

**RESOLUTION APPROVING AN AGREEMENT BETWEEN THE TOWN OF BASALT
AND THE ROARING FORK CONSERVANCY OUTLINING RESPONSIBILITIES FOR
PUBLIC IMPROVEMENTS FOR TWO RIVERS ROAD AND OLD POND PARK**

Resolution No. 16, Series of 2017

RECITALS

1. On August 29, 2014 the Town entered into a Predevelopment Agreement with the Roaring Fork Conservancy (“Conservancy”) for the purpose of establishing the framework of how the Town can help the Conservancy through the land use and development process and help the construction of the River Center.
2. The Town determined that it was in the best interest of the Basalt community to make substantial expenditures to facilitate the Conservancy’s construction of a River Center in the Town of Basalt.
3. The Council subsequently approved Resolution No. 36, Series of 2015. The ultimate strategy as outlined in that resolution was for the Council to purchase back the Roaring Fork Conservancy parcel for \$400,000 and then lease the property needed for the River Center back to the Conservancy. In addition the Town would contribute \$100,000 toward infrastructure improvements. In 2016, the Town purchased Lot 1 of the Basalt Riverfront Park Subdivision.
4. On July 26, 2016 the Town Council approved Ordinance No. 15, Series of 2016 granting land use approvals and outlining the responsibilities for constructing the River Center, Two Rivers Road, and Old Pond Park. Those responsibilities were shown on Exhibit C of Ordinance No. 15.
5. The Conservancy had informed the Town during the 2017 budget process that the Two Rivers Road improvements would be constructed in 2018 and as a result the Town did not budget for Two Rivers Road Improvements in 2017.
6. The Conservancy has now concluded that they would like to make the Two Rivers Road Improvements in 2017.
7. The Parties desire for one contractor to make the River Center site improvements and the Old Pond Park improvements and to construct them at one time to eliminate negative impacts on the River Center once constructed.
8. The Parties desire to formalize how the improvements outlined in Exhibit C of Ordinance No. 15 will be paid.

Please return to:
TOWN OF BASALT
101 Midland Avenue
Basalt, CO 81621

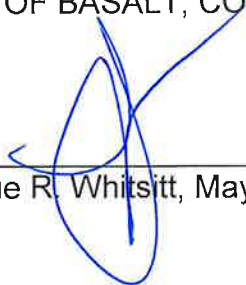
NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BASALT, COLORADO:

Section 1. That the Town Council hereby approves the agreement between the Roaring Fork Conservancy and the Town attached hereto as **Exhibit A** and authorizes the Mayor and Town Clerk to execute said agreement.

RESOLUTION NO. 16, SERIES OF 2017, IS HEREBY ADOPTED by a vote of 6 to 0, this 9th day of May, 2017.

TOWN OF BASALT, COLORADO

by _____
Jacque R. Whitsitt, Mayor



ATTEST:

Pamela K. Schilling, Town Clerk

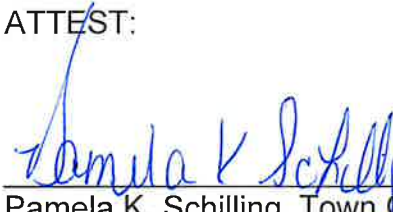


Exhibit "A".

AGREEMENT BETWEEN THE TOWN OF BASALT AND THE ROARING FORK CONSERVANCY OUTLINING RESPONSIBILITIES FOR PUBLIC IMPROVEMENTS FOR TWO RIVERS ROAD AND OLD POND PARK

This AGREEMENT (the "**Agreement**") dated as of _____, 2017, is made by and between the Roaring Fork Conservancy, a Colorado nonprofit corporation ("**Conservancy**"), and the TOWN OF BASALT, a Colorado municipal corporation (the "**Town**"). Conservancy and Town are collectively called the "**Parties**," and individually, a "**Party**."

RECITALS

1. On August 29, 2014 the Town entered into a Predevelopment Agreement with the Conservancy for the purpose of establishing the framework of how the Town can help the Conservancy through the land use and development process and help the construction of the River Center.
2. The Town determined that it was in the best interest of the Basalt community to make substantial expenditures to facilitate the Conservancy's construction of a River Center in the Town of Basalt.
3. The Council subsequently approved Resolution No. 36, Series of 2015. The ultimate strategy as outlined in that resolution was for the Council to purchase back the Roaring Fork Conservancy parcel for \$400,000 and then lease the property needed for the River Center back to the Conservancy. In addition the Town would contribute \$100,000 toward infrastructure improvements. In 2016, the Town purchased Lot 1 of the Basalt Riverfront Park Subdivision.
4. On July 26, 2016 the Town Council approved Ordinance No. 15, Series of 2016 granting land use approvals and outlining the responsibilities for constructing the River Center, Two Rivers Road, and Old Pond Park. Those responsibilities were shown on Exhibit C of Ordinance No. 154.
5. The Conservancy had informed during the 2017 budget process that the Two Rivers Road improvements would be constructed in 2018 and as a result the Town did not budget for Two Rivers Road Improvements in 2017.
6. The Conservancy has now concluded that they would like to make the Two Rivers Road Improvements in 2017.

Please return to:
TOWN OF BASALT
101 Midland Avenue
Basalt, CO 81621

7. The Parties desire for one contractor to make the River Center site improvements and the Old Pond Park improvements and to construct them at one time to eliminate negative impacts on the River Center once constructed.

8. The Parties desires to formalize how the improvements outlined in Exhibit C of Ordinance No. 15 will be paid.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and promises of the Parties contained in this Agreement, and other valuable consideration, the receipt and adequacy of which are acknowledged, the Parties hereby agree to the terms and conditions in this Agreement.

A. Two Rivers Road Improvements

1. The improvements shown on Exhibit C of Ordinance No. 15, Series of 2015 have been designed and the responsibilities for Two Rivers Road and adjacent sidewalks are now reflected by **Exhibit A** attached hereto.

2. Sopris Engineering has prepared certified cost estimates for the Town's Responsibilities for Two River's Road for an amount of \$155,386.00 as included here as **Exhibit B**.

3. The Town Council hereby directs Staff to include \$155,386.00 in the 2018 budget and the updated 5-Year Capital Improvement Plan (CIP) for consideration in the formal budget process with the payment to be paid by the Town to the Conservancy no later than the first quarter of 2018. The 2018 budget is subject to review and approval by the Town Council.

4. In consideration thereof, the Town foregoes the requirement that the Conservancy provides financial security for the public improvements required to be constructed by the Conservancy provided the Two Rivers Road Improvements are under construction by September of 2017.

B. Old Pond Park Improvements

1. The Conservancy agrees to make the Old Pond Park Improvements shown on the building permit set for the River Center outside of Amended Lot 1 of the Basalt Riverfront Park provided the Town pays for those costs and that the Town signs the construction contract authorizing those improvements.

2. The Conservancy will direct Koru Limited, General Contractor, for the Conservancy's River Center construction project, to seek proposal(s) for constructing the Old Pond Park improvements. The contract will be brought back to the Town Council for approval with the Town's payment not to exceed \$50,000 in 2017.

C. Notice of Default, Right to Cure. In the event of any default under the provisions of this Agreement, the non-defaulting party shall, prior to the exercise of any right or remedy, give the party alleged to be in default written notice of such default together with right for a period of ten days after receipt of such notice to cure said default. If an alleged default by its nature is not capable of being cured within the time provided, the party alleged to be in default shall, provided such party is proceeding with all due diligence, have up to an additional twenty days to cure said default. If a default is not cured within the time provided or any extension thereof (which right to cure period shall not under any circumstances exceed in the aggregate thirty days), the non-defaulting party shall then and thereafter be free to terminate this agreement and/or pursue any right or remedy allowed by this Agreement or otherwise as provided by law.

D. Notices. Any notice, demand, or document which either party is required or may desire to give, deliver or make to the other party shall be in writing and may be personally delivered or given by facsimile transmission or given by United States certified mail, return receipt requested, addressed as follows:

To Town:	Town Manager Town of Basalt 101 Midland Avenue Basalt, Colorado 81621
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To Conservancy	Executive Director PO Box 3349 Basalt, Colorado 81621
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Any notice, demand or document so given, delivered or made by United States mail shall be deemed to have been received on the earlier of the date actually received or the third business day after the same is deposited in the United States mail as certified matter, addressed as above provided, with postage prepaid. Notice by facsimile transmission shall be deemed given upon receipt of a confirmation by sender.

E. Amendments in Writing. This Agreement may not be amended, nor may any rights hereunder be waived, except by an instrument in writing executed by the parties hereto and duly recorded in the real estate records of Eagle County, Colorado.

F. Colorado Law. The interpretation, enforcement or any other matters relative to this Agreement shall be construed and determined in accordance with the laws of the State of Colorado. This Agreement is subject to the laws of the State of Colorado, jurisdiction shall be in the District Court of Colorado, and venue in the County of Eagle, in the event of any legal proceedings arising from the transaction described herein.

G. Run With the Land. All the provisions of this Agreement, including the benefits and burdens created thereby, shall run with the land. This Agreement is made subject to any existing easements, reservations, restrictions or rights of way.

H. Correction Documents. In the event any clerical or other errors are found in this Agreement or any other descriptions or other exhibits hereto, or in the event any exhibit shall be missing, the parties agree to promptly execute, acknowledge, initial and/or deliver as necessary any documentation in order to correct the erroneous document, description, exhibit or to provide any missing exhibit.

I. Legal Remedies. Subject to the notice of default and right to cure specified by paragraph C above, any violation of the requirements of this agreement is subject to enforcement as provided by the Basalt Municipal Code as a condition of approval granted by Ordinance No. 15, Series of 2016. In addition, the parties are entitled to all rights and remedies at law or in equity for the interpretation and enforcement of this agreement.

J. Non-Waiver. A party's failure to insist upon street compliance with any provision of this agreement shall not be deemed a waiver of the right to enforce such provision or any other provision of this agreement. The invalidity or unenforceability of any provision of this agreement shall not affect the validity or enforceability of the other provisions of this agreement.

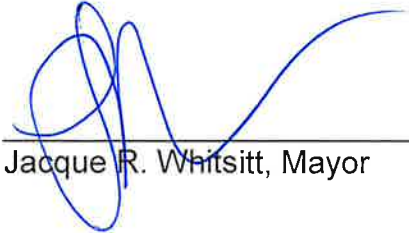
IN WITNESS WHEREOF, this Agreement is executed by the Parties as of _____, ___, 2017.

ATTEST:


Pamela K Schilling, Town Clerk



TOWN OF BASALT


Jacques R. Whitsitt, Mayor

ROARING FORK CONSERVANCY
A Colorado nonprofit corporation

By: Pat McMahon, Board President

By: _____
Pat McMahon

STATE OF COLORADO)
)ss.
COUNTY OF EAGLE)

The foregoing document was acknowledged before me on _____, by Pat McMahon, Board President of the Roaring Fork Conservancy, a Colorado Nonprofit Corporation

Witness my hand and official seal.

My commission expires: _____

Notary Public