

RESOLUTION NO. 5

Series of 2021

A RESOLUTION APPROVING A COST SHARING AGREEMENT BETWEEN THE TOWN OF VAIL AND THE VAIL PARK AND RECREATION DISTRICT (THE "VRD")

WHEREAS, on June 12, 2019, The Town and the VRD entered into a lease under which the District operates the Vail Municipal Golf Course and is responsible for all maintenance of the golf course;

WHEREAS, the District is contracting for the replacement and upgrade of the existing playing surface of all 18 greens on the Golf Course, including improved subdrainage, substructure and new playing surface, over a period of 3 years (the "Project"); and

WHEREAS, because of the public benefit provided by the Golf Course, the Town wishes to contribute to the Project pursuant to the Cost Sharing Agreement, attached hereto as **Exhibit A** and made a part hereof by this reference (the "IGA").

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

Section 1. The Town Council hereby approves the IGA in substantially the same form as attached hereto as **Exhibit A**, and in a form approved by the Town attorney, and authorizes the Town Manager to execute the IGA on behalf of the Town.

Section 2. This Resolution shall take effect immediately upon its passage.

INTRODUCED, PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Vail held this 2nd day of February 2021.

Dave Chapin, Town Mayor

ATTEST:

Tammy Nagel, Town Clerk

COST SHARING AGREEMENT

THIS COST SHARING AGREEMENT (the "Agreement") is made and entered into as of the ____ day of _____, 2021, by and between the TOWN OF VAIL, COLORADO, a Colorado home rule municipality with an address of 75 South Frontage Road, Vail, CO 81657 (the "Town"), and the VAIL PARK AND RECREATION DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado with an address of 700 South Frontage Road, Vail, CO 81657 (the "District") (each a "Party" and collectively the "Parties").

WHEREAS, on June 12, 2019, the Parties entered into a lease (the "Lease"), under which the District operates the Vail Municipal Golf Course ("Golf Course") and is responsible for all maintenance of the Golf Course;

WHEREAS, the District is contracting for the replacement and upgrade of the existing playing surface of all 18 greens on the Golf Course, including improved subdrainage, substructure and new playing surface, over a period of 3 years (the "Project"),

WHEREAS, because of the public benefit provided by the Golf Course, the Town wishes to contribute to the Project; and

WHEREAS, the Town and the District are expressly authorized by C.R.S. § 29-1-203 to enter into this Agreement.

NOW THEREFORE, in consideration of the mutual promises contained herein, the adequacy of which is hereby admitted, the Parties hereto agree as follows:

1. Project Management. The District shall be the contracting party for the Project, and will have sole responsibility for managing the Project.
2. Cost Sharing. The Town shall pay for 50% of the cost of the Project, not to exceed \$216,000 per year and \$650,000 total. Payments shall be made on a monthly basis, within 30 days of the Town's receipt of an invoice and supporting documentation evidencing the cost of the Project during that month.
3. Term. The term of this Agreement shall commence on the Effective Date and terminate on December 31, 2023. Upon termination of this Agreement, the Town's obligation to share in the cost of the Project shall terminate.
4. Miscellaneous.
 - a. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Eagle County, Colorado.
 - b. Integration. This Agreement and any attached exhibits constitute the entire agreement between the Parties, superseding all prior oral or written communications.

c. *Third Parties.* There are no intended third-party beneficiaries to this Agreement.

d. *Notice.* Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the Party at the address included on the first page of this Agreement.

e. *Severability.* If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

f. *Modification.* This Agreement may only be modified upon written agreement of the Parties.

g. *Assignment.* Neither this Agreement nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.

h. *Governmental Immunity.* The Parties and their officers, attorneys and employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Parties or their officers, attorneys or employees.

i. *Rights and Remedies.* Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement. The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

j. *Subject to Annual Appropriation.* Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement or liability beyond the current fiscal year.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

TOWN OF VAIL

Scott Robson, Town Manager

ATTEST:

Tammy Nagel, Town Clerk

VAIL RECREATION DISTRICT

Mike Ortiz, Director

ATTEST:
