold harmless the
Released Party from any and all liability and/or claims associated with such medical care and/or related transportation.

The Undersigned agree and understand that this release is applicable to each and every day Participant participates in the
Activity forever. The Undersigned irrevocably grant SSI Venture, LLC the right of publicity to own and use any image(s)
collected of participant while participating in the Activity.

____ Initials

Exhibit B

allowing Participant to participate in the Activity and for using the ski area facilities, THE
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 BE GOVERNED BY COLORADO LAW AND EXCLUSIVE JURISDICTION of any claim shall be in the District Court
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Participant acknowledges that he/she is also signing this release on behalf of the minor
 CERTAIN RIGHTS ON BEHALF OF THE MINOR PARTICIPANT that the minor
 THE MINOR PARTICIPANT SHALL BE BOUND BY ALL THE TERMS OF
 PARTICIPANT'S PARENT OR LEGAL GUARDIAN VOLUNTARILY GRANTS
 PARTICIPANT TO TAKE PART IN THE ACTIVITY AND ACKNOWLEDGES
 OF, PERMISSION, THE MINOR PARTICIPANT WOULD NOT BE PERMITTED TO
 Y. By signing this agreement without a parent or guardian's signature, Participant represents
 or, if signing as the parent or guardian of the Participant, signer represents they are the legal
 of Participant. This release shall be binding to the fullest extent permitted by law. If any part of
 unenforceable, the remaining terms shall be an enforceable contract between the parties. This
 on the assignees, subrogors, distributors, heirs, next of kin, executors and personal representatives


EASE PRINT CLEARLY TO COMPLETE THE FOLLOWING INFORMATION

1-Last name, First Name
 Minor Participant #2-Last name, First Name
 Minor Participant #3-Last name, First Name
 Minor Participant #4-Last name, First Name
 Minor Participant #5-Last name, First Name

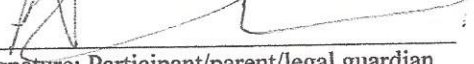
Age 16 is very
 hard to
 skate on -
 was not
 expecting
 being unable
 to skate.

I HAVE CAREFULLY READ THE FORGOING LIABILITY RELEASE. I UNDERSTAND
 IT'S CONTENTS AND SIGN IT WITH FULL KNOWLEDGE OF ITS SIGNIFICANCE.
 I AM AWARE THIS IS A RELEASE OF LIABILITY AND I SIGN IT OF MY OWN FREE WILL.

Date: 07/04/2019
 Hermin Anna
 Last Name, First Name, MI (please print)

X 
 Signature: Participant/parent/legal guardian

Hermin Sarah
 Last Name, First Name, MI (please print)

X 
 Signature: Participant/parent/legal guardian

2101 Alcott Drive Blvd.
 Address- Street address/ Mailing address (please print)

Venice,
 Address- City, State, Zip/Postal code, Country Code (please print)

Email Address

Date of Birth (MM-DD-YY)

Emergency Contact/Relation

Phone Number

Exhibit B

consideration of allowing Participant to participate in the Activity and for using the ski area facilities, THE UNDERSIGNED AGREE THAT ANY AND ALL CLAIMS for injury and/or death regarding an alleged incident SHALL BE GOVERNED BY COLORADO LAW AND EXCLUSIVE JURISDICTION of any claim shall be in the District Court residing where the alleged incident occurred or in Federal Court for the State of Colorado.

The undersigned parent or legal guardian acknowledges that he/she is also signing this release on behalf of the minor Participant, that he/she is WAIVING CERTAIN RIGHTS ON BEHALF OF THE MINOR PARTICIPANT that the minor Participant otherwise may have and that THE MINOR PARTICIPANT SHALL BE BOUND BY ALL THE TERMS OF THE RELEASE, THE MINOR PARTICIPANT'S PARENT OR LEGAL GUARDIAN VOLUNTARILY GRANTS PERMISSIONS FOR THE MINOR PARTICIPANT TO TAKE PART IN THE ACTIVITY AND ACKNOWLEDGES THAT BUT FOR SUCH GRANT OF, PERMISSION, THE MINOR PARTICIPANT WOULD NOT BE PERMITTED TO TAKE PART IN THE ACTIVITY. By signing this agreement without a parent or guardian's signature, Participant represents they are at least 18 years of age, or, if signing as the parent or guardian of the Participant, signer represents they are the legal parent or guardian of the minor Participant. This release shall be binding to the fullest extent permitted by law. If any part of this release is deemed to be unenforceable, the remaining terms shall be an enforceable contract between the parties. This release shall be binding upon the assignees, subrogors, distributors, heirs, next of kin, executors and personal representatives of the Undersigned.

PLEASE PRINT CLEARLY TO COMPLETE THE FOLLOWING INFORMATION

<u>Koules Sam</u>	<u>10</u>
Minor Participant #1-Last name, First Name	Age
<u>Koules Nave</u>	<u>7</u>
Minor Participant #2-Last name, First Name	Age
<u>Holman</u>	<u> </u>
Minor Participant #3-Last name, First Name	Age
<u> </u>	<u> </u>
Minor Participant #4-Last name, First Name	Age
<u> </u>	<u> </u>
Minor Participant #5-Last name, First Name	Age

I HAVE CAREFULLY READ THE FORGOING LIABILITY RELEASE. I UNDERSTAND IT'S CONTENTS AND SIGN IT WITH FULL KNOWLEDGE OF ITS SIGNIFICANCE. I AM AWARE THIS IS A RELEASE OF LIABILITY AND I SIGN IT OF MY OWN FREE WILL.

Date: Jan 4 2019
Koules Sherleen
Last Name, First Name, MI (please print)

X
Signature: Participant/parent/legal guardian

Last Name, First Name, MI (please print)

X
Signature: Participant/parent/legal guardian

Address- Street address/ Mailing address (please print)

Address- City, State, Zip/Postal code, Country Code (please print)

Email Address

Date of Birth (MM-DD-YY)

Mother
Emergency Contact/Relation

323 3043487
Phone Number

REFUND! This is terrible!
My kids are literally crying bc they can't
chore on this!

Exhibit B

In consideration of allowing ~~Participant~~ to participate in the Activity and for use
UNDERSIGNED AGREE THAT ANY AND ALL CLAIMS for injury and/or c
BE GOVERNED BY COLORADO LAW AND EXCLUSIVE JURISDICTION of any claim shall be in
residing where the alleged incident occurred or in Federal Court for the State of Colorado.

The undersigned parent or legal guardian acknowledges that he/she is also signing this release on behalf of the minor Participant, that he/she is WAIVING CERTAIN RIGHTS ON BEHALF OF THE MINOR PARTICIPANT that the minor Participant otherwise may have and that THE MINOR PARTICIPANT SHALL BE BOUND BY ALL THE TERMS OF THE RELEASE, THE MINOR PARTICIPANT'S PARENT OR LEGAL GUARDIAN VOLUNTARILY GRANTS PERMISSIONS FOR THE MINOR PARTICIPANT TO TAKE PART IN THE ACTIVITY AND ACKNOWLEDGES THAT BUT FOR SUCH GRANT OF, PERMISSION, THE MINOR PARTICIPANT WOULD NOT BE PERMITTED TO TAKE PART IN THE ACTIVITY. By signing this agreement without a parent or guardian's signature, Participant represents they are at least 18 years of age, or, if signing as the parent or guardian of the Participant, signer represents they are the legal parent or guardian of the minor Participant. This release shall be binding to the fullest extent permitted by law. If any part of this release is deemed to be unenforceable, the remaining terms shall be an enforceable contract between the parties. This release shall be binding upon the assignees, subrogors, distributors, heirs, next of kin, executors and personal representatives of the Undersigned.

PLEASE PRINT CLEARLY TO COMPLETE THE FOLLOWING INFORMATION

<u>Vitale CJ</u>	<u>14</u>
Minor Participant #1-Last name, First Name	Age
<u>Vitale Gisela</u>	<u>12</u>
Minor Participant #2-Last name, First Name	Age
_____ Minor Participant #3-Last name, First Name	_____ Age
_____ Minor Participant #4-Last name, First Name	_____ Age
_____ Minor Participant #5-Last name, First Name	_____ Age

I HAVE CAREFULLY READ THE FORGOING LIABILITY RELEASE. I UNDERSTAND
IT'S CONTENTS AND SIGN IT WITH FULL KNOWLEDGE OF ITS SIGNIFICANCE.
I AM AWARE THIS IS A RELEASE OF LIABILITY AND I SIGN IT OF MY OWN FREE WILL.

Date: _____ 20 _____

Last Name, First Name, MI (please print)

X _____
Signature: Participant/parent/legal guardian

Last Name, First Name, MI (please print)

X _____
Signature: Participant/parent/legal guardian

Address- Street address/ Mailing address (please print)

Address- City, State, Zip/Postal code, Country Code (please print)

Email Address

Date of Birth (MM-DD-YY)

Emergency Contact/Relation

Phone Number

IT IS NOT SKATING. CLOSE IT.
(DISAPPOINTING)

Exhibit B

REPRINT

CP BURGER
433 E DURANT AVE
ASPEN, CO 81611

12/21/2018

MID: XXXXXXXXXXXX794

13:12:46

TID: XXXXX943

CREDIT CARD

AMEX VOID SALE

Card #
Chip Card:
AID:
ATC:
TC:
SEQ #:
Batch #:
INVOICE
Approval Code:
Entry Method:
Mode:

XXXXXXXXXXXX3071

AMERICAN EXPRESS

A000000025010801

003B

7525F079DDA6D005

21

389

21

841744

Chip Read

Issuer

ger
ant St.

81611

0056

\$0.00

\$0.00

\$0.00

\$0.00

\$0.00

\$0.00

\$0.00

\$0.00

\$0.00

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RIGHTS ON BEHALF OF THE MINOR PARTICIPANT that the minor
OR PARTICIPANT SHALL BE BOUND BY ALL THE TERMS OF
PARENT OR LEGAL GUARDIAN VOLUNTARILY GRANTS
T TO TAKE PART IN THE ACTIVITY AND ACKNOWLEDGES
ON, THE MINOR PARTICIPANT WOULD NOT BE PERMITTED TO
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parent or guardian of the Participant, signer represents they are the legal
ease shall be binding to the fullest extent permitted by law. If any part of
ining terms shall be an enforceable contract between the parties. This
rs, distributors, heirs, next of kin, executors and personal representatives

COMPLETE THE FOLLOWING INFORMATION

10

Age

6

Age

Age

Age

Age

VOID AMOUNT \$16.00
TOTAL AMOUNT \$86.00

us on
d Facebook

Gratuity Guidelines

18% = \$2.88 20% = \$3.20

22% = \$3.52

I agree to pay above total amount
according to card issuer agreement.

(Merchant agreement if Credit Voucher)

X

SARISLOANE KELEDJIAN

MERCHANT COPY

II (please print)

II (please print)

failing address (please print)

Address- City, State, Zip/Postal code, Country Code (please print)

Email Address

Date of Birth (MM-DD-YY)

Emergency Contact/Relation

Phone Number

X

Signature: Participant/parent/legal guardian

X

Signature: Participant/parent/legal guardian

ONGOING LIABILITY RELEASE. I UNDERSTAND
TH FULL KNOWLEDGE OF ITS SIGNIFICANCE.
LIABILITY AND I SIGN IT OF MY OWN FREE WILL.

NO ICE!

The kids want to skate
not walk on plastic

Exhibit C: Photos of Surface dates March 18, 2019









July 17, 2019

Mr. Phillip Supino, AICP
Principal Long-Range Planner
City of Aspen
130 So. Galena St.
Aspen, Colorado 81611

RE: Silver Circle Ice Rink – Temporary Seasonal Use

Mr. Supino:

Please accept this application for a Temporary Seasonal Use for the Silver Circle Ice Rink. G. A. Resort Condominium Association, Inc. c/o Hyatt Residence Club owns and operates the Silver Circle Ice Rink for public use. Ice skating is offered in the winter and a miniature golf course is offered in the summer, both for a fee. The property is occasionally used for ticketed special events such as Food and Wine. This application seeks approval for the winter seasons.



Lot 6 of the Aspen Mountain Subdivision is zoned Public (P) with a Planned Development (PD) Overlay. Prior to receiving the final approvals, the winter garden and ice rink were restricted in a private covenant (Book 624, Page 52) in 1990. This covenant restricted the use of Lot 6 as a community activity center and public ice skating rink unless otherwise consented to by the City. Final Planned Development Approvals were granted by Ordinance No. 12, Series of 1992. The Ordinance outlined two conditions related to the skating surface. One stipulated the ice rink refrigeration system be designed by a professional engineer and the other required the operator utilize CFC-22 in the ice rink chilling system. The ice rink has operating hours of 10 am – 10 pm, seven days a week,

and no less than 8 hours a day. These operating hours are to be maintained from Thanksgiving through the end of March.

The Association has had numerous discussions, internally, regarding the short-term and long-term plans for the property. The long-term conversation has always generated ideas for this parcel to provide greater community benefit or simply provide public benefit in a different way. These ideas fuel the short-term conversation, which is the eventual replacement of the entire cooling system, chillers, piping; the EPA's position on CFC-22; and, the amount of greenhouse gas emissions needed to maintain the ice surface.

In 2018, forced with having to make a decision regarding substantial reinvestment in the facility, the applicant applied to the City and received approval for a synthetic ice surface to be installed. Numerous discussions regarding the nature of the surface and the intent of the original approvals were held between the applicant and the City. The staff review focused on the nature of the synthetic ice, the character of the development, the advantages of reducing greenhouse gas emissions and the pending elimination of CFC-22 as an EPA-acceptable refrigerant. Staff stated in their approval findings:

"The request does not change the use or character of the development. The use of the winter garden and ice rink will not change as a result of synthetic rather than a cooled ice-skating surface. The request does not require any variations from the projects allowed use and no changes are proposed to the approved floor area, height or previously approved dimensional requirements. Replacement of the chilling system by installing synthetic ice would reduce the need for the ozone-depleting substance, CFC-22. Removing the existing system will reduce greenhouse gas emissions, helping the City meet its Climate Action Plan goals. Additionally, CFC-22 will no longer be available in the US after January 2020, meaning that the cooling system will soon become obsolete.

Staff finds the request to meet all the required criteria for an insubstantial PD amendment, as detailed in Exhibit D, Staff Findings."

The applicant relied on this approval and proceeded to purchase and install the surface. Six months after the approval was granted and the surface had been installed, the City revoked the permit. No communication to the applicant proceeded this action, no opportunity was granted the applicant to address or even hear the rationale for revoking the permit. The approval was just reversed.

As an aside and by way of background, the leased area of the lease between CP Burger and the Hyatt was a point of disagreement. The matter is resolved although CP may still be in disagreement with the outcome.

Following the City's reversal, a public records request showed conversations leading up to the revocation between Mayor Skadron, Planning Director Jessica Garrow, and Jody Edwards, an attorney representing CP Burger. The record seems to indicate a strategy

to undo the decision without opportunity for the applicant to participate, respond, or even know of the discussion.

The applicant has appealed the revocation of the approval to the City's Hearing Officer, which is the proper venue to discuss the Director's denial of the applicant's due process rights and her abuse of power in this reversal.

In follow-up conversations with Ms. Garrow, the applicant was encouraged by the City to pursue long-term discussions of the parcel with the City. These could lead to a different use of the property, still serving a public benefit. To address the immediate status of the skating rink, the applicant was encouraged to pursue this temporary use, which could also facilitate conversation on long-term concepts.

This temporary use application seeks a temporary approval for the continued use of the synthetic ice material during the 19-20 winter season and for this allowance to be automatically extended by one winter season as long as the applicant is actively pursuing discussion with the City and/or a formal application for a long-term plan. This timeframe is intended to allow the applicant adequate time to complete the appeal process, if needed, and implement a revised plan.

The applicant is amenable to two alternatives for this temporary use period. We can provide a natural ice surface that relies on ambient temperatures (no chilling system). We expect a truly natural ice surface would not sustain after roughly March 1st, depending on weather factors, but would be skatable for a significant portion of the winter season. We could also install a park with seating and/or other outdoor activities for the public to enjoy. Additional detail can be provided on this second option at the hearing.

With submission of this temporary use application, the applicant requests the appeal be tolled – held by the City as a pending case but ceasing all action through the review of this temporary use request. The Property is known as Lot 6, Aspen Mountain Subdivision and is owned by G.A. Resort Condominium Association, Inc. c/o Hyatt Residence Club. Bob Weisman is the President of the Condominium Association. BendonAdams is authorized to represent the ownership's interest.

We believe there are potentially different, new ways to imagine public use of this parcel that may or may not involve ice skating. A significant investment is needed in any circumstance and the applicant believes that a discussion of the site's potential is worthwhile before making such an investment. Given the public zoning of this parcel, we would like to engage in a pre-application work session or hearings with the City Council prior to refining an idea to bring forward in a land use application. This can avoid spending money pursuing ideas that have no traction with the City. We can elaborate on this during the hearing as needed.

The Temporary Use Review criteria are addressed in Exhibit 1 and plans for the rink are attached in Exhibit 2. We look forward to working with you on this project. Please do not hesitate to contact me for a site visit or additional information that will aid your review.

Kind Regards,



Chris Bendon, AICP
BendonAdams LLC

Attachments:

1. Response to Review Criteria
2. Proposed Plan
3. Amendment to PUD Agreement
4. Covenant
5. Ordinance 12, 1992.
6. Pre-Application Summary
7. Application Form
8. Authorization
9. Agreement to Pay
10. HOA Form
11. Proof of Ownership
12. Vicinity Map

Exhibit 1

Review Criteria

26.450.030. Criteria applicable to all temporary uses. When considering a development application for a temporary use or an insubstantial temporary use, the Community Development Director or City Council shall consider, among other pertinent factors, the following criteria as they or any of them, relate thereto:

A. The location, size, design, operating characteristics and visual impacts of the proposed use.

Response: The temporary use will mimic the existing character of the development and has already been approved by the City. If a synthetic surface is not acceptable, a natural ice surface or park with seating can be created.

B. The compatibility of the proposed temporary use with the character, density and use of structures and uses in the immediate vicinity.

Response: The ice skating rink or a semi passive park will continue to be compatible with the surrounding character, density and uses in the immediate area.

C.

AMENDMENT TO THE
1ST AMENDED AND RESTATED
PLANNED UNIT DEVELOPMENT/SUBDIVISION AGREEMENT
ASPEN MOUNTAIN SUBDIVISION
LOT 6-ICE RINK & PARK

This Amendment is made and entered into as of the 9th day of February, 199³~~2~~ by and between the City of Aspen, Colorado, a municipal corporation and home rule city (hereinafter the "City") and Savannah Limited Partnership (hereinafter the "Owner").

WITNESETH:

WHEREAS, Owner is the owner of the real property and improvements thereon situate known as the Aspen Mountain Subdivision and Planned Unit Development (hereinafter either the "PUD" or the "Project") - a six-lot Subdivision and Planned Unit Development more particularly shown and described in the First Amended Plat thereof recorded October 8, 1988 in Plat Book 21 at Pages 35, et. seq. (hereinafter the "Plat"), of the Pitkin County, Colorado real property records (hereinafter the "Records") and in the First Amended and Restated Planned Unit Development/Subdivision Agreement Aspen Mountain Subdivision recorded in Book 574 at Pages 792, et. seq. of the Records (hereinafter the "PUD Agreement"); and

WHEREAS, the PUD Agreement contemplated eventual submission by the owner of an application for, and approval by the City of, the development of Lot 6 of the PUD into an Ice Rink and Park and, upon such approval, the execution of an Amendment to the PUD Agreement addressing the terms and conditions of approval for the Lot 6 Ice Rink and Park; and

WHEREAS, the Owner submitted to the City on September 25, 1991, a Final PUD Development Plan for the development of the Ice Rink and Park on Lot 6, along with requests for Subdivision approval and approval of a Growth Management Exemption for Essential Public Facilities, Waiver of park dedication fees, Conditional Use for the skate rental and maintenance building, and Special Review for parking in the Park zone; and

WHEREAS, the Planning and Zoning Commission held a duly noticed Public Hearing on January

7, 1992, after which it recommended approval with conditions of the Ice Rink and Park proposal and the other requests made by the owner; and

WHEREAS, the City Council having considered the Planning and Zoning Commissioners recommendations, granted with conditions the approvals sought and other requests made by the Owner, all as set forth in Ordinance 12, Series of 1992 ("Ordinance 12").

NOW, THEREFORE, in consideration of the foregoing Recitals, the terms and conditions contained in Ordinance 12 and the mutual covenants herein contained, the Owner and the City agree that the following terms and conditions shall supersede and entirely replace Sections A-2 (G) of the PUD Agreement and any other provisions of the PUD Agreement not consistent with this Amendment.

LOT 6 - ICE RINK & PARK - The Lot 6 component of the PUD, to be known and sometimes herein referred to as "Aspen Winter Garden," has been created through a subdivision of Lot 5 and has been zoned Park (P). The Owner shall construct and operate on Lot 6 an ice skating rink and park to be a community activity center. A deed restriction to this effect has been delivered to the City, recorded in Book 624 at pages 51 and 52 of the records of the Pitkin County Clerk and Recorder, a copy of which is attached hereto as Exhibit "A."

1. CONSTRUCTION SCHEDULE - LOT 6 - At the time of application for a Building Permit and as a condition precedent to the issuance thereof, Owners shall provide the Public Works Director with a detailed construction schedule for Lot 6 to the satisfaction of the Public Works Director, keeping in mind that disruptive activities shall be scheduled to minimize impacts on adjacent properties and lodge uses and keeping further in mind the schedule requiring that Lot 6 be issued a Certificate of Occupancy on or before October 1, 1993.

2. SITE IMPROVEMENTS - LOT 6 - Prior to the issuance of a Certificate of Occupancy for Lot 6, and as a condition precedent thereto, Owner shall and hereby agrees to accomplish the following or, as the case may be, accommodate on Lot 6:

A. The curb line along the northern boundary (adjacent to Durant Avenue) shall be repaired/replaced at its existing location, as determined by the City Engineer.

B. The amendment to the Plat contemplated hereby shall include and indicate the electric transformer easement as needed by the City Electric Department.

C. The Owner shall consult the City Engineer for design considerations regarding development within public rights-of-way and shall obtain permits for any work or development within public rights-of-way from the city streets and engineering department.

D. The Owner shall agree to join any future improvement districts which may be formed for the purpose of constructing improvements in the public right-of-way.

E. The sidewalk adjacent to Durant Avenue shall be eight (8) feet in width.

F. The Owner shall relocate and underground all electrical, telephone and cable television lines along vacated Dean Street between Galena Street and Mill Street.

The Owner shall also construct new curb and gutter along the entire Lot 6 boundary on Dean Street, a new sidewalk along the property boundary on Galena Street and a new sidewalk along the boundary on Durant Avenue and Mill Street.

3. LANDSCAPE IMPROVEMENTS - LOT 6 - All required landscaping for Lot 6 shall substantially conform to the Landscape Plan contained within the Amendment to the Plat contemplated hereby. The Landscape Plan depicts and describes the nature, extent and location of all plant materials at mature sizes in appropriate relation to scale, species and size of existing plant material, flower and shrub bed definition, a plant material schedule with common and botanical names, sizes and quantities, proposed treatment of all ground surfaces (e.g., paving, turf, gravel, terracing, etc.), irrigation water systems, any decorative water features, retaining walls, fencing, benches, site lighting, and all other agreed-upon landscape features. The landscaping shall be completed in a logical sequence commensurate with the staging of improvements as contemplated in the Lot 6

Construction Schedule, but in no event later than one (1) year after the date of issuance of the Certificate of Occupancy for the Lot 6 improvements. The failure to have completed the landscaping for Lot 6 shall not affect the issuance of a Certificate of Occupancy for Lot 6, so long as the portion of the Financial Assurances provided for in Paragraph 4(a) below which covers the estimated cost of such unfinished landscaping remains available to the City pursuant to the terms of said Paragraph 4(a).

A. Upon submission of a finalized landscape plan, a detailed description of the proposed irrigation system should be included as well as descriptions and specifications of landscape maintenance plans.

B. The three spruce trees located at the mid block of the parcel (near Durant Avenue) shall be removed and replaced with four (4) 12' to 16' spruce trees onsite.

C. The two cottonwood trees located on the corner of Durant Avenue and Galena Street shall be removed from the property and replaced with three 12' to 16' spruce trees on site.

4. FINANCIAL ASSURANCES - LOT 6 -

A. The Owner shall provide a guarantee for one hundred (100) percent of the current estimated cost of the landscaping improvements in the Landscape Plan in an estimate approved by the City Engineer, and twenty five (25) percent thereof shall be retained by the City until the improvements have been maintained in a satisfactory condition for two (2) years.

B. The Owner shall provide a guarantee for one hundred (100) percent of the current cost of public improvements within the public right-of-way to accommodate the development in an estimate approved by the City Engineer.

C. In order to assure the construction and timely completion of the Ice Rink and Park in accordance with the final development plan on or before October 1, 1993

as contemplated by Ordinance 12 and herein, Owner has established with the City a seven hundred thousand dollar (\$700,000.00) escrow account. The Escrow Agreement and Instructions (attached hereto as Exhibit "B") allow the Owner (1) to draw funds for actual work performed in connection with and progress toward the successful completion of the Ice Rink and Park, and (2) to allocate a portion of the escrowed funds to fulfill the requirements of Paragraphs 4(a) and 4(b) above.

At anytime from time to time, Owner shall have the right to substitute a different form of assurance for the form of financial assurance given, so long as such substituting form meets the requirements for form and content above set forth. Any such substitution shall be subject to the prior approval of the City Attorney.

5. EMPLOYEE HOUSING - LOT 6 - Owner's Employee Housing burden for the Ice Rink and Park shall be two (2) employees, and for any separate concession area, should a concession area be established separate from the skate rental building, as shown on the recorded site plan, shall be one (1) employee. The Owner shall deed restrict two (or as the case may be applicable, three) rooms in the Grand Aspen Hotel according to the Category 1 Price and Income Guidelines established by the Aspen/Pitkin County Housing Authority. At the time of redevelopment of the Grand Aspen Hotel, the Owner shall provide comparable deed restricted replacement housing for the two or, as applicable, three employees.

Prior to the issuance of any building permits for Lot 6, the Owner shall file in the Records, a deed restriction incorporating the foregoing described employee housing burden in form and content satisfactory to the City Attorney, the Planning Department and the Housing Authority.

6. PARKING - LOT 6 - Prior to the issuance of a Certificate of Occupancy for Lot 6, and as a condition precedent thereto, Owner shall:

- A. Designate a "drop off" area on the north side of vacated Dean Street and depicted on the final development plan.
- B. Designate off-street parking spaces located on the north side of vacated Dean Street with signage as parking for the Ice Rink/Park users only. Nine (9) parking spaces shall be provided on the north side of vacated Dean Street.
- C. Designate trash access and service area with signage as depicted on the final development plan.

This parking plan replaces and supersedes the plan as outlined in B, 6 (e) of the First Amended and Restated PUD Agreement which calls for 13 temporary parallel parking spaces on the north side of vacated Dean Street.

7. OPEN SPACE/FAR - LOT 6 - The open space on Lot 6, including any open spaces in excess of two (2) feet below the existing grades of the streets adjacent to Lot 6, shall be utilized to support the open space requirements for the development activity on Lot 5 and shall serve as a credit against such requirement at the rate of one square foot for each square foot of open space on or within Lot 6. All external FAR as measured by the City of Aspen code on Lot 6 and shall be in addition to the external FAR approved in Section E of the First Amended PUD Agreement for Lot 5 of the Aspen Mountain PUD which FAR is not to exceed 115,000 square feet.

8. OPERATIONS - LOT 6 -

- A. The Ice Rink and Park shall be open during the hours of 10 am - 10 pm, seven (7) days per week, throughout the year, except for required repairs and maintenance or as otherwise approved by the City. During the winter months commencing on Thanksgiving and continuing through March, the Ice Rink shall have no less than eight (8) hours of public skating per day, weather permitting.
- B. It is the intent of the Owner and the City that the local public use of the Ice Rink and Park shall be encouraged and that the facility shall be accessible to the

local public at reasonable times at reasonable rates. There shall be no favorable pricing treatment for the individual guests of The Ritz-Carlton Aspen Hotel over the general public unless approved by the City. Group/business and reserved use of the skating rink will be supplemental and ancillary to public use. Pricing alternatives which shall be made available to the public by the Ice Rink operator shall include discounted local passes, group discounts, children's rate, value sessions, and use packages. On or before September 1st of each year, the operator of the Ice Rink shall submit to the City an annual operating plan consisting of a summary of the prior year's usage by price category and month and use projections with pricing for the coming winter. The operator shall make itself available to meet with the City to review operations and pricing upon the City's request.

C. The food service area for the Ice Rink and Park shall be limited to the concession area which is depicted on the final development plan, except in the case of special events. The concession area shall provide seating for no more than twenty-five (25) people.

D. The concession area shall undergo conditional use review prior to operation of the concession area. If conditional use approval is not granted, then the concession area may not be utilized for food service.

E. Any and all special events to be conducted on Lot 6 that exclude the public must be approved by the City pursuant to its special event approval procedure.

F. Any service of liquor, wine, or beer shall be by special events (liquor) permit only.

9. ADDITIONAL CONDITIONS - LOT 6 -

A. The City hereby exempts the development activity contemplated herein for Lot 6 from any Park Dedication Fee.

10. INCORPORATION OF RECITALS AND WRITTEN SUBMITTALS. The City and the Owner hereby stipulate and agree that the recitals preceding this amendment, and all of the written submittals (as amended and presently effective) made by Owner to City throughout the course of the approval process culminating in this amendment, shall be deemed to be a part of this amendment and to be incorporated herein by this reference. The City will, upon request from interested parties, including prospective purchasers and lenders, and within a reasonable period of time following such request, issue appropriate written certification as to the compliance, or lack thereof, with such recitals and written submittals.

11. REASONABLENESS. In all dealings with one another under, and in connection with all determinations or interpretations that are to be made pursuant to this amendment, the parties hereto, their agents, employees, designees and affiliates, and any third parties called upon to make any determination pursuant to the provisions of this amendment, shall conduct themselves reasonably, fairly and in good faith.

12. ORDINANCE 12 UNAFFECTED. Nothing by this amendment shall be deemed to supersede or, in any manner, affect the terms, conditions and provisions of Ordinance 12. In the event of any inconsistency, including an omission herefrom, between the terms of this amendment and the terms of Ordinance 12, the terms, conditions and provisions of Ordinance 12 shall control and prevail.

13. ACCEPTANCE OF PLAT; RATIFICATION BY OWNER - Upon execution of this Amendment, the City shall approve and execute the Amended Plat of the Aspen Mountain Subdivision and Planned Unit Development, which depicts the development activity for Lot 6 contemplated hereby and, upon payment by Owner of all recordation fees, shall cause the Plat to be filed in the records. For its part, Owner hereby ratifies and confirms each and every representation and public dedication made and set forth by Owner on the Plat.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

CITY:

THE CITY OF ASPEN, COLORADO
a municipal corporation

By: John S. Bennett
John Bennett, Mayor

ATTEST:

Kathryn A. Lock
City Clerk

APPROVED AS TO FORM:

James M. Carney
City Attorney

STATE OF COLORADO)
) ss:
COUNTY OF PITKIN)

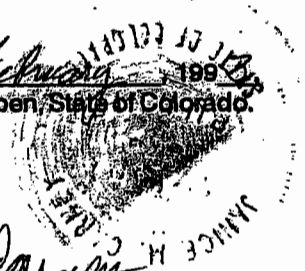
The foregoing instrument was acknowledged before me this 9th day of February, 1993,
by John Bennett as Mayor and Kathryn A. Lock, City Clerk of the City of Aspen, State of Colorado.

Witness my hand and official seal.

My Commission expires 9/27/96


My commission expires: _____

James M. Carney
Notary Public



OWNER:

SAVANAH LIMITED PARTNERSHIP, a
District of Columbia Limited Partnership
By: Aspen Enterprises International, Inc.

By: 
Omar R. Benjamin
PRESIDENT

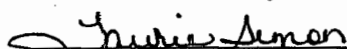
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

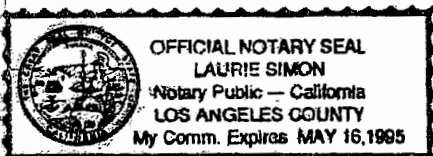
No. 5183

State of California
County of Los Angeles
On 2/4/93 before me, Laurie Simon
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"
personally appeared Omar R. Benjamin
NAME(S) OF SIGNER(S)

☒ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence
to be the person(s) whose name(s) is/are
subscribed to the within instrument and ac-
knowledged to me that he/she/they executed
the same in his/her/their authorized
capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s),
or the entity upon behalf of which the
person(s) acted, executed the instrument.

WITNESS my hand and official seal.


SIGNATURE OF NOTARY



OPTIONAL SECTION
CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to
fill in the data below, doing so may prove
invaluable to persons relying on the document.

- ☐ INDIVIDUAL
☒ CORPORATE OFFICER(S)
PRESIDENT
TITLE(S)
☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)

SAVANAH LIMITED
PARTNERSHIP

OPTIONAL SECTION

THIS CERTIFICATE MUST BE ATTACHED TO
THE DOCUMENT DESCRIBED AT RIGHT:

Though the data requested here is not required by law,
it could prevent fraudulent reattachment of this form.

TITLE OR TYPE OF DOCUMENT Amendment to 10th Amend + Restated
Planned Unit Development/Subdivision Agreement - Aspen Mtn. Subd.
NUMBER OF PAGES 10 DATE OF DOCUMENT 2/8/93

SIGNER(S) OTHER THAN NAMED ABOVE _____

4323996 06/28/90 13:24 Rec \$10.00 BK 624 PG 51
 Silvia Davis, Pitkin Cnty Clerk, Doc \$.00

DECLARATION OF RESTRICTIVE COVENANT

**LOT 6, ASPEN MOUNTAIN SUBDIVISION AND
 PLANNED UNIT DEVELOPMENT**

KNOW ALL MEN BY THESE PRESENTS that:

SAVANAH LIMITED PARTNERSHIP, a District of Columbia limited partnership ("Savanah"), the owner of Lot 6 of the Aspen Mountain Subdivision and Planned Unit Development according to the First Amended Plat of the Aspen Mountain Subdivision recorded in Plat Book 21 at Pages 35, et seq., of the Pitkin County, Colorado real property records ("Lot 6"), hereby publishes and declares that in consideration of the approvals to it granted in and by the First Amended and Restated Planned Unit Development/Subdivision Agreement - Aspen Mountain Subdivision, recorded in Book 574 at Pages 792, et seq., of the Pitkin County, Colorado real property records ("PUD Agreement"), and pursuant thereto, the following shall run with Lot 6, shall be a burden thereupon, as well as upon Savanah, its successors, grantees and assigns, and any other party acquiring any manner of record interest in Lot 6, and shall inure to the benefit of and be specifically enforceable by the City of Aspen ("City") by any and all appropriate means, including mandatory injunctive relief, to wit:

Until otherwise specifically consented to by the City, the use of Lot 6 shall be limited to a community activity center and public ice skating rink meeting such dimensional and design constraints and incorporating such accessory uses as may be approved by the City, from time to time, during site specific review by the City of land use approvals for Lot 6, all pursuant to and as is provided for in the PUD Agreement.

Unless sooner released by the City by an instrument in writing placed of record in the Pitkin County Colorado real property records, this covenant shall remain in full force and effect for the period of the life of the longest living member of the presently constituted Aspen City Council and his or her now living heirs plus twenty-one years, or for a period of fifty years, whichever period is greater.

IN WITNESS WHEREOF, this Covenant has been published and declared as of the 20th day of June, 1990.

**SAVANAH LIMITED PARTNERSHIP, a
 District of Columbia limited partnership**

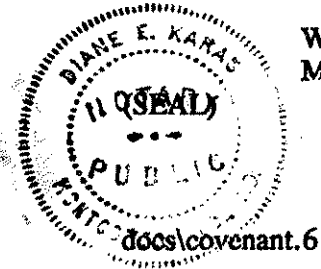
By: 1001, Inc., a District of Columbia
 corporation, its General Partner

By: Mohamed A. Hadid
 Mohamed A. Hadid, President

(Notarial Clause on Page 2, following)

STATE OF MARYLAND)
COUNTY OF MONTGOMERY) ss.

The foregoing instrument was acknowledged before me this 20th day of JUNE, 1990, by SAVANAH LIMITED PARTNERSHIP, a District of Columbia limited partnership, by 1001, Inc., a District of Columbia corporation, its General Partner, by Mohamed A. Hadid, as President.



WITNESS my hand and official seal.
My commission expires: 3/18/91

Diane Karas
Notary Public

11-27-90
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9-28-90

Exhibit 5

ORDINANCE # 12
(Series of 1992)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO APPROVING THE ASPEN WINTER GARDEN AMENDMENTS TO THE FIRST AMENDED AND RESTATED PLANNED UNIT DEVELOPMENT/SUBDIVISION AGREEMENT FOR THE ASPEN MOUNTAIN SUBDIVISION, FINAL PUD DEVELOPMENT PLAN, SUBDIVISION, AND GROWTH MANAGEMENT EXEMPTION FOR ESSENTIAL PUBLIC FACILITIES FOR LOTS A THROUGH I, BLOCK 91, CITY AND TOWNSITE OF ASPEN

WHEREAS, the Aspen Winter Garden property has been designated Park (P) with PUD overlay on the Official Zone District Map; and

WHEREAS, the Aspen Winter Garden Conceptual PUD Development Plan received Conceptual approval with conditions from the Aspen City Council in July of 1990; and

WHEREAS, the Savannah Limited Partnership submitted to the Planning Office on September 25, 1991, a Final PUD Development Plan application for the development of an Ice Rink and Park on Lot 6, and requests for Subdivision, Growth Management Exemption for Essential Public Facilities, Waiver of park dedication fees, Waiver of water tap fees, Conditional Use for the skate rental and maintenance building, and Special Review for parking in the Park zone; and

WHEREAS, the development application submission has been made in accordance with The First Amended and Restated Planned Unit Development/Subdivision Agreement for the Aspen Mountain Subdivision (PUD Agreement) which requires that Lot 6 of the property become an Ice Rink and Park; and

WHEREAS, referral comments were received from the Engineering Department, Water Department, Parks Department, Environmental Health Department, Ice Garden, and the Aspen/Pitkin County Housing Authority; and

WHEREAS, there is nothing inconsistent between the foregoing described review standards and the type and level of development activity contemplated in the PUD Agreement for the Ice Rink and Park; and

WHEREAS, the Planning Commission reviewed the application in consideration of the review standards for: final PUD development plan (Section 24-7-903), Subdivision (Section 24-7-1004), Growth Management Quota System (Article 8 of Chapter 24), Special Review (Section 24-7-404), Conditional Uses (Section 24-7-301), and the comments received from referral agencies; and

WHEREAS, the Planning and Zoning Commission held a duly noticed Public Hearing on January 7, 1992, after which it recommended approval with conditions for the Aspen Winter Garden final PUD development plan, Subdivision, Growth Management Exemption for Essential Public Facilities, and approved with conditions Conditional Use, and Special Review for Parking in the Park Zone; and

WHEREAS, the City Council may grant approvals to final PUD development plan (Section 24-7-903), Subdivision (Section 24-7-1004) Growth Management Exemption for Essential Public Facilities (Article 8 of Chapter 24), and amendment to the PUD Agreement; and

WHEREAS, the City Council has determined that the applicant's request for waiver of the water tap fees does not meet the standards established by Ordinance #90-8, Series of 1990, whereby tap fees are only waived for 100% employee housing as approved by the City Council and administered by the Aspen/Pitkin County Housing Authority; and

WHEREAS, the PUD Agreement specifically states that Lot 6 shall not be assessed a Park Dedication Fee; and

WHEREAS, the City Council, having considered the Planning and Zoning Commission's recommendations for the Aspen Winter Garden, does wish to grant the approvals with conditions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO THAT:

Section 1: The City Council finds that the final PUD development plan for the Aspen Winter Garden (ice rink/park) is consistent with the conceptual PUD development plan.

Section 2: The City Council finds that the development meets the standards from section 24-7-903 of the Aspen Municipal Code, which are not inconsistent with the development plan for the property approved by the PUD Agreement, and does hereby grant final PUD development plan approval with the following conditions:

1. Upon submission of a finalized landscape plan, a detailed description of the proposed irrigation system should be included as well as descriptions and specifications on landscape maintenance plans.

2. If the three spruce trees located at the mid block of the parcel (near Durant Avenue) are removed, they shall be replaced with four (4) 12' to 16' spruce trees onsite.

3. The two cottonwood trees located on the corner of Durant Avenue and Galena Street may be removed from the property and replaced with three (3) 12' to 16' spruce trees onsite.

4. A "drop off" area shall be designated on the north side of vacated Dean Street and depicted on the final development plan.

5. Prior to issuance of the Certificate of Occupancy for the ice rink, the off-street parking spaces located on the north side of vacated Dean Street shall be designated with signage as parking for the Ice Rink/Park users only. Nine (9) parking spaces shall be provided on the north side of vacated Dean Street.

6. Consistent with the original PUD approvals, the open space on Lot 6 shall be utilized and credited to support the open space requirements for the development activity on Lot 5 including any open space in excess of two (2) feet below the existing grade of the adjacent street.

7. In that Lot 6 (ice rink/park) has been restricted as a community activity center and public ice skating rink pursuant to a Declaration of Restrictive Covenant recorded on 6/29/90 (Book 624, Page 52), all special events to be conducted on Lot 6 that exclude the public shall be subject to the city special event approval procedure.
y 624 27, 1512

Any service of liquor, wine, or beer shall be by special events permit only. C. / p.

8. The ice rink/park shall be open during the hours of 10 am - 10 pm, seven (7) days per week, throughout the year, unless otherwise approved by the City. During the winter months commencing on Thanksgiving and continuing through December, January, February, and March, the ice rink shall have no less than eight (8) hours of public skating per day, weather permitting.

9. The trash access area shall be depicted on the final PUD development plan.

10. An evaluation of the ventilation system for the Ice Rink should be conducted to insure that fumes will not reach unhealthy levels.

11. The applicant should readdress the landscape plan as it relates to the evergreen planting located at the west end of the parcel.

12. The architect should consider the hazards of snow slides from the roof in the roof design.

13. It is the intent of the operator and the city that the local public use of the ice rink/park shall be encouraged and that the facility be accessible to the local public at reasonable times at reasonable rates. There shall be no special pricing treatment for the individual guests of the Ritz-Carlton Aspen Hotel over the general public unless approved by the City. Pricing alternatives shall include discounted local passes, group discounts, children's rate, value sessions, and use packages. Group/business and reserved use of the skating rink will be supplemental and ancillary to public use. The operator shall submit to the City an annual operating plan consisting of a summary of the prior year's usage by price category and month and use projections with pricing for

the coming winter skating season, on or before September 1 of each year. The operator shall be available to meet with the city to review operations and pricing upon the City's request.

14. The food service area for the ice rink/park shall be limited to the concession area which is depicted on the final development plan, except in the case of special events. The concession area shall provide seating for twenty-five (25) people or less.

15. The concession area shall undergo conditional use review prior to operation of the concession area. If conditional use approval is not granted, then the concession area may not be utilized on the site for food service.

16. The ice rink cooling system shall be designed by a professional engineer.

17. In the event that the City should, by February 12, 1993, require Savannah to landscape the right-of-way areas along Durant Avenue and Mill Street adjacent to the ice rink/park, then Savannah shall be obligated to landscape the area(s) to the satisfaction of the City Engineer and Planning Director and shall maintain the landscaping in this area. The City and Savannah should insure that the landscape plan does not impact existing utilities along Durant Avenue and Mill Street. Costs associated with the relocation or maintenance or repair of any utilities (e.g. water, sewer lines or buried cable) shall be borne by the City. The landscaping along Durant Avenue should extend approximately eight (8) feet from the existing face of the curb and approximately fifteen (15) feet from the existing face of the curb on Mill Street. The sidewalks along

Durant Avenue and Mill Street should remain in their present location as depicted on the final development plan.

18. The operator should utilize CFC-22 in the refrigeration system for the ice rink.

Section 3: Having found that the development meets the standards contained in Division 10 of the Land Use Code, City Council grants approval of Subdivision with the following conditions:

1. The curb line along the northern boundary (adjacent to Durant Avenue) shall be maintained at its existing location, unless a curb extension is approved by the city engineer.

2. The plat amendment shall include and indicate the electric transformer easement as needed by the City Electric Department.

3. The applicant shall consult city engineering for design considerations regarding development within public rights-of way and shall obtain permits for any work or development within public rights-of-way from the city streets and engineering department.

4. The applicant shall agree to join any future improvement districts which may be formed for the purpose of constructing improvements in the public right-of-way.

5. The sidewalk adjacent to Durant Avenue shall be eight (8) feet in width.

6. The applicant shall relocate and underground all electrical, telephone and cable television lines along vacated Dean Street between Galena Street and Mill Street. The applicant shall also construct new curb and gutter along the entire Lot 6 boundary on Dean Street, a new sidewalk along the property boundary on Galena

Street, and a new sidewalk along the boundary on Durant Avenue and Mill Street.

7. The applicant shall provide a guarantee for one hundred (100) percent of the current estimated cost of the landscaping improvements in the approved landscape plan as estimated by the city engineer, except that twenty five (25) percent shall be retained by the City until the improvements have been maintained in a satisfactory condition for two (2) years.

8. The applicant shall provide a guarantee for one hundred (100) percent of the current estimated cost of public improvements within the public right-of-way to accomodate the development as estimated by the city engineer.

Section 4: The City Council finds that the development meets the standards of Article 8 of Chapter 24 of the Aspen Municipal Code and does hereby grant Growth Management System Exemption for Essential Public Facilities with the following conditions:

1. The applicant is required to mitigate for 2 employees in connection with the ice rink and 1 employee in connection with the concession area. The applicant shall deed restrict three rooms in the Grand Aspen Hotel according to the Category 1 Price and Income Guidelines established by the Aspen/Pitkin County Housing Authority. At the time of redevelopment of the Grand Aspen Hotel, the applicant shall provide comparable deed restricted replacement housing for the 3 employees.

2. Prior to the issuance of any building permits, the applicant shall file an appropriate Deed Restriction with the Pitkin County

NOV. 22, 2009 2:51 PM CITY OF ASPEN NO. 3780 P. 9/10

Clerk and Recorder for the housing mitigation described above and the Deed Restriction language shall be approved by the Planning Department and the Housing Authority.

Section 5: All material representations made by the applicant in the application and during public meetings with the Planning Commission and City Council shall be adhered to and considered conditions of approval, unless otherwise amended by other conditions.

Section 6: The City Council finds that the PUD Agreement specifically states that Lot 6 (Ice Rink and Park) shall not be assessed a Park Dedication Fee and no fee shall be required.

Section 7: The City Council finds that the applicant's water tap fee waiver request does not meet the standards for a waiver under Ordinance 90-8 (Series of 1990), and does hereby deny a waiver of water tap fees.

Section 8: Within 180 days of approval by City Council, the PUD Agreement, Final Development Plan and Amended Subdivision Plat must be recorded with the Pitkin County Clerk and Recorder. Failure to do so will render any approvals invalid unless an extension to recordation is granted by City Council. The final development plan shall consist of final drawings depicting the site plan, landscape plan, utility plan and building elevations.

Section 9: If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such provision and such holding shall not affect the validity of the

remaining portions thereof.

Section 10: This ordinance shall not affect any existing litigation and shall not operate as an abatement of any action or preceeding now pending under or by virtue of the ordinances repealed or amended as herein provided, and the same shall be conducted and concluded under such prior ordinances.

Section 11: A public hearing on the Ordinance shall be held on the ninth day of March, 1992 at 5:00 P.M. in the City Council Chambers, Aspen City Hall, Aspen Colorado, fifteen (15) days prior to which a hearing of public notice of the same shall be published in a newspaper of general circulation within the City of Aspen.

~~INTRODUCED, READ AND ORDERED PUBLISHED~~ as provided by law, by the City Council of the City of Aspen on the tenth day of February 1992.

ATTEST:

Kathryn S. Koch
Kathryn S. Koch, City Clerk

John Bennett
John Bennett, Mayor

Finally, 1992. FINALLY, adopted, passed and approved this 13 day of

John Bennett
John Bennett, Mayor

ATTEST:

Kathryn S. Koch
Kathryn S. Koch, City Clerk

jtdm:aspen.winter.ord.



**CITY OF ASPEN
PRE-APPLICATION CONFERENCE SUMMARY**

PLANNER: Jessica Garrow, 429.2780
PROJECT: Silver City Ice Rink Winter Temporary Use
REPRESENTATIVE: Chris Bendon, BendonAdams

DATE: 7.1.2019

TYPE OF APPLICATION: Temporary Use

DESCRIPTION:

The prospective applicant, Hyatt Grand Aspen, is interested in pursuing a temporary use approval for the Silver City Ice Rink during the 2020 winter season. This will require review and approval by City Council. The prospective applicant is interested in talking with City Council about potential short-term options related to the ice rink. These include:

1. Have a natural ice skating surface, potentially through spraying the area with water and using the natural freeze cycle to create a skating surface, or
2. Use a synthetic ice system and associated equipment to create a skating surface, or
3. Cease skating and convert the area to another use (such as outdoor seating, dining, and the like).

Because of the Silver City Ice Rink's location, a Commercial Review may be required. If new structures or decorations beyond the skating surface are proposed, this could trigger a Commercial Design Review, pursuant to Chapter 26.412 is required. At this time, staff believe option 3 would require some commercial design review, and depending on additional equipment or structures, options 1 and 2 might require a review. Staff can assist the applicant as the application moves forward.

Requirements for Temporary Use Structures

26.450.030. Criteria applicable to all temporary uses.

When considering a development application for a temporary use or an insubstantial temporary use, the Community Development Director or City Council shall consider, among other pertinent factors, the following criteria as they or any of them, relate thereto:

- A. The location, size, design, operating characteristics and visual impacts of the proposed use.
- B. The compatibility of the proposed temporary use with the character, density and use of structures and uses in the immediate vicinity.
- C. The impacts of the proposed temporary use on pedestrian and vehicular traffic and traffic patterns, municipal services, noise levels and neighborhood character.
- D. The duration of the proposed temporary use and whether a temporary use has previously been approved for the structure, parcel, property or location as proposed in the application.
- E. The purposes and intent of the zone district in which the temporary use is proposed.
- F. The relation of the temporary use to conditions and character changes which may have occurred in the area and zone district in which the use is proposed.

G. How the proposed temporary use will enhance or diminish the general public health, safety or welfare.

Relevant Land Use Code Section(s):

26.304 **Common Development Review Procedures**
26.312 **Commercial Design Standards**
26.450 **Temporary and Seasonal Uses**

Land Use Code:

<https://www.cityofaspen.com/191/Municipal-Code>.

Land Use Application:

<https://www.cityofaspen.com/DocumentCenter/View/1835/Land-Use-Application-Packet-2017>.

Review by:

- Staff for complete application and recommendation
- Public hearing before City Council for approval

Planning Fees: \$1,300 Deposit for 4 hours of staff time (additional planning hours are billed at a rate of \$325/hour)

Referral Fees: none

Total Deposit: **\$1,300**

To apply, first submit one copy of the following information:

- ☐ Completed Land Use Application and signed fee agreement.
- ☐ Pre-application Conference Summary (this document).
- ☐ Street address and legal description of the parcel on which development is proposed to occur.
- ☐ A letter or other approval from the property owner indicating they consent to the proposed use.
- ☐ Proof of ownership in the form of a title commitment or a letter from an attorney licensed in the state of Colorado
- ☐ Applicant's name, address and telephone number in a letter signed by the applicant that states the name, address and telephone number of the representative authorized to act on behalf of the applicant.
- ☐ HOA Compliance form

- ☐ A written description of the proposal and an explanation in written, graphic, or model form of how the proposed development complies with the review standards relevant to the development application and relevant land use approvals associated with the property.
- ☐ Pictures of the proposed structure.
- ☐ A sketch plan of the site showing property lines and existing and proposed features relevant to the temporary use and its relationship to uses and structures in the immediate vicinity.
- ☐ An 8 1/2" by 11" vicinity map locating the parcel within the City of Aspen.

Once the copy is deemed complete by staff, the following items will then need to be submitted:

- ☐ A complete digital copy of the application, including all items listed above.
- ☐ Total deposit for review of the application.

Disclaimer:

The foregoing summary is advisory in nature only and is not binding on the City. The summary is based on current zoning, which is subject to change in the future, and upon factual representations that may or may not be accurate. The summary does not create a legal or vested right.

CITY OF ASPEN COMMUNITY DEVELOPMENT DEPARTMENT

LAND USE APPLICATION

Project Name and Address: Silver Circle Ice Rink - Temporary Use
 Parcel ID # (REQUIRED) 2737-182-85-006

APPLICANT:

Name: G.A. Resort Condominium Association, Inc., c/o Hyatt Residence Club; Bob Weisman, President
 Address: 415 E. Dean Street; Aspen, CO 81611
 Phone #: 970-429-9100 email: rwweisman@gmail.com

REPRESENTATIVE:

Name: BendonAdams
 Address: 300 So. Spring St. #202; Aspen, CO 81611
 Phone#: 925.2855 email: chris@bendonadams.com

Description: Existing and Proposed Conditions

Lot 6 of the Aspen Mountain Subdivision was granted approval to develop a synthetic ice surface for wintertime use. The approval was revoked after installation. The application seeks a temporary winter garden with either synthetic ice, natural ice but without a chiller, or a non ice surface for a semi-passive winter park.

Review: Administrative or Board Review

Required Land Use Review(s):

Growth Management Quota System (GMQS) required fields:

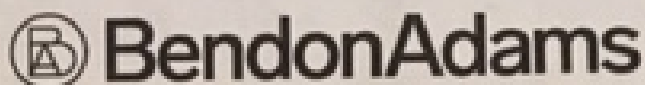
Net Leasable square footage na Lodge Pillows na Free Market dwelling units na

Affordable Housing dwelling units na Essential Public Facility square footage na

Have you included the following?

FEES DUE: \$ 1,300

- ☒ Pre-Application Conference Summary
- ☒ Signed Fee Agreement
- ☒ HOA Compliance form
- ☒ All items listed in checklist on PreApplication Conference Summary



July 15, 2019

Jennifer Phelan, AICP
Community Development Director
City of Aspen
130 So. Galena St.
Aspen, Colorado 81611

RE: 433 E. Durant Street (Silver City Ice Rink)

Ms. Garrow:

Please accept this letter authorizing and BendonAdams, LLC, to represent our ownership interests in 433 E. Durant Street (Silver City Ice Rink) and act on our behalf on matters reasonably associated in securing land use approvals for the property.

If there are any questions about the foregoing or if I can assist, please do not hesitate to contact me.

Property – 433 E. Durant Street (Silver City Ice Rink)

Legal Description – Lot 6, Aspen Mountain Subdivision, according to the Seventh Amended Plat of Aspen Mountain Subdivision and Planned Unit Development Recorded February 9, 1993 in Book 30 at Page 69.

Parcel ID – 2737-182-85-006

Owner – G.A. Resort Condominium Association, Inc. c/o Hyatt Residence Club, Grand Aspen

Kind Regards,

Bob Weisman, President
G.A. Resort Condominium Association, Inc.
c/o Hyatt Residence Club, Grand Aspen
415 E. Dean Street, Aspen 81611
970-429-9100



Order Number: **BANA62010520** Date: **07/15/2019**

Property Address: **433 E DURANT AVE, ASPEN, CO
81611**

Chain of Title Documents:

[Pitkin county recorded 12/21/2005 under reception no.
518732](#)

[Pitkin county recorded 12/19/2005 under reception no.
518619](#)

Plat Map(s):

[Pitkin county recorded 02/09/1993 at book 30 page 69](#)

Land Title Guarantee Company
Property Report

Order Number: BANA62010520



This Report is based on a limited search of the county real property records and provides the name(s) of the vested owner(s), the legal description, tax information (taken from information provided by the county treasurer on its website) and encumbrances, which, for the purposes of this report, means deed of trust and mortgages, and liens recorded against the property and the owner(s) in the records of the clerk and recorder for the county in which the subject is located. This Report does not constitute any form of warranty or guarantee of title or title insurance. The liability of Land Title Guarantee Company is strictly limited to (1) the recipient of the Report, and no other person, and (2) the amount paid for the report.

Prepared For:

DAVIS MASSARANO

This Report is dated:

07/02/2019 at 5:00 P.M.

Address:

433 E DURANT AVE, ASPEN, CO 81611

Legal Description:

LOT 6,
ASPEN MOUNTAIN SUBDIVISION,
ACCORDING TO THE SEVENTH AMENDED PLAT OF ASPEN MOUNTAIN SUBDIVISION AND PLANNED UNIT
DEVELOPMENT RECORDED FEBRUARY 9, 1993 IN BOOK 30 AT PAGE [69](#).

COUNTY OF PITKIN, STATE OF COLORADO.

Record Owner:

GA RESORT CONDO ASSOC

We find the following documents of record affecting subject property:

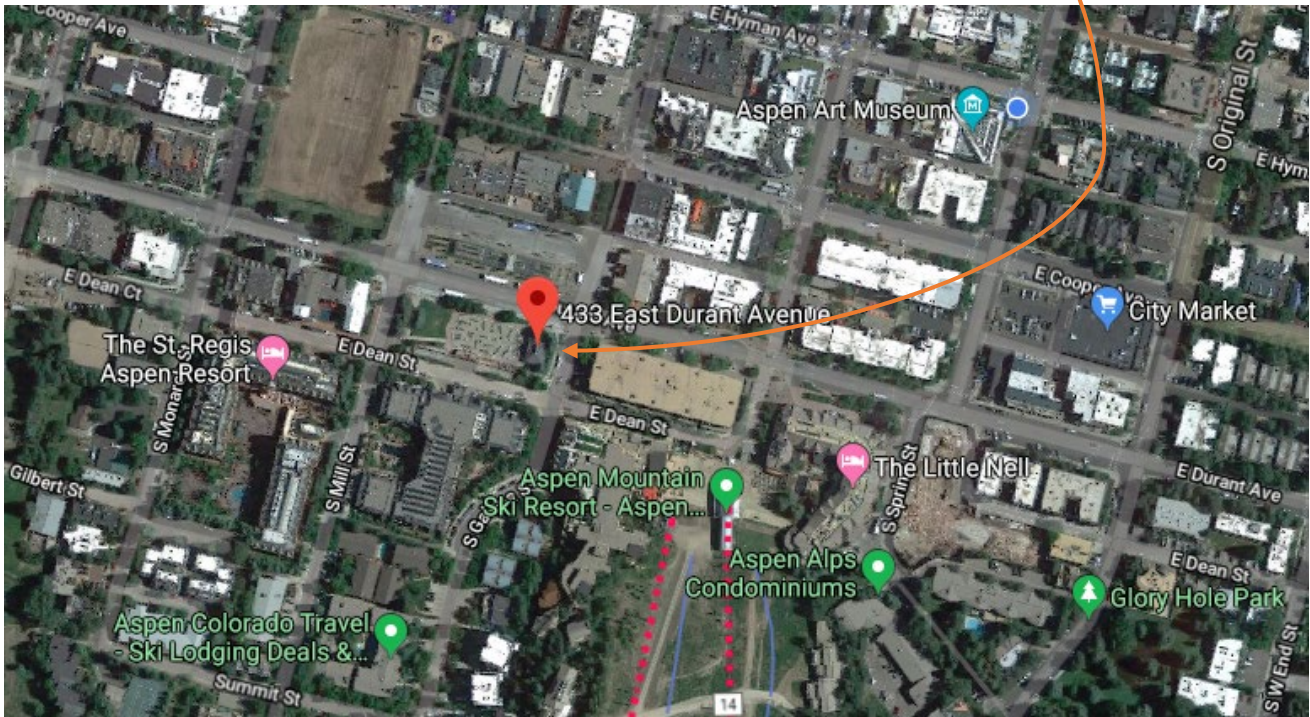
***** PROPERTY TAX INFORMATION *****

Parcel No.: 273718285006
2018 Land Assessed Value \$1,286,300.00
2019 Improvements Assessed Value \$30,200.00
2010 real property taxes PAID in the amount of \$13,762.40.

1. SPECIAL WARRANTY DEED RECORDED DECEMBER 19, 2005 UNDER RECEPTION NO. [518619](#) AND
RERECORDED DECEMBER 21, 2005 AS RECEPTION NO. [518732](#).

NO ENCUMBRANCES

433 E. Durant St. (Silver Circle Ice Rink) – Vicinity Map



REMOVABLE STRUCTURES, FUNCTIONAL INSTALLATIONS, ART AND SCULPTURE



warming huts



warming huts



dinner tents or glamping domes



artful annual installations



opportunity for activism

PROS AND CONS

- + could be commissioned or an annual competition
- + simple shelters or experiential architecture
- + opportunity for activism/positive publicity
- + functional- provide seating, shelter
- + easily removable
- could detract from openness of the space

FURNISHINGS



unique furnishings provides sense of place



furnishing can be artful, multi-functional, non-traditional, engaging



large communal pieces foster a sense of community

- + economical and functional
- + Atypical furnishings could enhance sense of place, attract passerby
- + contiguous pieces or consolidated groupings to encourage spontaneous interactions
- + easily removable
- requires large storage space

GAMES AND ENTERTAINMENT



outdoor movies



snow volleyball



snow boccee



snow croquet

- + snow games
- + movies or music
- + provide engaging activities
- rigid programming lacks broad appeal and multi-functionality
- abuse / vandalism

silver circle ice rink - removable winter ice alternatives

silver circle at the hyatt
aspen | colorado



MEMORANDUM

TO: Mayor and City Council
FROM: Linda Manning, City Clerk
THROUGH: Jim True, City Attorney
MEMO DATE: August 5, 2019
MEETING DATE: August 12, 2019
RE: Ordinance #20, Series of 2019 – Adding a second alternate position to the Commercial Core and Lodging Commission.

REQUEST OF COUNCIL: Staff is recommending City Council approve Ordinance #20, series of 2019 to add a second alternate position to the Commercial Core and Lodging Commission.

SUMMARY AND BACKGROUND: The Commercial Core and Lodging Commission was established by Ordinance #1, Series of 1981. Since then, the original ordinance has been amended several times to change the geographic area of concern, add one alternate member and to make it a permanent commission.

DISCUSSION: At the July 9, 2019 City Council work session, City Council conducted interviews for the commission. After the interviews, Council directed staff to bring back an ordinance to add a second alternate member to the commission. If this ordinance is adopted the composition of the commission will be 7 regular members and 2 alternate members (including the newly created position).

FINANCIAL IMPACTS: None

ENVIRONMENTAL IMPACTS: None

ALTERNATIVES: Council could choose to leave the composition of the board as is.

RECOMMENDATIONS: Staff is recommending approval of Ordinance #20, Series of 2019.

CITY MANAGER COMMENTS:

ORDINANCE NO. 20
(SERIES OF 2019)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, AMENDING
ORDINANCE NO.43, SERIES 2007 TO ADD A SECOND ALTERNATE MEMBER TO THE
COMMERCIAL CORE AND LODGING COMMISSION.

WHEREAS, the city Council established the Commercial Core and Lodging Commission by Ordinance No. 1, Series of 1981 which was amended by Ordinance No. 56, Series of 1981 reducing the quorum from 4 to 3; and

WHEREAS, the Commercial Core and Lodging Commission term was originally set to expire on December 31, 1985, and was extended by Ordinance No. 24, Series of 1986 to December 31, 1991; and

WHEREAS, by Ordinance No. 6, Series of 1988, the Commission's geographic area of concern was changed, and an alternate member was added to the composition of the Commission; and

WHEREAS, the Commercial Core and Lodging Commission term was further extended by Ordinance 49, Series of 1991, Ordinance No. 40, Series of 2001 and Ordinance No. 43, Series of 2007 making it a permanent board and raising the quorum from 3 to 4; and

WHEREAS, the City Council desires now to amend Ordinance No. 43, Series of 2007 to add a second alternate member to the composition of the board;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, THAT:

Section 1. Subsection (a) of the Composition; term; qualifications, set forth in Ordinance No. 43, Series of 2007 is hereby amended to increase the number of alternates to the Commission from one (1) to two (2).

All other provisions of Ordinance No. 43, Series of 2007 shall remain in full force and effect.

Section 2. Severability

If any section, subsection, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and shall not affect the validity of the remaining portions thereof.

Section 3. Public Hearing

A public hearing on the ordinance shall be held on the 12th day of August 2019, in the City Council Chambers, Aspen City Hall, Aspen, Colorado.

INTRODUCED, READ, AND ORDERED PUBLISHED as provided by law by the City Council
of the City of Aspen on the 22nd day of July 2019.

ATTEST:

Linda Manning, City Clerk

Torre, Mayor

FINALLY adopted, passed and ordered published this 12th day of August 2019.

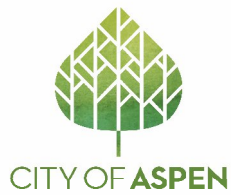
ATTEST:

Linda Manning, City Clerk

Torre, Mayor

APPROVED AS TO FORM:

James R. True, City Attorney



MEMORANDUM

TO: Mayor and City Council

FROM: Linda Manning, City Clerk

MEMO DATE: August 5, 2019

MEETING DATE: August 12, 2019

RE: Letter to Senator Donovan regarding funding the Colorado Water Plan

REQUEST OF COUNCIL: Council has been asked to sign the letter to Senator Donovan regarding funding the Colorado Water Plan.

SUMMARY AND BACKGROUND: Erin Riccio with Conservation Colorado reached out to Councilwoman Mullins regarding support for funding of the Colorado Water Plan (CWP). Conservation Colorado would like to prioritize water conservation by finding a sustainable source of funding for the CWP. The plan was created by Governor Hickenlooper as a way to prepare the state for its future water needs amid drought and a growing population.

DISCUSSION: The letter to Senator Donovan is simply to commence the conversation early with our state legislators to prioritize water conservation and funding for the CWP in the next legislative session. Staff is asking for Council to sign the letter as is written.

CITY MANAGER COMMENTS:



August 8, 2019

kerry.donovan.senate@state.co.us
kerry.donovan.sd5@gmail.com

Senator Kerry Donovan
State Capitol Building
200 E. Colfax Ave #339
Denver CO 80203

RE: Funding the Colorado Water Plan

Dear Senator Donovan:

Aspen is known for its accessible yet pristine environment, unparalleled recreational opportunities, and a quality of life that is near perfect. Our water resources are the key element to all of that. However, a variable climate and a growing population of residents and visitors – in Aspen and in the entire state of Colorado – threaten our ability to protect and preserve our most precious resource...water.

The Colorado Water Plan is the product of decades of statewide negotiations and collaboration. It was conceived to address the looming gap between available water supplies and projected water demands. Addressing this gap is critical to Aspen as we face a vulnerable future where our supplies may not be sufficient to meet forecasted demands. Aspen currently has less than one day of storage available to meet its water needs. Any increase in demand or threat to our supplies could impact our ability to serve water to our residents and visitors. Additional storage in Aspen is a high priority in the Colorado Basin Implementation Plan as part of the overall Colorado Water Plan.

The Plan also identifies the need to protect and conserve water for environmental and recreational benefits – essential components of Aspen's economy and quality of life. Flows in the stretch of the Roaring Fork River in Aspen are significantly altered due to trans-basin diversions, resulting in an inability to meet the environmental and recreational flow needs of the river in even average years. Aspen recently sponsored and participated in a Stream Management Plan to begin to understand how to address those concerns. However, the City does not have funding to support significant operational changes or new projects.

While Aspen is a water leader in so many ways – we created the State's first QWEL (Qualified Water Efficient Landscaper) certification program – like our sister cities, we, too, have needs that surpass our funding resources. We applaud the State for taking the initiative in 2015 to create the Colorado Water Plan which addresses the need to balance demands with responsible use of this important resource. Now it's time to fund it. Creating

storage, increasing efficiencies, and improving the watershed are projects that are identified and supported in the Colorado Water Plan. Securing funding to complete these projects is critical to Aspen's future. Funding water projects is not cheap, but if we don't move quickly to fund solutions we may end-up with problems that money can't solve!

We are grateful to have thoughtful and hard-working legislators like you in office. We respectfully encourage you and our fellow legislators to find a long-term, sustainable source of funding for the Colorado Water Plan. We also implore you establish a robust, open, transparent, and state-wide process for prioritizing projects that receive funding and support from the state level.

Sincerely,

Torre, MAYOR, CITY OF ASPEN

Skippy Mesirow, Ann Mullins, Ward Hauenstein, Rachael Richards, CITY COUNCIL



MEMORANDUM

TO: Mayor and City Council
FROM: Linda Manning, City Clerk
THROUGH: Jim True, City Attorney
MEMO DATE: August 5, 2019
MEETING DATE: August 12, 2019
RE: Potential meeting day change for regular council meetings.

REQUEST OF COUNCIL: Staff is requesting additional feedback on the potential change of the day of the week for regular city council meetings.

SUMMARY AND BACKGROUND: During the City Council retreat the topic of changing the regular meeting day for City Council meetings was discussed. Holding regular meetings on Tuesday would permit additional time for Council to read packet materials and follow up with staff. Section 4.1 of the Charter states “the council shall meet regularly at least twice each month at a day and hour to be fixed by the rules of council”.

DISCUSSION: Staff has discussed the possible change with Grassroots to determine whether they will be able to staff the change as well as the live broadcast schedule. The Board of County Commissioners (BOCC) hold their meetings on Tuesday and have priority when it comes to the live broadcast. Typically, those meetings are finished by 5:00 p.m. However, if the meetings go beyond the start time of the Council meeting the Council meeting would not be aired live on Grassroots tv until the BOCC meeting finishes. This would not affect the live broadcast on the City website or Facebook. Grassroots can more than likely accommodate any change the Council would like to the meeting day and time.

If Council desires to change the meeting day, due to public notice requirements for land use applications, Staff is recommending the change not occur prior to October 1.

FINANCIAL IMPACTS: None

ENVIRONMENTAL IMPACTS: None

ALTERNATIVES: Council could choose to keep the regular meeting schedule as is, second and fourth Monday at 5p.m. or choose another day and or time.

RECOMMENDATIONS: Staff is looking for direction from Council related to a potential change in the day of the week for regular meetings.

CITY MANAGER COMMENTS: