



## MEMORANDUM

P.O. Box 4100 ♦ FRISCO, COLORADO 80443

**TO: MAYOR AND TOWN COUNCIL**  
**FROM: JEFF GOBLE, PUBLIC WORKS DIRECTOR**  
**RE: SECOND AMENDMENT TO INTERGOVERNMENTAL AGREEMENT FOR WATER SERVICES**  
  
**DATE: SEPTEMBER 26, 2023**

**Summary and Background:** On July 31, 2023, the Town received an application from Summit County for extra-territorial water service for a 15-unit workforce housing project in the Bill's Ranch Subdivision. In the application, the County is requesting to use EQR's that are provided in the 2001 IGA and the 2018 First Amendment to the 2001 IGA (together the "County Commons Water Agreement") for the provision of water to the County Commons development area. Staff has reviewed the application and find it to be complete with the exception of the County's request to use the water rights / EQR's remaining in the County Commons Water Agreement. That agreement currently allows the EQR's provided to be used only within the County Commons property. There will need to be an amendment to these agreements to allow the County to use these water /EQR's within the Bill's Ranch Subdivision.

**Analysis:** Upon review of the County's request to use the water rights / EQR's in the 2001 & 2018 agreements, staff determined that we needed to have our legal and water rights counsel review the request and draft a Second Amendment to the IGA for Water Services. Our attorneys have conferred and drafted the Second Amendment for your review and discussion during this work session. Highlights of this Second Amendment are as follows:

- Allows the County to use 15 of the remaining 84.66 EQR's from the County Commons Water Agreement outside of the County Commons area and specifically (and only) for this project in the Bill's Ranch Subdivision.
- Amends the original agreement to require the immediate conveyance of 77.49 shares of the Clinton Ditch & Reservoir Company to the sole ownership of the Town. These shares represent the 258.31 EQR's previously provided by the Town and currently in use at the County Commons property. Under the existing agreement, the County is only required to "make available" to the Town the water that is attributable to a certain number of Clinton Ditch Company shares, and to hold shares that it continues to own "in reserve" for use under the agreement.

- Under the current agreement, “after the Town’s issuance of the 171.64 EQRs pursuant to this Agreement, the County agrees to negotiate in good faith with the Town, at the Town’s request, to convey ownership to the Town of the Clinton Reservoir Shares under which water has been made available to the Town for water taps and irrigation, provided the conveyance is mutually beneficial and is otherwise appropriate.” The proposed amendments eliminate this language and require, going forward, that no water taps will be sold until the requisite number of shares of the Clinton Reservoir Company have been conveyed to the Town. In this respect, the agreement is brought into line with the requirements of the Town Code with respect to the provision of extra-territorial water (that prior to service, water rights be conveyed to the Town that are sufficient to provide the wet water for service requested).

**Financial Impact:** This Second Amendment will increase annual expenses to the Water Fund by transferring the annual administrative costs that the Clinton Ditch & Reservoir Company currently charges to the County. These costs will transfer to the Town once the water rights are legally conveyed to the Town. This cost is unknown at this time, but staff believes it will be minimal compared to the benefit of owning these shares. These costs can be easily absorbed into water fund expenses.

**Alignment with Strategic Plan:** Our Quality Core Services strategic goal is supported by making sure that water rights shares due to the Town from Summit County are finally transferred as the original and amended agreement intended. That strategic goal is also supported by the efficiency of allowing the County Commons EQRs to be applied to these parcels that are adjacent to the County Commons. Provision of water to this project through this amended agreement supports the advancement of the County’s workforce housing goals, which in turn supports the Town’s workforce and Thriving Economy.

**Environmental Sustainability:** The amendment transfers Clinton Ditch and Reservoir shares to Town ownership, which improves the Town’s water portfolio and improves the Town’s ability to control releases from the Clinton reservoir and maintain healthy stream flows in Tenmile Creek. The addition of workforce housing adjacent to Town limits could reduce commute distances and associated emissions for the Town’s workforce.

**Staff Recommendation:** Staff recommends that Council review and comment on this amendment, then request staff to bring back to a future meeting for official action.

**Approved By:**

Tom Fisher, Town Manager  
Diane McBride, Assistant Town Manager  
Leslie Edwards, Finance Director  
Thad Renaud, Town Attorney  
Chris McGinnis, Town Engineer

**Attachments:**

Attachment 1 – Second Amendment to Intergovernmental Agreement For Water Services

Attachment 2 – Application For Approval Of Extra-Territorial Water Taps

Attachment 3 – 2001 IGA

Attachment 4 – 2018 First Amendment to the IGA

Attachment 5 – Current County Commons EQR Accounting memo