

**TOWN OF FRISCO
COUNTY OF SUMMIT
STATE OF COLORADO
ORDINANCE 24-06**

AN ORDINANCE APPROVING THE SECOND AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT WITH SUMMIT COUNTY FOR THE PROVISION OF WATER SERVICE AT THE COUNTY COMMONS.

WHEREAS, on or about September 24, 2001, the Town of Frisco, Colorado (“Town”) and Summit County, Colorado (“County”) entered into an Intergovernmental Agreement for Water Services (the “Agreement”) under which the Town agreed to provide and sell water taps for up to 171.64 EQRs of treated water to the County for use at the County Commons; and

WHEREAS, on or about January 9, 2018, the Town and the County entered into the First Amendment to Intergovernmental Agreement for Water Services (the “First Amendment”) under which (i) the Town agreed to increase the number of EQRs for which water taps would be provided and sold to the County for use at the County Commons from 171.64 EQRs to a total of 304.97 EQRs, and (ii) the County agreed to increase the number of Clinton Reservoir Shares held in reserve to secure its obligations under the Agreement from 52 to 92; and

WHEREAS, in the attached Second Amendment to Intergovernmental Agreement for Water Service (the “Second Amendment”), the Town and the County acknowledge that, to date, the Town has previously provided and sold to the County, pursuant to the Agreement and First Amendment, water taps for a total of 258.31 EQRs currently in use at the County Commons and that 84.66 EQRs remain available under the Agreement and First Amendment for such use (“Remaining EQRs”); and

WHEREAS, the County desires to use some of the Remaining EQRs for affordable residential housing purposes on certain real property within the Bill’s Ranch Subdivision (which property is outside of the County Commons), and the Town desires to allow for such use pursuant to the terms and conditions of the Second Amendment.

WHEREAS, accordingly, the County and the Town desire to amend the Agreement and First Amendment as provided in the Second Amendment.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FRISCO, COLORADO THAT:

Section 1. Second Amendment Authorized. Subject to the conditions set forth in Section 2 below, the attached Second Amendment to Intergovernmental Agreement for Water Services, by and between the Town of Frisco and Summit County, is hereby approved. The Mayor and the

Town Clerk are hereby authorized to execute the Second Amendment, and any and all other documents that may be necessary or desirable to effectuate the terms thereof.

Section 2. Conditions of water service. As a condition of the Town's approval of the Second Amendment, the County shall, prior to the construction of any residential units, cause a real covenant to be filed upon the real property within Bill's Ranch that will utilize water pursuant to the Second Amendment. The real covenant shall be enforceable by the Town, shall state that it may only be amended or released with the written approval of the Town, and shall prohibit the outdoor use of water delivered to such property, with the following exceptions: (a) watering of flowers, decorative plants, bushes, and trees is permitted, but only if such watering is accomplished by hand using a watering can or handheld sprinkler; and (b) watering for purposes of revegetation following construction is permitted for a period that may include one complete growing season, but only if such watering is accomplished without the installation of a dedicated sprinkler system or other permanent or semi-permanent irrigation system.

Section 3. Conflict with other ordinances. In the event of conflict between the provisions of this Ordinance or of the attached Second Amendment and the provisions of Chapter 171 of the Town Code that relate to the dedication of water rights for the provision of extra-territorial water service by the Town, the terms of this Ordinance or of the Second Amendment shall control.

Section 4. Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Town Council hereby declares that it would have adopted this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 5. Safety Clause. The Town Council hereby finds, determines, and declares that this ordinance is promulgated under the general police power of the Town, that it is promulgated for the health, safety, and/or welfare of the public, that this ordinance is necessary for the preservation of health and safety or for the protection of public convenience and welfare, and that this ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 6. Effective Date. This ordinance shall take effect pursuant to the Home Rule Charter of the Town of Frisco, Colorado.

INTRODUCED, PASSED ON FIRST READING AND PUBLICATION AND POSTING ORDERED THIS 13th DAY OF FEBRUARY, 2024.

ADOPTED ON SECOND AND FINAL READING AND PUBLICATION BY TITLE ORDERED THIS _____ DAY OF _____, 2024.

TOWN OF FRISCO, COLORADO

Hunter Mortensen, Mayor

Attest:

Stacey Nell, Town Clerk