

**TOWN OF FRISCO
COUNTY OF SUMMIT
STATE OF COLORADO
ORDINANCE 23 – 15**

AN ORDINANCE AUTHORIZING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE TOWN OF FRISCO AND THE NHP FOUNDATION, DATED AS OF MAY 23, 2023, IN ORDER TO ADD CERTAIN REAL PROPERTY TO THE LEGAL DESCRIPTION OF THE REAL PROPERTY THAT IS SUBJECT TO THE LONG TERM GROUND LEASE FROM THE TOWN TO THE NHP FOUNDATION.

WHEREAS, the Town of Frisco is a municipal corporation and political subdivision duly organized and existing under the constitution and laws of the state of Colorado and its home rule charter; and

WHEREAS, The NHP Foundation, a District of Columbia nonprofit corporation, (the “Developer”) is a corporation that specializes in the planning, financing, construction and operation of for-rent affordable housing projects; and

WHEREAS, the Town owns certain real property (the “Town Property”) that is commonly known as 602 Galena Street, Frisco, Colorado and that is legally described in Exhibit A to that certain Development Agreement Between the Town of Frisco and the NHP Foundation, dated as of May 23, 2023, (the “Development Agreement”); and

WHEREAS, pursuant to the Development Agreement, the Town and the NHP Foundation intend that the Town Property be used to develop affordable rental housing and for other incidental purposes in compliance with an intergovernmental agreement between the Town and the State of Colorado, and with an intergovernmental agreement between the Town and Summit County; and

WHEREAS, Colorado Revised Statutes § 31-15-713(c) authorizes the Town to lease real property, by ordinance when the lease term is greater than one year, upon such terms and conditions as the Town Council may determine at a regular or special meeting; and

WHEREAS, pursuant to said authority, and the authority provided by the home-rule Charter for the Town of Frisco, on May 23, 2023, by Ordinance No 23-14, the Town approved the Development Agreement and the Ground Lease Option Agreement that was attached to the Development Agreement; and

WHEREAS, the Ground Lease Option Agreement provided for the lease of most of the Town Property to the NHP Foundation, but reserved to the Town, for its own use, an area equal to approximately 12.5% of the total land area of the Town Property; and

WHEREAS, as a result of the planning process for the affordable rental housing project, the Town has determined that the reserved area is best used for, and to facilitate, the construction of affordable housing on the site; and

WHEREAS, accordingly, the Town and the NHP Foundation desire to amend the terms of the Ground Lease Option Agreement to describe the entirety of the Town Property as being subject to the lease.

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

Section 1. Approval of First Amendment to Development Agreement. The attached FIRST AMENDMENT TO DEVELOPMENT AGREEMENT BETWEEN THE TOWN OF FRISCO AND THE NHP FOUNDATION, Dated, *nunc pro tunc*, as of May 23, 2023, is in all respects approved, authorized, and confirmed, and the Mayor of the Town is hereby authorized and directed for and on behalf of the Town to execute and deliver the agreement in the form attached hereto and, further, the Mayor, the Town Manager, the Finance Director, and other appropriate officials or employees of the Town are hereby authorized to execute and deliver for and on behalf of the Town any and all certificates, documents, instruments, and other papers and to perform all other acts that they deem necessary or appropriate, in order to implement and carry out the transactions and other matters authorized by this ordinance and the attached agreement. The Town Clerk is hereby authorized and directed to attest all signatures and acts of any official of the Town, if so required by any documents in connection with the matters authorized by this ordinance and the attached agreement.

Section 2. Repealer. All bylaws, orders, resolutions and ordinances of the Town, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any other such bylaw, order, resolution or ordinance of the Town, or part thereof, heretofore repealed.

Section 3. Severability. If any section, subsection, paragraph, clause, or other provision of this ordinance for any reason is held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause, or other provision shall not affect any of the remaining provisions of this ordinance, the intent being that the same are severable

Section 4. Effective Date. In accordance with Section 3-8 of the Charter, this ordinance will take effect five days after final publication.

INTRODUCED, PASSED ON FIRST READING AND PUBLICATION IN FULL AND
POSTING BY TITLE ORDERED ON THE ____ DAY OF _____, 2023.

ADOPTED ON SECOND READING AND PUBLICATION BY TITLE ORDERED ON
THE ____ DAY OF _____, 2023.

TOWN OF FRISCO, COLORADO

Mayor Hunter Mortensen

(SEAL)

ATTEST:

Stacey Nell, Town Clerk