

Town of Windsor

Memorandum

May 4, 2021

TO: The Honorable Mayor and Town Council
FROM: William G. Saunders, IV, Town Manager
SUBJECT: Windsor Town Center Roof Funding Agreement

Background

A draft copy of an agreement between the Town of Windsor and Isle of Wight County for funding of the Windsor Town Center roof was presented to the Town by the County Attorney on April 22, 2021.

Specifics

The terms are straightforward, and what was expected; the one thing that we need to provide to complete the agreement is the date that we want to make the payments back to the County.

Since the Town will be receiving real estate taxes on June 5th each year moving forward, consideration should be given to making the payments at the end of the fiscal year, such as June 15th. Consideration should also be given to going ahead and making the first payment this year, since we are getting six months of unappropriated real estate taxes on June 5th.

Enclosures

Draft Windsor Town Center Roof Funding Agreement

Recommendation

Enter into agreement

AGREEMENT

THIS AGREEMENT is made and entered into this ___ day of April, 2021, by and between the Isle of Wight County, Virginia, a political subdivision of the Commonwealth of Virginia, hereinafter the "County", and the Town of Windsor, Virginia, a Virginia municipal corporation, hereinafter the "Town", the County and Town may hereinafter be referred to individually as a "Party" or jointly as the "Parties."

WITNESSETH:

WHEREAS, the Parties have recently negotiated a Memorandum of Understanding ("MOU") governing the operation and maintenance of the Windsor Town Center.; and

WHEREAS, a term of the MOU provides that "The Parties agree that all capital repairs, replacements and all future capital improvements, which shall not include ordinary maintenance and repairs to the facility, which costs exceed \$25,000 shall be shared by both Parties equally, providing that a separate agreement and negotiation for such items are done in advance, in good faith, of said capital repairs, replacements and improvements."; and

WHEREAS, the Parties previously negotiated and agreed as to the terms of a capital repair/replacement of the roof of the Windsor Town Center and desire to memorialize their agreement; and

WHEREAS, the Town has secured a bid for such repairs totaling \$358,663 ("Cost").

NOW, THEREFORE, IN CONSIDERATION of the mutual promises and covenants herein contained, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The County agrees to share the Cost equally with the Town.
2. County agrees that it will provide up front funding, for the Cost, without interest to Town, so as to facilitate payment of said repairs.
3. Town agrees to reimburse County its ½ share of the Cost specifically \$179,331), with such share to be paid in 5 equal annual payments of \$35,866, beginning ___/___/202__.
4. This Agreement forms the entire agreement among the Parties and supersedes any and all understandings, agreements, letters of intent and negotiations between the Parties relative to the subject matter. This Agreement may not be modified or amended except in writing signed by all Parties.
5. The rights and obligations under this Agreement may not be assigned by either Party hereto without the prior written consent of the other Party.
6. This Agreement may be executed in counterparts, and any number of counterparts signed in the aggregate by the Parties will constitute a single, original instrument.

7. The failure of either to insist upon strict performance of any obligation in this Agreement shall not constitute a waiver of said Party's right to demand strict compliance therewith in the future.

8. This Agreement shall be deemed to be a Virginia contract and shall be governed as to all matters whether of validity, interpretations, obligations, performance or otherwise exclusively by the laws of the Commonwealth of Virginia, and all questions arising with respect thereto shall be determined in accordance with such laws. Regardless of where actually delivered and accepted, this Agreement shall be determined to have been delivered and accepted by the Parties in the Commonwealth of Virginia. The Parties further agree that any legal action or proceeding arising out of this Agreement shall be commenced and tried in the Circuit Court of Isle of Wight County, Virginia to the express exclusion of any otherwise permissible forum.

9. If any portion of this Agreement shall be adjudged invalid, illegal or unenforceable, no other provision shall be affected in any way.

In Witness Whereof, the following signatures and seals are affixed hereto:

ISLE OF WIGHT COUNTY

TOWN OF WINDSOR

Richard L. Grice, Chairman

Glyn T. Willis, Mayor

Attest:

Attest:

Clerk

Clerk

Approved as to Form:

County Attorney

Town Attorney