

INTERGOVERNMENTAL AGREEMENT CONCERNING BOAT INSPECTIONS AT THE FRISCO MARINA ON THE DILLON RESERVOIR

This Intergovernmental Agreement is made this 19th day of June 2018, between the City and County of Denver, acting by and through its Board of Water Commissioners, a Colorado municipal corporation ("**Board**"), and the Town of Frisco, a Colorado municipal corporation ("**Town**").

WHEREAS, the Board operates the Dillon Reservoir as a water supply facility located in Summit County, Colorado; and

WHEREAS, the Town manages the Frisco Marina at the Dillon Reservoir through the "Lease Agreement for Frisco Marina", executed on or about November 13, 2013; and

WHEREAS, there is a potential that the Dillon Reservoir could be subject to infestation of Zebra and/or Quagga Mussels to the detriment of waterworks facilities, boats, marinas and fisheries; and

WHEREAS, the Town has determined it to be in its best interests to participate in the management effort to keep Zebra and/or Quagga Mussels and other aquatic invasive species ("**ANS**") out of Dillon Reservoir; and

WHEREAS, the Board has determined that it is in its best interests to support The Town and share in the cost to manage the effort to keep Zebra and/or Quagga Mussels and other aquatic invasive species out of Dillon Reservoir.

NOW THEREFORE, in consideration of the above and the mutual covenants and commitments made herein, the parties enter into the following Intergovernmental Agreement ("**Agreement**") to define their relative rights and responsibilities related to the boat inspections at the Frisco Marina.

1. Effective Date

- A. This Agreement is effective January 1, 2018.
- B. This Agreement shall remain in effect for three (3) years from the effective date and shall expire on December 31, 2020.

2. Rights and Responsibilities of the Town

- A. The Town agrees to be responsible for the inspection of watercraft entering and exiting Dillon Reservoir through Frisco Marina and to use its best efforts to decontaminate such watercraft prior to entering the reservoir.
- B. The Town agrees to strictly comply with all federal, state and local rules and regulations relating to the use, storage, treatment or disposal of hazardous materials, including, but not limited to, chemicals and petroleum products. If, as a result of the Town occupancy of the Frisco Marina, any such law, ordinance, rule or regulation is violated, the Town shall, insofar as it legally may, protect, save harmless, defend and indemnify the Board from and against any penalties, costs and expenses including legal fees and court costs, caused by, resulting from or connected with such violation or violations.
- C. The Town shall not discharge water into or upon any Board property or facility, but it shall provide for carriage of water over or across Board property or facility in a manner approved by the Board's Representatives. The Board's Representative is Brandon Ransom, Recreation Manager (303-727-0688).
- D. The Town has the right to manage the Frisco Marina as it sees fit within the parameters of the Frisco Marina lease, including hours of operation, use fees and any other management protocols.
- E. The Town may, at any time, by giving the Board thirty (30) days' written notice, terminate this Agreement.
- F. The rights and responsibilities granted to The Town by this Agreement may not be assigned without the written consent of the Board.

3. Rights and Responsibilities of the Board

- A. The Board agrees to participate in funding, at a cost not to exceed \$40,000.00 per year, for personnel, equipment, signage and physical improvements necessary and associated with the inspection and decontamination of watercraft entering and exiting Dillon Reservoir through the Dillon Marina. The total compensation under this Agreement, including costs and expenses, shall not exceed \$120,000.00. The Town shall provide invoices each month for work accomplished through the last day of the preceding month. The Town must submit documentation supporting the charges in the invoices and must include the contract number of this Agreement on each invoice. Payments shall be based upon Frisco's verified progress in completing the work. Unless the Town has not properly performed the work, invoices will be paid within thirty (30) days of receipt. The Board shall have the right to refuse to pay all or a portion of an invoice that is inconsistent with this Agreement. The Board may delay payment until it can verify the accuracy of the invoice or resolve a dispute with the Town regarding an invoice. Checks shall be made payable to the Town of Frisco.

- B. The Board reserves the right to make full use of its property involved as may be necessary or convenient in the operation of the water plant and system under the control of the Board. The Board retains all right to operate, maintain, repair, remove, relocate or install any of its facilities within the Board's property at any time and in such a manner as it deems necessary or convenient.
- C. The Board may, at any time, by giving the Town thirty (30) days' written notice, terminate this Agreement. In the event of such termination, the Board shall pay the Town equitably for costs incurred by the Town for which the Board is responsible pursuant to this Agreement.

4. Marina Lease

The aforementioned Lease Agreement for the Frisco Marina between the Town and the Board remains in full force and effect.

5. Independent Contractor

The Town shall be, for all purposes, an independent contractor and not an employee or agent of the Board. The Town and its employees shall in no way represent themselves to third parties as agents or employees of the Board.

6. Nondiscrimination

The Town expressly agrees not to discriminate against any employee, applicant for employment, or potential subcontractor or supplier because of race, color, religion, age, national origin, gender, sexual orientation, military status, marital status, or disability. The Town shall comply with all applicable state and federal laws with regard to equal employment opportunity.

7. Governmental Immunity

All parties expressly rely upon and do not waive the protections and limitations of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et seq., as it may be amended from time to time.

8. Notices

All notices required or given under this Agreement shall be in writing and shall be deemed effective: (a) when delivered personally to the other party; or (b) seven (7) days after posting in the United States mail, first-class postage prepaid, properly addressed as follows; or (c) when sent by e-mail. If notice is provided by e-mail, the notifying party must follow up with a hard copy of the notice sent by United States mail; however, the notice will be effective as of the original e-mail date.

If to the Board: Brandon Ransom, Manager of Recreation
 Denver Water
 1600 West 12th Avenue
 Denver, CO 80204
 e-mail: brandon.ransom@denverwater.org

If to Frisco: Tom Hogeman, General Manager
 Frisco Bay Marina
 PO Box 4100
 Frisco, CO 80443
 e-mail: TomH@townoffrisco.com

or such other persons or addresses as the parties may have designated in writing.

9. Binding Effect

The agreements and covenants as set forth herein shall be binding upon the parties, their heirs, successors and assigns.

10. 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 the party waiving such rights.

11. Applicable Law

This Agreement shall be interpreted in all respects in accordance with the laws of the State of Colorado.

12. Venue

For the resolution of any dispute arising from this Agreement, venue shall be in the District Court in and for the City and County of Denver.

13. Counterparts

This Agreement may be executed in several counterparts and/or signature pages, and all counterparts and signature pages so executed shall constitute one agreement binding on all parties hereto.

14. Severability

In case one or more of the provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

15. No Third Party Beneficiaries

It is the intent of the parties that they be and remain the sole beneficiaries of this Agreement, and no other person or party shall be entitled to the benefits thereof except as described in Paragraph 9.

16. Charter of the City and County of Denver

This Agreement is made under and conformable to Article X of the Charter of the City and County of Denver, which controls the operation of the Denver Municipal Water System. The Charter provisions are incorporated by this reference and shall supersede any apparently conflicting provisions otherwise contained in this Agreement.

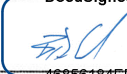
17. Entire Agreement

- A. This Agreement constitutes the entire agreement between the parties and replaces all prior written or oral agreements and understandings. It may be altered, amended, or repealed only by a duly executed written instrument.
- B. The parties agree that execution of this Agreement terminates their existing Intergovernmental Agreement and associated Amendments Concerning Boat Inspections at the Frisco Marina, dated March 28, 2013.

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

APPROVED: DocuSigned by:

By:


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Brian Good
Chief Administrative Officer

**CITY AND COUNTY OF DENVER,
acting by and through its
BOARD OF WATER COMMISSIONERS**

By:


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James S. Lochhead
CEO/Manager

DATE: 6/19/2018

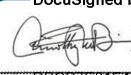
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
By:


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Tatiana Popacondria
Office of General Counsel

**REGISTERED AND COUNTERSIGNED:
CITY AND COUNTY OF DENVER**

By:


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Timothy M. O'Brien, CPA
Auditor

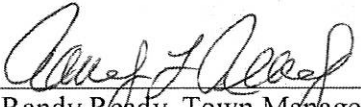
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THIS AGREEMENT IS ACCEPTED BY:

TOWN OF FRISCO

By execution, signer certifies that s/he is authorized to accept and bind the Town to the terms of this Agreement.

By:


Randy Ready, Town Manager

DATE:

5/26/18