

AGENDA

CITY COUNCIL SPECIAL MEETING

June 15, 2020

5:30 PM, City Council Chambers



I. CALL TO ORDER

II. ROLL CALL

III. RESOLUTIONS

Resolution #053, Series of 2020 - Resolution to Consider an Intergovernmental Agreement with the City of Aspen, Pitkin County, Town of Basalt and Town of Snowmass Village for a grant application for CARES Act reimbursements.

Resolution #054, Series of 2020 - Extending Resolution #40, Series of 2020, as amended and extended pursuant to Resolution #43, Series of 2020 regarding the requirement to wear face coverings under certain circumstances and in certain places within the City of Aspen

IV. CITY MANAGER UPDATE

City Manager Update

V. EXECUTIVE SESSION

Pursuant to C.R.S.4-6-402 (4)(b) Conferences with an attorney for the local public body for the purposes of receiving legal advice on specific legal questions. The specific legal question regards the Colorado Open Meetings Law and an update on litigation, Burlingame II v. City of Aspen; and,

(4) (f) Personnel Matters, specifically the review and contract of Sara Ott.

VI. ADJOURN



Memorandum

To: Aspen City Council
From: Sara Ott, City Manager
Date: June 12, 2020
Re: Consideration of an Intergovernmental Agreement to seek CARES Act Funding

Request of Council: It is requested City Council consider applying for a grant jointly with Pitkin County, Town of Snowmass Village, and Town of Basalt to seek reimbursement of COVID-related expenses through the Colorado Department of Local Affairs. In consideration of applying jointly, the county and city/town managers are proposing a sharing formula for any funds received from the grant.

Background: Governor Polis signed Executive Order D 2020 070 directing a portion of the State's CARES Act distribution be made available to local governments to cover costs associated with COVID-19. The state requires counties and the municipalities within them to reach agreement on how funds will be distributed among local jurisdictions and to apply for the county's per-capita allocation of CARES Act funding based on this agreement. Time is scheduled to discuss a draft IGA developed by staff, and if desired by Council, to pass a resolution authorizing the city manager to enter into an IGA for these purposes.

On March 27 Congress adopted the Coronavirus Aid, Relief and Economic Security (CARES) Act, which established a \$150 billion Coronavirus Relief Fund. Colorado received \$1.6 billion in CARES Act funding. Under the federal legislation only local governments with a population of 500,000 or more were guaranteed a per capita share of CARES Act funding. Distribution of CARES Act funds to smaller communities is at the discretion of the states.

Governor Polis issued Executive Order D 2020 070 on May 18th directing the expenditure of CARES Act funding in Colorado, of which \$275 million is available for local governments with populations under 500,000. The Colorado Department of Local Affairs is responsible for distributing the \$275 million as follows:

- Counties and municipalities - \$219,120,000
- Special Districts - \$27,390,000
- Reserve (use TBD) - \$27,390,000
- DOLA indirect (0.4%) - \$1,100,000

The \$219,120,000 for counties and municipalities has been allocated to each county based on population. Pitkin County's allocation for all local governments is \$1,524,180. Counties and municipalities are required to collaborate within each county on requested funding. The funding

period is March 1, 2020 to December 30th, 2020 - any CARES Act funding not expended in this timeframe must be returned to the federal government.

DOLA has set the opt-in period for June 3 through July 7th, during which time each county must submit an agreed upon allocation plan to be eligible for CARES Act funding. All proposed expenditures that qualify for CARES act funding must be:

1. necessary expenditures incurred due to the COVID-19 public health emergency (COVID-19 emergency);
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

The attached draft IGA is based on discussions between the county and municipal staff on how to allocate CARES Act funding in Pitkin County. All jurisdictions have made emergency appropriations and are making expenditures that qualify for CARES Act reimbursement. Staff is proposing that funds be split as follows: 55% to Pitkin County and 45% to municipalities divided on a per-capita basis. Under this methodology county and municipal funding would be as follows:

- **Pitkin County: \$833,050** (reimbursable expenses include case investigation contact tracing, consumer protection, epidemiology, emergency cash assistance, PPE, testing, IMT/EOC staffing, etc.,).
- **Aspen (7,343, 2018 population): \$454,782** (reimbursable expenses include emergency cash assistance, IMT/EOC support, new staffing costs for COVID response, etc.)
- **Snowmass Village (2,784, 2018 population): \$170,903** (reimbursable expenses include emergency cash assistance, un-budgeted expenditures supporting IMT/EOC, etc.)
- **Basalt (976, 2018 population in Pitkin): \$59,914** (emergency cash assistance, un-budgeted expenditures supporting IMT/EOC, etc.).

The 55%/45% split between counties was used by Jefferson, Adams and El Paso counties who were among the first local governments in Colorado to receive CARES Act funding. It also mirrors the per capita ratio between the state and five large counties that qualified for a direct distribution.

Today staff is looking for agreement on the methodology to divide CARES Act funding between the County and municipalities. This will allow the County to submit a proposal to “opt in” for CARES Act reimbursements on behalf of all entities within Pitkin County. We have a limited amount of time to reach agreement on the distribution method, so this item has been brought forward in special session.

Financial considerations: This partnership and IGA would provide the most expeditious route for preparing and submitting a grant application for the communities in Pitkin County to receive partial relief of the costs of responding to COVID-19. The City of Aspen has expended well in

excess of the estimated \$454,782 available for reimbursement under this proposed 55%/45% per capita split.

Alternatives: The City of Aspen could file a separate grant application, however, the county and municipalities would still need to agree on the sharing formula. I do not anticipate that filing a separate application would positively increase Aspen's reimbursements.

Recommendation: Staff seeks Council's direction on the proposed sharing formula and having Pitkin County be the lead applicant for the grant. Staff recommends this formula and joint application.

Additional City Manager Comments: I want to acknowledge Pitkin County's assistance with portions of this staff report and for providing leadership in ensuring all the municipalities are up to date on this funding opportunity. – SGO

Attachments: Proposed IGA

RESOLUTION NO. 53
(Series of 2020)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, APPROVING AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE CITY OF ASPEN, THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, THE TOWN COUNCIL OF BASALT, COLORADO, AND THE TOWN COUNCIL OF SNOWMASS VILLAGE FOR CORONAVIRUS RELIEF FUND (CVRF) LOCAL GOVERNMENT DISTRIBUTION IN PITKIN COUNTY.

WHEREAS, there has been submitted to the City Council an Intergovernmental Agreement by and between the City of Aspen, the Board of County Commissioners of Pitkin County, the Town Council of Basalt, Colorado, and the Town Council of Snowmass Village for Coronavirus Relief Fund (CVRF) Local Government Distribution In Pitkin; and

WHEREAS, the City Council has also determined that the distribution of funds pursuant to this Intergovernmental Agreement is in the best interest of the City of Aspen.

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 Intergovernmental Agreement by and between the City of Aspen, the Board of County Commissioners of Pitkin County, the Town Council of Basalt, Colorado, and the Town Council of Snowmass Village For Coronavirus Relief Fund (CVRF) Local Government Distribution a draft of which is attached hereto and does hereby authorize the Mayor and City Manager of the City of Aspen to execute a final agreement on behalf of the City of Aspen in substantially the form attached hereto, subject to the approval of the City Manager and the City Attorney.

INTRODUCED, READ AND ADOPTED by the City Council of the City of Aspen
on the 15th day of June 2020.

Torre, Mayor

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

Nicole Henning, City Clerk

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INTERGOVERNMENTAL AGREEMENT For Coronavirus Relief Fund (CVRF) Local Government Distribution in Pitkin County

THIS INTERGOVERNMENTAL AGREEMENT (the “Agreement”) is made this _____ day of _____, 2020 by and between the Board of County Commissioners of Pitkin County, Colorado, whose address is 530 East Main Street, Suite 302 Aspen, Colorado 81611 (“the County”) and the City Council of Aspen Colorado, whose address is 130 S Galena Street, Aspen CO, 81611 (“the City of Aspen”) and The Town Council of Basalt, Colorado, whose address is 101 Midland Avenue, Basalt, Colorado, 81621 (“the Town of Basalt) and the Town Council of Snowmass Village, Colorado whose address is 130 Kearns Rd., Snowmass Village, Colorado, 81615 (“the Town of Snowmass Village”) (such municipal governments collectively referred to as the “Local Government”).

RECITALS

WHEREAS, This Agreement is entered into pursuant to, *inter alia*, C.R.S. §§ 29-1-201, *et seq.*, and Article XIV, Section 18 of the Colorado Constitution.

- A. WHEREAS, on January 30, 2020, the World Health Organization declared the worldwide outbreak of COVID-19 a public health emergency of international concern;” and on January 31, 2020, the United States Department of Health and Human Services declared the virus a public health emergency; and
- B. WHEREAS, on March 8, 2020, the Colorado Department of Public Health and Environment (CDPHE) confirmed a case of COVID-19 within Pitkin County and public health experts anticipate that due to the contagiousness of the illness and the fact that numerous travelers from around the world visit Pitkin County, that the county is a higher risk of COVID-19 spread; and
- C. WHEREAS, on March 12, 2020, pursuant to C.R.S. § 24-33.5-709(1), Pitkin County declared a local disaster emergency because the cost and magnitude of responding to and recovering from the impact of the pandemic is expected to exceed Pitkin County’s available resources; and
- D. WHEREAS, the effect of a declaration of local disaster emergency is to activate the response and recovery aspects of any and all applicable local and interjurisdictional disaster and emergency plans and to authorize the furnishing of aid and assistance under such plans, as set forth in C.R.S. § 24-33.5-709(2); and
- E. WHEREAS, the Board of County Commissioners adopted a Resolution on March 17, 2020 extending Pitkin County’s local disaster declaration until rescinded by the Board;

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- F. WHEREAS, the conditions that spurred the local disaster emergency declaration have not abated, as the virus continues to spread within the community and the virus has created a myriad of economic distresses and unanticipated costs in American society to individuals and families, to businesses, and to state and local governments addressing the pandemic's effects; and
- G. WHEREAS, on March 27, 2020, the United States Congress adopted the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, div. A, Title V (the "CARES Act"), which established a \$150 billion Coronavirus Relief Fund (the "Fund"); and
- H. WHEREAS, pursuant to the CARES Act, the United States Treasury ("Treasury") will make payments from the Fund to States who are responsible for determining how funds will be distributed to local governments with a population under 500,000 people; and
- I. WHEREAS, Governor Polis issued EXECUTIVE ORDER D 2020 070 Directing the Expenditure of Federal Funds Pursuant to the Coronavirus Aid, Relief, and Economic Security Act of 2020, of which \$275 million is available for distribution to counties and municipalities with populations under 500,000; and
- J. WHEREAS, to be eligible for funds under EXECUTIVE ORDER D 2020 070 the county and all municipalities within the county must agree on how funds will be distributed; and
- K. WHEREAS, pursuant to Section 18(2) of Article XIV of the Colorado Constitution and C.R.S. 29-1-203, as amended, the Local Government and the County have the authority to enter into intergovernmental agreements and authorizes governments
- L. to cooperate by contracting with one another for their mutual benefit; and
- M. WHEREAS, the Local Government and the County are governmental entities, each with authority to provide resources and services to citizens contemplated under the CARES Act as a result of public health emergencies within their respective boundaries; and
- N. WHEREAS, Pitkin County, City of Aspen, Town of Snowmass Village and Town of Basalt desire to enter into an agreement on the distribution of the CARES Act Funds pursuant and subject to the terms of this Agreement.

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AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises and agreements of the parties and other good and valuable consideration, the adequacy and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Funding.** The County will submit a request for CARES Act Funding under EXECUTIVE ORDER D 2020 070 to the Colorado Department of Local Affairs. Upon receipt of funds the County will disburse funds to municipalities as further described in this agreement.

2. **The Local Government's Share of the Fund.** The County and the Local Government hereby agree that the Local Government's share of the Fund shall be divided as follows:
 - a. The county shall receive 55% of CARES Act Funds awarded to Pitkin County;
 - b. 45% of CARES Act Funds awarded to Pitkin County shall be distributed to municipalities based on each jurisdiction's population living in Pitkin County as determined by the most recent 2018 estimates from the State Demographer's Office:

	2018 Population from State Demographer	% of Municipal Population in Pitkin County	% of Total Distribution
Aspen	7,343	66%	30%
Snowmass Village	2,784	25%	11%
Basalt (Pitkin County Only)	976	9%	4%

3. **The Local Government's Obligation.** By signing this Agreement, each Local Government hereby certifies that the Local Fund Distribution Amount will be used by the Local Government only to cover those costs and expenses that are eligible expenses in compliance with the CARES Act and:
 - a. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
 - b. were not accounted for in the budget most recently approved as of March 27, 2020, for the Local Government; and

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- c. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020 (collectively, “Eligible Expenses”).

4. Use of Funds and Reporting.

- a. Use of Funds. On or before December 30, 2020, the Local Government shall use the Local Fund Distribution Amount for Eligible Expenses in accordance with local, state and federal law, including all U.S. Department of Treasury guidance relating to the CARES Act. And each jurisdiction agrees to return to the Colorado Department of Local Affairs all unused amounts of the Local Fund Distribution Amount in its possession as of December 30, 2020.
- b. Expenditures and Accounting. The CARES Act imposes expenditure and accounting obligations upon local governments receiving CARES Act funds. The Local Government agrees to be responsible for ensuring that it spends, documents, and accounts for its portion of the CARES Act Fund received in strict compliance with the CARES Act requirements. Because the CARES Act is recent legislation, the Parties anticipate that additional federal legislation, rules, and regulations may be promulgated regarding the expenditure and accounting requirements. Each Local Government agrees to familiarize itself with, and shall adhere to, all current and subsequent legislation, rules, and regulations.
- c. Audit. The Local Government also agrees to fully and completely cooperate with the County in any audit of the CARES Act funding provided to the Local Government pursuant to this Agreement. If the County incurs legal expenses relating to an audit of the Local Government’s expenditure of the Local Fund Distribution Amount, the Local Government agrees to pay the County’s reasonable attorneys’ fees and costs associated with such audit and/or any legal action in which the Local Government is alleged to have used the CARES Act funding for Local Government’s ineligible expense.
- d. Return of Unused Funds. The Parties acknowledge that the CARES Act requires Local Governments to return all Funds that have not been spent as of December 30, 2020. For purposes of this Agreement, “spent” means that a Local Government has paid for and received the goods or services and actually expended the funds. Ordering or contracting to receive goods or services is not considered “spent” for purposes of this Agreement. All goods and services purchased with CARES Act Funding must be received on or before December 30, 2020. For any grants issued by the Local Government using CARES Act Funding, the term “spent” means that the grant funding must be distributed by the Local Government to the recipient on or before December 30, 2020.
- e. To ensure that the maximum amount of CARES Act Funds are expended by this deadline for the benefit of Pitkin County residents and businesses, the Local Government agrees to work with the other parties to this agreement to determine

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whether any of its Local Fund Distribution Amount will not be expended as of December 30, 2020. To ensure that the maximum amount of funds are utilized by the deadline, the Local Government agrees to distribute unused portions of CARES Act funds to another party to this agreement with qualifying expenses. Any unreturned, unused amount of the Local Government's Local Fund Distribution in the Local Government's possession as of December 30, 2020, must be returned to the United States Department of Treasury per the terms of the CARES Act.

5. Non-Compliance. In the event the Local Government fails to comply with any of the requirements of the CARES Act with respect to the Local Fund Distribution Amount, the federal government may seek reimbursement of such funds. If the federal government seeks reimbursement of all or a portion of the Local Fund Distribution Amount spent by the Local Government, the Local Government shall be solely responsible for reimbursing said funds to the federal government.
6. Term. This Agreement begins on the date of full execution by the Parties to this Agreement and shall expire on June 30, 2021. The Parties, however, acknowledge all continuing performance obligations, related to record retention as required by the federal government. Local Government agrees to execute an extension of this Agreement timely and in good faith as may be necessitated. The County reserves the right to terminate this Agreement at any time if the Local Government is not in material compliance with the terms hereof.
7. Assignability. This agreement is not assignable by any party.
8. Modification. This Agreement may be changed or modified only in writing by an agreement approved by the respective Boards of the Governments and signed by authorized officers of each party.
9. Entire Agreement. This Agreement constitutes the entire Agreement between the parties and all other promises and agreements relating to the subject of this Agreement, whether oral or written, are merged herein.
10. Severability. Should any one or more sections or provisions of this Agreement be judicially adjudged invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remaining provisions of this Agreement, the intention being that the various sections and provisions hereof are severable.
11. Termination Prior to Expiration of Term. Any Party has the right to terminate or withdraw from this Agreement, with or without cause, by giving written notice to the other Parties of such termination and specifying the effective date thereof. Such notice shall be given at least ten (10) days before the effective date of such termination. Termination of the Agreement relieves the cancelling or withdrawing

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Party of any further responsibility under this Agreement except for specifically identified obligations of a continuing nature based upon past performance under the Agreement.

12. Notice. Any notice required or permitted under this Agreement shall be in writing and shall be provided by electronic delivery to the e-mail addresses set forth below *and* by one of the following methods 1) hand-delivery or 2) registered or certified mail, postage pre-paid to the mailing addresses set forth below. Each party by notice sent under this paragraph may change the address to which future notices should be sent. Electronic delivery of notices shall be considered delivered upon receipt of confirmation of delivery on the part of the sender. Nothing contained herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service of a summons or other legal process.

To: Pitkin County

With copies to:

Pitkin County Attorney's Office 530
East Main Street, Ste. 301
Aspen, CO 81611
attorney@pitkincounty.com

To: City of Aspen

With copies to:

Aspen City Manager
130 S Galena Street
Aspen CO, 81611

To: Town of Basalt

With copies to: Basalt

Town Manager
101 Midland Avenue
Basalt CO, 81621

To: Town of Snowmass Village

With copies to:

Snowmass Village Town Manager
130 Kearns Rd.
Snowmass Village, CO 81615

13. Government Immunity. The parties agree and understand that all parties are relying on and do not waive, by any provisions of this Agreement, the monetary limitations or terms or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101, et seq., as from

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time to time amended or otherwise available to the parties or any of their officers, agents, or employees.

14. Current Year Obligations. The parties acknowledge and agree that any payments provided for hereunder or requirements for future appropriations shall constitute only currently budgeted expenditures of the parties. The parties' obligations under this Agreement are subject to each individual party's annual right to budget and appropriate the sums necessary to provide the services set forth herein. No provision of this Agreement shall be construed or interpreted as creating a multiple fiscal year direct or indirect debt or other financial obligation of either or both parties within the meaning of any constitutional or statutory debt limitation. This Agreement shall not be construed to pledge or create a lien on any class or source of either parties' bonds or any obligations payable from any class or source of each individual party's money.
15. Binding Rights and Obligations. The rights and obligations of the parties under this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.
16. Agreement made in Colorado. This Agreement shall be construed according to the laws of the State of Colorado, and venue for any action shall be in the District Court in and for Pitkin County, Colorado.
17. Attorney Fees. In the event that legal action is necessary to enforce any of the provisions of this Agreement, the substantially prevailing party, whether by final judgment or out of court settlement, shall recover from the other party all costs and expenses of such action or suit including reasonable attorney fees.
18. No Waiver. The waiver by any party to this Agreement of any term or condition of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any party.
19. Authority. Each person signing this Agreement represents and warrants that said person is fully authorized to enter into and execute this Agreement and to bind the party it represents to the terms and conditions hereof.

The foregoing Agreement is approved by the Board of County Commissioners Pitkin County, Colorado at its regular meeting held on the _____ day of _____, 2020.

The foregoing Agreement is approved by the Aspen City Council at its regular meeting held on the _____ day of _____, 2020.

The foregoing Agreement is approved by the Basalt Town Council at its regular meeting held on the _____ day of _____, 2020.

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The foregoing Agreement is approved by the Snowmass Village Town Council at its regular meeting held on the _____ day of _____, 2020.

In Witness whereof, the parties hereto have caused this agreement to be executed as of the day and year first above written.

[NAME OF OTHER GOVERNMENTAL AGENCY]

By: _____
[Title]

BOARD OF COUNTY COMMISSIONERS
COUNTY, COLORADO

APPROVED AS TO FORM OF PITKIN

By: _____
Steven F. Child, Chair

By: _____
John Ely, County Attorney Manager

Approval:

By: _____
Jon Peacock, County Manager

[Add signature lines for municipalities]



MEMORANDUM

To: Mayor and City Council
From: James R. True, City Attorney
Date: June 12, 2020
RE: Resolution #54, Series of 2020 (Extension of Resolution #40 and Resolution #43, regarding Face Coverings)

Request of Council: To consider the adoption of Resolution #54, Series of 2020, which would extend the City requirement, adopted in Resolution #40, Series of 2020, and amended and extended pursuant to Resolution #43, Series of 2020, for individuals to wear face coverings under certain circumstances and in certain places.

Background: At a Special Meeting held on April 27, 2020 City Council considered Resolution #40, 2020 proposing a public health order requiring the use of face coverings within the City of Aspen to help slow the spread of the COVID-19 virus. The Resolution was proposed and adopted pursuant to the legal authority set forth in C.R.S. Section 31-15-401(b), as well as all other applicable laws, rules, regulations, orders and declarations. Under this authority, the City of Aspen has the police powers “[t]o do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease” within the territorial limits of the City of Aspen. At the time it was noted that the nearby City of Glenwood Spring recently adopted a similar order.

Resolution #40, had a sunset provision stating that it “will remain in effect until May 27, 2020, unless extended by Council.” Resolution #43 amended and extended Resolution #40 until June 17, 2020. Resolutions #40 and #43 are attached.

Discussion: Resolution #54, attached, proposes extending the requirement that individuals wear face coverings in certain places within Aspen. At this point, the time frame for the extension is left undetermined. Staff has no specific recommendation for the extension. Council may determine the expiration date at its special meeting set for June 15, 2020, when this item will be presented. No changes to the regulations are proposed.

Recommendation: The City Attorney’s Office makes no recommendation regarding the adoption of Resolution #54, Series of 2020.

RESOLUTION NO. 54
(Series of 2020)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO,
EXTENDING THE PUBLIC HEALTH ORDER OF THE CITY OF ASPEN, COLORADO FOR
THE PROMOTION OF HEALTH AND SUPPRESSION OF DISEASE TO REQUIRE FACE
COVERINGS WITHIN THE CITY OF ASPEN

WHEREAS, on April 27, 2020, pursuant to the Colorado Disaster Emergency Act, C.R.S., Section 24-33.5-701, *et seq.*, the City of Aspen (“City”) adopted Resolution No. 40 (Series of 2020) which mandated Face Coverings under certain circumstances and in certain locations; and

WHEREAS, Resolution No. 40, Series of 2020, was effective as of 6:00 a.m. on April 29, 2020, and is to remain in effect until May 27, 2020, unless extended by Council; and

WHEREAS, Resolution No. 43, Series of 2020, amended and extended Resolution No. 40, Series of 2020, until June 17, 2020, unless further extended by Council; and

WHEREAS, this extension of the Public Health Order is being issued to limit the health impacts of COVID-19. This Order sets forth requirements for the public to utilize face coverings inside of public places, to slow the spread of the COVID-19 virus; and

WHEREAS, this Order is adopted pursuant to the legal authority set forth in C.R.S. Section 31-15-401(b), as well as all other applicable laws, rules, regulations, orders and declarations. Under this authority, the City of Aspen has the police powers “[t]o do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease” within the territorial limits of the City of Aspen. Immediate issuance of this Order is deemed reasonable and necessary under the existing circumstances and necessary for the preservation of the public health, safety and welfare; and

WHEREAS, the City’s authority to issue this Order is in addition to that exercised by the Governor of Colorado, State of Colorado Department of Public Health and Environment, and Pitkin County Department of Public Health; and

WHEREAS, the Centers for Disease Control and Prevention recommendation to wear face coverings in public settings to prevent the spread of COVID-19 remains in effect; and

WHEREAS, the City finds that continuing the Public Health Order set forth in Resolution No. 40, Series of 2020, will limit the cascading impacts on critical services by limiting spread of COVID-19. This Order and actions will help hospitals, first responders, and other healthcare services continue to provide services for those who need them (along with utilities, human services, and businesses) in the coming weeks and months. Collective action can save lives and is in support of the most vulnerable in our community; and

WHEREAS, the City of Aspen continues to make a best faith effort to educate its citizens on the benefits of face coverings and will distribute face coverings free of charge to those in need to the best of its ability; and

WHEREAS, the City Council finds that it is appropriate and in the interests of the public health, safety, and welfare and would further protect property and civil order, for the City Council to extend the Public Health Order set forth in Resolution No. 40, Series of 2020 and amended and extended by Resolution No. 43, Series of 2020.

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

That the City Council hereby extends the Public Health Order issued in Resolution No. 40, Series of 2020, as amended and extended by Resolution No. 43, Series of 2020, until _____, unless extended further by City Council.

All other terms, conditions and obligations set forth in Resolution No. 40, Series of 2020, as amended by Resolution No. 43, Series of 2020, shall remain in full force and effect.

INTRODUCED, AND ADOPTED by the City Council of the City of Aspen on the 15th day of June 2020, at ____ p.m., Mountain Daylight Time.

Torre, Mayor

I, Nicole Henning, duly appointed and acting City Clerk do certify that the foregoing is a true and accurate copy of that resolution adopted by the City Council of the City of Aspen, Colorado, at a meeting held on May 26, 2020.

Nicole Henning, City Clerk

THE PUBLIC IS DISCOURAGED FROM ATTEMPTING TO ACQUIRE HEALTH CARE AND INDUSTRIAL FACE COVERINGS THAT ARE NECESSARY TO PROTECT HEALTH CARE WORKERS DURING THE COVID-19 PANDEMIC.

RESOLUTION NO. 43
(Series of 2020)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO,
EXTENDING THE PUBLIC HEALTH ORDER OF THE CITY OF ASPEN, COLORADO FOR
THE PROMOTION OF HEALTH AND SUPPRESSION OF DISEASE TO REQUIRE FACE
COVERINGS WITHIN THE CITY OF ASPEN

WHEREAS, on April 27, 2020, pursuant to the Colorado Disaster Emergency Act, C.R.S., Section 24-33.5-701, *et seq.*, the City of Aspen (“City”) adopted Resolution No. 40 (Series of 2020) which mandated Face Coverings under certain circumstances and in certain locations; and

WHEREAS, Resolution No. 40, Series of 2020, was effective as of 6:00 a.m. on April 29, 2020, and is to remain in effect until May 27, 2020, unless extended by Council; and

WHEREAS, this Public Health Order is being issued to limit the health impacts of COVID-19. This Order sets forth requirements for the public to utilize face coverings inside of public places, to slow the spread of the COVID-19 virus; and

WHEREAS, this Order is adopted pursuant to the legal authority set forth in C.R.S. Section 31-15-401(b), as well as all other applicable laws, rules, regulations, orders and declarations. Under this authority, the City of Aspen has the police powers “[t]o do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease” within the territorial limits of the City of Aspen. Immediate issuance of this Order is deemed reasonable and necessary under the existing circumstances and necessary for the preservation of the public health, safety and welfare; and

WHEREAS, the City’s authority to issue this Order is in addition to that exercised by the Governor of Colorado, State of Colorado Department of Public Health and Environment, and Pitkin County Department of Public Health; and

WHEREAS, the Centers for Disease Control and Prevention recommendation to wear face coverings in public settings to prevent the spread of COVID-19 remains in effect; and

WHEREAS, the City finds that continuing the Public Health Order set forth in Resolution No. 40, Series of 2020, will limit the cascading impacts on critical services by limiting spread of COVID-19. This Order and actions will help hospitals, first responders, and other healthcare services continue to provide services for those who need them (along with utilities, human services, and businesses) in the coming weeks and months. Collective action can save lives and is in support of the most vulnerable in our community; and

WHEREAS, the City of Aspen continues to make a best faith effort to educate its citizens on the benefits of face coverings and will distribute face coverings free of charge to those in need to the best of its ability; and

WHEREAS, the City Council finds that it is appropriate and in the interests of the public health, safety, and welfare and would further protect property and civil order, for the City Council to extend the Public Health Order set forth in Resolution No. 40, Series of 2020.

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

That the City Council hereby extends the Public Health Order issued in Resolution No. 40, Series of 2020, requiring the use of face coverings, until June 17, 2020, unless extended further by City Council. As a condition of this extension and to be consistent with Public Health Orders issued by Pitkin County and the State of Colorado, Section 2, Resolution No. 40, Series of 2020, is hereby amended to read as follows:

Section 2. Face Coverings required.

All persons shall wear Face Coverings:

- a. when entering and while inside of a place of business or mode of transportation open to the public, with the exception that individuals who have entered a restaurant or bar open pursuant to Pitkin County or State regulations may remove face covering as allowed by such regulations, and
- b. in such other indoor or outdoor places where persons are unable to maintain safe social distancing (six or more feet separation for a period of more than ten minutes) from others not of their own household.

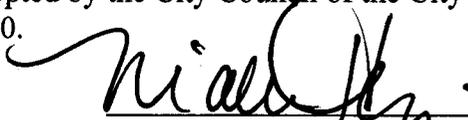
All other terms, conditions and obligations set forth in Resolution No. 40, Series of 2020 shall remain in full force and effect.

INTRODUCED, AND ADOPTED by the City Council of the City of Aspen on the 26th day of May 2020, at 5 p.m., Mountain Daylight Time.



Torre, Mayor

I, Nicole Henning, duly appointed and acting City Clerk do certify that the foregoing is a true and accurate copy of that resolution adopted by the City Council of the City of Aspen, Colorado, at a meeting held on May 26, 2020.



Nicole Henning, City Clerk

THE PUBLIC IS DISCOURAGED FROM ATTEMPTING TO ACQUIRE HEALTH CARE AND INDUSTRIAL FACE COVERINGS THAT ARE NECESSARY TO PROTECT HEALTH CARE WORKERS DURING THE COVID-19 PANDEMIC.

RESOLUTION NO. 40
(Series of 2020)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO,
ADOPTING A PUBLIC HEALTH ORDER OF THE CITY OF ASPEN, COLORADO FOR
THE PROMOTION OF HEALTH AND SUPPRESSION OF DISEASE TO REQUIRE FACE
COVERINGS WITHIN THE CITY OF ASPEN

WHEREAS, pursuant to the Colorado Disaster Emergency Act, C.R.S., Section 24-33.5-701, et seq., the City of Aspen (“City”) has identified a local disaster currently present in the City, to wit, the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from COVID-19 requiring emergency action to avert danger or damage and to protect public health; and

WHEREAS, the Colorado Governor Jared Polis and Colorado Department of Public Health and Environment have indicated the likelihood of community transmission of COVID-19 within the City of Aspen on March 11, 2020; and

WHEREAS, pursuant to C.R.S. Section 24-33.5-709, Aspen Municipal Code Chapter 4.12, and the emergency management and operations plans and resolutions of Aspen, Colorado, on March 12, 2020, at 14:07 Mountain Daylight Time, the City Manager declared a local disaster emergency; and

WHEREAS, the City Council ratified and extended such declaration the 13th day of March 2020, at 3:21 p.m., Mountain Daylight Time; and

WHEREAS, this Public Health Order is being issued to limit the health impacts of COVID-19. This Order sets forth requirements for the public to utilize face coverings inside of public places, to slow the spread of the COVID-19 virus; and

WHEREAS, this Order is adopted pursuant to the legal authority set forth in C.R.S. Section 31-15-401(b), as well as all other applicable laws, rules, regulations, orders and declarations. Under this authority, the City of Aspen has the police powers “[t]o do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease” within the territorial limits of the City of Aspen. Immediate issuance of this Order is deemed reasonable and necessary under the existing circumstances and necessary for the preservation of the public health, safety and welfare; and

WHEREAS, the City’s authority to issue this Order is in addition to those exercised by the Governor of Colorado, State of Colorado Department of Public Health and Environment, and Pitkin County Department of Public Health; and

WHEREAS, the Centers for Disease Control and Prevention recommends wearing face coverings in public settings to prevent the spread of COVID-19.

WHEREAS, the City finds that these actions will limit the cascading impacts on critical services by limiting spread of COVID-19. This Order and actions will help hospitals, first responders, and other healthcare services continue to provide services for those who need them

(along with utilities, human services, and businesses) in the coming weeks and months. Collective action can save lives and is in support of the most vulnerable in our community; and

WHEREAS, the City of Aspen will make a best faith effort to educate its citizens on the benefits of face coverings and will distribute face coverings free of charge to those in need to the best of its ability; and

WHEREAS, the City Council finds that it is appropriate and in the interests of the public health, safety, and welfare and would further protect property and civil order, for the City Council to adopt this Public Health Order.

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

That the City Council hereby adopts the following Public Health Order:

Section 1. Definitions.

Face Covering shall mean a uniform piece of material that securely covers a person's nose and mouth and remains affixed in place without the use of one's hands.

Section 2. Face Coverings required.

All persons shall wear Face Coverings:

- a. when entering and while inside of a place of business or mode of transportation open to the public, and
- b. in such other indoor or outdoor places where persons are unable to maintain safe social distancing (six or more feet separation) from others not of their own household.

Section 3. Exceptions.

Nothing herein shall require the wearing of face coverings by the following persons:

- a. Persons under the age of two years; and
- b. Persons for whom a face covering would cause impairment due to an existing health condition.
- c. Persons working in a professional office who do not have any face-to-face interactions with the public.

Section 4. General Information for all Persons.

The Centers for Disease Control and Prevention encourages individuals to wear cloth Face Coverings that:

- a. fit snugly but comfortably against the side of the face;
- b. are secured with ties or ear loops;
- c. include multiple layers of fabric;
- d. allow for breathing without restriction; and
- e. are able to be laundered and machine dried without damage or change to shape.

Section 5. Effective Date and Time, Limitations and Area.

The Public Health Order will become effective at 6:00 a.m. on April 29, 2020, unless otherwise specifically provided for herein, and will remain in effect until May 27, 2020, unless extended by Council. This Order is effective within the entirety of the territory of the City of Aspen, Colorado.

Section 6. Most Restrictive Standard Controls.

To the extent any State and/or Federal orders or laws are more restrictive than what is set forth herein, such orders control.

Section 7. Penalties.

Failure to comply with this Order is subject to a penalty of \$50 for the first offense, \$250 for the second offense and a mandatory court appearance for any subsequent offense with the penalties contained in Section 1.04.080, of the City of Aspen Municipal Code, including up to a \$2,650 fine and one-year imprisonment or both per day for each violation.

INTRODUCED, AND ADOPTED by the City Council of the City of Aspen on the 29th day of April 2020, at 4:00 p.m., Mountain Daylight Time.



Torre, Mayor

I, Nicole Henning, duly appointed and acting City Clerk do certify that the foregoing is a true and accurate copy of that resolution adopted by the City Council of the City of Aspen, Colorado, at a meeting held on April 29th 2020.



Nicole Henning, City Clerk

THE PUBLIC IS DISCOURAGED FROM ATTEMPTING TO ACQUIRE HEALTH CARE AND INDUSTRIAL FACE COVERINGS THAT ARE NECESSARY TO PROTECT HEALTH CARE WORKERS DURING THE COVID-19 PANDEMIC.



Memorandum

To: Aspen City Council
From: Sara Ott, City Manager
Date: June 12, 2020
RE: City Manager Updates

Protests on Saturday and Sunday
New Route and Bigger Crowd Expected.

Currently the plan is for protesters to gather at Wagner Park at 10 am (as with other weekends). The protests will form up and will then march down Mill Street to the intersection with Main Street. It is highly likely that they will pause at this location to protest for a short time (as they have all the other times). They will then continue north down Mill Street to turn behind the Hotel Jerome on Bleeker Street. At the next intersection they will turn north again and will then continue west down Hallam Street til 6th Street. At 6th they will return to Main Street and will march down Main Street in the south-most eastbound traffic lane to Paepke Park. After Paepke Park (where some speakers will talk with the protesters), they will return to Wagner Park to conclude the protest.

APD has requested a state patrol vehicle to support traffic control efforts. PCSO is also providing two deputies/vehicles as support, and AFD is providing a Aspen Fire truck for traffic control support as well.

APD staffing is adequate if all goes as planned, though worst case scenarios immediately would exceed our capacity. Most of our efforts will be aimed at providing traffic control and protecting the protesters during their walk on Main Street. We will not be doing traffic control with protestors during their march through the West End, as the majority of it is on the dedicated bike/pedestrian passage corridor. That said, we will have officers with them at all times.

Ski Co. is planning to provide a sound system for use at Wagner Park.

Public Health Orders
This Weekend

I want to take a moment to review the process for public health order violations. The APD provides evidence of public health orders to the county for review. From there, the county may choose to file in district court or recommend actions to the Board of Health, or the public health director may take action. The county has the authority to consider restaurant license suspension, liquor license suspension, fines, etc. Some of these actions they can execute on their own and some require coordination with the city. There are regular discussions between Chief Pryor, Jim and the county attorney's office to clearly understand the interpretation of the public health orders, the necessary evidence quality needed, and to collaborate on how to proceed when there is a violation. The APD officer may also be able to write a ticket, depending on the infraction. The evidence would still be reviewed with the county attorney's office to ensure there is agreement that an actual violation occurred. These due process steps ensure that no one is singled out without check and balance for violations. People perceive violations, without necessarily being aware of the nuances of how the county attorney's office is interpreting the public health orders.

I have assigned two parks rangers to be in the core and at the protests on Saturday and Sunday from 10 am – 6 pm. They will generally share information about the public health orders and pass out masks.

APD is staffed for tonight through Sunday and are aware of the businesses that have challenged the public health orders. As they normally do, APD has been in contact with specific businesses as well.

APD also spoke with the management of Escobar, to be sure that they were meeting the demands of the health order. APD worked with Pitkin County to be sure that the county was assured that they were at least trying to do the right thing. Further, APD has had multiple conversations with the owner of Scarletts. Periodic site visits have also occurred, and officers found no violations. It doesn't mean it hasn't occurred, but it means that those who do see it need to file a complaint and be willing to serve as a witness for enforcement by the county.

One complaint on the public health order has been filed with APD. This complaint has been provided to the county attorney to consider for enforcement, as it was not witnessed by any APD officers.

Going Forward

I am moving forward with two actions. First, I am in negotiations with ACRA to provide an expansion of the guest services/visitor center staffing to add 2-4 staff working 4-8 pm every day wandering the CORE with guest information, masks, hand sanitizer giveaways, etc. These staff will provide health order related information as well as answer the typical guest service inquiries. ACRA can be ready to start the program on July 1, and run it through Labor Day, Sept. 7. This will cost around \$30K. I will move it forward as an amendment to the guest services/visitor center agreement.

Secondly, CJ is working on job description to hire two full time enforcement staff and is working with Jim on what can these positions actually can enforce under the way the public health orders are written. The start of this will depend on the quality of applicants and resolving these legal questions. I do not have a cost yet, as the legal authority question will impact the appropriate rate of pay.

Please feel free to contact me with any questions. I have also set time aside during Monday's special session if needed.