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MEMORANDUM

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P.O. BOX 4100 ♦ FRISCO, COLORADO 80443

**TO: MAYOR AND TOWN COUNCIL**  
**FROM: JAMES GORHAM, ECONOMIC DEVELOPMENT MANAGER**  
**RE: ORDINANCE 25-01: APPROVING 101 WEST MAIN STREET PURCHASE, SALE AND LEASE-BACK AGREEMENT WITH THE NHP FOUNDATION**  
**DATE: JANUARY 28, 2025**

**Summary:**

The attached Purchase, Sale and Lease-Back Agreement between the Town of Frisco and NHPF West Main, LLC (“NHPFWM”) sets the terms and conditions for the acquisition of the property located at 101 West Main Street by the Town from NHPFWM, and the lease-back of the property from the Town to NHPFWM under a long term ground lease for nominal consideration.

The purchase and lease-back of 101 Main Street is supported by a \$5 million grant from the Colorado Housing and Finance Authority (CHFA) under the Affordable Housing Financing Fund Land Banking Program. The grant is governed by the Affordable Housing Finance Fund Land Banking Program Grant Agreement between the Town and CHFA (the “CHFA Grant Agreement”), and is contingent on meeting specific milestones, including proper zoning and development plan approval within five years, and securing construction permits and funding within ten years. The grant agreement outlines the terms and conditions for the disbursement and use of the grant funds, including requirements for reporting, environmental sustainability, and compliance with affordability restrictions.

The CHFA Grant Agreement also requires that an affordability covenant prepared by CHFA (the “CHFA Covenant”) be placed upon the property after the Town’s purchase from NHPFWM, but before the lease-back of the property to NHPFWM. The form of that covenant is attached as an exhibit to the Ground Lease that will be granted to NHPFWM.

The Ground Lease Agreement that will be entered into between the Town of Frisco and NHPFWM (which is an exhibit to the attached Purchase, Sale and Lease-Back Agreement) includes provisions for the development and operation of a housing rental project that will comply with the CHFA Covenant and the requirements of the CHFA Grant Agreement.

The CHFA Covenant ensures that the property is used for affordable housing. These covenants include affordability terms, such as restricting rental units to households with annual incomes at or below 80% of the area median income (AMI).

**Background:**

The Town of Frisco has been working with the NHP Foundation (NHPF) since early 2023 when staff from NHPF approached Town staff and Council on affordable housing opportunities in Frisco. The mission of NHPF is to preserve and create sustainable, service-enriched multifamily housing that is affordable to low- and moderate-income families and seniors, and beneficial to their communities. This mission aligns with the Council's strategic plan to support a thriving economy by increasing workforce housing and enhancing community inclusivity by offering a variety of housing types to support year-round residents.

The 101 W Main Street project has evolved partly due to the ongoing pursuit of the 602 Galena Street workforce housing project. Recognizing the strong need for all housing types and rental rates within Frisco, the Town has focused on ensuring that the two projects provide a range of affordable housing options to the community. Based on site location, development design, financing mechanisms, timelines, etc., the Town and NHPF determined that the 101 W Main Street project would proceed with "low-income" rental rates.

The project will potentially be moving forward in 2025 dependent on Low Income Housing Tax Credits (LIHTC) funding, which were applied for in February 2025, with a possible award in May 2025. The project aims to provide at least 52 units of low-income workforce housing.

**Analysis:**

The Purchase, Sale, and Lease-Back Agreement between the Town and NHPF outlines the terms and conditions for the acquisition, conveyance, and lease-back of the property located at 101 Main Street. The agreement provides context and background for the transaction, highlighting the Town's intention to use the property for affordable housing and the receipt of a \$5 million grant from CHFA to facilitate the acquisition by the Town.

The agreement's acquisition and conveyance section specifies the pre-conditions to closing, including the provision of necessary documents and information by the seller, such as title commitments, environmental assessments, and estoppel certificates. It also details the closing process, including the execution of a general warranty deed, the payment of the purchase price, and the issuance of title insurance policies. The agreement includes representations and warranties by both the seller and the Town, ensuring that both parties have the legal right and authority to enter into the agreement and that there are no pending litigations or investigations that could affect the transaction.

Restrictions on assignment and transfer are imposed, requiring the Town's consent for any assignment of the seller's rights and obligations under the agreement. The indemnification section protects the Town from any claims, losses, or damages arising from defects in the property or the seller's actions. Miscellaneous provisions cover notice requirements, waiver of rights, attorney's fees, and the non-liability of Town officials and employees.

Overall, the agreement ensures that the property will be used for affordable housing purposes and includes terms for rent, maintenance, and compliance with regulatory agreements. It is a crucial step in the Town's efforts to increase affordable housing options and support a thriving, inclusive community.

**Exhibits:**

- **CHFA Grant Commitment:** The CHFA Grant Commitment is significant financial support from CHFA under the Prop 123 Land Banking Program. This grant, amounting to \$5 million, is aimed at acquiring and preserving land for the development of affordable rental housing. The grant is contingent upon meeting specific milestones, such as proper zoning and development plan approval within five years, and securing construction permits and funding within ten years. The project must adhere to environmental sustainability standards and maintain affordability for at least 40 years. The Town received this grant in January 2024, to be utilized for the purchase of 101 W Main from NHPF.
- **CHFA Grant Agreement:** The grant agreement outlines the terms and conditions for the disbursement and use of the grant funds. It includes requirements for reporting, environmental sustainability, and compliance with affordability restrictions. The agreement also specifies that the property must be used for affordable rental housing, with income restrictions for tenants.
- **CHFA Declaration of Covenants:** The declaration specifies the restrictive covenants related to the grant, ensuring that the property is used for affordable housing. These covenants include affordability terms, such as restricting rental units to households with annual incomes at or below 80% of the area median income (AMI). The covenants are binding for at least 40 years after construction completion.
- **Ground Lease:**
  - The ground lease agreement between the Town of Frisco and NHPF West Main, LLC, which is an exhibit to the attached Purchase, Sale and Lease-Back Agreement, includes provisions for the development and operation of the project. The lease ensures that the property will be used for affordable housing purposes and includes terms for rent, maintenance, and compliance with regulatory agreements.

**Financial Impact:**

The Town of Frisco has committed \$6.4 million to this project: A \$2.5 million loan to NHPF for purchase assistance for the property at 101 W Main, authorized by Ordinance 23-14; a \$1 million loan for gap funding assistance for the affordable housing development & \$1 million towards ownership by the Town of a 1500 square foot commercial condominium located on the property, authorized by Resolution 24-28; and an additional \$1.9 million loan for gap funding assistance authorized by Resolution 25-08. The Town will also utilize a \$5 million Land Banking grant from the State of Colorado to purchase the property from NHPF, which will be leased back to them.

**Alignment with Strategic Plan:**

Town Council has identified in the 2024 Strategic Plan, the goal of “Offering a variety of housing types to support year-round residents” and “Actively supporting the acquisition and retention of a diverse workforce” as a priority under the guiding principle of “Creating an Inclusive

Community”. Frisco’s Housing Helps Program enhances the Inclusive Community priority through ensuring the Town maintains a variety of housing options for its residents.

**Staff Recommendation:**

Staff requests the Council discuss the project as described and approve Ordinance 25-01 as proposed.

**Reviews and Approvals:** This report has been reviewed and approved by:

Katie Kent, Community Development Director

Diane McBride, Assistant Town Manager

Tom Fisher, Town Manager

**Attachments:**

- Attachment 1: Ordinance 25-01: 101 W. Main Street Purchase, Sale & Leaseback Agreement
- Attachment 2: Town of Frisco and NHPF West Main, LLC Purchase, Sale and Lease-Back Agreement