

**RESOLUTION OF THE TOWN COUNCIL OF BASALT, COLORADO, AUTHORIZING
AND DIRECTNG PAYMENT TO THE ARTS CAMPUS AT WILLITS (TACAW) OF
CERTAIN AMOUNTS UNDER THE AMENDED AND RESTATED DEVELOPMENT
AND VESTED RIGHT AGREEMENT FOR WILLITS TOWN CENTER PLANNED UNIT
DEVELOPMENT**

**Town of Basalt, Colorado
Resolution No. 33
Series of 2020**

RECITALS

- A. The Town of Basalt, Colorado ("Town") owns a parcel of land in the Willits Town Center PUD ("WTC") comprised of approximately 0.78 acres and designated as the "Town Park - Arts Tract" ("Arts Parcel") on the Plat of WTC. The initial developers of WTC dedicated the Arts Parcel to the Town for the purposes of a Town park and arts center.
- B. The Arts Campus at Willits ("TACAW") is an Internal Revenue Code Section 501(c)(3) entity that is incorporated in the state of Colorado as a non-profit corporation. TACAW was created specifically for the purpose of creating, managing and supporting a multi-disciplinary arts campus at the center of the Roaring Fork Valley to provide diverse programming in the arts. TACAW has provided a venue for film, music, education, culinary arts, performing arts and special events through the "Temporary" space, and now wishes to do so at the to-be constructed Arts Center on the Arts Parcel.
- C. In 2001, the Town Council approved Ordinance No. 14, Series of 2001, which granted certain land use entitlements for the development of the WTC PUD. The WTC development approvals established a real estate transfer assessment ("RETA") whereby 50% of the RETA is set aside "to build, maintain and provide an endowment for an arts or cultural center" (the "Arts Center") to be located at the Arts Parcel (the portion of the RETA set aside for such purposes is herein referred to the "Arts RETA").
- D. In 2016, the Town Council approved Resolution No. 41, Series of 2016, which outlined a process and framework for moving forward to complete the analysis necessary for the Council to decide whether it is appropriate to proceed with supporting TACAW's building of a performing arts center in Willits Town Center.

- E. In 2017, the Town Council approved Ordinance No. 10, Series of 2017, which authorized a lease to be entered into between the Town and TACAW for the Arts Parcel (“Lease”).
- F. Also in 2017, the Town Council approved Resolution No. 23, Series of 2017, which created a framework whereby more certainty is provided to TACAW, its potential donors, and Town residents and businesses as to how Arts RETA funds are to be transferred to and used by TACAW.
- G. In 2019, the Town Council approved Resolution No. 24, Series of 2019, which approved certain funding for TACAW including authorizing use of the Arts RETA funds to finance construction of the Arts Center on the Arts Parcel, creation of a construction account, and otherwise addressing the funding of construction of the Arts Center.
- H. In 2018, the Town and the developer of the WTC, Willits Town Center, LLC (the “Willits Developer”), entered an Amended and Restated Development and Vested Right Agreement for Willits Town Center Planned Unit Development, which is recorded in the public records of Eagle County at Reception No. 201820322 (the “Development Agreement”).
- I. Paragraph 8.k of the Development Agreement obligated the Willits Developer to pay the Town, upon review of and agreement on cost estimates, certain amounts (the “Development Agreement Funds”) related to the Willits Developer’s obligation to construct a park on the Arts Parcel. Under the Development Agreement, such funds may only be used for park-related improvements within WTC, including improvement to adjacent sidewalks and rights-of-way.
- J. The Town desires that such Development Agreement Funds be transferred to TACAW for their use in constructing the plaza and lawn areas available to the public.
- K. By Resolution No. 24, Series of 2019, the Town Council authorized the use of the Development Agreement Funds to construct certain improvements related to the Arts Center on the Arts Parcel within the purpose of the Development Agreement.
- L. Rather than the Developer pay the Development Agreement Funds directly to the Town, the Town Council wishes to authorize and direct the Developer to pay the Development Agreement Funds directly to TACAW to finance construction of certain improvements the Arts Center. Such direct payment will aid in the Town

avoiding any annual revenue limitations under TABOR and is otherwise a more efficient practice.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of Basalt, Colorado, as follows:

1. Recitals. The foregoing recitals are incorporated herein as findings of Town Council.
2. Development Agreement Funds. The Town Council hereby authorizes the use of the Development Agreement Funds by TACAW in the development of the plaza and lawn areas of the Arts Center and authorizes the Willits Developer to pay the Development Agreement Funds directly to TACAW. Use of the Development Agreement Funds shall be subject to the provisions of Resolution No. 24, Series of 2019.

READ AND ADOPTED on September 22, 2020 by a vote of 7 to 0.

TOWN OF BASALT, COLORADO

By: 
William G. Kane, Mayor

ATTEST:

By: 
Pamela K. Schilling, Town Clerk

