

INTERGOVERNMENTAL AGREEMENT FOR THE PURCHASE OF PROPERTY FOR  
AFFORDABLE HOUSING

This Intergovernmental Agreement for the Purchase of Property for Affordable Housing (this "Agreement") is made and entered into this 9 day of AUGUST, 2022 by and between the Town of Frisco, a Colorado municipal corporation, ("Town") and the County of Summit, Colorado, a political subdivision of the State of Colorado ("County").

WHEREAS, each of the parties is a municipal corporation or political subdivision of the State of Colorado authorized by law to cooperate and contract with the other to perform authorized functions; and

WHEREAS, the Town is negotiating with the State of Colorado Department of Labor and Employment ("State") for the purchase of that certain real property located within the Town at 602 Galena Street, and legally described as Lots 13 through 21, inclusive, Block 3, Frisco Town Subdivision ("Property"); and

WHEREAS, if purchased by the Town, the State would restrict the Property to use for affordable housing purposes, office space for a replacement work-force center (the State's current use of the Property) and, potentially, space for a childcare facility; and

WHEREAS, in connection with its redevelopment of the Property, the Town intends to apply to the State of Colorado for grant money that may be available pursuant to C.R.S. section 24-32-729, as amended, and to restrict the housing units constructed with such grant money, if any, in accordance with the requirements of the grant; and

WHEREAS, the appraised value of the Property is Three Million Dollars (\$3,000,000) (after an assumed Twenty-Eight Thousand Dollar (\$28,000) cost of demolition of the existing structure on the Property); and

WHEREAS, the Town believes that, under existing zoning, the Property could be redeveloped to contain between 30 and 40 dwelling units in a mix of studio, one-bedroom and two-bedroom multi-family configurations; and

WHEREAS, The County desires to facilitate the development of the Property by the Town by contributing One Million Five Hundred Thousand Dollars (\$1,500,000), towards the development of a future affordable workforce housing project on the Property; and

WHEREAS, Town has agreed to consider the purchase of the Property, and to use its best efforts to redevelop it for affordable workforce housing purposes, all in accordance with, and subject to, the terms and conditions of this Agreement and any agreement with the State for the purchase of the Property.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants

contained herein, and intending to be legally bound, the parties agree as follows:

1. Authority. This Agreement is entered into pursuant to the authority granted to the County and the Town by Article XIV, Section 18(2a) of the Colorado Constitution, and Part 2 of Article 1 of Title 29, C.R.S.

2. Town's Purchase Agreement and County's Contribution. The Frisco Town Council shall promptly consider the purchase of the Property from the State for affordable housing purposes. At the closing on the Town's purchase of the Property from the State, the County shall pay to the Town the sum of One Million Five Hundred Thousand Dollars (\$1,500,000), as a contribution towards the Town's purchase of the Property ("County's Purchase Contribution").

3. Use of the Property. The Town agrees that, except as to limited office use that may be required by the State, and except as to limited space for use for child care purposes, it will use its best efforts to redevelop the Property as an affordable workforce housing project, limited and restricted by deed restrictions that meet or exceed the affordability or other requirements of the grant program that is established by the State of Colorado pursuant to C.R.S. section 24-32-729, as amended from time to time. So long as the following conditions meet or exceed the requirements of said grant program, the Town agrees that the dwelling units in the project will be restricted for affordability to households earning 140% or less of the area median income and a qualified occupant works within Summit County a minimum of 30 hours per week, unless exempted in whole or in part from such work requirement due to disability or as otherwise required by law. Should the Town limit the initial offer to purchase or rent a unit to Town employees or residents, such offer period shall be limited to a 10 day period and thereafter such units shall be offered to any person employed within Summit County, except as to those persons exempted from such work requirement due to disability or as otherwise required by law.

4. Town's Conditions. Each of the obligations of the Town under this Agreement is conditioned upon the Frisco Town Council's approval, in its sole and absolute discretion, of an agreement with the State for the Purchase of the Property on or before September 30, 2022. In the event that such an agreement shall not have been approved by said date, neither the Town nor the County shall have any liability to the other, and this Agreement shall be of no further force or effect.

5. County's Conditions.

A. If the Town fails to commence activities to entitle the Property to be redeveloped for affordable workforce housing purposes within one hundred twenty (120) days after closing on the purchase of the Property from the State, the County shall, upon written notice to the Town, be reimbursed by the Town for the County's Purchase

Contribution, without interest or penalty.

B. If the Town fails to demolish the existing structure on the Property and commence construction of an affordable workforce housing project thereon on or before July 1, 2025, the County shall, upon written notice to the Town, be reimbursed by the Town for the County's Purchase Contribution, without interest or penalty.

C. Except as to causes beyond the reasonable control of the Town, if having commenced construction on or before July 1, 2025 on the Property, the Town fails to cause residential occupancy of the project on or before July 1, 2027, the County shall, upon written notice to the Town, be reimbursed by the Town for the County's Purchase Contribution, without interest or penalty.

6. Appropriation by County. Notwithstanding anything herein contained to the contrary, the County's obligations under this Agreement are expressly subject to an annual appropriation being made by the Board of Commissioners in an amount sufficient to allow the County to perform its obligations hereunder. In the event sufficient funds shall not be so appropriated, this Agreement may be terminated by either party.

7. Appropriation by Town. Notwithstanding anything herein contained to the contrary, the Town obligations under this Agreement are expressly subject to an annual appropriation being made by the Town Council of the Town of Frisco in an amount sufficient to allow the Town to perform its obligations hereunder. In the event sufficient funds shall not be so appropriated, this Agreement may be terminated by either party.

8. Notices. Except as otherwise provided, all notices provided for or required under this Agreement shall be in writing, signed by the party giving the same, and shall be deemed properly given when actually received or two days (2) days after being mailed by certified mail, return receipt requested, addressed to the parties hereto the following addresses:

Town of Frisco  
Attn: Finance Director  
P.O. Box 4100  
Frisco, CO 80443

Summit County  
County Manager  
P.O. Box 7986  
Breckenridge, CO 80424

With a copy to:  
Jason Dietz  
Summit County Housing Department  
P.O. Box 5660  
Frisco, CO 80443

9. Waiver. The failure of either party to exercise any of its rights under this Agreement shall not be a waiver of those rights. A party waives only those rights specified in writing and signed by both the parties waiving such rights.
10. Modification. This Agreement may be modified or amended only by a duly authorized written instrument executed by the parties hereto.
11. Paragraph Headings. Paragraph headings are inserted for convenience only and in no way limit or define the interpretation to be placed upon this Agreement.
12. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties and supersedes any prior agreement or understanding relating to the subject matter of this Agreement.
13. Counterparts. This Agreement may be executed in several counterparts and, as so executed, shall constitute one Agreement, binding on all the parties even though all parties have not signed the same counterpart. Any counterpart of this Agreement which has attached to it separate signature pages, which altogether contain the signatures of all the parties, shall be deemed a fully executed instrument for all purposes.
14. Severability. If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, void or unenforceable, such provision shall be deemed to be severable, and all other provisions of this Agreement shall remain fully enforceable, and this Agreement shall be interpreted in all respects as if such provision were omitted.
15. Third Party Beneficiaries. The Town and the County intend that they shall be and remain the sole beneficiaries of this Agreement. It is the intent of the Town and the County that any third-party or other beneficiary of any provision of this Agreement be deemed an incidental beneficiary only, and that such third party or other beneficiary shall have no rights of enforcement of this Agreement.
16. No Joint Venture, Indemnity. Town and County shall not be construed as joint venturers or partners of each other and neither of them shall have the power to bind or obligate the other. To the extent permissible by law, if permissible at all, the Town will indemnify and defend the County, its officers, employees, insurers, and self-insurance pool, against all liability, claims, and demands, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever,

arising out of or in any manner connected with this Agreement, the Property or any construction, use or activity thereon; except to the extent such liability, claim, or demand arises through the negligence or intentional wrongful act of the County, its officers, employees, or agents. To the extent indemnification is required under this Agreement, the Town agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorney fees.

In Witness Whereof, the parties have executed this Agreement the date first written above.

TOWN OF FRISCO

ATTEST

By: 

Hunter Mortensen, Mayor

By: 

Deborah Wolhuth, CMC, Town Clerk

SUMMIT COUNTY BOARD OF  
COMMISSIONERS

By: 

Tamara Pogue, Chair

ATTEST

By: 

Kathleen Neel, Clerk and Recorder

Millicent Marter, Deputy Clerk

**FIRST AMENDMENT TO FRISCO MARINA CONCESSIONAIRE AGREEMENT AND  
LICENSE**

**THIS FIRST AMENDMENT TO FRISCO MARINA CONCESSIONAIRE AGREEMENT AND LICENSE** (this "First Amendment"), is made and entered into as of this 12<sup>th</sup> day of April, 2022, by and between the TOWN OF FRISCO, a Colorado home rule municipal corporation ("Frisco") and Sail the Summit, LLC a Colorado limited liability company ("Concessionaire").

**WHEREAS**, Frisco and Concessionaire entered into that certain Frisco Marina Concessionaire Agreement and License dated April 13, 2021; and

**NOW THEREFORE**, in consideration of the foregoing and of the following mutual covenants and conditions Frisco and Concessionaire agree that this First Amendment shall amend the Agreement as follows:

1. That section 3 License, of the Agreement is hereby amended so as to read in its entirety as follows:

For the term of this Agreement, that portion of the Marina provided by Frisco for use by Concessionaire in connection with its Field Operations (the "Marina Facilities") shall consist of such boat docks (or portions thereof) defined as:

Two (2) adjacent slips, separated by a finger if possible, on T Dock, to be determined by Marina General Manager;

The availability of one mooring, located as close to T Dock as reasonably possible once the operations of the Concessionaire expand to necessitate this additional amenity. Concessionaire will provide a 30-day notice to Frisco to prepare and make this additional single mooring available for Concessionaire's use;

Once the Concessionaire Owner, Mark Schneider, has dissolved the company, Sail the Summit, LLC, one mooring will be made available for personal use at current fair market value to Mr. Schneider.

Frisco hereby grants to Concessionaire a license for access to and the use of the Marina Facilities for the purpose of conducting its Field Operations (the "License"). The Marina Facilities shall hereinafter be collectively referred to as the "License Area." Frisco hereby expressly reserves the right to make any use of its respective portions of the License Area that does not unreasonably interfere with the License. Concessionaire shall not use the License Area for any use or purpose other than as expressly provided herein. Concessionaire agrees that availability of these Marina Facilities is dependent on weather conditions, water levels and the operating needs of the Marina. In the event these Marina Facilities are unavailable, the Town will make reasonable accommodations to provide alternate Marina Facilities for Concessionaire's Field Operations.

2. That section 4. Term. The term of this Agreement (the "Term of this Agreement") shall be from the date first written above to October 31, 2022. Thereafter the term of this agreement will be renewed for five (5) successive one year renewal terms unless, not less than 30 days prior to the end of the initial term or any renewal term, the Concessionaire or the Town provides written notice to the other party of its desire to terminate this Agreement, which notice shall cause this Agreement to terminate at the end of the then-current term or renewal term. The initial term of this Agreement together with any automatic renewal term of this Agreement is referred to herein as the "Term of this Agreement."

Concessionaire understands, acknowledges, and agrees that this Agreement does not create an interest or estate in Concessionaire's favor in the property. This Agreement merely grants to the Concessionaire the personal privilege to use the property in strict accordance with the terms of this Agreement.

3. Except as otherwise provided in this First Amendment, all capitalized terms used in this First Amendment shall have the same meaning as provided in the Agreement.
4. Except as expressly amended by this First Amendment, the Agreement shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the date first written above.

TOWN OF FRISCO  
A Colorado municipality

By:   
Hunter Mortensen, Mayor

CONCESSIONAIRE:  
Sail The Summit, LLC

By:   
Mark Schneider, Manager

Attest:

  
Deborah Wohlmuth, CMC Town Clerk