

**BOARD OF TRUSTEES WORK SESSION**  
**April 10, 2023**

**AGENDA ITEM SUMMARY**

---

**SUBJECT:** Silt Water Rate Option Analysis

**PROCEDURE:** Discussion Item

**BACKGROUND OF SUBJECT MATTER:**

At the last BoT meeting, Trustees heard from Jim Mann on several options for water rates. Importantly, Jim reviewed some of the basic assumptions in developing the rate models. After discussion, the Trustees asked for more analysis on options including base rates of 2,000 and 3,000 gallons. Additionally, staff has added some analysis on water use among the largest class of user, i.e., class 101.

Financial Analyst Jim Mann will be on hand to introduce a couple of options and to discuss others.

\*Agenda Item Summary from the March 27<sup>th</sup> meeting is attached for review and for those who were not in attendance.

**SUMMARY:**

It bears repeating that rates are recommended to increase by 86% just to operate the water utility in a manner that balances revenue with expenses. An additional 40% increase is necessary to fund the water plant improvements.

**RECOMMENDATION:** Discuss with staff the idea of **adjusting rates now to operate the utility to break even OR wait** until more is known about the cost of the plant and amount of financing that will be awarded.

Be prepared now to await the final cost estimates that are now being developed for the June 15 loan application. Staff and consultants will share them with the Board at the first meeting in June.

**ORIGINATED BY:** Jeff Layman

**PRESENTED BY:** Jim Mann/Jeff Layman/Trey  
Fonner/Amie Tucker

**DOCUMENTS ATTACHED:** Water Rate Options Power Point

**SUBMITTED BY:**

Jeff Layman  
Jeff Layman, Town Administrator

**REVIEWED BY:**

  
Lori Malsbury, Deputy Town Clerk

# Town of Silt – Water Rate Option (Concepts)

**Draft**

April 10, 2023

# Background



- Maintain current rate structure related to Seniors (50% of base fee, same volumetric rates)
- Eliminate Stand-by Rate
- Maintain current rate structure related to Pressure Zone (200% of base fee, same volumetric rates)
- Options 1 and Hybrid 4 include new WTP, Water Storage and Main Replacement
  - WTP is estimated to cost \$28MM
  - Principal Forgiveness - \$5.0MM

# Overview – Test Year 2023



- Current rate structure does not provide enough resources
- Recommended 86% increase to operate utility
- Additional approximate 40% increase to pay for new water treatment plant
- March 27 Meeting
  - Deeper dive into all usage
  - Modify Hybrid 4

		Current	Recommended	Option 1	Hybrid 4	
Estimated Revenue Increase			86%	144%	142%	
	Test Year					
	2023	2023	2023	2023	2023	
General Operation		969,802	969,802	969,802	969,802	
New Production Costs		0	0	19,990	19,990	
Administration (50%)		516,186	516,186	516,186	516,186	
Debt Payments		135,168	135,168	1,514,951	1,514,951	
Annual Main Replacement		0	300,000	300,000	300,000	
		1,621,156	1,921,156	3,320,928	3,320,928	
Base Revenues		941,555	1,631,458	2,196,709	2,132,415	Note 1
Volumetric		84,258	396,605	396,605	468,960	Note 1
Bulk Water		70,000	136,200	131,774	126,579	Note 2
Tap Fees		300,000	0	816,439	816,439	Note 4
Misc Revenues		47,975	47,975	47,975	47,975	
		1,443,788	2,212,237	3,589,501	3,592,367	
Gap		(177,368)	291,081	268,573	271,439	
Note 1 -	Assumes following rate structure					
Base		52.62	2,000	91.35	2,000	123.00
Tier 2	per 1,000 gallons	1.00	4,000	5.60	4,000	5.60
Tier 3	per 1,000 gallons	2.00	4,000	6.35	4,000	6.35
Tier 4	per 1,000 gallons	3.34	4,000	7.10	4,000	7.10
Tier 5	per 1,000 gallons	4.66	4,000	7.85	4,000	7.85
Tier 6	per 1,000 gallons	6.66	4,000	8.60	4,000	8.60
Average Residential Customer		54.42	101.40	133.05	131.52	
Note 2 -	Reduction in Bulk Water: 25% for Status Quo, 50% for Option 1 and Hybrid 4					
Note 3 -	Assumes a moratorium on new taps					
Note 3 -	Assumes 60 taps added per year at					
			13,699	per tap.	Growth numbers based on Water Master Plan Report	



# Options as Presented



		Status Quo	Option 1			Hybrid 4
Base Rate		85.65	124.30			119.40
0	2,000	Inc.	Inc.	0	2,000	Inc.
2,001	6,000	5.15	5.00	2,001	4,000	6.75
6,001	10,000	6.15	6.00	4,001	6,000	7.50
10,001	14,000	7.15	7.00	6,001	8,000	8.25
14,001	18,000	8.15	8.00	8,001		9.00
18,001		9.15	9.00			
Average User	3,795	94.89	133.28			131.52

# Revenue Mix - Outcomes



		Status Quo	Option 1			Hybrid 4
Base Rate		85.65	124.30			119.40
0	2,000	Inc.	Inc.	0	2,000	Inc.
2,001	6,000	5.15	5.00	2,001	4,000	6.75
6,001	10,000	6.15	6.00	4,001	6,000	7.50
10,001	14,000	7.15	7.00	6,001	8,000	8.25
14,001	18,000	8.15	8.00	8,001		9.00
18,001		9.15	9.00			
Average User	3,795	94.89	133.28			131.52

Status Quo and Option 1 use current Rate Tier Structure

Hybrid 4 moves to 2,000-gallon increment tiers

Usage data deep dive showed some skewing

Added Rate 101 Median and Average User impacts

	Gallons	Status Quo	Option 1	Hybrid 4
Overall Average User	3,795	94.89	133.05	131.52
Increase			38.16	36.62
Median User (101)	3,817	95.01	133.17	131.66
Increase			38.17	36.66
Average User (101)	5,301	102.65	141.49	141.68
Increase			38.84	39.03

# Take Aways



- Current rates generate annual \$177k loss
- Most revenues currently generated from base rate
- Water Usage – Class 101 (General Residential)
  - 20% Use less than 2,000 gallons per month
  - 61% Use between 2,001 gallons and 6,000 gallons per month
  - 16% Use between 6,001 gallons and 10,000 gallons per month
  - 3% use more than 10,001 gallons per month

# Actions Steps

- Determine Tier Structure
  - Status Quo/Option 1
    - Base includes 2,000 gallons
    - 5 – 4,000-gallon tiers
  - Hybrid 4
    - Base includes 2,000 gallons
    - 3 – 2,000-gallon tiers
- Adjust rates now to reflect Status Quo (interim rate increase)
- Adjust rates when costs of plant known (large one-time increase)

# Appendices



# Status Quo Recommended Cash Flow



					1	2	3	4	5	6	7	8	9	10	11
	2018	2019	Actual 2020	2021	Estimated 2022	2023	2024	2025	2026	Projected 2027	2028	2029	2030	2031	2032
9															
10 Beginning net assets					1,357,709	1,350,959	894,405	1,141,798	1,352,770	1,532,270	1,678,662	1,841,922	1,968,967	2,112,882	2,218,067
11															
12 Operating Revenues															
13 Water Charges - Base Fees					874,595	941,555	1,631,458	1,631,458	1,631,458	1,631,458	1,680,402	1,680,402	1,730,814	1,730,814	1,782,738
14 Water Charges - Volumetric						84,258	396,605	403,259	416,480	429,700	442,921	456,538	470,155	484,533	496,912
15 Water Charges - Bulk Water						70,000	136,200	137,562	138,937	140,327	145,940	148,858	156,301	159,427	167,399
16 Water Charges - Meter Installs					17,877	10,000	10,100	10,201	10,303	10,406	10,510	10,720	10,935	11,153	11,376
17 Water Tap Fees (indexed annually based on borrowing rate)					376,200	300,000	0	0	0	0	0	0	0	0	0
18 Other					49,671	37,500	37,875	38,254	38,636	39,023	39,413	40,201	41,005	41,825	42,662
19 Total Operating Revenues					1,318,342	1,443,313	2,212,237	2,220,734	2,235,814	2,250,913	2,319,185	2,336,719	2,409,210	2,427,753	2,503,087
20															
21 Operating Expenses															
22 Operating and Maintenance (prior year line 22 added in)					992,481	1,048,750	1,080,213	1,133,208	1,167,204	1,202,221	1,238,287	1,275,436	1,313,699	1,353,110	1,393,703
23 Added Production Cost from Growth							19,990								
24 Administration (50%)					317,855	501,152	516,186	531,672	547,622	564,050	580,972	598,401	616,353	634,844	653,889
25 Depreciation - Water						339,824	339,824	339,824	339,824	339,824	339,824	339,824	339,824	339,824	339,824
26 Total Operating Expenses					1,310,335	1,889,726	1,956,212	2,004,704	2,054,650	2,106,095	2,159,083	2,213,661	2,269,876	2,327,778	2,387,416
27															
28 Net Operations		0	0	0	0	8,007	(446,412)	256,025	216,030	181,164	144,818	160,102	123,058	139,334	99,976
29 Non operating revenues (expenses)															
30 Interest Income		0	0	0	0	500	2,470	1,279	2,095	2,670	3,028	3,159	3,986	4,582	5,209
31 Interest Expense - Existing Debt						(15,256)	(12,612)	(9,911)	(7,152)	(4,334)	(1,455)	0	0	0	0
32 Interest Expense - New Debt 2023-2032					0										
34 Costs of Issuance															
35 Total non operating revenue (expenses)		0	0	0	0	(14,756)	(10,142)	(8,632)	(5,057)	(1,664)	1,573	3,159	3,986	4,582	5,209
36															
37 Net increase (decrease) in resources		0	0	0	0	(6,749)	(456,554)	247,393	210,972	179,500	146,392	163,261	127,044	143,915	105,185
38															
39 Operating Transfer In (Out)															
40 Capital Contributions															
41 Cumulative Effect of Change in Acct Principle															
42 PILOT Payment															
43 Ending Net Assets		0	0	0	1,350,959	894,405	1,141,798	1,352,770	1,532,270	1,678,662	1,841,922	1,968,967	2,112,882	2,218,067	2,339,327
44 CIP Funding															
45 Purchase of Capital Assets - Water		0	0	0	0	(740,000)		(300,000)	(309,000)	(318,270)	(327,818)	(337,653)	(347,782)	(358,216)	(368,962)
46 Capital Contributions								0							
47 Principal Payments on Existing bonds						(118,902)	(121,458)	(124,073)	(126,745)	(129,476)	(132,265)				
48 Bonds Issued								0							
49 Advance from (to) other funds															
50 Principal Payments on Advance from other funds															
51 Future Debt Principal					0										
52															
53 Beginning Cash					1,359,716	494,065	255,876	419,021	534,072	605,650	631,783	797,215	916,302	1,041,825	1,117,872
54 Add net operations (line 23)					8,007	(446,412)	256,025	216,030	181,164	144,818	160,102	123,058	139,334	99,976	115,671
55 Add back depreciation (line 27)					0	0	339,824	339,824	339,824	339,824	339,824	339,824	339,824	339,824	339,824
56 Add net non operating (line 34)					0	(14,756)	(10,142)	(8,632)	(5,057)	(1,664)	1,573	3,159	3,986	4,582	5,209
57 Add capital and bond (lines 40-49)					0	(858,902)	(121,458)	(424,073)	(435,745)	(447,746)	(460,083)	(337,653)	(347,782)	(358,216)	(368,962)
58 Add transfer in (out)					0	0	0	0	0	0	0	0	0	0	0
59 Net change in balance sheet items					0	0	0	0	0	0	0	0	0	0	0
60 Ending Cash					1,359,716	494,065	255,876	419,021	534,072	605,650	631,783	797,215	916,302	1,041,825	1,117,872
61 Restricted Cash					1,720	1,720	1,720	1,720	1,720	1,720	1,720	1,720	1,720	1,720	1,720
62 Unrestricted Cash					1,357,996	492,345	254,156	417,301	532,352	603,930	630,063	795,495	914,582	1,040,105	1,116,152
63															
64 Ending Net Assets					1,350,959	894,405	1,141,798	1,352,770	1,532,270	1,678,662	1,841,922	1,968,967	2,112,882	2,218,067	2,339,327
65															
66 Target Unrestricted Cash (6 mo Operating + Following Year Debt Service)						1,078,847	1,112,004	1,136,162	1,161,045	1,053,048	1,079,542	1,106,830	1,134,938	1,163,889	1,193,708
67 Unrestricted Cash Percent						24%	38%	47%	52%	60%	74%	83%	92%	96%	100%

# Option 1



					1	2	3	4	5	6	7	8	9	10	11			
	2018	2019	Actual	2020	2021	Estimated	2022	2023	2024	2025	2026	Projected	2027	2028	2029	2030	2031	2032
9																		
10	Beginning net assets					1,357,709		1,350,959	700,071	1,371,081	1,647,994	1,992,865	2,423,634	3,014,320	3,715,857	4,493,645	5,342,447	
11																		
12	Operating Revenues																	
13	Water Charges - Base Fees					874,595		941,555	2,196,709	2,284,678	2,372,648	2,460,617	2,625,045	2,715,653	2,892,799	2,988,475	3,176,675	
14	Water Charges - Volumetric							84,258	396,605	403,259	416,480	429,700	442,921	456,538	470,155	484,533	498,912	
15	Bulk Water Sales							70,000	131,774	133,091	134,422	135,766	137,124	139,867	142,864	145,917	148,428	
16	Water Charges - Meter Installs					17,877		10,000	10,100	10,201	10,303	10,406	10,510	10,720	10,935	11,153	11,376	
17	Water Tap Fees (indexed annually based on borrowing rate)					376,200		300,000	816,439	844,851	877,631	911,683	947,057	1,008,563	1,047,695	1,088,345	1,130,573	
18	Other					49,671		37,500	37,875	38,254	38,636	39,023	39,413	40,201	41,005	41,825	42,662	
19	Total Operating Revenues					1,318,342		1,443,313	3,589,501	3,714,334	3,850,120	3,987,196	4,202,069	4,371,542	4,605,252	4,759,849	5,008,626	
20																		
21	Operating Expenses																	
22	Operating and Maintenance (prior year line 22 added in)					992,481		992,481	1,022,255	1,073,512	1,126,923	1,182,570	1,240,540	1,300,921	1,364,408	1,430,532	1,499,393	
23	Added Production Cost from Growth								19,990	20,587	21,203	21,838	22,491	23,747	24,457	25,189	25,943	
24	Administration (50%)					317,855		501,152	516,186	531,672	547,622	564,050	580,972	598,401	616,353	634,844	653,889	
25	Depreciation - Water							339,824	988,749	1,028,123	1,096,687	1,107,826	1,119,298	1,131,115	1,180,138	1,266,380	1,279,292	
26	Total Operating Expenses					1,310,335		1,833,456	2,547,180	2,653,894	2,792,435	2,876,263	2,963,300	3,054,184	3,185,357	3,356,945	3,458,518	
27																		
28	Net Operations		0	0	0	0	8,007	(390,143)	1,042,321	1,060,440	1,057,685	1,110,913	1,238,769	1,317,358	1,419,895	1,402,904	1,550,108	
29	Non operating revenues (expenses)																	
30	Interest Income		0	0	0	0	500	2,470	308	6,486	7,848	9,398	10,781	12,803	15,223	10,846	14,225	
31	Interest Expense - Existing Debt						(15,256)	(12,612)	(9,911)	(7,152)	(4,334)	(1,455)	0	0	0	0	0	
32	Interest Expense - New Debt 2023-2032					0			(361,707)	(722,861)	(716,328)	(688,087)	(658,864)	(628,623)	(597,330)	(564,947)	(531,438)	
34	Costs of Issuance								(250,604)						(60,000)			
35	Total non operating revenue (expenses)		0	0	0	0	(14,756)	(260,746)	(371,311)	(783,527)	(712,814)	(680,144)	(648,083)	(615,820)	(642,107)	(554,102)	(517,214)	
36																		
37	Net increase (decrease) in resources		0	0	0	0	(6,749)	(650,889)	671,010	276,913	344,871	430,769	590,686	701,538	777,788	848,802	1,032,895	
38																		
39	Operating Transfer In (Out)																	
40	Capital Contributions																	
41	Cumulative Effect of Change in Acct Principle																	
42	PILOT Payment																	
43	Ending Net Assets		0	0		0	1,350,959	700,071	1,371,081	1,647,994	1,992,865	2,423,634	3,014,320	3,715,857	4,493,645	5,342,447	6,375,342	
44	CIP Funding																	
45	Purchase of Capital Assets - Water		0	0	0	0	(740,000)	(27,942,000)	(300,000)	(2,809,000)	(318,270)	(327,818)	(337,653)	(347,782)	(3,548,920)	(368,962)	(380,031)	
46	Capital Contributions							5,000,000	0									
47	Principal Payments on Existing bonds						(118,902)	(121,458)	(124,073)	(126,745)	(129,476)	(132,265)						
48	Bonds Issued							22,942,000		2,560,000					1,750,704			
49	Advance from (to) other funds																	
50	Principal Payments on Advance from other funds																	
51	Future Debt Principal					0				(656,920)	(683,744)	(802,026)	(967,919)	(1,000,922)	(1,035,074)	(1,070,415)	(1,181,343)	
52																		
53	Beginning Cash					1,359,716		494,065	61,542	1,297,229	1,569,600	1,879,668	2,156,154	2,560,566	3,044,514	2,169,151	2,844,956	
54	Add net operations (line 23)					0	8,007	(390,143)	1,042,321	1,060,440	1,057,685	1,110,913	1,238,769	1,317,358	1,419,895	1,402,904	1,550,108	
55	Add back depreciation (line 27)					0	0	339,824	988,749	1,028,123	1,096,687	1,107,826	1,119,298	1,131,115	1,180,138	1,266,380	1,279,292	
56	Add net non operating (line 34)					0	(14,756)	(260,746)	(371,311)	(783,527)	(712,814)	(680,144)	(648,083)	(615,820)	(642,107)	(554,102)	(517,214)	
57	Add capital and bond (lines 40-49)					0	(858,902)	(121,458)	(424,073)	(1,032,665)	(1,131,490)	(1,262,109)	(1,305,572)	(1,348,704)	(2,833,290)	(1,439,377)	(1,561,374)	
58	Add transfer in (out)					0	0	0	0	0	0	0	0	0	0	0	0	
59	Net change in balance sheet items					0	0	0	0	0	0	0	0	0	0	0	0	
60	Ending Cash					1,359,716	494,065	61,542	1,297,229	1,569,600	1,879,668	2,156,154	2,560,566	3,044,514	2,169,151	2,844,956	3,595,769	
61	Restricted Cash						1,720	1,720	1,720	1,720	1,720	1,720	1,720	1,720	1,720	1,720	1,720	
62	Unrestricted Cash					1,357,996	492,345	59,822	1,295,509	1,567,880	1,877,948	2,154,434	2,558,846	3,042,794	2,167,431	2,843,236	3,594,049	
63																		
64	Ending Net Assets					1,350,959		700,071	1,371,081	1,647,994	1,992,865	2,423,634	3,014,320	3,715,857	4,493,645	5,342,447	6,375,342	
65																		
66	Target Unrestricted Cash (6 mo Operating + Following Year Debt Service)							1,412,419	2,787,268	2,860,829	3,020,050	3,064,924	3,111,195	3,159,496	3,228,041	3,391,254	3,584,278	
67	Unrestricted Cash Percent							4%	46%	55%	62%	70%	82%	96%	67%	84%	100%	

# Hybrid 4



					1	2	3	4	5	6	7	8	9	10	11	
	2018	2019	Actual 2020	2021	Estimated 2022	2023	2024	2025	2026	Projected 2027	2028	2029	2030	2031	2032	
9																
10 Beginning net assets					1,357,709	1,350,959	700,071	1,373,947	1,652,481	1,999,069	2,431,651	3,022,007	3,723,250	4,498,242	5,344,276	
11																
12 Operating Revenues																
13 Water Charges - Base Fees					874,595	941,555	2,132,415	2,217,810	2,303,205	2,388,599	2,548,214	2,636,171	2,808,131	2,901,007	3,083,699	
14 Water Charges - Volumetric						84,258	468,960	476,981	492,916	508,852	524,787	541,201	557,614	574,945	592,277	
15 Bulk Water Sales						70,000	126,579	127,845	129,123	130,414	131,719	134,353	137,040	139,781	142,576	
16 Water Charges - Meter Installs					17,877	10,000	10,100	10,201	10,303	10,406	10,510	10,720	10,935	11,153	11,376	
17 Water Tap Fees (indexed annually based on borrowing rate)					376,200	300,000	816,439	844,851	877,631	911,683	947,057	1,008,563	1,047,695	1,088,345	1,130,573	
18 Other					49,671	37,500	37,875	38,254	38,636	39,023	39,413	40,201	41,005	41,825	42,662	
19 Total Operating Revenues					1,318,342	1,443,313	3,592,367	3,715,941	3,851,815	3,988,978	4,201,699	4,371,208	4,602,420	4,757,057	5,003,164	
20																
21 Operating Expenses																
22 Operating and Maintenance (prior year line 22 added in)					992,481	992,481	1,022,255	1,073,512	1,126,923	1,182,570	1,240,540	1,300,921	1,364,408	1,430,532	1,499,393	
23 Added Production Cost from Growth							19,990	20,587	21,203	21,838	22,491	23,747	24,457	25,189	25,943	
24 Administration (50%)					317,855	501,152	516,186	531,672	547,622	564,050	580,972	598,401	616,353	634,844	653,889	
25 Depreciation - Water						339,824	988,749	1,028,123	1,096,687	1,107,826	1,119,298	1,131,115	1,180,138	1,266,380	1,279,292	
26 Total Operating Expenses					1,310,335	1,833,456	2,547,180	2,653,894	2,792,435	2,876,263	2,963,300	3,054,184	3,185,357	3,356,945	3,458,518	
27																
28 Net Operations		0	0	0	0	8,007	(390,143)	1,045,187	1,062,047	1,059,380	1,112,694	1,238,399	1,317,024	1,417,063	1,400,112	1,544,646
29 Non operating revenues (expenses)																
30 Interest Income		0	0	0	0	500	2,470	308	6,500	7,870	9,429	10,821	12,841	15,260	10,869	14,234
31 Interest Expense - Existing Debt					(15,256)	(12,612)	(9,911)	(7,152)	(4,334)	(1,455)	0	0	0	0	0	0
32 Interest Expense - New Debt 2023-2032					0		(361,707)	(722,861)	(716,328)	(688,087)	(658,864)	(628,623)	(597,330)	(564,947)	(531,438)	
34 Costs of Issuance							(250,604)									
35 Total non operating revenue (expenses)		0	0	0	0	(14,756)	(260,746)	(371,311)	(783,513)	(712,792)	(680,113)	(648,043)	(615,781)	(642,070)	(554,079)	(517,204)
36																
37 Net increase (decrease) in resources		0	0	0	0	(6,749)	(650,889)	673,877	278,534	346,588	432,581	590,356	701,243	774,993	846,034	1,027,442
38																
39 Operating Transfer In (Out)																
40 Capital Contributions																
41 Cumulative Effect of Change in Acct Principle																
42 PILOT Payment																
43 Ending Net Assets		0	0	0	1,350,959	700,071	1,373,947	1,652,481	1,999,069	2,431,651	3,022,007	3,723,250	4,498,242	5,344,276	6,371,718	
44 CIP Funding																
45 Purchase of Capital Assets - Water		0	0	0	0	(740,000)	(27,942,000)	(300,000)	(2,809,000)	(318,270)	(327,818)	(337,653)	(347,782)	(3,548,920)	(368,962)	(380,031)
46 Capital Contributions							5,000,000	0								
47 Principal Payments on Existing bonds					(118,902)		(121,458)	(124,073)	(126,745)	(129,476)	(132,265)					
48 Bonds Issued							22,942,000	2,560,000						1,750,704		
49 Advance from (to) other funds																
50 Principal Payments on Advance from other funds																
51 Future Debt Principal				0				(656,920)	(683,744)	(802,026)	(967,919)	(1,000,922)	(1,035,074)	(1,070,415)	(1,181,343)	
52																
53 Beginning Cash					1,359,716	494,065	61,542	1,300,096	1,574,088	1,885,873	2,164,171	2,568,254	3,051,907	2,173,748	2,846,785	2,846,785
54 Add net operations (line 23)		0	0	0	8,007	(390,143)	1,045,187	1,062,047	1,059,380	1,112,694	1,238,399	1,317,024	1,417,063	1,400,112	1,544,646	
55 Add back depreciation (line 27)		0	0	0	0	339,824	988,749	1,028,123	1,096,687	1,107,826	1,119,298	1,131,115	1,180,138	1,266,380	1,279,292	
56 Add net non operating (line 34)		0	0	0	(14,756)	(260,746)	(371,311)	(783,513)	(712,792)	(680,113)	(648,043)	(615,781)	(642,070)	(554,079)	(517,204)	
57 Add capital and bond (lines 40-49)		0	0	0	(858,902)	(121,458)	(424,073)	(1,032,665)	(1,131,490)	(1,262,109)	(1,305,572)	(1,348,704)	(2,833,290)	(1,439,377)	(1,561,374)	
58 Add transfer in (out)		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
59 Net change in balance sheet items		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
60 Ending Cash					1,359,716	494,065	61,542	1,300,096	1,574,088	1,885,873	2,164,171	2,568,254	3,051,907	2,173,748	2,846,785	3,592,145
61 Restricted Cash		1,720	1,720	1,720	1,720	1,720	1,720	1,720	1,720	1,720	1,720	1,720	1,720	1,720	1,720	1,720
62 Unrestricted Cash		1,357,996	492,345	59,822	1,298,376	1,572,368	1,884,153	2,162,451	2,566,534	3,050,187	2,172,028	2,845,065	3,590,425			
63																
64 Ending Net Assets					1,350,959	700,071	1,373,947	1,652,481	1,999,069	2,431,651	3,022,007	3,723,250	4,498,242	5,344,276	6,371,718	
65																
66 Target Unrestricted Cash (6 mo Operating + Following Year Debt Service)						1,412,419	2,787,268	2,860,829	3,020,050	3,064,924	3,111,195	3,159,496	3,228,041	3,391,254	3,584,278	
67 Unrestricted Cash Percent						4%	47%	55%	62%	71%	82%	97%	67%	84%	100%	

**TOWN OF SILT  
REGULAR BOARD OF TRUSTEES AGENDA  
MONDAY, APRIL 10, 2023 – 7:00 P.M.  
MUNICIPAL COUNCIL CHAMBERS**

**6:15 p.m. work session – Water Rate Comparison Update**

ESTIMATED TIME	AGENDA ITEM	PUBLIC HEARING or ACTION ITEM	STAFF PRESENTOR
	<b>Agenda</b>		<b>Tab A</b>
<b>7:00</b>	<b>Call to order</b>		<b>Mayor Richel</b>
	<b>Roll call</b>		
	<b>Pledge of Allegiance and Moment of Silence</b>		
<b>7:05</b>	<b>Public Comments</b> - Persons desiring to make public comment on items not on the agenda shall activate the “raise hand” function in the meeting program. For persons who will participate in the meeting by telephone, they should send an email by 5:00 p.m. on the day of the meeting to sheila@townofsilt.org indicating their desire to make public comment. For those attending in person, a “Sign in Sheet” is available in the Council Chambers. Each speaker will limit comments to no more than three (3) minutes, with a total time of 30 minutes allotted to public comments, pursuant to Section 2.28.020 of the Silt Municipal Code		
<b>7:20 5 min</b>	<b>Consent agenda –</b>  1. Minutes of the March 27, 2023 Board of Trustees meeting 2. Arbor Day Proclamation – Recognizing April 21, 2023 as Arbor Day in the Town of Silt	<b>Action Item</b>	<b>Tab B Mayor Richel</b>
	<b>Conflicts of Interest</b>		
<b>7:25</b>	<b>Agenda Changes</b>		
<b>7:25 10 min</b>	<b>Kum &amp; Go – Approval of Modification of Premises</b>	<b>Public Hearing</b>	<b>Tab C Deputy Town Clerk Malsbury</b>
<b>7:35 20 min</b>	<b>Irrigation System Action Plan Update: Introducing the Turf Replacement Incentive Program (TRIP) – Adrian Brown</b>	<b>Info / Action Item</b>	<b>Tab D Administrator Layman</b>
<b>7:55 5 min</b>	<b>Resolution No. 10, Series 2023, A RESOLUTION EXTENDING THE APPROVAL OF THE AUTUMN RIDGE FINAL PLAT</b>	<b>Action Item</b>	<b>Tab E Planner Chain</b>
<b>8:00 10 min</b>	First reading of <b>Ordinance No. 1, Series 2023, AN ORDINANCE OF THE TOWN OF SILT, COLORADO GRANTING A CABLE SYSTEM FRANCHISE TO COMCAST OF COLORADO</b>	<b>Public Hearing</b>	<b>Tab F Attorney Neu</b>
<b>8:10 5 min</b>	<b>Resolution No. 11, Series 2023, A RESOLUTION EXTENDING THE APPROVAL OF THE CAMARIO PHASE II FINAL PLAT</b>	<b>Action Item</b>	<b>Tab G Planner Chain</b>
<b>8:15 20 min</b>	First reading of <b>Ordinance No. 2, Series 2023, AN ORDINANCE OF THE TOWN OF SILT, COLORADO, APPROVING THE SALE OF TOWN OWNED PROPERTY LOCATED AT 1555 RIVER FRONTAGE ROAD, NORTH OF THE HOLIDAY INN EXPRESS AND PROPERTY UNNEEDED FOR ANY GOVERNMENTAL PURPOSE</b>	<b>Public Hearing</b>	<b>Tab H Administrator Layman</b>

<b>8:35 20 min</b>	<b>2023 Town of Silt Concert Series Presentation</b>	<b>Action Item</b>	<b>Tab I Com Dev Mgr Centeno</b>
<b>8:55 5 min</b>	<b>Administrator and Staff Reports</b>	<b>Info Item</b>	<b>Tab J Administrator Layman</b>
<b>9:00 10 min</b>	<b>Updates from Board / Board Comments</b>		
<b>9:10</b>	<b>Adjournment</b>		
The next regularly scheduled meeting of the Silt Board of Trustees is Monday, April 24, 2023. Items on the agenda are approximate and intended as a guide for the Board of Trustees. "Estimated Time" is subject to change, as is the order of the agenda. For deadlines and information required to schedule an item on the agenda, please contact the Silt Town Clerk at 876-2353.			

**Tentative upcoming work sessions:**

June 26, 2023 – Planning & Zoning Commission



**TOWN OF SILT  
REGULAR BOARD OF TRUSTEES MEETING  
MARCH 27, 2023 – 7:00 P.M.**

The Silt Board of Trustees held their regularly scheduled meeting on Monday, March 27, 2023. Town Clerk McIntyre called the meeting to order at 7:02 p.m.

---

<b>Roll call</b>	Present	Trustee Justin Brintnall Trustee Chris Classen Trustee Samuel Flores Trustee Derek Hanrahan
	Absent	Mayor Keith Richel Mayor Pro-tem Kyle Knott Trustee Jerry Seifert

Also present were Town Administrator Jeff Layman, Town Treasurer Amie Tucker, Public Works Director Trey Fonner, Community Development Manager Nicole Centeno, Chief of Police Mike Kite, Planner Mark Chain and members of the public.

---

**Pledge of Allegiance and Moment of Silence**

---

**Trustee Flores made a motion to nominate Trustee Hanrahan to Chair the meeting this evening. Trustee Classen seconded the motion, and the motion carried unanimously. Trustee Hanrahan then continued the meeting in the capacity of Chair.**

---

**Public Comments** – There were no public comments.

---

**Consent Agenda**

1. Minutes of the March 13, 2023 Board of Trustees meeting
2. **Resolution No. 9, Series 2023, A RESOLUTION SUPPORTING THE GRANT APPLICATION FOR A DEPARTMENT OF LOCAL AFFAIRS ENERGY AND MINERAL IMPACT ASSISTANCE GRANT IN THE AMOUNT OF \$767,325.00, FOR A TOTAL PROJECT COST OF \$1,534,650.00, IN ORDER TO OFFSET THE COSTS ASSOCIATED WITH THE INSTALLATION OF A NEW WATER MAIN UNDER THE UNION PACIFIC RAILROAD AND INTERSTATE 70 WITHIN THE TOWN OF SILT, GARFIELD COUNTY, STATE OF COLORADO**
3. Approval of the 2023 Intergovernmental Agreement for Mosquito Control with Garfield County

**Trustee Classen made a motion to approve the consent agenda as presented. Trustee Brintnall seconded the motion, and the motion carried unanimously.**

---

**Conflicts of Interest** – There were no conflicts of interest.

---

**Agenda Changes** – Administrator Layman stated that he would like to add a brief presentation from Silt Energy Development, LLC who are proposing to purchase the town owned parcel at 1555 River Frontage Road and who would like to present to the Board their intentions for that property. This item will be heard after the award of bid for the 500 block of Main Street.

---

### **Silt Water Treatment Plant Construction Manager at Risk (CMAR) Contract Award**

Administrator Layman introduced Toby Reed and Jared Baker, both representing Garney Construction whom staff is recommending awarding the CMAR contract. He continued by stating that staff and the sub-committee of two Trustees had interviewed the two firms who had submitted bids for this position and that it was felt that Garney Construction was best suited for the job based on:

- Experience in building and starting plants with the technology specified for the Silt plant,
- Exclusive construction experience in water supply, wastewater, pipe, pump, tank and heavy civil projects, and
- The proposed Construction Manager for this project lives 20 minutes from Silt and has extensive Western Colorado construction experience.

Mr. Reed and Mr. Baker provided their comments stating that they have other activities on the Western Slope and felt that they could provide the service to the Town that is needed. They also explained their experience that qualifies them to be the CMAR. Director Fonner provided a brief overview of the interview process between the two companies who provided bids adding that Garney specializes in water and wastewater plants. Members of the subcommittee recommended that the Board contract with Garney for CMAR services for the Silt WTP improvements and it was added that by contracting with Garney at this point does not obligate the Town to actually pursue building the water plant improvements, nor does it obligate the Town to contract with Garney beyond the \$199,416 CMAR process, which would be completed in November 2023.

It was stated that staff would continue to be involved during the entire process and would provide the Board with regular updates. Staff has also followed up by checking references on Garney, all of which were very favorable. Chair Hanrahan asked what kind of incentive their contract has that would help save the town money on the project. Mr. Reed and Mr. Baker stated that relationships with the communities that they work with and that the company's reputation is built on adding value to projects on which they work and that they wish to be awarded the construction project knowing that non-performance on this task would put that award at risk. They also added that the Board would see all of the numbers once they are available. Chair Hanrahan opened it up to public comments.

Resident Chris Hall asked for clarification of the \$199,416 that would be paid to Garney and if that amount could change

Resident Brian Madigan asked about how much of the job would be subcontracted out and if there would be any risk of the Colorado River water being harmed.

**Trustee Classen made a motion to award the Silt Water Treatment Plant Construction Manager at Risk (CMAR) Contract to Garney Construction in the amount of \$199,416. Trustee Flores seconded the motion, and the motion carried unanimously.**

---

## **Tier Water Rate Discussion**

Administrator Layman stated that the Board had asked staff to develop an updated water rate structure for the Town that would address both the current state of affairs and future needs. Financial Analyst Jim Mann was present to introduce some options and discuss others. Mr. Mann proceeded to go through his presentation, highlighting the various options available to the town. He stated that there is nothing that needs to be acted upon immediately but that he and staff would like to get feedback from the Board as they refine numbers. It was stated that the current rate structure produces an approximate \$200,000 annual deficit, paid for by wastewater revenue.

There was discussion regarding the following: the different options presented and what each options base and tiered rate structure could look like, that staff has entertained a possible change in how sewer is being charge, how the past bonds were being paid back in regards to their allocation between the water and wastewater plants, the question on whether there should be a separate enterprise fund for each of those accounts, how standby rates are handled and making sure that everyone in town is being billed.

Staff will continue to refine the numbers and bring back at a later meeting.

---

Continued first reading of **Ordinance No. 1, Series 2023**, AN ORDINANCE OF THE TOWN OF SILT, COLORADO GRANTING A CABLE SYSTEM FRANCHISE TO COMCAST OF COLORADO (*staff requests a continuance to April 10, 2023*)

**Trustee Brintnall made a motion to continue first reading of Ordinance No. 1, Series 2023, AN ORDINANCE OF THE TOWN OF SILT, COLORADO GRANTING A CABLE SYSTEM FRANCHISE TO COMCAST OF COLORADO to the April 10, 2023 meeting. Trustee Flores seconded the motion, and the motion carried unanimously.**

---

## **Presentation of Concept for Potential Development of Property Between the Holiday Inn Express and Camp Colorado – Doug Olson**

Planner Chain introduced Doug Olson who has a contract on the 15-acre parcel west of the Holiday Inn that is zoned as B2 Commercial. Mr. Olson proceeded to go through his presentation that contains a mixed-use component in addition to multi-family sites, pads for restaurants, a gas station, hotel sites and things such as a trail system, boat launch, pond, greenhouses and a riverwalk. He asked for the Boards feedback so that he could get a feel for what the Town would like to see on this property prior to him moving forward. Mr. Olson stated it would be a phased-out project with a 3–5-year buildout.

**There was discussion by the Board regarding open/recreation space, the best use of this property that sits along the river, connecting trails/riverwalk and its easy access. There was a consensus of the that the Board liked the conceptual plan presented tonight.**

---

## **Award of Bid for the 500 Block of Main Street and Alley Project**

Director Fonner went over the bid explaining that the bid was not complete as the contractor had a hard time getting pricing from subcontractors for concrete and electrical. K5 had received a bid on electrical that seemed high so they were going to reach out to other contractors. Staff has received the numbers for the concrete as of this afternoon and the bid is in line with the budget. Staff asked that the Board approve the bid and that Director Fonner would continue to work with the contractor to finalize the bid process.

**Trustee Classen made a motion to award the bid for the 500 Block of Main Street and the Alley Project to K5 Construction. Trustee Flores seconded the motion, and the motion carried unanimously.**

---

### **Introduction of Silt Energy Development LLC (agenda addition)**

Joe Carpenter introduced the potential applicants. Present tonight were Robert Doherty, Rob Kee, Bob Switzer and Bob White representing the group. They stated that they have made a full price offer on the property and proceeded to go through their presentation that highlighted what they would like to do. The project would be an alternative fuel station that would assist in meeting the clean energy goals for the area and include fast chargers, CNG fuel pumps, hydrogen fuel pumps, parking and charging areas covered by solar carports, greenspace for walking and a dog area. They also talked about grants that they would apply for to assist with this project in an effort to create a fueling station of the future.

---

### **February 2023 Financial Report**

Treasurer Tucker went over the February 2023 financials.

---

### **Administrator and Staff Comments**

Administrator Layman stated that staff has been following CML regarding the affordable housing initiative adding that more information would be coming out soon. Director Fonner stated that he was notified by Colorado Rural Water Association and that the wastewater plant would be receiving an award next week.

---

### **Updates from Board / Board Comments**

The Trustees commented about the following: the ditch at the north end of the Flying Eagle soccer field and if it could be piped and filled in, if the Administration had a town vehicle to use, a reminder of the upcoming Easter Egg Hunt, the vaccine bus that was in town, the great turnout for DMV2GO and the good job that staff has been doing.

---

### **Executive Session**

**Trustee Brintnall made a motion to go into executive session to discuss the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest under CRS Section 24-6-402(4)(a) – 1555 River Frontage Road. Trustee Classen seconded the**

**motion, and the motion carried unanimously. The Board adjourned to executive session at 10:02 p.m.**

**At the end of executive session, Chair Hanrahan made the following statement: "The time is now 10:25 p.m., and the executive session has concluded. No formal action was taken in the executive session. The participants in the executive session were: Justin Brintnall, Samuel Flores, Derek Hanrahan, Chris Classen, Jeff Layman, Sheila McIntyre, Amie Tucker and Trey Fonner. For the record, if any person who participated in the executive session believes that any substantial discussion of any matters not included in the motion to go into the executive session occurred during the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, I would ask that you state your concerns for the record". No objections were stated.**

**Trustee Classen made a motion to extend the meeting past 10:00 p.m. Trustee Brintnall seconded the motion, and the motion carried unanimously.**

**The Board directed staff to proceed with the acceptance of the real estate offer at 1555 River Frontage Road along with the conditions of closing in regards to the site plan agreement, building permit and other features of the contract deemed advisable by the Town Attorney. An ordinance supporting the sale would be prepared and noticed for first reading at the April 10 meeting of the Board.**

### **Adjournment**

**Trustee Brintnall made a motion to adjourn. Trustee Flores seconded the motion, and the motion carried unanimously. Chair Hanrahan adjourned the meeting at 10:28 p.m.**

Respectfully submitted,

Approved by the Board of Trustees

\_\_\_\_\_  
Sheila M. McIntyre, CMC  
Town Clerk

\_\_\_\_\_  
Trustee Derek Hanrahan  
Acting Chair

Acknowledged by,

  
\_\_\_\_\_  
Jeff Layman, Town Administrator



## ***PROCLAMATION***

***Whereas,*** In 1872 J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

***Whereas,*** this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

***Whereas,*** 2023 is the 150<sup>th</sup> anniversary of the holiday and Arbor Day is now observed throughout the nation and the world, and

***Whereas,*** trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife, and

***Whereas,*** trees are a renewable resource giving us paper, wood for our homes, fuel for our fires, and beautify our community, and

***Whereas,*** trees in our town increase property values, enhance the economic vitality of business areas, and beautify our community, and

***Whereas,*** trees, wherever they are planted, are a source of joy and spiritual renewal.

***Now, Therefore,*** I, Keith B. Richel, Mayor of the Town of Silt, do hereby proclaim April 21<sup>st</sup> 2023 as the 150th anniversary celebration of



## **Arbor Day**

in the Town of Silt, and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and

***Further,*** I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

Dated this 10<sup>th</sup> day of April 2023

Mayor Keith B. Richel



**TOWN OF SILT  
BOARD OF TRUSTEES REGULAR MEETING  
April 9, 2023**

**AGENDA ITEM SUMMARY**

---

**SUBJECT:** Modification of Premises for Kum & Go

**PROCEDURE:** (Public Hearing, Action item, Information Item) Public hearing

**RECOMMENDATION:** Staff recommends approval

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:** The applicant is modifying their licensed premise by expanding the area where alcoholic beverages may be displayed and/or stored. The applicant has paid the appropriate fee to the State. Staff recommends approval of this modification.

**FUNDING SOURCE:** Kum & Go LC

**ORDINANCE FIRST READING DATE:** N/A

**ORDINANCE SECOND READING DATE:** N/A

**RESOLUTION READING DATE:** N/A

**ORIGINATED BY:** Kum & Go LC

**PRESENTED BY:** Lori Malsbury

**DOCUMENTS ATTACHED:** Modification of Premises application and supporting documentation

**TOWN ATTORNEY REVIEW** ☒ YES ☐ NO      **INITIALS** \_\_\_\_\_

**SUBMITTED BY:**

**REVIEWED BY:**

  
Lori Malsbury, Deputy Town Clerk

  
Jeff Layman, Town Administrator

## Permit Application and Report of Changes

**All Answers Must Be Printed in Black Ink or Typewritten**

1. Applicant is a <input type="checkbox"/> Corporation..... <input type="checkbox"/> Individual <input type="checkbox"/> Partnership ..... <input checked="" type="checkbox"/> Limited Liability Company					License Number <b>12-40424-0015</b>	
2. Name of Licensee <b>Kum &amp; Go LC</b>			3. Trade Name of Establishment (DBA) <b>Kum &amp; Go #905</b>			
4. Address of Premises (specify exact location of premises) <b>905 Main St</b>			5. Business Email Address <b>licenses@kumandgo.com</b>			
City <b>Silt</b>	County <b>Garfield</b>	State <b>CO</b>	ZIP <b>81652</b>	Business Phone Number <b>515-274-7793</b>		
<b>SELECT THE APPROPRIATE SECTION BELOW AND PROCEED TO THE INSTRUCTIONS ON PAGE 2.</b>						
<b>Section A – Manager Reg/Change</b>			<b>Section C</b>			
<input type="checkbox"/> Manager's Registration (Hotel & Restr.)..... \$30.00  <input type="checkbox"/> Manager's Registration (Tavern) ..... \$30.00  <input type="checkbox"/> Manager's Registration (Lodging & Entertainment) ..... \$30.00  <input type="checkbox"/> Change of Manager (Other Licenses pursuant to section 44-3-301(8), C.R.S.) NO FEE  <i>Please note that Manager's Registration for Hotel &amp;            Restaurant, Lodging &amp; Entertainment, and Tavern licenses            requires a local fee with submission to the local licensing            authority as well. Please reach out to local licensing            authorities directly regarding local processing and fees.</i>			<input type="checkbox"/> Retail Warehouse Storage Permit (ea) ..... \$100.00  <input type="checkbox"/> Wholesale Branch House Permit (ea)..... \$100.00  <input type="checkbox"/> Change Corp. or Trade Name Permit (ea)..... \$50.00  <input type="checkbox"/> Change Location Permit (ea) ..... \$150.00  <input type="checkbox"/> Winery/Limited Winery Noncontiguous or Primary Manufacturing Location Change..... \$150.00  <input checked="" type="checkbox"/> Change, Alter or Modify Premises <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> <div style="display: flex; justify-content: space-between;"> <span>\$150.00 x</span> <span>Total Fee: 150.00</span> </div> </div>			
<b>Section B – Duplicate License</b>			<input type="checkbox"/> Addition of Optional Premises to Existing H/R <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> <div style="display: flex; justify-content: space-between;"> <span>\$100.00 x</span> <span>Total Fee:</span> </div> </div>			
<input type="checkbox"/> Duplicate License ..... \$50.00			<input type="checkbox"/> Addition of Related Facility to an Existing Resort or Campus Liquor Complex <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> <div style="display: flex; justify-content: space-between;"> <span>\$160.00 x</span> <span>Total Fee:</span> </div> </div>			
			<input type="checkbox"/> Campus Liquor Complex Designation ..... No Fee  <input type="checkbox"/> Sidewalk Service Area ..... \$75.00			

Do Not Write in This Space – For Department of Revenue Use Only			
Date License Issued	License Account Number	Period	
<small>The State may convert your check to a one time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department of Revenue may collect the payment amount directly from your bank account electronically.</small>		<b>TOTAL AMOUNT DUE</b>	\$ <b>150.00</b>

## Instruction Sheet

**For All Sections, Complete Questions 1-5 Located on Page 1**

☐ **Section A**

**To Register or Change Managers**, check the appropriate box in section A and complete question 9 on page 4. Proceed to the Oath of Applicant for signature. Submit to State Licensing Authority for approval.

☐ **Section B**

**For a Duplicate license**, be sure to include the liquor license number in section B on page 1 and proceed to page 5 for Oath of Applicant signature.

☒ **Section C**

Check the appropriate box in section C and proceed below.

- 1) **For a Retail Warehouse Storage Permit**, go to page 3 complete question 5 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Submit to State Licensing Authority for approval.
- 2) **For a Wholesale Branch House Permit**, go to page 3 and complete question 5 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Submit to State Licensing Authority for approval.
- 3) **To Change Trade Name or Corporation Name**, go to page 3 and complete question 6 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 4) **To modify Premise, or add Sidewalk Service Area**, go to page 4 and complete question 10. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 5) **For Optional Premises** go to page 4 and complete question 10. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County).
- 6) **To Change Location**, go to page 3 and complete question 7. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 7) **Winery/Limited Winery Noncontiguous or Primary Manufacturing Location Change**, go to page 4, and complete question 8. Use this section to make a current Noncontiguous Manufacturing Location into a Primary Manufacturing Location, or a Primary Manufacturing Location into a Noncontiguous Manufacturing Location. To be eligible for a Winery/Limited Winery Noncontiguous or Primary Manufacturing Location Change, you must be a Colorado state licensed manufacturer of vinous liquor pursuant to section 44-3-402 or 44-3-403, C.R.S.
- 8) **Campus Liquor Complex Designation**, go to page 5 and complete question 11. Submit the necessary information and proceed to page 5 for Oath of Applicant signature.
- 9) **To add another Related Facility** to an existing Resort or Campus Liquor Complex, go to page 5 and complete question 12.

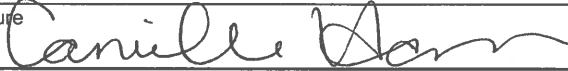
<b>Storage Permit</b>	<p><b>5. Retail Warehouse Storage Permit or a Wholesalers Branch House Permit</b></p> <p><input type="checkbox"/> <b>Retail Warehouse Permit for:</b></p> <p style="margin-left: 20px;"><input type="checkbox"/> On–Premises Licensee (Taverns, Restaurants etc.)</p> <p style="margin-left: 20px;"><input type="checkbox"/> Off–Premises Licensee (Liquor stores)</p> <p><input type="checkbox"/> <b>Wholesalers Branch House Permit</b></p> <p>Address of storage premise: _____</p> <p>City _____, County _____ ZIP _____</p> <p>Attach a deed/lease or rental agreement for the storage premises.</p> <p>Attach a detailed diagram of the storage premises.</p>				
<b>Change Trade Name or Corporation Name</b>	<p><b>6. Change of Trade Name or Corporation Name</b></p> <p><input type="checkbox"/> Change of Trade name/DBA only</p> <p><input type="checkbox"/> Corporate Name Change (Attach the following supporting documents)</p> <p style="margin-left: 20px;">1. Certificate of Amendment filed with the Secretary of State, or</p> <p style="margin-left: 20px;">2. Statement of Change filed with the Secretary of State, <u>and</u></p> <p style="margin-left: 20px;">3. Minutes of Corporate meeting, Limited Liability Members meeting, Partnership agreement.</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <tr> <td style="width: 50%; padding: 2px;">Old Trade Name</td><td style="width: 50%; padding: 2px;">New Trade Name</td></tr> <tr> <td style="padding: 2px;">Old Corporate Name</td><td style="padding: 2px;">New Corporate Name</td></tr> </table>	Old Trade Name	New Trade Name	Old Corporate Name	New Corporate Name
Old Trade Name	New Trade Name				
Old Corporate Name	New Corporate Name				
<b>Change of Location</b>	<p><b>7. Change of Location</b></p> <p><b>NOTE TO RETAIL LICENSEES:</b> An application to change location has a local application fee of \$750 payable to your local licensing authority. You may only change location within the same jurisdiction as the original license that was issued. Pursuant to 44-3-311(1) C.R.S. Your application must be on file with the local authority thirty (30) days before a public hearing can be held.</p> <p><b>Date filed with Local Authority</b> _____ <b>Date of Hearing</b> _____</p> <p>(a) Address of current premises _____</p> <p style="margin-left: 20px;">City _____ County _____ ZIP _____</p> <p>(b) Address of proposed New Premises (Attach copy of the deed or lease that establishes possession of the premises by the licensee)</p> <p style="margin-left: 20px;">Address _____</p> <p style="margin-left: 20px;">City _____ County _____ ZIP _____</p> <p>(c) New mailing address if applicable.</p> <p style="margin-left: 20px;">Address _____</p> <p style="margin-left: 20px;">City _____ County _____ State _____ ZIP _____</p> <p>(d) Attach detailed diagram of the premises showing where the alcohol beverages will be stored, served, possessed or consumed. Include kitchen area(s) for hotel and restaurants.</p>				



Winery/Limited Winery Noncontiguous or Primary Manufacturing Location Change	<p><b>8. Winery/Limited Winery Noncontiguous or Primary Manufacturing Location Change</b></p> <p>Select the option that applies to your situation:</p> <p><input type="checkbox"/> Make a current Primary Manufacturing Location (Location 1) into a Noncontiguous Location (Location 2); or</p> <p><input type="checkbox"/> Make a current Noncontiguous Manufacturing Location (Location 1) into a Primary Manufacturing Location (Location 2).</p> <p>(a) Address of Location 1: _____</p> <p>City _____ County _____ ZIP _____</p> <p>(b) Address of Location 2: _____</p> <p>City _____ County _____ ZIP _____</p>
Change of Manager	<p><b>9. Change of Manager or to Register the Manager</b> of a Tavern, Hotel and Restaurant, Lodging &amp; Entertainment liquor license or licenses pursuant to section 44-3-301(8), C.R.S.</p> <p>(a) Change of Manager</p> <p>Former manager's name _____</p> <p>New manager's name _____</p> <p>(b) Date of Employment _____</p> <p>Has manager ever managed a liquor licensed establishment? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Does manager have a financial interest in any other liquor licensed establishment? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, give name and location of establishment _____</p>
Modify Premises or Addition of Optional Premises, Related Facility, or Sidewalk Service Area	<p><b>10. Modification of Premises, Addition of an Optional Premises, Addition of Related Facility, or Addition of a Sidewalk Service Area</b></p> <p><b>NOTE:</b> Licensees may not modify or add to their licensed premises until approved by state and local authorities.</p> <p>(a) Describe change proposed <u>Removing 3 feet of non-alcohol product and replacing with 3 feet of wine product</u></p> <p>_____</p> <p>_____</p> <p>(b) <b>If the modification is temporary</b>, when will the proposed change:</p> <p>Start _____ (mo/day/year) End _____ (mo/day/year)</p> <p><b>NOTE: THE TOTAL STATE FEE FOR TEMPORARY MODIFICATION IS \$300.00</b></p> <p>(c) Will the proposed change result in the licensed premises now being located within 500 feet of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary?</p> <p>(If yes, explain in detail and describe any exemptions that apply) ..... <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>(d) Is the proposed change in compliance with local building and zoning laws? ..... <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>(e) If this modification is for an additional Hotel and Restaurant Optional Premises has the local authority authorized by resolution or ordinance the issuance of optional premises? ..... <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>(f) Attach a diagram of the current licensed premises and a diagram of the proposed changes for the licensed premises.</p> <p>(g) Attach any existing lease that is revised due to the modification.</p> <p>(h) For the addition of a Sidewalk Service Area per Regulation 47-302(A)(4), 1 C.C.R. 203-2, include documentation received from the local governing body authorizing use of the sidewalk. Documentation may include but is not limited to a statement of use, permit, easement, or other legal permissions.</p>



<b>Campus Liquor Complex Designation</b>	<b>11. Campus Liquor Complex Designation</b> An institution of higher education or a person who contracts with the institution to provide food services (a) I wish to designate my existing _____ Liquor License # _____ to a Campus Liquor Complex ..... <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Additional Related Facility</b>	<b>12. Additional Related Facility</b> To add a Related Facility to an existing Resort or Campus Liquor Complex, include the name of the Related Facility and include the address and an outlined drawing of the Related Facility Premises. (a) Address of Related Facility _____ (b) Outlined diagram provided ..... <input type="checkbox"/> Yes <input type="checkbox"/> No

<b>Oath of Applicant</b>		
I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge		
Signature 	Print name and Title Camille Hayes - Compliance Analyst	Date 3/1/2023
<b>Report and Approval of LOCAL Licensing Authority (CITY / COUNTY)</b>		
The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the applicable provisions of Title 44, Articles 4 and 3, C.R.S., as amended. <b>Therefore, This Application is Approved.</b>		
Local Licensing Authority (City or County)		Date filed with Local Authority
Signature	Title	Date
<b>Report of STATE Licensing Authority</b>		
The foregoing has been examined and complies with the filing requirements of Title 44, Article 3, C.R.S., as amended.		
Signature	Title	Date



Wine

Beer

EQUIPMENT SCHEDULE						
TITLE OF DESCRIPTION		MANUFACTURER, MODEL &	RATED PLUG TYPE	GEAR/ CIRCUIT	VOLTAGE	NOTES
QV1	1. 440-1 2. 440-2 3. 440-3 4. 440-4 5. 440-5 6. 440-6 7. 440-7 8. 440-8 9. 440-9 10. 440-10 11. 440-11 12. 440-12 13. 440-13 14. 440-14 15. 440-15 16. 440-16 17. 440-17 18. 440-18 19. 440-19 20. 440-20 21. 440-21 22. 440-22 23. 440-23 24. 440-24 25. 440-25 26. 440-26 27. 440-27 28. 440-28 29. 440-29 30. 440-30 31. 440-31 32. 440-32 33. 440-33 34. 440-34 35. 440-35 36. 440-36 37. 440-37 38. 440-38 39. 440-39 40. 440-40 41. 440-41 42. 440-42 43. 440-43 44. 440-44 45. 440-45 46. 440-46 47. 440-47 48. 440-48 49. 440-49 50. 440-50 51. 440-51 52. 440-52 53. 440-53 54. 440-54 55. 440-55 56. 440-56 57. 440-57 58. 440-58 59. 440-59 60. 440-60 61. 440-61 62. 440-62 63. 440-63 64. 440-64 65. 440-65 66. 440-66 67. 440-67 68. 440-68 69. 440-69 70. 440-70 71. 440-71 72. 440-72 73. 440-73 74. 440-74 75. 440-75 76. 440-76 77. 440-77 78. 440-78 79. 440-79 80. 440-80 81. 440-81 82. 440-82 83. 440-83 84. 440-84 85. 440-85 86. 440-86 87. 440-87 88. 440-88 89. 440-89 90. 440-90 91. 440-91 92. 440-92 93. 440-93 94. 440-94 95. 440-95 96. 440-96 97. 440-97 98. 440-98 99. 440-99 100. 440-100	1. 440-1 2. 440-2 3. 440-3 4. 440-4 5. 440-5 6. 440-6 7. 440-7 8. 440-8 9. 440-9 10. 440-10 11. 440-11 12. 440-12 13. 440-13 14. 440-14 15. 440-15 16. 440-16 17. 440-17 18. 440-18 19. 440-19 20. 440-20 21. 440-21 22. 440-22 23. 440-23 24. 440-24 25. 440-25 26. 440-26 27. 440-27 28. 440-28 29. 440-29 30. 440-30 31. 440-31 32. 440-32 33. 440-33 34. 440-34 35. 440-35 36. 440-36 37. 440-37 38. 440-38 39. 440-39 40. 440-40 41. 440-41 42. 440-42 43. 440-43 44. 440-44 45. 440-45 46. 440-46 47. 440-47 48. 440-48 49. 440-49 50. 440-50 51. 440-51 52. 440-52 53. 440-53 54. 440-54 55. 440-55 56. 440-56 57. 440-57 58. 440-58 59. 440-59 60. 440-60 61. 440-61 62. 440-62 63. 440-63 64. 440-64 65. 440-65 66. 440-66 67. 440-67 68. 440-68 69. 440-69 70. 440-70 71. 440-71 72. 440-72 73. 440-73 74. 440-74 75. 440-75 76. 440-76 77. 440-77 78. 440-78 79. 440-79 80. 440-80 81. 440-81 82. 440-82 83. 440-83 84. 440-84 85. 440-85 86. 440-86 87. 440-87 88. 440-88 89. 440-89 90. 440-90 91. 440-91 92. 440-92 93. 440-93 94. 440-94 95. 440-95 96. 440-96 97. 440-97 98. 440-98 99. 440-99 100. 440-100	1. 440-1 2. 440-2 3. 440-3 4. 440-4 5. 440-5 6. 440-6 7. 440-7 8. 440-8 9. 440-9 10. 440-10 11. 440-11 12. 440-12 13. 440-13 14. 440-14 15. 440-15 16. 440-16 17. 440-17 18. 440-18 19. 440-19 20. 440-20 21. 440-21 22. 440-22 23. 440-23 24. 440-24 25. 440-25 26. 440-26 27. 440-27 28. 440-28 29. 440-29 30. 440-30 31. 440-31 32. 440-32 33. 440-33 34. 440-34 35. 440-35 36. 440-36 37. 440-37 38. 440-38 39. 440-39 40. 440-40 41. 440-41 42. 440-42 43. 440-43 44. 440-44 45. 440-45 46. 440-46 47. 440-47 48. 440-48 49. 440-49 50. 440-50 51. 440-51 52. 440-52 53. 440-53 54. 440-54 55. 440-55 56. 440-56 57. 440-57 58. 440-58 59. 440-59 60. 440-60 61. 440-61 62. 440-62 63. 440-63 64. 440-64 65. 440-65 66. 440-66 67. 440-67 68. 440-68 69. 440-69 70. 440-70 71. 440-71 72. 440-72 73. 440-73 74. 440-74 75. 440-75 76. 440-76 77. 440-77 78. 440-78 79. 440-79 80. 440-80 81. 440-81 82. 440-82 83. 440-83 84. 440-84 85. 440-85 86. 440-86 87. 440-87 88. 440-88 89. 440-89 90. 440-90 91. 440-91 92. 440-92 93. 440-93 94. 440-94 95. 440-95 96. 440-96 97. 440-97 98. 440-98 99. 440-99 100. 440-100	1. 440-1 2. 440-2 3. 440-3 4. 440-4 5. 440-5 6. 440-6 7. 440-7 8. 440-8 9. 440-9 10. 440-10 11. 440-11 12. 440-12 13. 440-13 14. 440-14 15. 440-15 16. 440-16 17. 440-17 18. 440-18 19. 440-19 20. 440-20 21. 440-21 22. 440-22 23. 440-23 24. 440-24 25. 440-25 26. 440-26 27. 440-27 28. 440-28 29. 440-29 30. 440-30 31. 440-31 32. 440-32 33. 440-33 34. 440-34 35. 440-35 36. 440-36 37. 440-37 38. 440-38 39. 440-39 40. 440-40 41. 440-41 42. 440-42 43. 440-43 44. 440-44 45. 440-45 46. 440-46 47. 440-47 48. 440-48 49. 440-49 50. 440-50 51. 440-51 52. 440-52 53. 440-53 54. 440-54 55. 440-55 56. 440-56 57. 440-57 58. 440-58 59. 440-59 60. 440-60 61. 440-61 62. 440-62 63. 440-63 64. 440-64 65. 440-65 66. 440-66 67. 440-67 68. 440-68 69. 440-69 70. 440-70 71. 440-71 72. 440-72 73. 440-73 74. 440-74 75. 440-75 76. 440-76 77. 440-77 78. 440-78 79. 440-79 80. 440-80 81. 440-81 82. 440-82 83. 440-83 84. 440-84 85. 440-85 86. 440-86 87. 440-87 88. 440-88 89. 440-89 90. 440-90 91. 440-91 92. 440-92 93. 440-93 94. 440-94 95. 440-95 96. 440-96 97. 440-97 98. 440-98 99. 440-99 100. 440-100	1. 440-1 2. 440-2 3. 440-3 4. 440-4 5. 440-5 6. 440-6 7. 440-7 8. 440-8 9. 440-9 10. 440-10 11. 440-11 12. 440-12 13. 440-13 14. 440-14 15. 440-15 16. 440-16 17. 440-17 18. 440-18 19. 440-19 20. 440-20 21. 440-21 22. 440-22 23. 440-23 24. 440-24 25. 440-25 26. 440-26 27. 440-27 28. 440-28 29. 440-29 30. 440-30 31. 440-31 32. 440-32 33. 440-33 34. 440-34 35. 440-35 36. 440-36 37. 440-37 38. 440-38 39. 440-39 40. 440-40 41. 440-41 42. 440-42 43. 440-43 44. 440-44 45. 440-45 46. 440-46 47. 440-47 48. 440-48 49. 440-49 50. 440-50 51. 440-51 52. 440-52 53. 440-53 54. 440-54 55. 440-55 56. 440-56 57. 440-57 58. 440-58 59. 440-59 60. 440-60 61. 440-61 62. 440-62 63. 440-63 64. 440-64 65. 440-65 66. 440-66 67. 440-67 68. 440-68 69. 440-69 70. 440-70 71. 440-71 72. 440-72 73. 440-73 74. 440-74 75. 440-75 76. 440-76 77. 440-77 78. 440-78 79. 440-79 80. 440-80 81. 440-81 82. 440-82 83. 440-83 84. 440-84 85. 440-85 86. 440-86 87. 440-87 88. 440-88 89. 440-89 90. 440-90 91. 440-91 92. 440-92 93. 440-93 94. 440-94 95. 440-95 96. 440-96 97. 440-97 98. 440-98 99. 440-99 100. 440-100	

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524	525	526	527	528	529	530	531	532	533	534	535	536	537	538	539	540	541	542	543	544	545	546	547	548	549	550	551	552	553	554	555	556	557	558	559	560	561	562	563	564	565	566	567	568	569	570	571	572	573	574	575	576	577	578	579	580	581	582	583	584	585	586	587	588	589	590	591	592	593	594	595	596	597	598	599	600	601	602	603	604	605	606	607	608	609	610	611	612	613	614	615	616	617	618	619	620	621	622	623	624	625	626	627	628	629	630	631	632	633	634	635	636	637	638	639	640	641	642	643	644	645	646	647	648	649	650	651	652	653	654	655	656	657	658	659	660	661	662	663	664	665	666	667	668	669	670	671	672	673	674	675	676	677	678	679	680	681	682	683	684	685	686	687	688	689	690	691	692	693	694	695	696	697	698	699	700	701	702	703	704	705	706	707	708	709	710	711	712	713	714	715	716	717	718	719	720	721	722	723	724	725	726	727	728	729	730	731	732	733	734	735	736	737	738	739	740	741	742	743	744	745	746	747	748	749	750	751	752	753	754	755	756	757	758	759	760	761	762	763	764	765	766	767	768	769	770	771	772	773	774	775	776	777	778	779	780	781	782	783	784	785	786	787	788	789	790	791	792	793	794	795	796	797	798	799	800	801	802	803	804	805	806	807	808	809	810	811	812	813	814	815	816	817	818	819	820	821	822	823	824	825	826	827	828	829	830	831	832	833	834	835	836	837	838	839	840	841	842	843	844	845	846	847	848	849	850	851	852	853	854	855	856	857	858	859	860	861	862	863	864	865	866	867	868	869	870	871	872	873	874	875	876	877	878	879	880	881	882	883	884	885	886	887	888	889	890	891	892	893	894	895	896	897	898	899	900	901	902	903	904	905	906	907	908	909	910	911	912	913	914	915	916	917	918	919	920	921	922	923	924	925	926	927	928	929	930	931	932	933	934	935	936	937	938	939	940	941	942	943	944	945	946	947	948	949	950	951	952	953	954	955	956	957	958	959	960	961	962	963	964	965	966	967	968	969	970	971	972	973	974	975	976	977	978	979	980	981	982	983	984	985	986	987	988	989	990	991	992	993	994	995	996	997	998	999	1000
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524	525	526	527	528	529	530	531	532	533	534	535	536	537	538	539	540	541	542	543	544	545	546	547	548	549	550	551	552	553	554	555	556	557	558	559	560	561	562	563	564	565	566	567	568	569	570	571	572	573	574																																																																																																																																																																																																																																																																																																																																																																																																																																										

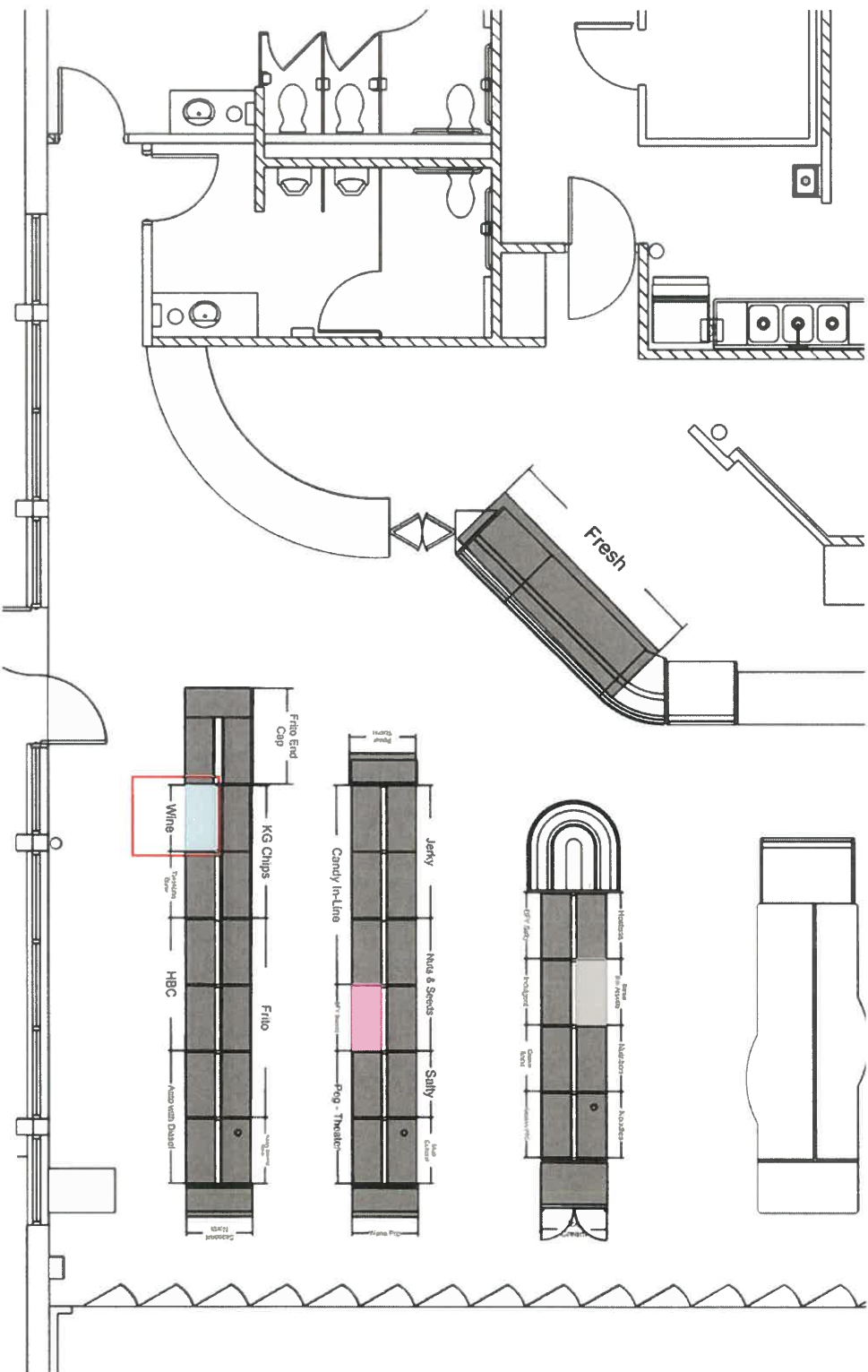
After

<p>I hereby certify that the foregoing statement was prepared by me or under my direct supervision and that I am duly qualified to certify the same.</p> <p>Signed at _____, Province of _____, this _____ day of _____, 19____.</p>	<p>Notary Public for the Province of _____</p> <p>My Comm. Expires _____</p>	<p>Notary Public for the Province of _____</p> <p>My Comm. Expires _____</p>
<p>_____          _____          _____</p>	<p>_____          _____          _____</p>	<p>_____          _____          _____</p>
<p>_____          _____          _____</p>	<p>_____          _____          _____</p>	<p>_____          _____          _____</p>
<p>_____          _____          _____</p>	<p>_____          _____          _____</p>	<p>_____          _____          _____</p>
<p>_____          _____          _____</p>	<p>_____          _____          _____</p>	<p>_____          _____          _____</p>



4 EAST FOUNDRY ST.	210	535	0530	7/2
800 W. 10TH ST. N.W.		535	0530	7/2
130 EAST 10TH ST. N.W.	215	535	7200	7/2
502 W. 10TH ST. N.W.		535	7200	7/2
8 EAST COLLEGE ST. N.W.	210	540	0530	7/2
600 W. 10TH ST. N.W.		540	0530	7/2

Store 0905



**TOWN OF SILT**  
**BOARD OF TRUSTEES REGULAR MEETING**  
**April 10, 2023**

**AGENDA ITEM SUMMARY**

---

**SUBJECT:** Irrigation Education/Incentive Program Update

**PROCEDURE:** Discussion Item

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

In the 1990's the Town installed an irrigation system to supply the Town with non-potable water for irrigation purposes. The decreased supply and resulting shortages of irrigation water during the summer of 2020 caused the Town to develop an action plan to address some deficiencies in the service (Action Plan attached).

Besides pursuing measures to increase supply such as upgrading pumps and pipes to handle more water (news release attached), decreasing demand is also in the plan. The Town passed an ordinance focused on demand reduction in April 2021 (news release attached). That ordinance and the resulting education and enforcement is credited with reducing the overall use of irrigation water in Town and keeping water stocks at appropriate levels ("Education" piece for newsletter/website attached).

With these immediate goals met, the Town is now developing a more robust education and incentive program that promotes the replacement of existing turf with xeric landscaping, to include "water-wise" and native plant species to meet the following goals:

- Reduce water use
- Help pollinators and birds
- Beautify community landscapes
- Reduce pesticide/fertilizer use
- Save homeowners money
- Less polluting of waters of the State
- Ending heat islands
- Creating beneficial microclimates
- Increasing photosynthesis
- Exercise for folks
- Cleaner air

Education: This focuses on the good that such renovations can do and the savings that can be achieved by homeowners. We will work to achieve this by:

- Collecting and distributing written material for homeowners use.
- Developing a demonstration installation of low-water native plants for use in our environment/elevation.

Incentives: Reward homeowners for taking steps to reduce consumption.

- Providing an monetary incentive for homeowners who successfully implement a turf renovation (Turf Replacement Incentive Program-TRIP).
- TRIP materials are attached and will be discussed by consultant Adrian Brown.
- Both of these efforts may be eligible for grant support.
- Work with local nurseries to stock native plants.

**ORIGINATED BY:**

Jeff Layman/Trey Fonner

**PRESENTED BY:**

Jeff Layman/Adrian Brown

**DOCUMENTS ATTACHED:**

- 1) Town of Silt Irrigation Action Plan, 2020/2021.
- 2) Town of Silt News Release: 11/1/21
- 3) Town of Silt News Release: 4/16/21
- 4) Example of Education piece
- 5) Demonstration garden location-Silt Town Hall
- 6) TRIP Power Point Presentation
- 7) Announcement of Program-water bills
- 8) TRIP Manual (Draft)

**TOWN ATTORNEY REVIEW [ ] YES [ X ] NO**

**INITIALS:**

**SUBMITTED BY:**

Jeff Layman  
 Jeff Layman, Town Administrator

**REVIEWED BY:**

Sheila M. McIntyre, Town Clerk

## **TOWN OF SILT IRRIGATION SYSTEM ACTION PLAN 2020/21**

In 1990 the Town installed an irrigation system to supply the Town with non-potable water for irrigation purposes. The decreased supply and resulting shortages of irrigation water this summer has caused Town of Silt officials to develop an action plan to address some deficiencies in the service. Besides pursuing measures to increase supply such as upgrading pumps and pipes to handle more water, decreasing demand is also in the plan.

### **Action Plan:**

- Immediate ○ Increase Education/Enforcement Campaign
  - Increase patrols and public contact—Silt PD
  - Public Information: Get started earlier in 2021—Newsletter, Website, social media, etc.
- Prepare FMLD grant application for the fall of 2020 to build infrastructure to take more water from the Cactus Valley Ditch.
- Audit lots in upper subdivisions to ensure that homeowners are irrigating the proper area.
- Discuss the Town's responsibility to provide irrigation water to developments that brought less water to the Town upon annexation than is now needed. Should they participate to a greater level?
- Develop a better relationship / involvement / influence with Ditch companies. ○ Explore ○ Development of a system that transfers potable water to irrigation tanks for upper neighborhoods
- Work with the State of Colorado to use potable water for irrigation ○ Consider installing irrigation system meters at homes and /or developments ○ Amending irrigation code



# Irrigation System Action Plan 20/21

## Pays Off

As the last pieces and pipes were installed along 7<sup>th</sup> Street this week, the Town can be proud that the Irrigation System Action Plan adopted by the Silt Board of Trustees during the parched Summer of 2020 has paid off for the Town's residents. According to the Town's Public Works Department, the system experienced no capacity related shortages during the summer of 2021. The 7<sup>th</sup> Street pipeline should be the "cherry on top" and will allow the Town to draw even more of its water into its irrigation tanks.

The Irrigation System Action Plan, intended to reduce water consumption so that all who participate get their fair share of water, focused on increasing public education and enforcement through increased patrols, public contact and public information, building infrastructure make better use of Silt's water and changing Silt's Municipal Code to increase compliance.

The last substantial piece of the infrastructure plan will be completed this week with the completion of an irrigation pipe installation along 7<sup>th</sup> Street to access irrigation tanks near the cemetery and above Stoney Ridge Park. A new 8" pipeline has been added to supplement an existing 8" main and paired with the new pumps installed last summer on the Cactus Valley Ditch to allow the Town to take most of what it is entitled to and transport it to homes on the system. The improvements cost about \$270,000 and the Town benefitted from \$200,000 in grant funds from the Federal Mineral Lease District to use. The Town has also sought better relationships with the various ditch companies so that it would better understand policies that impact its operation.

Still in the plan and left to do: The Town intends to intensify its audit of lots in upper subdivisions to ensure that homeowners are irrigating the proper area, explore the development of a system that transfers potable water to irrigation tanks for upper neighborhoods, consider installing irrigation system meters at homes and/or developments and explore the idea of providing homeowners with incentives to use more drought tolerant landscaping.

Silt is fortunate to be one of few towns with an irrigation utility. It was established in 1995 as a way to reduce the depletion of the Town's supply of potable water and wear and tear on the water plant, as well as to increase revenues to cover the costs of installing and maintaining the Town's irrigation system.

## **Irrigation Ordinance Revision Passed by Board of Trustees**

The Town of Silt Board of Trustees on Monday night passed the second reading of an ordinance to revise the Town's Code to better educate and enforce irrigation ordinances.

In the 1990's the Town installed an irrigation system to supply the Town with non-potable water for irrigation purposes. The decreased supply and resulting shortages of irrigation water last summer caused the Town to develop an action plan to address some deficiencies in the service. Besides pursuing measures to increase supply such as upgrading pumps and pipes to handle more water, decreasing demand is also in the plan.

One method of managing demand is to amend the Silt Municipal Code section addressing irrigation, including promoting conservation of irrigation water; setting fees for irrigation service; identifying restrictions on the use of irrigation water; and revising penalty assessments for waste of irrigation water. These changes are but one tenet of the Irrigation System Action Plan and make the ordinance easier to enforce by clarifying certain sections, specifically:

- Requires no more than 3500 square feet of irrigable space be allowed on new construction projects
- Defines hours of an "irrigation day" from midnight to midnight
- Includes Town parcels in the limits
- Limits hours of irrigation to times other than 10 AM to 5 PM
- Eliminates the ability of homeowners with less than 499 square feet of irrigable area to petition the Town to use potable water for irrigation
- Eliminates the ability of homeowners to petition the Town to use water on a typical non-watering day
- Adds to the definition of "wasteful practices" the "Using irrigation water for any other purpose other than the watering of landscaping and/or gardens."
- Adds to the authority of the "Town Administrator the authority to ration and limit the usage of irrigation water for such periods of time as he/she deems necessary."

# Use Irrigation Water Wisely

Irrigation water is available from May 1st - October 1st



## What Times Of The Day Can I Water?

12:00 a.m. – 10:00 a.m. or 5:00 p.m. to 11:59 a.m.

Maximum of 30 minutes per zone!

\*Midnight to midnight is defined as an "irrigation day"



## What Days Can I Water?

Even Numbered Addresses– Mondays, Wednesdays and Saturdays

Odd Numbered Addresses– Tuesdays, Thursdays and Sundays



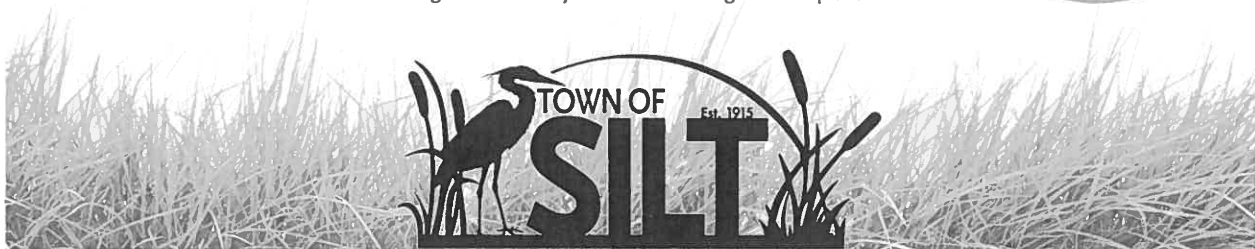
The Town is conducting a mandatory audit of each property utilizing irrigation water.

Please call Town Hall to schedule your audit at 970-876-2353 Ext. 106

## What Restrictions Does The Town Enforce?

Penalty Assessments Will Be Written Into Silt Municipal Court For The Following Violations:

- Watering on Fridays (The tanks need a day to refill)
- Watering between the hours of 10:00 a.m. to 5:00 p.m.
- Watering for more that 30 minutes per zone
- Watering more than your allotted irrigatable space





---

**T - turf**

**R - replacement**

**I - incentive**

**P - program**

Town of Silt with assistance from  
Silt Mesa Ventures LLC • 04.10.2023

---

---

# The Town

---

## The Facts

### Irrigation Users

- 1056 total users
- 426 or 40% of users have greater than 3500 ft<sup>2</sup> of irrigated space
- 64 or 6% of users have greater than 7000 ft<sup>2</sup> of irrigated space

This rebate provides an incentive for the conversion of landscape areas covered with turf grass to a low-water usage or desert type of landscape state. *The conservation of water is its core purpose.*

---

## Overview

---

# Existing Programs & Review

City of Aurora

City of Tempe

Eagle River Water &  
Sanitation District

- How to integrate the proposed incentive program into existing Town of Silt processes and procedures?



---

# Existing Processes & Codes

## Governance

### Integration

- Planning
- Public Works
- Finance

### Process

- Application
- Existing/new landscape

### Inspection

- Annual

### Utility Billing

- Check or credit
-

## The Choice

---

# The Incentive Payment

- Paid at 25 cents per square foot of turf removed

### EXAMPLE

Existing total area of turf:	7300 square feet
New proposed total area of turf:	4900 square feet
Turf removed / Savings:	2400 square feet
Total incentive rebate payment:	\$600.00 (2400 square feet x 0.25 cents)

### Cash

- A check is written and send to the owner.

### Credit

- A credit is processed and added to the owner's water utility bill

---

# Next steps

## Board of Trustees approval

## Getting the word out!

- Pamphlet in monthly utility bill
- Flyer in newsletter/Facebook page/Town webpage
- L.E.D. entrance sign (Las Vegas sign)
- TextMyGov notification

## Town approves 10 properties for TRIP by end 2023

---

# Turf Replacement Incentive Program

Are you paying more than \$17.38  
per month for your irrigation  
water?  
Are you tired of mowing all that  
grass turf?

The Town of Silt is offering an incentive  
program to help home and business  
owners reduce their water usage and  
offset costs of replacing your turf grass !!

At 25 cents per square foot the incentive  
program can be received as a cash  
payment or as a credit on your utility bill  
for replacing your turf grass.

Drop in to the Town Hall or call 970.786.2353  
or visit [www.townofsilt.org](http://www.townofsilt.org) for more  
information.



# Turf Replacement Incentive Program

Are you paying more than \$17.38  
per month for your irrigation  
water?  
Are you tired of mowing all that  
grass turf?

The Town of Silt is offering an incentive  
program to help home and business  
owners reduce their water usage and  
offset costs of replacing your turf grass !!

At 25 cents per square foot the incentive  
program can be received as a cash  
payment or as a credit on your utility bill  
for replacing your turf grass.

Drop in to the Town Hall or call 970.786.2353  
or visit [www.townofsilt.org](http://www.townofsilt.org) for more  
information.



# Turf Replacement Incentive Program

Are you paying more than \$17.38  
per month for your irrigation  
water?  
Are you tired of mowing all that  
grass turf?

The Town of Silt is offering an incentive  
program to help home and business  
owners reduce their water usage and  
offset costs of converting your yard !!

At 25 cents per square foot the incentive  
program can be received as a cash  
payment or as a credit on your utility bill  
for replacing your turf grass.

Drop in to the Town Hall or call 970.786.2353  
or visit [www.townofsilt.org](http://www.townofsilt.org) for more  
information.



# Turf Replacement Incentive Program Manual

## Purpose

The Turf Replacement Incentive Program (TRIP) aims to help town residents and businesses replace high-water usage turf with low-water usage landscape types. These landscape types can be low maintenance, act to save water, withstand drought, cool temperatures and help wildlife. They look good too!

## Program Specifics

Program participants shall be held to the following conditions:

1. Town of Silt must approve all projects before installation. Rebates are not retroactive.
2. Areas to be converted must have existing grass and be currently irrigated.
3. All zones Town of Silt districts are eligible.
4. A 500-square-foot minimum size applies to all projects.
5. A phasing option is available. (Each project phase must be a minimum of 500 square feet per year. There is a maximum of one phase permitted per year.)
6. Applications will be considered on a rolling basis and are contingent on available funding.
7. Participants will need to submit their project landscape designs for approval before starting their project and have the project installed by the Spring or Fall the following year depending on your proposed implementation schedule.
8. Town staff will inspect each property that has completed the program and been paid the rebate on an annual basis. Properties found to have been replanted in turfgrass will be terminated and homeowners will be billed for the cost of the rebate on their next irrigation bill.
9. When a property changes hands, the new owner will be expected to honor the terms to which the program participant owner agreed.

## Rebate Framework

The TRIP rebate is paid out as a credit on the water bill or a check and is specific to the owner of the parcel where the project is undertaken.

Below are further details and expectations regarding the rebate framework.

- Minimum rebate of \$125 equivalent to 500-square-foot minimum.
- Payment schedule:
  - 100% of rebate value paid after Town of Silt completes an on-site inspection following project completion and documents your changed landscape design to a low-water usage state.
- A follow up 12 month check in will be completed by the Town of Silt to ensure your changed landscape design to a low-water usage state remains functional and alive.

## Landscape Design and Plan

All participants must have a design reviewed and approved by the Town prior to demolition or installation. A simple landscape design plan is all that is needed and can be drawn up by you. Ask a Town of Silt representative as a your existing landscape design may be on file with the Town!

Two landscape design drawings should be delivered with your TRIP application.

1. An existing design of your landscape, and
2. your proposed landscape design you shall be moving your landscape toward!

Both landscape designs drawings must have the following elements:

- Owner name
- Property address
- North arrow
- Land parcel boundary and position of the house shown
- Basic dimensions of all landscape features in feet, like beds with mulch types, turf areas, driveway, decks, existing trees,
- **[anything else?]**

New landscape design should show:

- All new plants must be depicted at least 75% of their mature size
  - All plants, both new and existing ("Ex." for existing)
- New dimensions of landscape features in feet with areas to be converted to a low-water usage landscape drawn in a different color.

The Town of Silt currently estimates your existing square feet of irrigated space. Your water bill will document what you currently pay for irrigation water.

To ensure the accuracy of your current estimate and to update Town records, your existing landscape design should be provided with your TRIP application.

Examples of an existing landscape design and a proposed landscape plan are shown below.

### **Project Completion and Inspection**

On completion of your landscape project to replace a portion of your high-water usage turf with a low-water usage landscape type the Town will need to inspect the completed works.

During the on-site inspection a Town representative will inspect the new dimensions of the landscape design to ensure that they match the landscape plan delivered to the Town in the approval process.

Following this inspection, you will receive your full rebate installment. You will **be** notified via email when the rebate has been processed and approved.

### **Mulch Requirements**

Mulch is a key part of any low water usage landscape. Mulch helps retain soil moisture and keep the weeds in check. Two options are available, organic (wood chips) and inorganic (gravel).

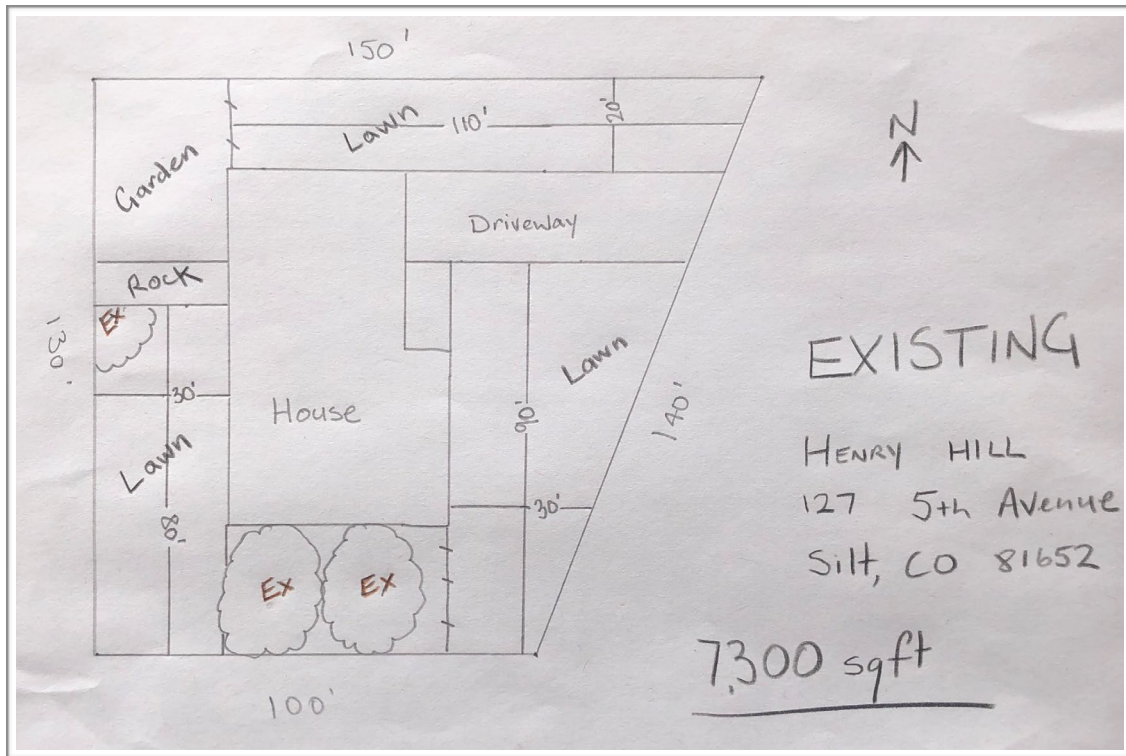
Use of mulch as a low water usage landscape in TRIP will need to follow these requirements:

- Mulch must be at least 3 inches deep.
- Any inorganic mulch may NOT be used in more that 25% of the changed low-water usage landscape type area.
- There is no limit to the use of organic mulch.
- Red mulch, lava rock and recycled products such as ground rubber may NOT be used.

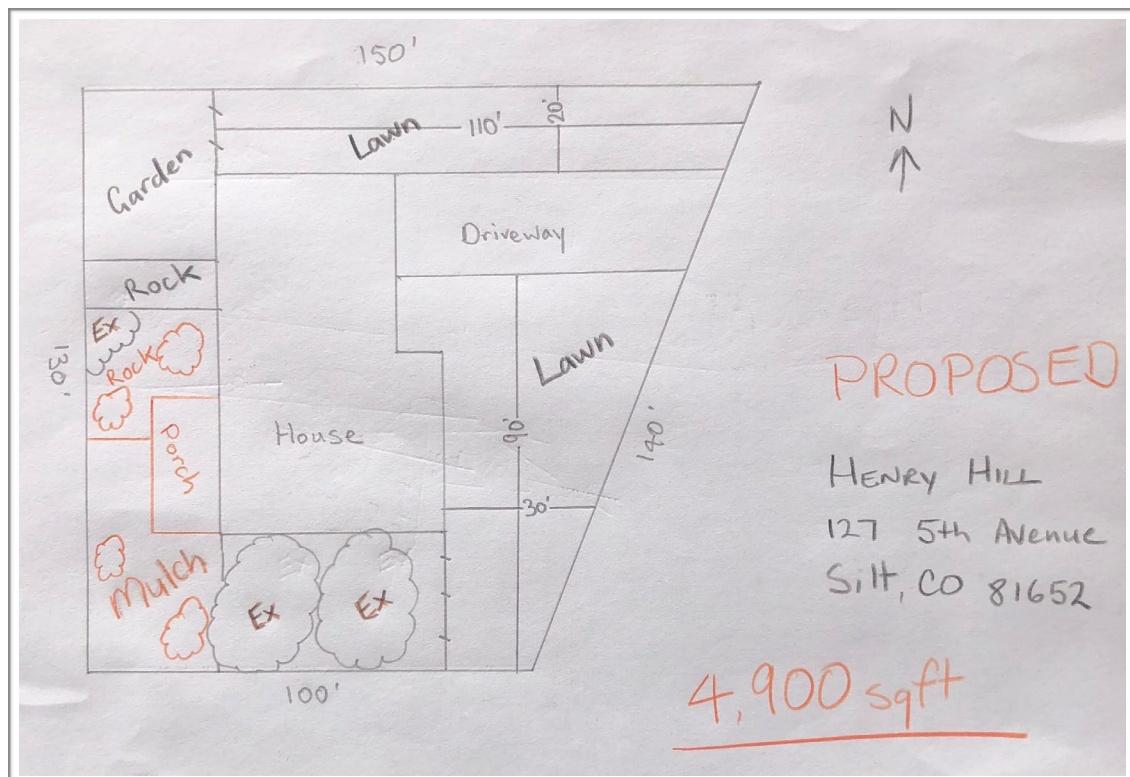
### **Plant List for Landscape Design**

For greatest success the purchase size of the plant is important. Perennials and ornamental grasses and forbs should be at least a #1 (1-gallon) pot, while shrubs should be at least a #5 (5-gallon) pot per the Town resolution that adopts an official street tree list and suggested shrub list.





EXISTING LANDSCAPE DESIGN EXAMPLE



PROPOSED LANDSCAPE DESIGN EXAMPLE

(We should provide the calculation of what they'll get as a result of this work, ie:

Existing square footage of turfgrass:	7300
New total:	4900
Savings:	2400
Incentive payment:	\$ 600 (2400 sq ft x .25)

## TRIP Basic Rules and Conditions:

- The installation address must be within the Town of Silt's irrigation water service area. **Why wouldn't we include the neighborhoods that use potable water, ie, Iron Horse Mesa? Why about Stoney Ridge and Eagle's View?**
- Applicants must be the owner of the property or have written permission of the owner to participate in the TRIP.
- Town of Silt must approve all projects before installation. Rebates are not retroactive.
- Once pre-approval is received, applicants will have 12 months to complete the conversion and request a post-conversion inspection.
- Areas to be converted must have existing grass. (Yards that contain barren soil or significant bare patches of soil and weeds do not qualify.)
- **[New construction does not qualify?]**
- A 500-square-foot minimum size applies to all projects.
- All low-water usage landscape conversions must meet or exceed 25% plant coverage of the total project area. Bare soil will not be approved. Existing plants may be used to calculate the 25% plant coverage. Trees are not included in the coverage calculations.
- The rebate is 0.25 cents by square foot of surface area paid as a credit on your water bill or a check paid directly to you.
- Artificial grass does not qualify for a rebate. **Why?**
- A post-conversion inspection of the property is required to validate installation and conversion.
- Before completing your application, read the Turf Replacement Incentive Program (TRIP) Manual.

## Frequently Asked Questions

### *What is the purpose of the rebate?*

This rebate provides an incentive for the conversion of turf cover landscape areas to a low-water usage or desert type of landscaping.

### *Can I get a rebate for installing artificial turf?*

No, artificial turf doesn't count for the rebate. You may still install artificial turf per the city code, but you will not be eligible for the rebate. The program promotes an attractive, lower-maintenance landscape that will withstand drought and save water.

### *Do I need a contractor to install my landscape?*

No, you can do your project yourself or hire a contractor.

### *How do I submit a landscape design?*

First, you need to read the TRIP manual. The manual explains what needs to be included in your landscape design. Your landscape designs drawing, both existing and planned, should be submitted with your paper application. The application should be delivered to the Town Hall.

## APPLICATION FOR TOWN OF SILT TURF REPLACEMENT INCENTIVE PROGRAM (TRIP) REBATE

### Customer Information

First Name or Property/HOA Name\*

Last Name (if property/HOA, then input the first and last name of the primary contact)\*

Email\*

Phone\*

Mailing Street

Mailing City

Mailing State

Mailing Zip

Are You A Current Town of Silt water customer?\*

☐

No

☐

Yes

### Installation Information

Is the installation address the same as the Mailing Address above?\*

☐

No

☐

Yes

Address\*

City\*

State\*

ZIP Code\*

Sector

☐

Residential

☐

Non-Residential

Building Type\*

- ☐ Assisted Living **we don't have this**
- ☐ Elementary School
- ☐ Garage
- ☐ Hotel/Motel
- ☐ Multi-Family
- ☐ Office
- ☐ Religious Building
- ☐ Restaurant
- ☐ Retail
- ☐ Single Family
- ☐ Warehouse
- ☐ Other

**Rebate Information**

Rebate Category

- ☐ Turf Replacement

Preferred Rebate Option

- ☐ Credit on water bill
- ☐ Check in the mail

**Support Information**

Project Description

Total area of existing turf to be converted to a low-water usage landscape state?

(Is this where we ask for photographs (2) of existing landscape state?)

**Terms and Conditions**

By checking the "I agree" box, you confirm that you have read and agree to the Silt Turf Replacement Incentive Program manual.



I Agree\*

Signature\*

=====

For Town Staff Only

Rebate Amount:

\$

Why Rebate:

Rebate calculation:

Approved By (Staff Name):

Date of Approval:

Budget Cost Center: What is this?

## **MEMORANDUM**

TO: The Town of Silt Board of Trustees

FROM: Mark Chain, Planner *MC*

DATE: April 6, 2023

RE: Extension of Approval for Autumn Ridge Minor Subdivision

---

The Silt Municipal Code requires that final plats be recorded within 30 days of a provable for a Minor Subdivision. The Board extended this deadline earlier in February until April 10. That was approved at the February 13 Board Meeting. There are still a few items of the final plat that need to be worked out including a review by an outside Consulting engineer.

Town Staff and the applicant agree that another extension is necessary. Attached is resolution extending that approval until June 1, 2023.

I will be happy to answer questions at the meeting.



**TOWN OF SILT, COLORADO  
RESOLUTION NO. 10  
SERIES OF 2023**

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF SILT, COLORADO, EXTENDING THE APPROVAL OF THE AUTUMN RIDGE MINOR SUBDIVISION IN THE TOWN OF SILT, COLORADO.**

**WHEREAS**, by Resolution No. 5, Series of 2023, the Town approved the Autumn Ridge Minor Subdivision (the "Property"), which Resolution No. 5, Series of 2023 is attached hereto as Exhibit A that includes conditions of approval and the legal description of the Property; and

**WHEREAS**, Silt Municipal Code Section 16.10.080 requires final plats to be recorded within 30 days of approval and the owner/developer of the Property is diligently pursued meeting the requirements of the Code and conditions of Resolution No. 5, Series of 2023; and

**WHEREAS**, there was a request from staff and the applicant to extend the deadline until April 10, 2023 and the Board extended the request to that date at the February 13, 2023 Board of Trustees meeting; him and

**WHEREAS**, the owner/developer of the Property and the Town is requesting an extension of the approval to meet such conditions and requirements and the Board of Trustees is willing to grant such extension

**NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF TRUSTEES OF THE TOWN OF SILT, COLORADO THAT:**

The approval of the Autumn Ridge Minor Subdivision is extended to June 1, 2023 subject to all of the conditions of Resolution No. 5, Series of 2023 which are hereby ratified and affirmed, and all conditions of the Silt Municipal Code, including, but not limited to Section 16.10.080.

**INTRODUCED, READ, PASSED AND ADOPTED** at a regular meeting, following a public hearing, of the Board of Trustees of the Town of Silt, Colorado held on the 10th day of April, 2023.

TOWN OF SILT

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Town Clerk



Reception#: 983409

02/10/2023 10:12:52 AM Jacklyn K. Harmon  
1 of 4 Rec Fee:\$28.00 Doc Fee:0.00 GARFIELD COUNTY CO

**TOWN OF SILT  
RESOLUTION NO. 5  
SERIES OF 2023**

**A RESOLUTION APPROVING THE FINAL PLAT FOR THE AUTUMN RIDGE  
MINOR SUBDIVISION IN THE TOWN OF SILT, GARFIELD COUNTY, STATE  
OF COLORADO, SUBJECT TO CONDITIONS.**

**WHEREAS**, the Town of Silt ("Town") is a Colorado home rule municipality organized under Article XX of the Colorado Constitution and with the authority of the Silt Home Rule Charter; and

**WHEREAS**, the Local Government Land Use Control Enabling Act of 1974, C.R.S. §§ 29-20-101, et seq.; Article 23 of Title 31, C.R.S.; and other applicable laws grant broad authority to the Town to plan for and regulate the development and use of land on the basis of the impact thereof on the community and surrounding area; and

**WHEREAS**, on or about July 29, 2022 John and Joy Zeller, Deric Walter and David C. Moore, as owners of the subject property have applied for a Minor Subdivision Approval for property 3.07 acres in size located at 88321 Highway 6 and 24 in the Town of Silt, and more particularly described on **Exhibit A**, attached hereto; and

**WHEREAS**, on or about January 22, 1990 the Board of Trustees of the Town of Silt adopted Ordinance 1 – Series of 1990 annexing the subject property and such documents were later recorded with the Garfield County Clerk and Recorder on March 16, 1990 as Reception No. 410683; and

**WHEREAS**, on or about January 22, 1990 the Board of Trustees of the Town of Silt approved the Annexation Map for the subject property and such documents were later recorded with the Garfield County Clerk and Recorder on March 16, 1990 as Reception No. 410682; and

**WHEREAS**, following a public hearing on or about September 6, 2002, the Town of Silt Planning and Zoning Commission approved the Sketch Plan for the Autumn Ridge Minor Subdivision with conditions; and

**WHEREAS**, on or about January 9, 2023 the Board of Trustees held a public hearing on the Final Plat for the Autumn Ridge Minor Subdivision reviewing the proposed final plat establishing two (2) lots for the subject property; and

**WHEREAS**, on or about January 9, 2023, the Board approved the Final Plat for the Autumn Ridge Minor Subdivision and directed the staff to draw up a Subdivision Improvements Agreement related to the installation of infrastructure and utilities for the subject property; and



Reception#: 983409  
02/10/2023 10:12:52 AM Jacklyn K. Harmon  
2 of 4 Rec Fee:\$28.00 Doc Fee:0.00 GARFIELD COUNTY CO

**WHEREAS**, following a public hearing, on January 9, 2023, the Board of Trustees has determined that it is in the best interest of the Town to approve the Final Plat for the Autumn Ridge Minor Subdivision subject to the conditions set forth in this Resolution.

**NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF TRUSTEES OF THE TOWN OF SILT, COLORADO THAT:**

The Final Plat for the Autumn Ridge Minor Subdivision is hereby approved subject to the following conditions:

1. That all statements made in the application and in meetings before the Planning Commission and the Board of Trustees are conditions of approval, unless modified in the following conditions; and
2. That all fees incurred by the Town for review of this application, including but not limited to public notification, copying, printing, legal, engineering, planning and recordation costs have been paid; and
3. That the Town and Applicant reach agreement on the terms and conditions for a Subdivision Improvements Agreement ("SIA") and the same is approved by the Board at a public meeting; and
4. That the applicant shall be required to obtain a Site Plan Review Approval or further subdivision approvals for Lot 2 if they wish to build more than two (2) dwelling units; and
5. That the applicant update the signature block in the Certificate of Dedication and Ownership for the new owning entity and such administrative documents as an updated Title Commitment, statement of Authority and Operating Agreement for the LLC and they are subject to approval of the Town Attorney; and
6. That the shares in the Lower Cactus Valley Ditch be dedicated to the town and that the town lease back the shares to the owner for no cost except for the payment of assessments to the Lower Cactus Valley Ditch; and
7. That the plat notes # 3 and # 5 related to responsibility for repairing damages to utility easements and clarifying rights of the owner of lot 2 to utilize such easements will be revised to the satisfaction of the Town Attorney; and



Reception#: 983409

02/10/2023 10:12:52 AM Jacklyn K. Harmon

3 of 4 Rec Fee:\$28.00 Doc Fee:0.00 GARFIELD COUNTY CO

8. That the proposed ditch maintenance easement depicted on the final plat be reviewed and approved by the Lower Cactus Valley Ditch Company (a.k.a. Grand River Ditch Company); and
9. That the dedication of the 10-foot utility easement on the east side of the property be clarified that it runs in the favor of Lot 1 and that the proper dedication be added to the Certification; and
10. That the location of the PSCo easement recorded at Book 539, Page 382 be clarified and if located outside of the subject property that it be removed from the updated Title Commitment; and
11. That the easement across the property in favor of the Town of Silt recorded in Book 741, page 946 be identified on the plat with the proper callout; and
12. That the applicant provide an updated Access Permit from the Colorado Department of Transportation for any development on the property; and
13. That any conditions from the town's contract engineer related to the final civil drawings be considered conditions of approval and be incorporated into the Subdivision Improvements Agreement or any other document as determined by the Town Attorney.
14. Applicant pays any dedication or impact fees required under the Town Code
15. That prior to recordation of the final plat, the waterline either be moved to a location on Lot 1 or that an easement be depicted on the plat encompassing the waterline.

**INTRODUCED, READ, PASSED AND ADOPTED** at a regular meeting, following a public hearing, of the Board of Trustees of the Town of Silt, Colorado held on the 9<sup>th</sup> day of January, 2023.

ATTEST:

  
Town Clerk Sheila M. McIntyre, CMC

TOWN OF SILT

  
Mayor





Reception#: 983409  
02/10/2023 10:12:52 AM Jacklyn K. Harmon  
4 of 4 Rec Fee:\$28.00 Doc Fee:0.00 GARFIELD COUNTY CO

## Exhibit A Legal Description

A tract of land in the NE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 10, Township 6 South, Range 92 West of the 6<sup>th</sup> P.M., in Garfield County, Colorado and being more particularly described as follows:

Beginning at a point on the Northerly Right-of-Way line of U.S. Highway 6 & 24 at its intersection with the Westerly line of the NE $\frac{1}{4}$  NE $\frac{1}{4}$  said Section 10 and from which the monument at the intersection of the centerlines of Main Street and 9<sup>th</sup> Street in the Town of Silt bears S. 88°12'37" W. a distance of 1357.15 feet;

thence North along the Easterly line of that real property described in Book 575 at Page 39, Garfield County records, and continuing North along the Easterly line of Block 3 of the J-C Addition to the Town of Silt, for a distance of 281.43 feet to the Southwest corner of the Mazuchi Addition Filing No. 1 to the Town of Silt;

thence S. 77°48'08" E. and along the Southerly line of the said Mazuchi Addition Filing No. 1, a distance of 119.33 feet;

thence S. 84°24'09" E. and continuing along the Southerly line of said Mazuchi Addition Filing No. 1, and along the Southerly line of the Mazuchi Addition Filing No. 2, a distance of 231.53 feet;

thence S. 70°36'36" E. and along the Southerly line of the said Mazuchi Addition Filing No. 2 a distance of 246.96 feet to the Northwest corner of the Country Cousin Addition to the Town of Silt, recorded as Document No. 284727, Garfield County records;

thence S. 03°37'00" W. and along the Westerly line of said Country Cousin Addition, a distance of 155.15 feet to a point on the Northerly Right-of-Way line of said Highway 6 & 24;

thence N. 89°41'15" W. a distance of 6.83 feet; thence continuing along said Northerly Right-of-Way line N. 89°40'42" W. a distance of 563.41 feet to the point of beginning.



[www.mountainlawfirm.com](http://www.mountainlawfirm.com)

Glenwood Springs – Main Office  
201 14<sup>th</sup> Street, Suite 200  
P. O. Drawer 2030  
Glenwood Springs, CO 81602

Aspen  
323 W. Main Street  
Suite 301  
Aspen, CO 81611

Montrose  
1544 Oxbow Drive  
Suite 224  
Montrose, CO 81402

DATE: April 4, 2023  
TO: Board of Trustees of the Town of Silt  
FROM: Karp Neu Hanlon PC, Attorneys for the Town of Silt  
RE: Ordinance Approving Comcast Franchise Agreement

---

This memorandum addresses a new cable franchise agreement between Comcast and the Town of Silt. After receiving feedback from the Board on negotiations, Town staff negotiated with Comcast and arrived at an updated draft document. The ordinance in your packet and the franchise agreement attached as Exhibit A will enact this agreement going forward.

The central purpose of the franchise agreement is to grant Comcast a “nonexclusive authorization to make reasonable and lawful use of the Rights-of-Way within the Town to construct, operate, maintain, reconstruct and rebuild a Cable System for the purpose of providing Cable Service.” In exchange for this authorization, Comcast pays the Town 5% of Comcast’s gross revenues generated from the provision of cable services within the Town (gross revenues are defined in the agreement). The 5% franchise fee is capped by federal law and is standard across all municipalities.

Importantly, the cable franchise agreement between the Town and Comcast only covers the provision of cable services and operation of the cable system within the Town, and the franchise fee is calculated based only on Comcast’s gross revenues from the provision of cable services. Although Comcast also provides other services in the Town (broadband and voice), the franchise agreement does not cover these services. Under federal law, the Town may not regulate non-cable services provided by cable providers under its cable franchising authority. To address this issue, the new draft agreement contains a provision addressing franchise fee calculations for “bundled” services, noted below. Additionally, a recent order issued in 2019 by the Federal Communications Commission (“FCC”) limited additional in-kind contributions that localities can request in a franchise agreement by including these items in the 5% franchise fee cap under federal law. We have discussed this issue with Comcast and have structured the agreement accordingly.

Other important terms in the agreement include:

- Ten-year franchise term. (This complies with the 15-year limit in the Town’s Charter.)
- Quarterly payments from Comcast to the Town, accompanied by reports computing the

payment amount and detailing gross revenues.

- Language requiring Comcast to calculate the revenues to be included in gross revenues using a methodology that allocates revenue on a pro rata basis where Comcast provides a discounted bundle of services that includes cable and non-cable services (like cable and internet, for example).
- Annual reports and other reports will be provided on request by the Town.
- Language requiring Comcast to provide additional detail in written reports if requested by the Town and requiring Comcast to maintain and make available for inspection as-built network maps.
- A provision allowing a performance evaluation session upon written request from the Town, up to once every two years.
- A provision obligating Comcast to provide copies of all state and federal reports relating to the Town, on request.
- Language regarding additional testing in the event of reliability or technical quality issues.
- Continuation of any basic cable service provided to Town buildings subject to the FCC's 621 Order as reflected in Section 3.11 of the Franchise Agreement.
- Standard indemnification and insurance requirements.
- Continuation of the PEG access channel used to distribute the Town's programming content and an upgrade to HD for that channel in the future provided the Town has met the programming conditions in Sec. 9.2(D)(1) of the Franchise Agreement.
- Language requiring Comcast to obtain appropriate permits for work in the right-of-way, cause minimal interference with Town property and private property, repair and restore any disturbed or damaged property, and move its facilities at its expense for the Town's public purposes.
- A provision regarding a letter of credit in the event of a claimed breach, out of which monetary damages would be paid.
- Comcast will provide construction material for the Town to connect fiber optic lines between Town Hall and the Silt Town Center and the Library so that the Town can host public meetings in these locations (and receive audio/visual information from these locations back to Town Hall).

**TOWN OF SILT  
ORDINANCE NO. 1  
SERIES OF 2023**

**AN ORDINANCE OF THE TOWN OF SILT, COLORADO, GRANTING CABLE TELEVISION FRANCHISE TO COMCAST OF COLORADO IX, LLC.**

**WHEREAS**, the Town of Silt (“Town”) is a Colorado home rule municipality organized under Article XX of the Colorado Constitution and with the authority of the Silt Home Rule Charter; and

**WHEREAS**, Section 9-4(a) of the Silt Home Rule Charter provides that “[n]o public utility, including but not limited to, those providing water, sewer, cable TV, electrical power, telephone, telegraph, telecommunications or natural gas, may use or occupy the streets, alleys and other property of the Town without obtaining a utility franchise or permit authorized by an ordinance adopted by the Board of Trustees”; and

**WHEREAS**, the Board desires to grant Comcast of Colorado IX, LLC (“Comcast”) a franchise to cable television service in the Town on the terms and conditions stated in the Cable Franchise Agreement (“Franchise Agreement”) attached to this Ordinance as **Exhibit A**; and

**WHEREAS**, the Board finds and determines that the Franchise Agreement complies with the requirements in Section 9-4(b)-(d) of the Silt Home Rule Charter; and

**WHEREAS**, the Board considered this Ordinance at duly noticed public hearings; and

**WHEREAS**, the Board has determined that the adoption of this Ordinance and the Franchise Agreement attached hereto is necessary and proper to provide for the safety, health, prosperity, and order of the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SILT THAT:**

**SECTION 1**

The grant of franchise to Comcast and the adoption of the Franchise Agreement attached as **Exhibit A** and herein incorporated by reference is authorized and approved. The Mayor or the Town’s designated representative is hereby authorized to execute the Franchise Agreement.



## **SECTION 2**

All ordinances heretofore passed and adopted by the Board of Trustees of the Town of Silt, Colorado are hereby repealed to the extent that said ordinances, or parts thereof, are in conflict herewith.

## **SECTION 3**

If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent, be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and shall in no way be affected, impaired or invalidated.

**INTRODUCED, READ, AND APPROVED ON FIRST READING** this 10<sup>th</sup> day of April 2023, at 7:00 PM in the Town Hall, Town of Silt, Colorado.

**PASSED, APPROVED ON SECOND READING, ADOPTED, AND ORDERED PUBLISHED** this 24<sup>th</sup> day of April 2023, at 7:00 PM in the Town Hall, Town of Silt, Colorado.

TOWN OF SILT

\_\_\_\_\_  
Mayor Keith B. Richel

ATTEST:

\_\_\_\_\_  
Town Clerk Sheila M. McIntyre, CMC

**COMCAST OF COLORADO IX, LLC AND  
TOWN OF SILT, COLORADO**

---

**CABLE FRANCHISE AGREEMENT**

**Table of Contents**

<b>SECTION 1. DEFINITIONS .....</b>	<b>1</b>
<b>SECTION 2. GRANT OF FRANCHISE .....</b>	<b>7</b>
2.1 Grant.....	7
2.2 Use of Right-of-Way .....	8
2.3 Term of Franchise .....	9
2.4 Franchise Nonexclusive .....	9
2.5 Police Powers .....	9
2.6 Competitive Equity .....	9
2.7 Familiarity with Franchise.....	11
2.8 Effect of Acceptance .....	11
<b>SECTION 3. FRANCHISE FEE PAYMENT AND FINANCIAL CONTROLS.....</b>	<b>11</b>
3.1 Franchise Fee.....	11
3.2 Payments .....	12
3.3 Acceptance of Payment and Recomputation .....	12
3.4 Quarterly Franchise Fee Reports .....	12
3.5 Annual Franchise Fee Reports.....	12
3.6 Audits .....	12
3.7 Late Payments .....	13
3.8 Underpayments.....	13
3.9 Alternative Compensation.....	13
3.10 Maximum Legal Compensation.....	13
3.11 Additional Commitments Not Franchise Fee Payments.....	13
3.12 Tax Liability.....	15
3.13 Financial Records.....	16
3.14 Payment on Termination .....	16
<b>SECTION 4. ADMINISTRATION AND REGULATION .....</b>	<b>16</b>
4.1 Authority .....	16
4.2 Rates and Charges .....	16
4.3 Rate Discrimination.....	16
4.4 Filing of Rates and Charges .....	17
4.5 Cross Subsidization .....	17
4.6 Reserved Authority .....	17
4.7 Franchise Amendment Procedure.....	17
4.8 Force Majeure .....	18
<b>SECTION 5. FINANCIAL AND INSURANCE REQUIREMENTS.....</b>	<b>19</b>

5.1	Indemnification .....	19
5.2	Insurance .....	20
<b>SECTION 6. CUSTOMER SERVICE.....</b>		<b>21</b>
6.1	Customer Service Standards.....	21
6.2	Subscriber Privacy.....	22
6.3	Subscriber Bills .....	22
<b>SECTION 7. BOOKS AND RECORDS .....</b>		<b>22</b>
7.1	Open Records.....	22
7.2	Confidentiality.....	22
<b>SECTION 8. PROGRAMMING .....</b>		<b>25</b>
8.1	Broad Programming Categories .....	25
8.2	Deletion or Reduction of Broad Programming Categories.....	25
8.3	Obscenity.....	26
8.4	Parental Control Device .....	26
8.5	Continuity of Service Mandatory .....	26
8.6	Services for the Disabled.....	27
<b>SECTION 9. ACCESS .....</b>		<b>27</b>
9.1	Access Channels .....	<b>Error! Bookmark not defined.</b>
9.2	Access Channel Location .....	30
9.3	Return Lines.....	30
<b>SECTION 10. GENERAL RIGHT-OF-WAY USE AND CONSTRUCTION.....</b>		<b>31</b>
<b>SECTION 11. CABLE SYSTEM, TECHNICAL STANDARDS AND TESTING.....</b>		<b>38</b>
11.1	Subscriber Network.....	38
11.2	Standby Power .....	38
11.3	Emergency Alert Capability.....	38
11.4	Technical Performance.....	39
11.5	Cable System Performance Testing .....	39
<b>SECTION 12. SERVICE AVAILABILITY .....</b>		<b>40</b>
12.1	Service Availability.....	40
<b>SECTION 13. FRANCHISE VIOLATIONS .....</b>		<b>41</b>
13.1	Procedure for Remedying Franchise Violations.....	41
13.2	Revocation .....	42
13.3	Procedures in the Event of Termination or Revocation .....	43
13.4	Purchase of Cable System .....	44
13.5	Receivership and Foreclosure .....	44
13.6	No Monetary Recourse Against the Town .....	45
13.7	Alternative Remedies .....	45
13.8	Effect of Abandonment .....	45

13.9	What Constitutes Abandonment.....	45
<b>SECTION 14. FRANCHISE RENEWAL AND TRANSFER .....</b>		<b>46</b>
14.1	Renewal.....	46
14.2	Transfer of Ownership or Control .....	46
<b>SECTION 15. SEVERABILITY .....</b>		<b>47</b>
<b>SECTION 16. MISCELLANEOUS PROVISIONS.....</b>		<b>47</b>
16.1	Preferential or Discriminatory Practices Prohibited.....	47
16.2	Notices .....	47
16.3	Descriptive Headings .....	48
16.4	Publication Costs to be Borne by Grantee.....	48
16.5	Binding Effect .....	48
16.6	No Joint Venture .....	48
16.7	Waiver.....	48
16.8	Reasonableness of Consent or Approval.....	48
16.9	Entire Agreement .....	49

# **COMCAST OF COLORADO IX, LLC AND TOWN OF SILT, COLORADO**

## **CABLE FRANCHISE AGREEMENT**

This Franchise Agreement (hereinafter, the “Franchise Agreement” or “Agreement”) is made between the Town of Silt (hereinafter, “Town”) and Comcast of Colorado, IX, LLC (hereinafter, “Grantee”).

The Town, having determined that the financial, legal, and technical ability of the Grantee is reasonably sufficient to provide the services, facilities, and equipment necessary to meet the future cable-related needs of the community, desires to enter into this Franchise Agreement with the Grantee for the construction, operation and maintenance of a Cable System on the terms and conditions set forth herein.

### **SECTION 1. DEFINITIONS**

For the purposes of this Franchise, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning. The word "shall" is always mandatory and not merely directory.

1.1 “Access” means the availability for noncommercial use by various agencies, institutions, organizations, groups and individuals in the community, including the Town and its designees, of the Cable System to acquire, create, receive, and distribute video Cable Services and other services and signals as permitted under Applicable Law including, but not limited to:

(A) “Public Access” means Access where community-based, noncommercial organizations, groups or individual members of the general public, on a nondiscriminatory basis, are the primary users.

(B) “Educational Access” means Access where schools are the primary users having editorial control over programming and services. For purposes of this definition, “school” means any State-accredited educational institution, public or private, including, for example, primary and secondary schools, colleges and universities.

(C) “Government Access” means Access where governmental institutions or their designees are the primary users having editorial control over programming and services.

1.2 “Access Channel” means any Channel, or portion thereof, designated for Access purposes or otherwise made available to facilitate or transmit Access programming or services.

1.3 “Activated” means the status of any capacity or part of the Cable System in which any Cable Service requiring the use of that capacity or part is available without further installation of

system equipment, whether hardware or software.

1.4 “Affiliate,” when used in connection with Grantee, means any Person who owns or controls, is owned or controlled by, or is under common ownership or control with, Grantee.

1.5 “Applicable Law” means any statute, ordinance, judicial decision, executive order or regulation having the force and effect of law, which determines the legal standing of a case or issue.

1.6 “Bad Debt” means amounts lawfully billed to a Subscriber and owed by the Subscriber for Cable Service and accrued as revenues on the books of Grantee, but not collected after reasonable efforts have been made by Grantee to collect the charges.

1.7 “Basic Service” is the level of programming service which includes, at a minimum, all Broadcast Channels, all PEG Access Channels required in this Franchise, and any additional Programming added by the Grantee, and is made available to all Cable Services Subscribers in the Franchise Area.

1.8 “Broadcast Channel” means local commercial television stations, qualified low power stations and qualified local noncommercial educational television stations, as referenced under 47 USC § 534 and 535.

1.9 “Broadcast Signal” means a television or radio signal transmitted over the air to a wide geographic audience, and received by a Cable System by antenna, microwave, satellite dishes or any other means.

1.10 “Cable Act” means the Title VI of the Communications Act of 1934, as amended.

1.11 “Cable Operator” means any Person or groups of Persons, including Grantee, who provide(s) Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System or who otherwise control(s) or is (are) responsible for, through any arrangement, the management and operation of such a Cable System.

1.12 “Cable Service” means the one-way transmission to Subscribers of video programming or other programming service, and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

1.13 “Cable System” means any facility, including Grantee’s, consisting of a set of closed transmissions paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves Subscribers without using any Right-of-Way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the federal Communications Act (47 U.S.C. 201 et seq.), except that such facility shall be considered a Cable System (other than for purposes of Section 621(c) (47 U.S.C. 541(c)) to the extent such facility is used in the transmission

of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with federal statutes; or (E) any facilities of any electric utility used solely for operating its electric utility systems.

1.14 “Channel” means a portion of the electromagnetic frequency spectrum which is used in the Cable System and which is capable of delivering a television channel (as television channel is defined by the FCC by regulation).

1.15 “Commercial Subscribers” means any Subscribers other than Residential Subscribers.

1.16 “Designated Access Provider” means the entity or entities designated now or in the future by the Town to manage or co-manage Access Channels and facilities. The Town may be a Designated Access Provider.

1.17 “Digital Starter Service” means the Tier of optional video programming services, which is the level of Cable Service received by most Subscribers above Basic Service, and does not include Premium Services.

1.18 “Downstream” means carrying a transmission from the Headend to remote points on the Cable System or to Interconnection points on the Cable System.

1.19 “Dwelling Unit” means any building, or portion thereof, that has independent living facilities, including provisions for cooking, sanitation and sleeping, and that is designed for residential occupancy. Buildings with more than one set of facilities for cooking shall be considered Multiple Dwelling Units unless the additional facilities are clearly accessory.

1.20 “Effective Date” means the date on which all persons necessary to sign this Agreement in order for it to be binding on both parties have executed this Agreement as indicated on the signature page(s), unless a specific date is otherwise provided in the “Term” section herein.

1.18 “FCC” means the Federal Communications Commission.

1.21 “Fiber Optic” means a transmission medium of optical fiber cable, along with all associated electronics and equipment, capable of carrying Cable Service by means of electric lightwave impulses.

1.22 “Franchise” means the document in which this definition appears, *i.e.*, the contractual agreement, executed between the Town and Grantee, containing the specific provisions of the authorization granted, including references, specifications, requirements and other related matters.

1.23 “Franchise Area” means the area within the jurisdictional boundaries of the Town, including any areas annexed by the Town during the term of this Franchise.

1.24 “Franchise Fee” means that fee payable to the Town described in subsection 3.1.

1.25 “Grantee” means Comcast of Colorado IX, LLC or its lawful successor, transferee or

assignee.

1.26 “Gross Revenues” means, and shall be construed broadly to include all revenues derived directly or indirectly by Grantee and/or an Affiliated Entity that is the cable operator of the Cable System, from the operation of Grantee’s Cable System to provide Cable Services within the Town. Gross revenues include, by way of illustration and not limitation:

- monthly fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial customers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event and video-on-demand Cable Services);
- installation, reconnection, downgrade, upgrade or similar charges associated with changes in subscriber Cable Service levels;
- fees paid to Grantee for channels designated for commercial/leased access use and shall be allocated on a pro rata basis using total Cable Service subscribers within the Town;
- converter, remote control, and other Cable Service equipment rentals, leases, or sales;
- Advertising Revenues as defined herein;
- late fees, convenience fees and administrative fees which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total subscriber revenues within the Town;
- revenues from program guides;
- Franchise Fees;
- FCC Regulatory Fees; and,
- commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service subscribers within the Town.

(A) “Advertising Revenues” shall mean revenues derived from sales of advertising that are made available to Grantee’s Cable System subscribers within the Town and shall be allocated on a pro rata basis using total Cable Service subscribers reached by the advertising. Additionally, Grantee agrees that Gross Revenues subject to franchise fees shall include all commissions, rep fees, Affiliated Entity fees, or rebates paid to National Cable Communications (“NCC”) and Comcast Spotlight (“Spotlight”) or their successors associated with sales of advertising on the Cable System within the Town allocated according to this paragraph using total Cable Service subscribers reached by the advertising.

(B) “Gross Revenues” shall not include:



- actual bad debt write-offs, except any portion which is subsequently collected which shall be allocated on a *pro rata* basis using Cable Services revenue as a percentage of total subscriber revenues within the Town;
- any taxes and/or fees on services furnished by Grantee imposed by any municipality, state or other governmental unit, provided that Franchise Fees and the FCC regulatory fee shall not be regarded as such a tax or fee;
- fees imposed by any municipality, state or other governmental unit on Grantee including but not limited to Public, Educational and Governmental (PEG) Fees;
- launch fees and marketing co-op fees; and,
- unaffiliated third party advertising sales agency fees which are reflected as a deduction from revenues.

(C) To the extent revenues are received by Grantee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a *pro rata* basis when comparing the bundled service price and its components to the sum of the published rate card, except as required by specific federal, state or local law, it is expressly understood that equipment may be subject to inclusion in the bundled price at full rate card value. This calculation shall be applied to every bundled service package containing Cable Service from which Grantee derives revenues in the Town. The Town reserves its right to review and to challenge Grantee's calculations.

(D) Grantee reserves the right to change the allocation methodologies set forth in this Section 1.29 in order to meet the standards required by governing accounting principles as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). Grantee will explain and document the required changes to the Town within three (3) months of making such changes, and as part of any audit or review of franchise fee payments, and any such changes shall be subject to 1.29(E) below.

(E) Resolution of any disputes over the classification of revenue should first be attempted by agreement of the Parties, but should no resolution be reached, the Parties agree that reference shall be made to generally accepted accounting principles ("GAAP") as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). Notwithstanding the forgoing, the Town reserves its right to challenge Grantee's calculation of Gross Revenues, including the interpretation of GAAP as promulgated and defined by the FASB, EITF and/or the SEC.

1.27 "Headend" means any facility for signal reception and dissemination on a Cable System, including cables, antennas, wires, satellite dishes, monitors, switchers, modulators, processors for Broadcast Signals, equipment for the Interconnection of the Cable System with adjacent Cable

Systems and Interconnection of any networks which are part of the Cable System, and all other related equipment and facilities.

1.28 “Leased Access Channel” means any Channel or portion of a Channel commercially available for video programming by Persons other than Grantee, for a fee or charge.

1.29 “Manager” means the Town Manager of the Town or designee.

1.30 “Person” means any individual, sole proprietorship, partnership, association, or corporation, or any other form of entity or organization.

1.31 “Premium Service” means programming choices (such as movie Channels, pay-per-view programs, or video on demand) offered to Subscribers on a per-Channel, per-program or per-event basis.

1.32 “Residential Subscriber” means any Person who receives Cable Service delivered to Dwelling Units or Multiple Dwelling Units, excluding such Multiple Dwelling Units billed on a bulk-billing basis.

1.33 “Right-of-Way” means each of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and located within the Town: streets, roadways, highways, avenues, lanes, alleys, bridges, sidewalks, easements, right-of-way and similar public property and areas.

1.34 “State” means the State of Colorado.

1.35 “Subscriber” means any Person who or which elects to subscribe to, for any purpose, Cable Service provided by Grantee by means of or in connection with the Cable System and whose premises are physically wired and lawfully Activated to receive Cable Service from Grantee's Cable System, and who is in compliance with Grantee's regular and nondiscriminatory terms and conditions for receipt of service.

1.36 “Subscriber Network” means that portion of the Cable System used primarily by Grantee in the transmission of Cable Services to Residential Subscribers.

1.37 “Telecommunications” means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received (as provided in 47 U.S.C. Section 153(43)).

1.38 “Telecommunications Service” means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used (as provided in 47 U.S.C. Section 153(46)).

1.39 “Tier” means a group of Channels for which a single periodic subscription fee is charged.

1.40 “Town” is the Town of Silt, Colorado, a body politic and corporate under the laws of the

State of Colorado.

1.41 “Town Board of Trustees” means the Silt Town Board of Trustees, or its successor, the governing body of the Town of Silt, Colorado.

1.42 “Two-Way” means that the Cable System is capable of providing both Upstream and Downstream transmissions.

1.43 “Upstream” means carrying a transmission to the Headend from remote points on the Cable System or from Interconnection points on the Cable System.

## **SECTION 2. GRANT OF FRANCHISE**

### **2.1 Grant**

(A) The Town hereby grants to Grantee a nonexclusive authorization to make reasonable and lawful use of the Rights-of-Way within the Town to construct, operate, maintain, reconstruct and rebuild a Cable System for the purpose of providing Cable Service subject to the terms and conditions set forth in this Franchise and in any prior utility or use agreements entered into by Grantee with regard to any individual property. This Franchise shall constitute both a right and an obligation to provide the Cable Services required by, and to fulfill the obligations set forth in, the provisions of this Franchise.

(B) Nothing in this Franchise shall be deemed to waive the lawful requirements of any generally applicable Town ordinance existing as of the Effective Date or lawfully adopted thereafter, as defined in subsection 2.3.

(C) Each and every term, provision or condition herein is subject to the provisions of State law, federal law, the Charter of the Town, and the ordinances and regulations enacted pursuant thereto. The Charter and Municipal Code of the Town, as the same may be amended from time to time, are hereby expressly incorporated into this Franchise as if fully set out herein by this reference. Notwithstanding the foregoing, the Town may not unilaterally alter the material rights and obligations of Grantee under this Franchise.

(D) This Franchise shall not be interpreted to prevent the Town from imposing additional lawful conditions, including additional compensation conditions for use of the Rights-of-Way, should Grantee provide service other than Cable Service.

(E) Grantee promises and guarantees, as a condition of exercising the privileges granted by this Franchise, that any Affiliate of the Grantee directly involved in the offering of Cable Service in the Franchise Area, or directly involved in the management or operation of the Cable System in the Franchise Area, will also comply with the obligations of this Franchise.

(F) No rights shall pass to Grantee by implication. Without limiting the foregoing, by way of example and not limitation, this Franchise shall not include or be a substitute for:

(1) Any other permit or authorization required for the privilege of transacting and carrying on a business within the Town that may be required by the ordinances and laws of the Town;

(2) Any permit, agreement, or authorization required by the Town for Right-of-Way users in connection with operations on or in Rights-of-Way or public property including, by way of example and not limitation, street cut permits; or

(3) Any permits or agreements for occupying any other property of the Town or private entities to which access is not specifically granted by this Franchise including, without limitation, permits and agreements for placing devices on poles, in conduits or in or on other structures.

(G) This Franchise is intended to convey limited rights and interests only as to those Rights-of-Way in which the Town has an actual interest. It is not a warranty of title or interest in any Right-of-Way; it does not provide the Grantee with any interest in any particular location within the Right-of-Way; and it does not confer rights other than as expressly provided in the grant hereof.

(H) This Franchise does not authorize Grantee to provide Telecommunications Service, or to construct, operate or maintain Telecommunications facilities. This Franchise is not a bar to the provision of non-Cable Services, or to the imposition of any lawful conditions on Grantee with respect to Telecommunications, whether similar, different or the same as the conditions specified herein. This Franchise does not relieve Grantee of any obligation it may have to obtain from the Town an authorization to provide Telecommunications Services, or to construct, operate or maintain Telecommunications facilities, or relieve Grantee of its obligation to comply with any such authorizations that may be lawfully required.

## **2.2 Use of Right-of-Way**

(A) Subject to the Town's supervision and control, Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the Right-of-Way within the Town such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of a Cable System within the Town. Grantee, through this Franchise, is granted extensive and valuable rights to operate its Cable System for profit using the Town's Right-of-Way in compliance with all applicable Town construction codes and procedures. As trustee for the public, the Town is entitled to fair compensation as provided for in Section 3 of this Franchise to be paid for these valuable rights throughout the term of the Franchise.

(B) Grantee must follow Town established nondiscriminatory requirements for placement of Cable System facilities in Right-of-Way, including the specific location of facilities in the Right-of-Way, and must in any event install Cable System facilities in a manner that minimizes interference with the use of the Right-of-Way by others, including others that may be installing communications facilities. Within limits reasonably related to the Town's role in protecting public health, safety and welfare, the Town may require that Cable System facilities be installed at a particular time, at a specific place or in a particular manner as a condition of access to a particular Right-of-Way; may deny access if Grantee is not willing to comply with Town's requirements; and may remove, or require removal of, any facility that is not installed by Grantee in compliance with the requirements established by the Town, or which is installed without prior Town approval of the time, place or manner of installation, and charge Grantee for all the costs associated with removal; and may require Grantee to cooperate with others to minimize adverse impacts on the Right-of-Way through joint trenching and other arrangements.

### **2.3 Term of Franchise**

The term of the Franchise granted hereunder shall be ten (10) years, commencing upon the Effective Date of the Franchise, unless the Franchise is renewed or is lawfully terminated in accordance with the terms of this Franchise Agreement and the Cable Act, or is extended by mutual agreement of the Town and Grantee.

### **2.4 Franchise Nonexclusive**

This Franchise shall be nonexclusive, and subject to all prior rights, interests, easements or licenses granted by the Town to any Person to use any property, Right-of-Way, right, interest or license for any purpose whatsoever, including the right of the Town to use same for any purpose it deems fit, including the same or similar purposes allowed Grantee hereunder. The Town may at any time grant authorization to use the Right-of-Way for any purpose not incompatible with Grantee's authority under this Franchise and for such additional franchises for Cable Systems as the Town deems appropriate.

### **2.5 Police Powers**

Grantee's rights hereunder are subject to the police powers of the Town to adopt and enforce ordinances necessary to the safety, health, and welfare of the public, and Grantee agrees to comply with all laws and ordinances of general applicability enacted, or hereafter enacted, by the Town or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The Town shall have the right to adopt, from time to time, such ordinances as may be deemed necessary in the exercise of its police power; provided that such hereinafter enacted ordinances shall be reasonable and not materially modify the terms of this Franchise. Any conflict between the provisions of this Franchise and any other present or future lawful exercise of the Town's police powers shall be resolved in favor of the latter.

### **2.6 Competitive Equity**

(A) The Grantee acknowledges and agrees that the Town reserves the right to grant one

(1) or more additional franchises or other similar lawful authorization to provide Cable Services within the Town. If the Town grants such an additional franchise or other similar lawful authorization containing material terms and conditions that differ from Grantee's material obligations under this Franchise, then the Town agrees that the obligations in this Franchise will, pursuant to the process set forth in this Section, be amended to include any material terms or conditions that it imposes upon the new entrant, or provide relief from existing material terms or conditions, so as to insure that the regulatory and financial burdens on each entity are materially equivalent. "Material terms and conditions" include, but are not limited to: Franchise Fees and Gross Revenues; insurance; System build-out requirements; security instruments; Public, Education and Government Access Channels and support; customer service standards; required reports and related record keeping; competitive equity (or its equivalent); audits; dispute resolution; remedies; and notice and opportunity to cure breaches. The parties agree that this provision shall not require a word for word identical franchise or authorization for a competitive entity so long as the regulatory and financial burdens on each entity are materially equivalent. Video programming services (as defined in the Cable Act) delivered over wireless broadband networks are specifically exempted from the requirements of this Section.

(B) The modification process of this Franchise as provided for in Section 2.6 (A) shall only be initiated by written notice by the Grantee to the Town regarding specified franchise obligations. Grantee's notice shall address the following: (1) identifying the specific terms or conditions in the competitive cable services franchise which are materially different from Grantee's obligations under this Franchise; (2) identifying the Franchise terms and conditions for which Grantee is seeking amendments; (3) providing text for any proposed Franchise amendments to the Town, with a written explanation of why the proposed amendments are necessary and consistent.

(C) Upon receipt of Grantee's written notice as provided in Section 2.6 (B), the Town and Grantee agree that they will use best efforts in good faith to negotiate Grantee's proposed Franchise modifications, and that such negotiation will proceed and conclude within a ninety (90) daytime period, unless that time period is reduced or extended by mutual agreement of the parties. If the Town and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then the Town shall amend this Franchise to include the modifications.

(D) In the alternative to Franchise modification negotiations as provided for in Section 2.6 (C), or if the Town and Grantee fail to reach agreement in such negotiations, Grantee may, at its option, elect to replace this Franchise by opting into the franchise or other similar lawful authorization that the Town grants to another provider of Cable Services, with the understanding that Grantee will use its current system design and technology infrastructure to meet any requirements of the new franchise so as to insure that the regulatory and financial burdens on each entity are equivalent. If Grantee so elects, the Town shall immediately commence proceedings to replace this Franchise with the franchise issued to the other Cable Services provider.

(E) Notwithstanding anything contained in this Section 2.6(A) through (D) to the contrary, the Town shall not be obligated to amend or replace this Franchise unless the new entrant makes Cable Services available for purchase by Subscribers or customers under its franchise agreement with the Town.

(F) Notwithstanding any provision to the contrary, at any time that a wireline facilities-based entity, legally authorized by state or federal law, makes available for purchase by Subscribers or customers, Cable Services or multiple Channels of video programming within the Franchise Area without a franchise or other similar lawful authorization granted by the Town, then:

(1) Grantee may negotiate with the Town to seek Franchise modifications as per Section 2.6(C) above; or

(a) the term of Grantee's Franchise shall, upon ninety (90) days written notice from Grantee, be shortened so that the Franchise shall be deemed to expire on a date eighteen (18) months from the first day of the month following the date of Grantee's notice; or,

(b) Grantee may assert, at Grantee's option, that this Franchise is rendered "commercially impracticable," and invoke the modification procedures set forth in Section 625 of the Cable Act.

## **2.7 Familiarity with Franchise**

The Grantee acknowledges and warrants by acceptance of the rights, privileges and agreements granted herein, that it has carefully read and fully comprehends the terms and conditions of this Franchise and is willing to and does accept all lawful and reasonable risks of the meaning of the provisions, terms and conditions herein. The Grantee further acknowledges and states that it has fully studied and considered the requirements and provisions of this Franchise and finds that the same are commercially practicable at this time, and consistent with all local, State and federal laws and regulations currently in effect, including the Cable Act.

## **2.8 Effect of Acceptance**

By accepting the Franchise, the Grantee: (1) acknowledges and accepts the Town's legal right to issue and enforce the Franchise; (2) accepts and agrees to comply with each and every provision of this Franchise subject to Applicable Law; and (3) agrees that the Franchise was granted pursuant to processes and procedures consistent with Applicable Law, and that it will not raise any claim to the contrary.

# **SECTION 3. FRANCHISE FEE PAYMENT AND FINANCIAL CONTROLS**

## **3.1 Franchise Fee**

As compensation for the benefits and privileges granted under this Franchise and in consideration of permission to use the Town's Right-of-Way, Grantee shall continue to pay as a Franchise Fee to the Town, throughout the duration of and consistent with this Franchise, an amount equal to five percent (5%) of Grantee's Gross Revenues.

### **3.2 Payments**

Grantee's Franchise Fee payments to the Town shall be computed quarterly for the preceding calendar quarter ending March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than forty-five (45) days after said dates.

### **3.3 Acceptance of Payment and Recomputation**

No acceptance of any payment shall be construed as an accord by the Town that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim the Town may have for further or additional sums payable or for the performance of any other obligation of Grantee.

### **3.4 Quarterly Franchise Fee Reports**

Each payment shall be accompanied by a written report to the Town, or concurrently sent under separate cover, verified by an authorized representative of Grantee, containing an accurate statement in summarized form, as well as in detail, of Grantee's Gross Revenues and the computation of the payment amount. Such reports shall detail all Gross Revenues of the Cable System.

### **3.5 Annual Franchise Fee Reports**

Grantee shall, within sixty (60) days after the end of each year, furnish to the Town a statement stating the total amount of Gross Revenues for the year and all payments, deductions and computations for the period.

### **3.6 Audits**

On an annual basis, upon thirty (30) days prior written notice, the Town, including the Town's Auditor or his/her authorized representative, shall have the right to conduct an independent audit/review of Grantee's records reasonably related to the administration or enforcement of this Franchise. Pursuant to subsection 1.29, as part of the Franchise Fee audit/review the Town shall specifically have the right to review relevant data related to the allocation of revenue to Cable Services in the event Grantee offers Cable Services bundled with non-Cable Services. For purposes of this section, "relevant data" shall include, at a minimum, Grantee's records, produced and maintained in the ordinary course of business, showing the subscriber counts per package and the revenue allocation per package for each package that was available for Town subscribers during the audit period. To the extent that the Town does not believe that the relevant data supplied is sufficient for the Town to complete its audit/review, the Town may require other relevant data. For purposes of this Section 3.6, the "other relevant data" shall generally mean all: (1) billing reports, (2) financial reports (such as General Ledgers) and (3) sample customer bills used by Grantee to determine Gross Revenues for the Franchise Area that would allow the Town to recompute the Gross Revenue determination. If the audit/review shows that Franchise Fee payments have been underpaid by five percent (5%) or more (or such other contract underpayment



threshold as set forth in a generally applicable and enforceable regulation or policy of the Town related to audits), Grantee shall pay the total cost of the audit/review, such cost not to exceed three thousand dollars (\$3,000) for each year of the audit period. The Town's right to audit/review and the Grantee's obligation to retain records related to this subsection shall expire three (3) years after each Franchise Fee payment has been made to the Town.

### **3.7 Late Payments**

In the event any payment due quarterly is not received within forty-five (45) days from the end of the calendar quarter, Grantee shall pay interest on the amount due (at the prime rate as listed in the Wall Street Journal on the date the payment was due), compounded daily, calculated from the date the payment was originally due until the date the Town receives the payment.

### **3.8 Underpayments**

If a net Franchise Fee underpayment is discovered as the result of an audit, Grantee shall pay interest at the rate of five percent (5%) per annum, compounded quarterly, calculated from the date each portion of the underpayment was originally due until the date Grantee remits the underpayment to the Town.

### **3.9 Alternative Compensation**

In the event the obligation of Grantee to compensate the Town through Franchise Fee payments is lawfully suspended or eliminated, in whole or part, then Grantee shall pay to the Town compensation equivalent to the compensation paid to the Town by other similarly situated users of the Town's Right-of-Way for Grantee's use of the Town's Right-of-Way, provided that in no event shall such payments exceed the equivalent of five percent (5%) of Grantee's Gross Revenues (subject to the other provisions contained in this Franchise), to the extent consistent with Applicable Law.

### **3.10 Maximum Legal Compensation**

The parties acknowledge that, at present, applicable federal law limits the Town to collection of a maximum permissible Franchise Fee of five percent (5%) of Gross Revenues. In the event that at any time during the duration of this Franchise, the Grantor is authorized to collect an amount in excess of five percent (5%) of Gross Revenues, then this Franchise may be amended unilaterally by the Town through the same process that the Franchise was adopted to provide that such excess amount shall be added to the Franchise Fee payments to be paid by Grantee to the Town hereunder, provided that Grantee has received at least ninety (90) days prior written notice from the Town of such amendment, so long as all cable operators in the Town are paying the same Franchise Fee amount.

### **3.11 Additional Commitments Not Franchise Fee Payments**

(A) Any charges incidental to the awarding or enforcing of this Franchise (including, without limitation, payments for bonds, security funds, insurance, indemnification, penalties or

liquidated damage) and Grantee's costs of compliance with Franchise obligations (including, without limitation, compliance with customer service standards and build out obligations) shall not be offset against Franchise Fees. Furthermore, the Town and Grantee agree that any local tax of general applicability shall be in addition to any Franchise Fees required herein, and there shall be no offset against Franchise Fees. Notwithstanding the foregoing, Grantee reserves all rights to offset cash or non-cash consideration or obligations from Franchise Fees, consistent with Applicable Law. The Town likewise reserves all rights it has under Applicable Law. Should Grantee elect to offset the items set forth herein, or other Franchise commitments such as complimentary Cable Service, against Franchise Fees in accordance with Applicable Law, including any Orders resulting from the FCC's 621 proceeding, MB Docket No. 05-311, Grantee shall provide the Town with advance written notice. Such notice shall document the proposed offset or service charges so that the Town can make an informed decision as to its course of action. Upon receipt of such notice Town shall have up to one hundred twenty (120) days to either (1) maintain the commitment with the understanding that the value shall be offset from Franchise Fees; (2) relieve Grantee from the commitment obligation under the Franchise; or (3) pay for the services rendered pursuant to the commitment in accordance with Grantee's regular and nondiscriminatory term and conditions.

(B) Grantee's notice pursuant to Section 3.11(A) shall, at a minimum, address the following: (1) identify the specific cash or non-cash consideration or obligations that must be offset from Grantee's Franchise Fee obligations; (2) identify the Franchise terms and conditions for which Grantee is seeking amendments; (3) provide text for any proposed Franchise amendments to the Town, with a written explanation of why the proposed amendments are necessary and consistent with Applicable Law; (4) provide all information and documentation reasonably necessary to address how and why specific offsets are to be calculated and (5) if applicable provide all information and documentation reasonably necessary to document how Franchise Fee offsets may be passed through to Subscribers in accordance with 47 U.S.C. 542(e). Nothing in this Section 3.11(B) shall be construed to extend the one hundred twenty (120) day time period for Town to make its election under Section 3.11(A); provided however, that any disagreements or disputes over whether sufficient information has been provided pursuant to this Paragraph (B) may be addressed under Sections 13.1 or 13.2 of this Franchise.

(C) Upon receipt of Grantee's written notice as provided in Section 3.11 (B), the Town and Grantee agree that they will use best efforts in good faith to negotiate Grantee's proposed Franchise modifications and agree to what offsets, if any, are to be made to the Franchise Fee obligations. Such negotiation will proceed and conclude within a one hundred twenty (120) day time period, unless that time period is reduced or extended by mutual agreement of the parties. If the Town and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then the Town shall amend this Franchise to include those modifications.

(D) If the parties are unable to reach agreement on any Franchise Fee offset issue within one hundred twenty (120) days or such other time as the parties may mutually agree, each party reserves all rights it may have under Applicable Law to address such offset issues.

(E) The Town acknowledges that Grantee currently provides one outlet of Basic Service and Digital Starter Service and associated equipment to certain Town owned and occupied

or leased and occupied buildings, schools, fire stations and public libraries located in areas where Grantee provides Cable Service. For purposes of this Franchise, “school” means all State-accredited K-12 public and private schools. Outlets of Basic and Digital Starter Service provided in accordance with this subsection may be used to distribute Cable Services throughout such buildings, provided such distribution can be accomplished without causing Cable System disruption and general technical standards are maintained. Grantee’s commitment to provide this service is voluntary, and may be terminated by Grantee, at its sole discretion.

(1) Grantee’s termination of complimentary services provided shall be pursuant to the provisions of Section 3.11(A)-(E) above. Town may make a separate election for each account or line of service identified in the notice (for example, Town may choose to accept certain services or accounts as offsets to Franchise Fees, and discontinue other services or accounts), so long as all elections are made within one hundred twenty (120) days. Grantee shall also provide written notice to each entity that is currently receiving complimentary services with copies of those notice(s) sent to the Town.

(2) Notwithstanding the foregoing, Grantee reserves all rights to offset cash or non-cash consideration or obligations from Franchise Fees, consistent with Applicable Law. The Town likewise reserves all rights it has under Applicable Law.

(F) The parties understand and agree that offsets may be required and agreed to as a result of the FCC’s Order in what is commonly known as the 621 Proceeding, MB Docket No. 05-311. Should there be a change in Applicable Law as a result of the 621 Proceeding, which would permit any cash or non-cash consideration or obligations to be required by this Franchise without being offset from Franchise Fees, or would change the scope of the Town’s regulatory authority over the use of the rights-of-way by the Grantee, the parties shall, within one hundred twenty (120) days of written notice from the Town, amend this Franchise to reinstate such consideration or obligations without offset from Franchise Fees, and to address the full scope of the Town’s regulatory authority.

### **3.12 Tax Liability**

The Franchise Fees shall be in addition to any and all taxes or other levies or assessments which are now or hereafter required to be paid by businesses in general by any law of the Town, the State or the United States including, without limitation, sales, use and other taxes, business license fees or other payments. Payment of the Franchise Fees under this Franchise shall not exempt Grantee from the payment of any other license fee, permit fee, tax or charge on the business, occupation, property or income of Grantee that may be lawfully imposed by the Town. Any other license fees, taxes or charges shall be of general applicability in nature and shall not be levied against Grantee solely because of its status as a Cable Operator, or against Subscribers, solely because of their status as such.

### **3.13 Financial Records**

Grantee agrees to meet with a representative of the Town upon request to review Grantee's methodology of record-keeping, financial reporting, the computing of Franchise Fee obligations and other procedures, the understanding of which the Town deems necessary for reviewing reports and records.

### **3.14 Payment on Termination**

If this Franchise terminates for any reason, the Grantee shall file with the Town within ninety (90) calendar days of the date of the termination, a financial statement, certified by an independent certified public accountant, showing the Gross Revenues received by the Grantee since the end of the previous fiscal year. The Town reserves the right to satisfy any remaining financial obligations of the Grantee to the Town by utilizing the funds available in any security provided by the Grantee.

## **SECTION 4. ADMINISTRATION AND REGULATION**

### **4.1 Authority**

(A) The Town shall be vested with the power and right to reasonably regulate the exercise of the privileges permitted by this Franchise in the public interest.

(B) Nothing in this Franchise shall limit nor expand the Town's right of eminent domain under State law.

### **4.2 Rates and Charges**

All of Grantee's rates and charges related to or regarding Cable Services shall be subject to regulation by the Town to the full extent authorized by applicable federal, State and local laws.

### **4.3 Rate Discrimination**

All of Grantee's rates and charges shall be published (in the form of a publicly available rate card) and be non-discriminatory as to all Persons and organizations of similar classes, under similar circumstances and conditions. Grantee shall apply its rates in accordance with Applicable Law, with identical rates and charges for all Subscribers receiving identical Cable Services, without regard to race, color, ethnic or national origin, religion, age, sex, sexual orientation, marital, military or economic status, or physical or mental disability or geographic location within the Town. Grantee shall offer the same Cable Services to all Residential Subscribers at identical rates to the extent required by Applicable Law and to Multiple Dwelling Unit Subscribers to the extent authorized by FCC rules or applicable Federal law. Grantee shall permit Subscribers to make any lawful in-residence connections the Subscriber chooses without additional charge nor penalizing the Subscriber therefor. However, if any in-home connection requires service from Grantee due to signal quality, signal leakage or other factors, caused by improper installation of

such in-home wiring or faulty materials of such in-home wiring, the Subscriber may be charged reasonable service charges by Grantee. Nothing herein shall be construed to prohibit:

(A) The temporary reduction or waiving of rates or charges in conjunction with valid promotional campaigns; or,

(B) The offering of reasonable discounts to senior citizens or economically disadvantaged citizens; or,

(C) The offering of rate discounts for Cable Service; or,

(D) The Grantee from establishing different and nondiscriminatory rates and charges and classes of service for Commercial Subscribers, as allowable by federal law and regulations.

#### **4.4 Filing of Rates and Charges**

(A) Throughout the term of this Franchise, Grantee shall maintain on file with the Town a complete schedule of applicable rates and charges for Cable Services provided under this Franchise. Nothing in this subsection shall be construed to require Grantee to file rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns.

(B) Upon request of the Town, Grantee shall provide a complete schedule of current rates and charges for any and all Leased Access Channels, or portions of such Channels, provided by Grantee. The schedule shall include a description of the price, terms, and conditions established by Grantee for Leased Access Channels.

#### **4.5 Cross Subsidization**

Grantee shall comply with all Applicable Laws regarding rates for Cable Services and all Applicable Laws covering issues of cross subsidization.

#### **4.6 Reserved Authority**

Both Grantee and the Town reserve all rights they may have under the Cable Act and any other relevant provisions of federal, State, or local law.

#### **4.7 Franchise Amendment Procedure**

Either party may at any time seek an amendment of this Franchise by so notifying the other party in writing. Within thirty (30) days of receipt of notice, the Town and Grantee shall meet to discuss the proposed amendment(s). If the parties reach a mutual agreement upon the suggested amendment(s), such amendment(s) shall be submitted to the Town Board of Trustees for its approval by ordinance. If so approved by the Town Board of Trustees and the Grantee, then such amendment(s) shall be deemed part of this Franchise. If mutual agreement is not reached, there shall be no amendment.

#### **4.8 Performance Evaluations**

(A) The Grantor may hold performance evaluation sessions upon ninety (90) days written notice, provided that such evaluation sessions shall be held no more frequently than once every two (2) years. All such evaluation sessions shall be conducted by the Grantor.

(B) Special evaluation sessions may be held at any time by the Grantor during the term of this Franchise, upon ninety (90) days written notice to Grantee.

(C) All regular evaluation sessions shall be open to the public and announced at least two (2) weeks in advance in any manner within the discretion of the Grantor. Grantee shall also include with or on the Subscriber billing statements for the billing period immediately preceding the commencement of the session, written notification of the date, time, and place of the regular performance evaluation session, and any special evaluation session as required by the Grantor, provided Grantee receives appropriate advance notice.

(D) Topics which may be discussed at any evaluation session may include, but are not limited to, Cable Service rate structures; Franchise Fee payments; liquidated damages; free or discounted Cable Services; application of new technologies; Cable System performance; Cable Services provided; programming offered; Subscriber complaints; privacy; amendments to this Franchise; judicial and FCC rulings; line extension policies; and the Grantor or Grantee's rules; provided that nothing in this subsection shall be construed as requiring the renegotiation of this Franchise.

(E) During evaluations under this subsection, Grantee shall fully cooperate with the Grantor and shall provide such information and documents as the Grantor may reasonably require to perform the evaluation.

#### **4.9 Force Majeure**

In the event Grantee is prevented or delayed in the performance of any of its obligations under this Franchise by reason beyond the control of Grantee, Grantee shall have a reasonable time, under the circumstances, to perform the affected obligation under this Franchise or to procure a substitute for such obligation which is satisfactory to the Town. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, work stoppages or labor disputes, power outages, telephone network outages, and severe or unusual weather conditions which have a direct and substantial impact on the Grantee's ability to provide Cable Services in the Town and which was not caused and could not have been avoided by the Grantee which used its best efforts in its operations to avoid such results.

If Grantee believes that a reason beyond its control has prevented or delayed its compliance with the terms of this Franchise, Grantee shall provide documentation as reasonably required by the Town to substantiate the Grantee's claim. If Grantee has not yet cured the deficiency, Grantee shall also provide the Town with its proposed plan for remediation, including the timing for such cure.

## SECTION 5. FINANCIAL AND INSURANCE REQUIREMENTS

### 5.1 Indemnification

(A) General Indemnification. Grantee shall indemnify, defend and hold the Town, its officers, officials, boards, commissions, agents and employees, harmless from any action or claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses, arising from any casualty or accident to Person or property, including, without limitation, copyright infringement, defamation, and all other damages in any way arising out of, or by reason of, any construction, excavation, operation, maintenance, reconstruction, or any other act done under this Franchise, by or for Grantee, its agents, or its employees, or by reason of any neglect or omission of Grantee. Grantee shall consult and cooperate with the Town while conducting its defense of the Town.

(B) Indemnification for Relocation. Grantee shall indemnify the Town for any damages, claims, additional costs or reasonable expenses assessed against, or payable by, the Town arising out of, or resulting from, directly or indirectly, Grantee's failure to remove, adjust or relocate any of its facilities in the Rights-of-Way in a timely manner in accordance with any relocation required by the Town.

(C) Additional Circumstances. Grantee shall also indemnify, defend and hold the Town harmless for any claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses in any way arising out of:

(1) The lawful actions of the Town in granting this Franchise to the extent such actions are consistent with this Franchise and Applicable Law.

(2) Damages arising out of any failure by Grantee to secure consents from the owners, authorized distributors, or licensees/licensors of programs to be delivered by the Cable System, whether or not any act or omission complained of is authorized, allowed or prohibited by this Franchise.

(D) Procedures and Defense. If a claim or action arises, the Town or any other indemnified party shall promptly tender the defense of the claim to Grantee, which defense shall be at Grantee's expense. The Town may participate in the defense of a claim, but if Grantee provides a defense at Grantee's expense then Grantee shall not be liable for any attorneys' fees, expenses or other costs that Town may incur if it chooses to participate in the defense of a claim, unless and until separate representation as described below in Paragraph 5.1(F) is required. In that event the provisions of Paragraph 5.1(F) shall govern Grantee's responsibility for Town's/County's/Town's attorney's fees, expenses or other costs. In any event, Grantee may not agree to any settlement of claims affecting the Town without the Town's approval.

(E) Non-waiver. The fact that Grantee carries out any activities under this Franchise through independent contractors shall not constitute an avoidance of or defense to Grantee's duty

of defense and indemnification under this subsection.

(F) Expenses. If separate representation to fully protect the interests of both parties is or becomes necessary, such as a conflict of interest between the Town and the counsel selected by Grantee to represent the Town, Grantee shall pay, from the date such separate representation is required forward, all reasonable expenses incurred by the Town in defending itself with regard to any action, suit or proceeding indemnified by Grantee. Provided, however, that in the event that such separate representation is or becomes necessary, and Town desires to hire counsel or any other outside experts or consultants and desires Grantee to pay those expenses, then Town shall be required to obtain Grantee's consent to the engagement of such counsel, experts or consultants, such consent not to be unreasonably withheld. The Town's expenses shall include all reasonable out-of-pocket expenses, such as consultants' fees, and shall also include the reasonable value of any services rendered by the Town Attorney or his/her assistants or any employees of the Town or its agents but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the Town by Grantee.

## **5.2 Insurance**

(A) Grantee shall maintain in full force and effect at its own cost and expense each of the following policies of insurance:

(1) Commercial General Liability insurance with limits of no less than two million dollars (\$2,000,000.00) per occurrence and two million dollars (\$2,000,000.00) general aggregate. Coverage shall be at least as broad as that provided by ISO CG 00 01 1/96 or its equivalent and include severability of interests. Such insurance shall name the Town, its officers, officials and employees as additional insureds per ISO CG 2026 or its equivalent. There shall be a waiver of subrogation and rights of recovery against the Town, its officers, officials and employees. Coverage shall apply as to claims between insureds on the policy, if applicable.

(2) Commercial Automobile Liability insurance with minimum combined single limits of two million dollars (\$2,000,000.00) each occurrence with respect to each of Grantee's owned, hired and non-owned vehicles assigned to or used in the operation of the Cable System in the Town. The policy shall contain a severability of interests provision.

(B) The insurance shall not be canceled or materially changed so as to be out of compliance with these requirements without thirty (30) days' written notice first provided to the Town, via certified mail, and ten (10) days' notice for nonpayment of premium. If the insurance is canceled or materially altered so as to be out of compliance with the requirements of this subsection within the term of this Franchise, Grantee shall provide a replacement policy. Grantee agrees to maintain continuous uninterrupted insurance coverage, in at least the amounts required, for the duration of this Franchise and, in the case of the Commercial General Liability, for at least one (1) year after expiration of this Franchise.



### **5.3 Letter of Credit**

(A) If there is a claim by the Grantor of an uncured breach by Grantee of a material provision of this Franchise or pattern of repeated violations of any provision(s) of this Franchise, then the Grantor may require and Grantee shall establish and provide within thirty (30) days from receiving notice from the Grantor, to the Grantor as security for the faithful performance by Grantee of all of the provisions of this Franchise, a letter of credit from a financial institution satisfactory to the Grantor in the amount of twenty-five thousand dollars (\$25,000).

(B) In the event that Grantee establishes a letter of credit pursuant to the procedures of this Section, then the letter of credit shall be maintained at twenty-five thousand dollars (\$25,000) until the allegations of the uncured breach have been resolved.

(C) After completion of the procedures set forth in Section 13.1 or other applicable provisions of this Franchise, the letter of credit may be drawn upon by the Grantor for purposes including, but not limited to, the following:

(1) Failure of Grantee to pay the Grantor sums due under the terms of this Franchise;

(2) Reimbursement of costs borne by the Grantor to correct Franchise violations not corrected by Grantee;

(3) Monetary remedies or damages assessed against Grantee due to default or breach of Franchise requirements; and,

(4) Failure to comply with the Customer Service Standards of the Grantor, as the same may be amended from time to time by the Board of Trustees acting by ordinance or resolution.

(D) The Grantor shall give Grantee written notice of any withdrawal under this subsection upon such withdrawal. Within seven (7) days following receipt of such notice, Grantee shall restore the letter of credit to the amount required under this Franchise.

(E) Grantee shall have the right to appeal to the Board of Trustees for reimbursement in the event Grantee believes that the letter of credit was drawn upon improperly. Grantee shall also have the right of judicial appeal if Grantee believes the letter of credit has not been properly drawn upon in accordance with this Franchise. Any funds the Grantor erroneously or wrongfully withdraws from the letter of credit shall be returned to Grantee with interest, from the date of withdrawal at a rate equal to the prime rate of interest as quoted in the Wall Street Journal.

## **SECTION 6. CUSTOMER SERVICE**

### **6.1 Customer Service Standards**

The Town hereby adopts the customer service standards set forth in Part 76, §76.309 of the

FCC's rules and regulations, as amended. Grantee shall comply with Customer Service Standards of the Grantor, as the same may be amended from time to time by the Town Board of Trustees in its sole discretion, acting by ordinance. Any requirement in Customer Service Standards for a "local" telephone number may be met by the provision of a toll-free number. Grantee reserves the right to challenge any customer service ordinance which it believes is inconsistent with its contractual rights under this Franchise. The Grantee shall comply in all respects with the customer service requirements established by the FCC.

## **6.2 Subscriber Privacy**

The Grantee shall comply with all applicable federal and state privacy laws, including Section 631 of the Cable Act and regulations adopted pursuant thereto.

## **6.3 Subscriber Bills**

Subscriber bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Subscribers, and in a way that (A) is not misleading and (B) does not omit material information. Notwithstanding anything to the contrary in Section 6.1, above, the Grantee may, in its sole discretion, consolidate costs on Subscriber bills as may otherwise be permitted by Section 622(c) of the Cable Act (47 U.S.C. §542(c)).

# **SECTION 7. BOOKS AND RECORDS**

## **7.1 Open Records**

Grantee shall manage all of its operations in accordance with a policy of keeping its documents and records open and accessible to the Town. The Town, including the Town's Auditor or his/her authorized representative, shall have access to, and the right to inspect, any books and records of Grantee, its parent corporations and Affiliates which are reasonably related to the administration or enforcement of the terms of this Franchise. Grantee shall not deny the Town access to any of Grantee's records on the basis that Grantee's records are under the control of any parent corporation, Affiliate or a third party. The Town may, in writing, request copies of any such records or books. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then Grantee may request, in writing within ten (10) days, that the Town inspect them at Grantee's local offices. If any books or records of Grantee are not kept in a local office and not made available in copies to the Town upon written request as set forth above, and if the Town determines that an examination of such records is necessary or appropriate for the performance of any of the Town's duties, administration or enforcement of this Franchise, then all reasonable travel and related expenses incurred in making such examination shall be paid by Grantee. All such documents that may be the subject of an inspection by the Franchising Authority shall be retained by the Grantee for a minimum period of three (3) years.

## **7.2 Confidentiality**

The Town agrees to treat as confidential any books or records that constitute proprietary or

confidential information under federal or State law, to the extent Grantee makes the Town aware of such confidentiality. Grantee shall be responsible for clearly and conspicuously stamping the word "Confidential" on each page that contains confidential or proprietary information and shall provide a brief written explanation as to why such information is confidential under State or federal law. If the Town believes it must release any such confidential books and records in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. If the Town receives a demand from any Person for disclosure of any information designated by Grantee as confidential, the Town shall, so far as consistent with Applicable Law, advise Grantee and provide Grantee with a copy of any written request by the party demanding access to such information within a reasonable time. Until otherwise ordered by a court or agency of competent jurisdiction, the Town agrees that, to the extent permitted by State and federal law, it shall deny access to any of Grantee's books and records marked confidential as set forth above to any Person.

### **7.3 Records Required**

(A) Grantee shall at all times maintain, and shall furnish to the Grantor upon thirty (30) days' written request and subject to Applicable Law:

(1) A complete set of maps showing the exact location of all Cable System equipment and facilities in the Right-of-Way but excluding detail on proprietary electronics contained therein and Subscriber drops. As-built maps including proprietary electronics shall be available at Grantee's offices for inspection by the Grantor's authorized representative(s) or agent(s) and made available to such during the course of technical inspections as reasonably conducted by the Grantor. These maps shall be certified as accurate by an appropriate representative of the Grantee;

(2) A copy of all FCC filings on behalf of Grantee, its parent corporations or Affiliates which relate to the operation of the Cable System in the Town;

(3) Current Subscriber Records and information;

(4) A log of Cable Services added or dropped, Channel changes, number of Subscribers added or terminated, all construction activity, and total homes passed for the previous twelve (12) months; and

(5) A list of Cable Services, rates and Channel line-ups.

(B) Subject to subsection 7.2, all information furnished to the Grantor is public information, and shall be treated as such, except for information involving the privacy rights of individual Subscribers.

### **7.4 Annual Reports**

Within sixty (60) days of the Town's written request, Grantee shall submit to the Town a written report, in a form acceptable to the Town, which shall include, but not necessarily be limited

to, the following information for the Town:

- (A) A Gross Revenue statement, as required by subsection 3.5 of this Franchise;
- (B) A summary of the previous year's activities in the development of the Cable System, including, but not limited to, Cable Services begun or discontinued during the reporting year, and the number of Subscribers for each class of Cable Service (*i.e.*, Basic, Digital Starter, and Premium);
- (C) The number of homes passed, beginning and ending plant miles, any services added or dropped, and any technological changes occurring in the Cable System;
- (D) A statement of planned construction, if any, for the next year; and,
- (E) A copy of the most recent annual report Grantee filed with the SEC or other governing body.

## **7.5 Copies of Federal and State Reports**

Within thirty (30) days of a written request, Grantee shall submit to the Town copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by Grantee or its parent corporation(s), to any federal, State or local courts, regulatory agencies and other government bodies if such documents directly relate to the operations of Grantee's Cable System within the Town. Grantee shall not claim confidential, privileged or proprietary rights to such documents unless under federal, State, or local law such documents have been determined to be confidential by a court of competent jurisdiction, or a federal or State agency.

## **7.6 Complaint File and Reports**

(A) Grantee shall keep an accurate and comprehensive file of any complaints regarding the Cable System, in a manner consistent with the privacy rights of Subscribers, and Grantee's actions in response to those complaints. These files shall remain available for viewing to the Grantor during normal business hours at Grantee's local business office.

(B) Within thirty (30) days of a written request, Grantee shall provide the Town a quarterly executive summary in the form attached hereto as Exhibit A, which shall include the following information from the preceding quarter:

- (1) A summary of service calls, identifying the number and nature of the requests and their disposition;
- (2) A log of all service interruptions;
- (3) A summary of customer complaints referred by the Town to Grantee;

- (4) Such other information as reasonably requested by the Town.

## **7.7 False Statements**

Any false or misleading statement or representation in any report required by this Franchise (not including clerical errors or errors made in good faith) may be deemed a material breach of this Franchise and may subject Grantee to all remedies, legal or equitable, which are available to the Town under this Franchise or otherwise.

## **SECTION 8. PROGRAMMING**

### **8.1 Broad Programming Categories**

Grantee shall provide or enable the provision of at least the following initial broad categories of programming to the extent such categories are reasonably available:

- (A) Educational programming;
- (B) Colorado news, weather & information;
- (C) Sports;
- (D) General entertainment (including movies);
- (E) Children/family-oriented;
- (F) Arts, culture and performing arts;
- (G) Foreign language;
- (H) Science/documentary;
- (I) National news, weather and information; and,
- (J) Public, Educational and Government Access, to the extent required by this Franchise.

### **8.2 Deletion or Reduction of Broad Programming Categories**

- (A) Grantee shall not delete or so limit as to effectively delete any broad category of programming within its control without the prior written consent of the Town.

(B) In the event of a modification proceeding under federal law, the mix and quality of Cable Services provided by Grantee on the Effective Date of this Franchise shall be deemed the mix and quality of Cable Services required under this Franchise throughout its term.

### **8.3 Obscenity**

Grantee shall not transmit, or permit to be transmitted over any Channel subject to its editorial control, any programming which is obscene under, or violates any provision of, Applicable Law relating to obscenity, and is not protected by the Constitution of the United States. Grantee shall be deemed to have transmitted or permitted a transmission of obscene programming only if a court of competent jurisdiction has found that any of Grantee's officers or employees or agents have permitted programming which is obscene under, or violative of, any provision of Applicable Law relating to obscenity, and is otherwise not protected by the Constitution of the United States, to be transmitted over any Channel subject to Grantee's editorial control. Grantee shall comply with all relevant provisions of federal law relating to obscenity.

### **8.4 Parental Control Device**

Upon request by any Subscriber, Grantee shall make available a parental control or lockout device, traps or filters to enable a Subscriber to control access to both the audio and video portions of any or all Channels. Grantee shall inform its Subscribers of the availability of the lockout device at the time of their initial subscription and periodically thereafter. Any device offered shall be at a rate, if any, in compliance with Applicable Law.

### **8.5 Continuity of Service Mandatory**

(A) It shall be the right of all Subscribers to continue to receive Cable Service from Grantee insofar as their financial and other obligations to Grantee are honored and they are in compliance with Grantee's terms of services, residential service agreement or other such provisions. The Grantee shall act so as to ensure that all Subscribers receive continuous, uninterrupted Cable Service regardless of the circumstances. For the purposes of this subsection, "uninterrupted" does not include short-term outages of the Cable System for maintenance or testing.

(B) In the event of a change of grantee, or in the event a new Cable Operator acquires the Cable System in accordance with this Franchise, Grantee shall cooperate with the Town, new franchisee or Cable Operator in maintaining continuity of Cable Service to all Subscribers. During any transition period, Grantee shall be entitled to the revenues for any period during which it operates the Cable System, and shall be entitled to reasonable costs for its services when it no longer operates the Cable System.

(C) In the event Grantee fails to operate the Cable System for four (4) consecutive days without prior approval of the Manager, or without just cause, the Town may, at its option, operate the Cable System itself or designate another Cable Operator until such time as Grantee restores service under conditions acceptable to the Town or a permanent Cable Operator is selected. If the Town is required to fulfill this obligation for Grantee, Grantee shall reimburse the Town for all reasonable costs or damages that are the result of Grantee's failure to perform.

## **8.6 Services for the Disabled**

Grantee shall comply with the Americans with Disabilities Act and any amendments thereto.

## **SECTION 9. ACCESS**

### **9.1 Designated Access Providers**

(A) The Town shall have the sole and exclusive responsibility for identifying the Designated Access Providers, including itself for Access purposes, to control and manage the use of any or all Access Facilities provided by Grantee under this Franchise. As used in this Section, such "Access Facilities" includes the Channels, services, facilities, equipment, technical components and/or financial support provided under this Franchise, which is used or useable by and for Public Access, Educational Access, and Government Access ("PEG" or "PEG Access").

(B) Grantee shall cooperate with the Town in the Town's efforts to provide Access programming, but will not be responsible or liable for any damages resulting from a claim in connection with the programming placed on the Access Channels by the Designated Access Provider.

### **9.2 Channel Capacity and Use**

(A) Grantee shall make available to the Town two (2) Downstream Channels for PEG use as provided for in this Section.

(B) Grantee shall have the right to temporarily use any Channel, or portion thereof, which is allocated under this Section for Public, Educational, or Governmental Access use, within sixty (60) days after a written request for such use is submitted to the Town, if such Channel is not "fully utilized" as defined herein. A Channel shall be considered fully utilized if substantially unduplicated programming is delivered over it more than an average of 38 hours per week over a six (6) month period. Programming that is repeated on an Access Channel up to two times per day shall be considered "unduplicated programming." Character-generated programming shall be included for purposes of this subsection but may be counted towards the total average hours only with respect to one (1) Channel provided to the Town. If a Channel allocated for Public, Educational, or Governmental Access use will be used by Grantee in accordance with the terms of this subsection, the institution to which the Channel has been allocated shall have the right to require the return of the Channel or portion thereof. The Town shall request return of such Channel

space by delivering written notice to Grantee stating that the institution is prepared to fully utilize the Channel, or portion thereof, in accordance with this subsection. In such event, the Channel or portion thereof shall be returned to such institution within sixty (60) days after receipt by Grantee of such written notice.

(C) Standard Definition (“SD”) Digital Access Channels.

(1) Grantee shall provide one (1) Activated Downstream Channels for PEG Access use in a standard definition (“SD”) digital format in Grantee’s Basic Service (“SD Access Channel”). Grantee shall carry all components of the SD Access Channel Signals provided by a Designated Access Provider including, but not limited to, closed captioning, stereo audio and other elements associated with the Programming. A Designated Access Provider shall be responsible for providing the SD Access Channel Signal in an SD format to the demarcation point at the designated point of origination for the SD Access Channel. Grantee shall transport and distribute the SD Access Channel signal on its Cable System and shall not unreasonably discriminate against SD Access Channels with respect to accessibility, functionality and to the application of any applicable Federal Communications Commission Rules & Regulations, including without limitation Subpart K Channel signal standards.

(2) With respect to signal quality, Grantee shall not be required to carry a SD Access Channel in a higher quality format than that of the SD Access Channel signal delivered to Grantee, but Grantee shall distribute the SD Access Channel signal without degradation. Upon reasonable written request by a Designated Access Provider, Grantee shall verify signal delivery to Subscribers with the Designated Access Provider, consistent with the requirements of this Section 9.2(C).

(3) Grantee shall be responsible for costs associated with the transmission of SD Access signals on its side of the demarcation point which for the purposes of this Section 9.2 (C)(3), shall mean up to and including the modulator where the Town signal is converted into a format to be transmitted over a fiber connection to Grantee. The Town or Designated Access Provider shall be responsible for costs associated with SD Access signal transmission on its side of the demarcation point.

(4) SD Access Channels may require Subscribers to buy or lease special equipment, available to all Subscribers, and subscribe to those tiers of Cable Service, upon which SD channels are made available. Grantee is not required to provide free SD equipment to Subscribers, including complimentary government and educational accounts, nor modify its equipment or pricing policies in any manner.

(D) High Definition (“HD”) Digital Access Channels.

(1) After the third anniversary of the Effective Date and within one hundred twenty (120) days of written notice, Grantee shall activate one (1) High Definition (HD) Access Channel, for which the Town may provide Access Channel signals in HD format to the demarcation point at the designated point of origination for the Access Channel (“HD



Access Channel”). Activation of the HD Access Channel shall only occur after the following conditions are satisfied:

(a) The Town shall, in its written notice to Grantee as provided for in this Section, confirm that it or its Designated Access Provider has the capabilities to produce, has been producing and will produce programming in an HD format for the newly activated HD Access Channel(s); and,

(b) There will be a minimum of five (5) hours per-day, five days per-week of HD PEG programming available for each HD Access Channel. For the purposes of this subsection, character-generated programming (i.e., community bulletin boards) shall not satisfy, in whole or in part, this programming requirement unless the character-generated programming is included on a channel that also contains HD PEG video programming on the same screen.

(2) The Town shall be responsible for providing the HD Access Channel signal in an HD digital format to the demarcation point at the designated point of origination for the HD Access Channel. For purposes of this Franchise, an HD signal refers to a television signal delivering picture resolution of either 720 or 1080, or such other resolution in this same range that Grantee utilizes for other similar non-sport, non-movie programming channels on the Cable System, whichever is greater.

(3) Grantee shall transport and distribute the HD Access Channel signal on its Cable System and shall not unreasonably discriminate against HD Access Channels with respect to accessibility, functionality and to the application of any applicable Federal Communications Commission Rules & Regulations, including without limitation Subpart K Channel signal standards. With respect to signal quality, Grantee shall not be required to carry a HD Access Channel in a higher quality format than that of the HD Access Channel signal delivered to Grantee, but Grantee shall distribute the HD Access Channel signal without degradation. Grantee shall carry all components of the HD Access Channel signals provided by the Designated Access Provider including, but not limited to, closed captioning, stereo audio and other elements associated with the Programming. Upon reasonable written request by the Town, Grantee shall verify signal delivery to Subscribers with the Town, consistent with the requirements of this Section 9.2(D).

(4) HD Access Channels may require Subscribers to buy or lease special equipment, available to all Subscribers, and subscribe to those tiers of Cable Service, upon which HD channels are made available. Grantee is not required to provide free HD equipment to Subscribers, including complimentary government and educational accounts, nor modify its equipment or pricing policies in any manner.

(5) The Town or any Designated Access Provider is responsible for acquiring all equipment necessary to produce programming in HD.

(6) Grantee shall cooperate with the Town to procure and provide, at Town’s cost, all necessary transmission equipment from the Designated Access Provider channel

origination point, at Grantee's headend and through Grantee's distribution system, in order to deliver the HD Access Channels. The Town shall be responsible for the costs of all transmission equipment, including HD modulator and demodulator, and encoder or decoder equipment, and multiplex equipment, required in order for Grantee to receive and distribute the HD Access Channel signal, or for the cost of any resulting upgrades to the video return line. The Town and Grantee agree that such expense of acquiring and installing the transmission equipment or upgrades to the video return line qualifies as a capital cost for PEG Facilities within the meaning of the Cable Act 47 U.S.C.A. Section 542(g)(20)(C) and, therefore, is an appropriate use of revenues derived from those PEG Capital fees provided for in this Franchise.

(E) Grantee shall simultaneously carry the one (1) HD Access Channels provided for in Section 9.2(D) in high definition format on the Cable System, in addition to simultaneously carrying in standard definition format the SD Access Channel provided pursuant to Subsection 9.2(C).

(F) There shall be no restriction on Grantee's technology used to deploy and deliver SD or HD signals so long as the requirements of the Franchise are otherwise met. Grantee may implement HD carriage of the PEG channel in any manner (including selection of compression, utilization of IP, and other processing characteristics) that produces a signal quality for the consumer that is reasonably comparable and functionally equivalent to similar commercial HD channels carried on the Cable System. In the event the Town believes that Grantee fails to meet this standard, the Town will notify Grantee of such concern, and Grantee will respond to any complaints in a timely manner.

## **9.2 Access Channel Location**

Grantee shall use its best efforts to minimize the movement of Access Channel assignments. Grantee shall provide to the Town a minimum of ninety (90) days prior written notice, prior to any relocation of its Access Channels, unless the change is required by federal law, in which case Grantee shall give the Town the maximum notice possible.

## **9.3 Return Lines**

(A) Grantee shall maintain the return lines from all existing Access broadcast facilities to the Headend, including but not limited to the Silt Town Hall (231 N 7th St, Silt, CO 81652), in order to enable the distribution of programming to Subscribers on the Access Channels. Grantee shall continuously maintain these return lines throughout the term of the Agreement unless any of these locations are no longer used in the future to originate Access programming.

Within ninety (90) days of the Effective Date of this Franchise Agreement, the Town and Grantee will schedule the construction of return line capacity for live and recorded feeds from the Silt Town Center (600 Home Ave, Silt, CO 81652). The Town will perform the trench work and conduit placement, and Grantee will pull through the return line connections and install vaults as needed. Construction material for the project will be contributed by Comcast, while the Town will absorb all construction costs.

Within eighteen (18) months of a written request by the Town, Grantee shall construct and maintain additional return lines to other locations in the Franchise Area; provided however, that Grantee's construction costs shall be paid by the Town or its Designated Access Provider.

(C) Return lines shall be maintained by Grantee in the same manner as the rest of the Cable System so that Access Channels may be viewed at the same quality that is provided by the Town or its Designated Access Provider.

## **SECTION 10. GENERAL RIGHT-OF-WAY USE AND CONSTRUCTION**

### **10.1 Right to Construct**

Subject to Applicable Law, regulations, rules, resolutions and ordinances of the Town and the provisions of this Franchise, Grantee may perform all construction in the Rights-of-Way for any facility needed for the maintenance or extension of Grantee's Cable System.

### **10.2 General Standard**

All work authorized and required hereunder shall be done in a safe, thorough and workmanlike manner. All installations of equipment shall be permanent in nature, durable and installed in accordance with good engineering practices.

### **10.3 Permits Required for Construction**

Prior to doing any work in the Right-of Way or other public property, Grantee shall apply for, and obtain, appropriate permits from the Town, including but not limited to excavation and street cut permits. As part of the permitting process, the Town may impose such conditions and regulations as are necessary for the purpose of protecting any structures in such Rights-of-Way, proper restoration of such Rights-of-Way and structures, the protection of the public, and the continuity of pedestrian or vehicular traffic. Such conditions may also include the provision of a construction schedule and maps showing the location of the facilities to be installed in the Right-of-Way. Grantee shall pay all applicable fees and required deposits for the requisite Town permits received by Grantee.

### **10.4 Emergency Permits**

In the event that emergency repairs are necessary, Grantee shall immediately notify the Town of the need for such repairs. Grantee may initiate such emergency repairs, and shall apply for appropriate permits within forty-eight (48) hours after discovery of the emergency.

### **10.5 Compliance with Applicable Codes**

(A) Town Construction Codes. Grantee shall comply with all applicable Town construction codes, including, without limitation, the Uniform Building Code and other building codes, the Uniform Fire Code, the Uniform Mechanical Code, the Electronic Industries Association Standard for Physical Location and Protection of Below-Ground Fiber Optic Cable Plant, and zoning codes and regulations.

(B) Tower Specifications. Antenna supporting structures (towers) shall be designed for the proper loading as specified by the Electronics Industries Association (EIA), as those specifications may be amended from time to time. Antenna supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable federal, State, and local codes or regulations.

(C) Safety Codes. Grantee shall comply with all federal, State and Town safety requirements, rules, regulations, laws and practices, and employ all necessary devices as required by Applicable Law during construction, operation and repair of its Cable System. By way of illustration and not limitation, Grantee shall comply with the National Electric Code, National Electrical Safety Code and Occupational Safety and Health Administration (OSHA) Standards.

## **10.6 GIS Mapping**

Grantee shall comply with any generally applicable ordinances, rules and regulations of the Town regarding geographic information mapping systems for users of the Rights-of-Way.

## **10.7 Minimal Interference**

Work in the Right-of-Way, on other public property, near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Grantee's Cable System shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, or any other property of the Grantor, or with any other pipes, wires, conduits, pedestals, structures, or other facilities that may have been laid in the Rights-of-Way by, or under, the Grantor's authority. The Grantee's Cable System shall be located, erected and maintained so as not to endanger or interfere with the lives of Persons, or to interfere with new improvements the Grantor may deem proper to make or to unnecessarily hinder or obstruct the free use of the Rights-of-Way or other public property, and shall not interfere with the travel and use of public places by the public during the construction, repair, operation or removal thereof, and shall not obstruct or impede traffic. In the event of such interference, the Grantor may require the removal or relocation of Grantee's lines, cables, equipment and other appurtenances from the property in question at Grantee's expense.

## **10.8 Hazardous Substances**

Grantee shall comply with any and all Applicable Laws, statutes, regulations and orders concerning hazardous substances relating to Grantee's Cable System in the Rights-of-Way.

## **10.9 Locates**

Prior to doing any work in the Right-of-Way, Grantee shall give appropriate notices to the Grantor and to the notification association established in C.R.S. Section 9-1.5-105, as such may be amended from time to time.

## **10.10 Notice to Private Property Owners**

Except for emergency situations, Grantee shall give notice to private property owners of work on or adjacent to private property in accordance with the Town's Customer Service Standards.

## **10.11 Underground Construction and Use of Poles**

(A) When required by general ordinances, resolutions, regulations or rules of the Town or applicable State or federal law, Grantee's Cable System shall be placed underground at Grantee's expense unless funding is generally available for such relocation to all users of the Rights-of-Way. Placing facilities underground does not preclude the use of ground-mounted appurtenances.

(B) Where electric, telephone, and other above-ground utilities are installed underground at the time of Cable System construction, or when all such wiring is subsequently placed underground, all Cable System lines shall also be placed underground with other wireline service at no expense to the Town or Subscribers unless funding is generally available for such relocation to all users of the Rights-of-Way. Related Cable System equipment, such as pedestals, must be placed in accordance with the Town's applicable code requirements and rules. In areas where either electric or telephone utility wiring is aerial, the Grantee may install aerial cable, except when a property owner or resident requests underground installation and agrees to bear the additional cost in excess of aerial installation.

(C) The Grantee shall utilize existing poles and conduit wherever possible.

(D) In the event Grantee cannot obtain the necessary poles and related facilities pursuant to a pole attachment agreement, and only in such event, then it shall be lawful for Grantee to make all needed excavations in the Rights-of-Way for the purpose of placing, erecting, laying, maintaining, repairing, and removing poles, supports for wires and conductors, and any other facility needed for the maintenance or extension of Grantee's Cable System. All poles of Grantee shall be located as designated by the proper Town authorities.

(E) This Franchise does not grant, give or convey to the Grantee the right or privilege to install its facilities in any manner on specific utility poles or equipment of the Town or any other Person. Copies of agreements for the use of poles, conduits or other utility facilities must be provided upon request by the Town.

## **10.12 Undergrounding of Multiple Dwelling Unit Drops**

In cases of single site Multiple Dwelling Units, Grantee shall minimize the number of

individual aerial drop cables by installing multiple drop cables underground between the pole and Multiple Dwelling Unit where determined to be technologically feasible in agreement with the owners and/or owner's association of the Multiple Dwelling Units.

### **10.13 Burial Standards**

(A) Depths. Unless otherwise required by law, Grantee, and its contractors, shall comply with the following burial depth standards. In no event shall Grantee be required to bury its cable deeper than electric or gas facilities, or existing telephone facilities in the same portion of the Right-of-Way, so long as those facilities have been buried in accordance with Applicable Law:

- 1) Underground cable drops from the curb shall be buried at a minimum depth of twelve (12) inches, unless a sprinkler system or other construction concerns preclude it, in which case, underground cable drops shall be buried at a depth of at least six (6) inches.
- 2) Feeder lines shall be buried at a minimum depth of eighteen (18) inches.
- 3) Trunk lines shall be buried at a minimum depth of thirty-six (36) inches.
- 4) Fiber Optic cable shall be buried at a minimum depth of thirty-six (36) inches.

In the event of a conflict between this subsection and the provisions of any customer service standard, this subsection shall control.

(B) Timeliness. Cable drops installed by Grantee to residences shall be buried according to these standards within one calendar week of initial installation, or at a time mutually agreed upon between the Grantee and the Subscriber. When freezing surface conditions or other weather conditions prevent Grantee from achieving such timetable, Grantee shall apprise the Subscriber of the circumstances and the revised schedule for burial and shall provide the Subscriber with Grantee's telephone number and instructions as to how and when to call Grantee to request burial of the line if the revised schedule is not met.

### **10.14 Cable Drop Bonding**

Grantee shall ensure that all cable drops are properly bonded at the home, consistent with applicable code requirements.

### **10.15 Prewiring**

Grantee shall make all reasonable efforts to coordinate the Cable System expansion into newly annexed or newly developing areas so that Cable Service will be available upon occupancy of the dwellings therein. In any construction the Grantee shall coordinate the construction with the Town, other utility suppliers and private contractors, so as to minimize disruption of the public right of way and to maximize utilization of joint trenching whenever possible. The Grantee will use best efforts to avoid cutting streets and curbs by placing its cable in conduits at the time of

construction. In addition, any ordinance or resolution of the Town which requires prewiring of subdivisions or other developments for electrical and telephone service shall be construed to include wiring for Cable Systems.

#### **10.16 Repair and Restoration of Property**

(A) The Grantee shall protect public and private property from damage. If damage occurs, the Grantee shall promptly notify the property owner within twenty-four (24) hours in writing.

(B) Whenever Grantee disturbs or damages any Right-of-Way, other public property or any private property, Grantee shall promptly restore the Right-of-Way or property to at least its prior condition, normal wear and tear excepted, at its own expense.

(C) Rights-of-Way and Other Public Property. Grantee shall warrant any restoration work performed by or for Grantee in the Right-of-Way or on other public property in accordance with Applicable Law. If restoration is not satisfactorily performed by the Grantee within a reasonable time not to exceed ninety (90) days from the issuance date of the permit unless a longer time is stated in the permit, the Town may, after prior notice to the Grantee, or without notice where the disturbance or damage may create a risk to public health or safety, cause the repairs to be made and recover the cost of those repairs from the Grantee. Within thirty (30) days of receipt of an itemized list of those costs, including the costs of labor, materials and equipment, the Grantee shall pay the Town.

(D) Private Property. Upon completion of the work which caused any disturbance or damage, Grantee shall promptly commence restoration of private property, and will use best efforts to complete the restoration within seventy-two (72) hours, weather conditions permitting, subject to the acquisition of any necessary permits and considering the nature of the work that must be performed.

#### **10.17 Movement of Cable System Facilities For Town Purposes**

The Town shall have the right to require Grantee to relocate, remove, replace, modify or disconnect Grantee's facilities and equipment located in the Rights-of-Way or on any other property of the Town for public purposes, in the event of an emergency, or when the public health, safety or welfare requires such change (for example, without limitation, by reason of traffic conditions, public safety, Right-of-Way vacation, Right-of-Way construction, change or establishment of Right-of-Way grade, installation of sewers, drains, gas or water pipes, or any other types of structures or improvements by the Town for public purposes). Such work shall be performed at the Grantee's expense. Except during an emergency, the Town shall provide reasonable notice to Grantee, not to be less than forty-five (45) business days and allow Grantee with the opportunity to perform such action. In the event of any capital improvement project exceeding \$50,000 in expenditures by the Town which requires the removal, replacement, modification or disconnection of Grantee's facilities or equipment, the Town shall provide at least sixty (60) days' written notice to Grantee. Following notice by the Town, Grantee shall relocate, remove, replace, modify or disconnect any of its facilities or equipment within any Right-of-Way,

or on any other property of the Town. If the Town requires Grantee to relocate its facilities located within the Rights-of-Way, the Town shall make a reasonable effort to provide Grantee with an alternate location within the Rights-of-Way. If funds are generally made available to users of the Rights-of-Way for such relocation, Grantee shall be entitled to its pro rata share of such funds.

If the Grantee fails to complete this work within the time prescribed and to the Town's satisfaction, the Town may cause such work to be done and bill the cost of the work to the Grantee, including all costs and expenses incurred by the Town due to Grantee's delay. In such event, the Town shall not be liable for any damage to any portion of Grantee's Cable System. Within thirty (30) days of receipt of an itemized list of those costs, the Grantee shall pay the Town.

#### **10.18 Movement of Cable System Facilities for Other Franchise Holders**

If any removal, replacement, modification or disconnection of the Cable System is required to accommodate the construction, operation or repair of the facilities or equipment of another Town franchise holder, Grantee shall, after at least thirty (30) days' advance written notice, take action to effect the necessary changes requested by the responsible entity. Grantee shall require that the costs associated with the removal or relocation be paid by the benefited party.

#### **10.19 Temporary Changes for Other Permittees**

At the request of any Person holding a valid permit and upon reasonable advance notice, Grantee shall temporarily raise, lower or remove its wires as necessary to permit the moving of a building, vehicle, equipment or other item. The expense of such temporary changes must be paid by the permit holder, and Grantee may require a reasonable deposit of the estimated payment in advance.

#### **10.20 Reservation of Town Use of Right-of-Way**

Nothing in this Franchise shall prevent the Town or public utilities owned, maintained or operated by public entities other than the Town from constructing sewers; grading, paving, repairing or altering any Right-of-Way; laying down, repairing or removing water mains; or constructing or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure or prevent the use and operation of Grantee's Cable System.

#### **10.21 Tree Trimming**

Grantee may prune or cause to be pruned, using proper pruning practices, any tree in the Town's Rights-of-Way which interferes with Grantee's Cable System. Grantee shall comply with any general ordinance or regulations of the Town regarding tree trimming. Except in emergencies, Grantee may not prune trees at a point below thirty (30) feet above sidewalk grade until one (1) week written notice has been given to the owner or occupant of the premises abutting the Right-of-Way in or over which the tree is growing. The owner or occupant of the abutting premises may prune such tree at his or her own expense during this one (1) week period. If the owner or occupant fails to do so, Grantee may prune such tree at its own expense. For purposes of this subsection,



emergencies exist when it is necessary to prune to protect the public or Grantee's facilities from imminent danger only.

## **10.22 Inspection of Construction and Facilities**

The Town may inspect any of Grantee's facilities, equipment or construction at any time upon at least twenty-four (24) hours notice, or, in case of emergency, upon demand without prior notice. The Town shall have the right to charge generally applicable inspection fees therefore. If an unsafe condition is found to exist, the Town, in addition to taking any other action permitted under Applicable Law, may order Grantee, in writing, to make the necessary repairs and alterations specified therein forthwith to correct the unsafe condition by a time the Town establishes. The Town has the right to correct, inspect, administer and repair the unsafe condition if Grantee fails to do so, and to charge Grantee therefore.

## **10.23 Stop Work**

(A) On notice from the Town that any work is being performed contrary to the provisions of this Franchise, or in an unsafe or dangerous manner as determined by the Town, or in violation of the terms of any applicable permit, laws, regulations, ordinances, or standards, the work may immediately be stopped by the Town.

(B) The stop work order shall:

- (1) Be in writing;
- (2) Be given to the Person doing the work, or posted on the work site;
- (3) Be sent to Grantee by overnight delivery at the address given herein;
- (4) Indicate the nature of the alleged violation or unsafe condition; and
- (5) Establish conditions under which work may be resumed.

## **10.24 Work of Contractors and Subcontractors**

Grantee's contractors and subcontractors shall be licensed and bonded in accordance with the Town's ordinances, regulations and requirements. Work by contractors and subcontractors is subject to the same restrictions, limitations and conditions as if the work were performed by Grantee. Grantee shall be responsible for all work performed by its contractors and subcontractors and others performing work on its behalf as if the work were performed by it and shall ensure that all such work is performed in compliance with this Franchise and other Applicable Law, and shall be jointly and severally liable for all damages and correcting all damage caused by them. It is Grantee's responsibility to ensure that contractors, subcontractors or other Persons performing work on Grantee's behalf are familiar with the requirements of this Franchise and other Applicable Law governing the work performed by them.

## **SECTION 11. CABLE SYSTEM, TECHNICAL STANDARDS AND TESTING**

### **11.1 Subscriber Network**

(A) Grantee's Cable System shall be equivalent to or exceed technical characteristics of a traditional HFC 750 MHz Cable System and provide Activated Two-Way capability. The Cable System shall be capable of supporting video and audio. The Cable System shall be able to deliver no less than one hundred ten (110) Channels of digital video programming services to Subscribers, provided that the Grantee reserves the right to use the bandwidth in the future for other uses based on market factors.

(B) Equipment must be installed so that all closed captioning programming received by the Cable System shall include the closed caption signal so long as the closed caption signal is provided consistent with FCC standards. Equipment must be installed so that all local signals received in stereo or with secondary audio tracks are retransmitted in those same formats.

(C) All construction shall be subject to the Town's permitting process.

(D) Grantee will take prompt corrective action if it finds that any facilities or equipment on the Cable System are not operating as expected, or if it finds that facilities and equipment do not comply with the requirements of this Franchise or Applicable Law.

(E) Grantee's construction decisions shall be based solely upon legitimate engineering decisions and shall not take into consideration the income level of any particular community within the Franchise Area.

(F) Grantee shall not be required to obtain permits for construction work related to the connection and disconnection of Subscribers between the distribution plant in the public rights of way and the Subscriber's residence to the extent such work disturbs no more than 20 feet of the public right of way. This provision shall not apply and a permit shall be required in any circumstance where Grantee performs asphalt or concrete cutting or where traffic control will be required.

### **11.2 Standby Power**

Grantee's Cable System Headend shall be capable of providing at least twelve (12) hours of emergency operation. In addition, throughout the term of this Franchise, Grantee shall have a plan in place, along with all resources necessary for implementing such plan, for dealing with outages of more than four (4) hours. This outage plan and evidence of requisite implementation resources shall be presented to the Town no later than thirty (30) days following receipt of a request.

### **11.3 Emergency Alert Capability**

Grantee shall provide an operating Emergency Alert System (“EAS”) throughout the term of this Franchise in compliance with FCC standards.

#### **11.4 Technical Performance**

The technical performance of the Cable System shall meet or exceed all applicable federal (including, but not limited to, the FCC), and State technical standards, as they may be amended from time to time, regardless of the transmission technology utilized. The Town shall have the full authority permitted by Applicable Law to enforce compliance with these technical standards.

#### **11.5 Cable System Performance Testing**

(A) Grantee shall provide to the Town a copy of its current written process for resolving complaints about the quality of the video programming services signals delivered to Subscriber and shall provide the Town with any amendments or modifications to the process at such time as they are made.

(B) Grantee shall, at Grantee’s expense, maintain all aggregate data of Subscriber complaints related to the quality of the video programming service signals delivered by Grantee in the Town for a period of at least one (1) year, and individual Subscriber complaints from the Town for a period of at least three (3) years and make such information available to the Town upon reasonable request.

(C) Grantee shall maintain written records of all results of its Cable System tests, performed by or for Grantee. Copies of such test results will be provided to the Town upon reasonable request.

(D) Grantee shall perform any tests required by the FCC.

#### **11.6 Additional Tests**

Where there exists other evidence which in the judgment of the Grantor casts doubt upon the reliability or technical quality of Cable Service, the Grantor shall have the right and authority to require Grantee to test, analyze and report on the performance of the Cable System. Grantee shall fully cooperate with the Grantor in performing such testing and shall prepare the results and a report, if requested, within thirty (30) days after testing. Such report shall include the following information:

- (A) the nature of the complaint or problem which precipitated the special tests;
- (B) the Cable System component tested;
- (C) the equipment used and procedures employed in testing;
- (D) the method, if any, in which such complaint or problem was resolved; and

- (E) any other information pertinent to said tests and analysis which may be required.

## **SECTION 12. SERVICE AVAILABILITY**

### **12.1 Service Availability**

(A) In General. Except as otherwise provided in herein, Grantee shall provide Cable Service within seven (7) days of a request by any Person within the Town. For purposes of this Section, a request shall be deemed made on the date of signing a service agreement, receipt of funds by Grantee, receipt of a written request by Grantee or receipt by Grantee of a verified verbal request. Except as otherwise provided herein, Grantee shall provide such service:

(1) With no line extension charge except as specifically authorized elsewhere in this Franchise Agreement.

(2) At a non-discriminatory installation charge for a standard installation, consisting of a 125-foot drop connecting to an inside wall for Residential Subscribers, with additional charges for non-standard installations computed according to a non-discriminatory methodology for such installations, adopted by Grantee and provided in writing to the Town;

(3) At non-discriminatory monthly rates for Residential Subscribers.

(B) Service to Multiple Dwelling Units. Consistent with this Section 12.1, the Grantee shall offer the individual units of a Multiple Dwelling Unit all Cable Services offered to other Dwelling Units in the Town and shall individually wire units upon request of the property owner or renter who has been given written authorization by the owner; provided, however, that any such offering is conditioned upon the Grantee having legal access to said unit in the form of an access and wiring agreement that is mutually satisfactory to the Grantee and the property owner. The Town acknowledges that the Grantee cannot control the dissemination of particular Cable Services beyond the point of demarcation at a Multiple Dwelling Unit.

(C) Subscriber Charges for Extensions of Service. Grantee agrees to extend its Cable System to all persons living in areas with a residential density of forty (40) residences per mile of Cable System plant. If the residential density is less than forty (40) residences per 5,280 cable-bearing strand feet of trunk or distribution cable, service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by the Grantee and Subscribers in the area in which service may be expanded, the Grantee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of residences per 5,280 cable-bearing strand feet of its trunk or distribution cable and whose denominator equals forty (40). Subscribers who request service hereunder will bear the remainder of the construction and other costs on a pro rata basis. The Grantee may require that the payment of the capital contribution in aid of construction borne by such potential Subscribers be paid in advance.

## **SECTION 13. FRANCHISE VIOLATIONS**

### **13.1 Procedure for Remedying Franchise Violations**

(A) If the Town reasonably believes that Grantee has failed to perform any obligation under this Franchise or has failed to perform in a timely manner, the Town shall notify Grantee in writing, stating with reasonable specificity the nature of the alleged default. Grantee shall have thirty (30) days from the receipt of such notice to:

(1) respond to the Town, contesting the Town's assertion that a default has occurred, and requesting a meeting in accordance with subsection (B), below;

(2) cure the default; or,

(3) notify the Town that Grantee cannot cure the default within the thirty (30) days, because of the nature of the default. In the event the default cannot be cured within thirty (30) days, Grantee shall promptly take all reasonable steps to cure the default and notify the Town in writing and in detail as to the exact steps that will be taken and the projected completion date. In such case, the Town may set a meeting in accordance with subsection (B) below to determine whether additional time beyond the thirty (30) days specified above is necessary, and whether Grantee's proposed completion schedule and steps are reasonable.

(B) If Grantee does not cure the alleged default within the cure period stated above, or by the projected completion date under subsection (A)(3), or denies the default and requests a meeting in accordance with (A)(1), or the Town orders a meeting in accordance with subsection (A)(3), the Town shall set a meeting to investigate said issues or the existence of the alleged default. The Town shall notify Grantee of the meeting in writing and such meeting shall take place no less than thirty (30) days after Grantee's receipt of notice of the meeting. At the meeting, Grantee shall be provided an opportunity to be heard and to present evidence in its defense.

(C) If, after the meeting, the Town determines that a default exists, the Town shall order Grantee to correct or remedy the default or breach within fifteen (15) days or within such other reasonable time frame as the Town shall determine. In the event Grantee does not cure within such time to the Town's reasonable satisfaction, the Town may:

(1) Withdraw an amount from the letter of credit as monetary damages;

(2) Recommend the revocation of this Franchise pursuant to the procedures in subsection 13.2; or,

(3) Recommend any other legal or equitable remedy available under this Franchise or any Applicable Law.

(D) The determination as to whether a violation of this Franchise has occurred shall be within the discretion of the Town, provided that any such final determination may be subject to appeal to a court of competent jurisdiction under Applicable Law.

(E) It shall not be a violation of this Franchise if Grantee decides, on a company-wide basis, to cease providing Cable Services. Grantee shall provide a minimum of one year's written notice to the Town of the termination date, and upon that date all rights, duties and obligations of this Franchise shall terminate except for those that by their nature, should survive termination.

### **13.2 Revocation**

(A) In addition to revocation in accordance with other provisions of this Franchise, the Town may revoke this Franchise and rescind all rights and privileges associated with this Franchise in the following circumstances, each of which represents a material breach of this Franchise:

(1) If Grantee fails to perform any material obligation under this Franchise or under any other agreement, ordinance or document regarding the Town and Grantee;

(2) If Grantee willfully fails for more than forty-eight (48) hours to provide continuous and uninterrupted Cable Service;

(3) If Grantee attempts to evade any material provision of this Franchise or to practice any fraud or deceit upon the Town or Subscribers; or

(4) If Grantee becomes insolvent, or if there is an assignment for the benefit of Grantee's creditors;

(5) If Grantee makes a material misrepresentation of fact in the application for or negotiation of this Franchise.

(B) Following the procedures set forth in subsection 13.1 and prior to forfeiture or termination of the Franchise, the Town shall give written notice to the Grantee of its intent to revoke the Franchise and set a date for a revocation proceeding. The notice shall set forth the exact nature of the noncompliance.

(C) Any proceeding under the paragraph above shall be conducted by the Town Board of Trustees and open to the public. Grantee shall be afforded at least forty-five (45) days prior written notice of such proceeding.

(1) At such proceeding, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce evidence, and to question witnesses. A complete verbatim record and transcript shall be made of such proceeding and the cost shall be shared equally between the parties. The Town Board of Trustees shall hear any Persons interested in the revocation, and shall allow Grantee, in particular, an opportunity to state its position on the matter.

(2) Within ninety (90) days after the hearing, the Town Board of Trustees shall determine whether to revoke the Franchise and declare that the Franchise is revoked; or if the breach at issue is capable of being cured by Grantee, direct Grantee to take appropriate remedial action within the time and in the manner and on the terms and conditions that the Town Board of Trustees determines are reasonable under the circumstances. If the Town determines that the Franchise is to be revoked, the Town shall set forth the reasons for such a decision and shall transmit a copy of the decision to the Grantee. Grantee shall be bound by the Town's decision to revoke the Franchise unless it appeals the decision to a court of competent jurisdiction within fifteen (15) days of the date of the decision.

(3) Grantee shall be entitled to such relief as the Court may deem appropriate.

(4) The Town Board of Trustees may at its sole discretion take any lawful action which it deems appropriate to enforce the Town's rights under the Franchise in lieu of revocation of the Franchise.

### **13.3 Procedures in the Event of Termination or Revocation**

(A) If this Franchise expires without renewal after completion of all processes available under this Franchise and federal law or is otherwise lawfully terminated or revoked, the Town may, subject to Applicable Law:

(1) Allow Grantee to maintain and operate its Cable System on a month-to-month basis or short-term extension of this Franchise for not less than six (6) months, unless a sale of the Cable System can be closed sooner or Grantee demonstrates to the Town's satisfaction that it needs additional time to complete the sale; or

(2) Purchase Grantee's Cable System in accordance with the procedures set forth in subsection 13.4, below.

(B) In the event that a sale has not been completed in accordance with subsections (A)(1) and/or (A)(2) above, the Town may order the removal of the above-ground Cable System facilities and such underground facilities from the Town at Grantee's sole expense within a reasonable period of time as determined by the Town. In removing its plant, structures and equipment, Grantee shall refill, at its own expense, any excavation that is made by it and shall leave all Right-of-Way, public places and private property in as good condition as that prevailing prior to Grantee's removal of its equipment without affecting the electrical or telephone cable wires or attachments. The indemnification and insurance provisions shall remain in full force and effect during the period of removal, and Grantee shall not be entitled to, and agrees not to request, compensation of any sort therefore.

(C) If Grantee fails to complete any removal required by subsection 13.3 (B) to the Town's satisfaction, after written notice to Grantee, the Town may cause the work to be done and Grantee shall reimburse the Town for the costs incurred within thirty (30) days after receipt of an itemized list of the costs.

(D) The Town may seek legal and equitable relief to enforce the provisions of this Franchise.

#### **13.4 Purchase of Cable System**

(A) If at any time this Franchise is revoked, terminated, or not renewed upon expiration in accordance with the provisions of federal law, the Town shall have the option to purchase the Cable System.

(B) The Town may, at any time thereafter, offer in writing to purchase Grantee's Cable System. Grantee shall have thirty (30) days from receipt of a written offer from the Town within which to accept or reject the offer.

(C) In any case where the Town elects to purchase the Cable System, the purchase shall be closed within one hundred twenty (120) days of the date of the Town's audit of a current profit and loss statement of Grantee. The Town shall pay for the Cable System in cash or certified funds, and Grantee shall deliver appropriate bills of sale and other instruments of conveyance.

(D) For the purposes of this subsection, the price for the Cable System shall be determined as follows:

(1) In the case of the expiration of the Franchise without renewal, at fair market value determined on the basis of Grantee's Cable System valued as a going concern, but with no value allocated to the Franchise itself. In order to obtain the fair market value, this valuation shall be reduced by the amount of any lien, encumbrance, or other obligation of Grantee which the Town would assume.

(2) In the case of revocation for cause, the equitable price of Grantee's Cable System.

#### **13.5 Receivership and Foreclosure**

(A) At the option of the Town, subject to Applicable Law, this Franchise may be revoked one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless:

(1) The receivership or trusteeship is vacated within one hundred twenty (120) days of appointment; or

(2) The receivers or trustees have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Franchise, and have remedied all defaults under the Franchise. Additionally, the receivers or trustees shall have executed an agreement duly approved by the court having jurisdiction, by which the receivers or trustees assume and agree to be bound by each and every term, provision and limitation of this Franchise.



(B) If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property and equipment of Grantee, the Town may serve notice of revocation on Grantee and to the purchaser at the sale, and the rights and privileges of Grantee under this Franchise shall be revoked thirty (30) days after service of such notice, unless:

(1) The Town has approved the transfer of the Franchise, in accordance with the procedures set forth in this Franchise and as provided by law; and

(2) The purchaser has covenanted and agreed with the Town to assume and be bound by all of the terms and conditions of this Franchise.

### **13.6 No Monetary Recourse Against the Town**

Grantee shall not have any monetary recourse against the Town or its officers, officials, boards, commissions, agents or employees for any loss, costs, expenses or damages arising out of any provision or requirement of this Franchise or the enforcement thereof, in accordance with the provisions of applicable federal, State and local law. The rights of the Town under this Franchise are in addition to, and shall not be read to limit, any immunities the Town may enjoy under federal, State or local law, including but not limited to the Colorado Governmental Immunity Act (C.R.S. § 24-10-101, et. seq.).

### **13.7 Alternative Remedies**

No provision of this Franchise shall be deemed to bar the right of the Town to seek or obtain judicial relief from a violation of any provision of the Franchise or any rule, regulation, requirement or directive promulgated thereunder. Neither the existence of other remedies identified in this Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of the Town to recover monetary damages for such violations by Grantee, or to seek and obtain judicial enforcement of Grantee's obligations by means of specific performance, injunctive relief or mandate, or any other remedy at law or in equity.

### **13.8 Effect of Abandonment**

If the Grantee abandons its Cable System during the Franchise term, or fails to operate its Cable System in accordance with its duty to provide continuous service, the Town, at its option, may operate the Cable System; designate another entity to operate the Cable System temporarily until the Grantee restores service under conditions acceptable to the Town, or until the Franchise is revoked and a new franchisee is selected by the Town; or obtain an injunction requiring the Grantee to continue operations. If the Town is required to operate or designate another entity to operate the Cable System, the Grantee shall reimburse the Town or its designee for all reasonable costs, expenses and damages incurred.

### **13.9 What Constitutes Abandonment**

The Town shall be entitled to exercise its options in subsection 13.8 if:

(A) The Grantee fails to provide Cable Service in accordance with this Franchise over a substantial portion of the Franchise Area for four (4) consecutive days, unless the Town authorizes a longer interruption of service; or

(B) The Grantee, for any period, willfully and without cause refuses to provide Cable Service in accordance with this Franchise.

## **SECTION 14. FRANCHISE RENEWAL AND TRANSFER**

### **14.1 Renewal**

(A) The Town and Grantee agree that any proceedings undertaken by the Town that relate to the renewal of the Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or State law.

(B) In addition to the procedures set forth in said Section 626(a), the Town agrees to notify Grantee of the completion of its assessments regarding the identification of future cable-related community needs and interests, as well as the past performance of Grantee under the then current Franchise term. Notwithstanding anything to the contrary set forth herein, Grantee and Town agree that at any time during the term of the then current Franchise, while affording the public adequate notice and opportunity for comment, the Town and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current Franchise and the Town may grant a renewal thereof. Grantee and Town consider the terms set forth in this subsection to be consistent with the express provisions of Section 626 of the Cable Act.

(C) Should the Franchise expire without a mutually agreed upon renewed Franchise Agreement and Grantee and Grantor are engaged in an informal or formal renewal process, the Franchise shall continue on a month-to-month basis, with the same terms and conditions as provided in the Franchise, and the Grantee and Town shall continue to comply with all obligations and duties under the Franchise.

### **14.2 Transfer of Ownership or Control**

Neither the Grantee nor any other Person may transfer the Cable System or the Franchise without the prior written consent of the Town, which consent shall not be unreasonably withheld or delayed. No transfer of control of the Grantee, defined as an acquisition of 51% or greater ownership interest in Grantee, shall take place without the prior written consent of the Town, which consent shall not be unreasonably withheld or delayed. No consent shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or in the Cable System in order to secure indebtedness, or (ii) a transfer to an entity directly or indirectly owned or controlled by Comcast Corporation. Within thirty (30) days of receiving a request for consent, the Town shall, in accordance with FCC rules

and regulations, notify the Grantee in writing of the additional information, if any, it requires to determine the legal, financial and technical qualifications of the transferee or new controlling party. If the Town has not taken final action on the Grantee's request for consent within one hundred twenty (120) days after receiving such request, consent shall be deemed granted.

## **SECTION 15. SEVERABILITY**

If any Section, subsection, paragraph, term or provision of this Franchise is determined to be illegal, invalid or unconstitutional by any court or agency of competent jurisdiction, such determination shall have no effect on the validity of any other Section, subsection, paragraph, term or provision of this Franchise, all of which will remain in full force and effect for the term of the Franchise.

## **SECTION 16. MISCELLANEOUS PROVISIONS**

### **16.1 Preferential or Discriminatory Practices Prohibited**

**NO DISCRIMINATION IN EMPLOYMENT.** In connection with the performance of work under this Franchise, the Grantee agrees not to refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any Person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Grantee further agrees to insert the foregoing provision in all subcontracts hereunder. Throughout the term of this Franchise, Grantee shall fully comply with all equal employment or non-discrimination provisions and requirements of federal, State and local laws, and in particular, FCC rules and regulations relating thereto.

### **16.2 Notices**

Throughout the term of the Franchise, each party shall maintain and file with the other a local address for the service of notices by mail. All notices shall be sent overnight delivery postage prepaid to such respective address and such notices shall be effective upon the date of mailing. These addresses may be changed by the Town or the Grantee by written notice at any time. At the Effective Date of this Franchise:

Grantee's address shall be:

Comcast of Colorado IX, LLC  
8000 E Iliff Ave  
Denver, CO 80231  
Attn: Government Affairs Dept.

The Town's address shall be:

Town of Silt  
Attn: Town Administrator  
231 N. 7th Street  
PO Box 70  
Silt, CO 81652

### **16.3 Descriptive Headings**

The headings and titles of the Sections and subsections of this Franchise are for reference purposes only and shall not affect the meaning or interpretation of the text herein.

### **16.4 Publication Costs to be Borne by Grantee**

Grantee shall reimburse the Town for up to one thousand five hundred dollars (\$1,500) of the costs incurred in publishing this Franchise, if such publication is required.

### **16.5 Binding Effect**

This Franchise shall be binding upon the parties hereto, their permitted successors and assigns.

### **16.6 No Joint Venture**

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third Persons or the public in any manner which would indicate any such relationship with the other.

### **16.7 Waiver**

The failure of the Town at any time to require performance by the Grantee of any provision hereof shall in no way affect the right of the Town hereafter to enforce the same. Nor shall the waiver by the Town of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

### **16.8 Reasonableness of Consent or Approval**

Whenever under this Franchise “reasonableness” is the standard for the granting or denial of the consent or approval of either party hereto, such party shall be entitled to consider public and governmental policy, moral and ethical standards as well as business and economic considerations.

## **16.9 Entire Agreement**

This Franchise and all Exhibits represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior oral negotiations between the parties.

## **16.10 Jurisdiction**

Venue for any judicial dispute between the Grantor and Grantee arising under or out of this Franchise shall be in Garfield County Court, Colorado, or in the United States District Court in Denver.

## **16.11 Approval by Town Board of Trustees**

This Agreement shall not become effective until the Town Board of Trustees adopts an ordinance approving this Franchise in accordance with the Town's Home Rule Charter.

IN WITNESS WHEREOF, this Franchise is signed in the name of the Town of Silt, Colorado this \_\_\_\_ day of \_\_\_\_\_, 2023.

ATTEST:

TOWN OF SILT, COLORADO:

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

RECOMMENDED AND APPROVED:

\_\_\_\_\_  
Town Attorney

\_\_\_\_\_  
Town Manager

Accepted and approved this \_\_\_\_ day of \_\_\_\_\_, 2023.

COMCAST OF COLORADO IX, LLC

By: \_\_\_\_\_  
Its: \_\_\_\_\_

## EXHIBIT A

### Report Form

Comcast  
Quarterly Executive Summary - Escalated Complaints  
Section 7.3 (B) of our Franchise Agreement  
Quarter Ending \_\_\_\_\_, Year  
**Town of Silt, Colorado**

<u>Type of Complaint</u>	<u>Number of Calls</u>
Accessibility	0
Billing, Credit and Refunds	0
Courtesy	0
Drop Bury	0
Installation	0
Notices/Easement Issues (Non-Rebuild)	0
Pedestal	0
Problem Resolution	0
Programming	0
Property Damage (Non-Rebuild)	0
Rates	0
Rebuild/Upgrade Damage	0
Rebuild/Upgrade Notices/Easement Issues	0
Reception/Signal Quality	0
Safety	0
Service and Install Appointments	0
Service Interruptions	0
Serviceability	0
<b><u>TOTAL</u></b>	<b>0</b>

Compliments
-------------

--

## **MEMORANDUM**

TO: The Town of Silt Board of Trustees

FROM: Mark Chain, Planner M C

DATE: April 6, 2023

RE: Extension of Approval for Camario Phase II

---

The Silt Municipal Code requires that final plats be recorded within 180 days. We are running up to that deadline with Camarillo. We've not yet received the final Letter of Credit and there's still some work to do on the Covenants.

We have a request to extend the deadline (attached) and staff also agrees it is necessary. Attached is resolution extending that approval until June 13, 2023. If all documents are received at a time and in proper order they will be recorded and the owner be able to get in and begin installing infrastructure.

I will be happy to answer questions at the meeting.



**From:** [Ken Ash](#)  
**To:** [Mark Chain](#); [Sreenath Ravalla](#)  
**Subject:** Camario Development  
**Date:** Wednesday, April 5, 2023 4:51:21 PM  
**Attachments:** [Blue FCU - Letter of Engagement \(1\).pdf](#)

---

Mark,

I have attached a letter of engagement from our bank (Blue FCU). We have been working with the bank for some time now trying to get the \$3.3M letter of credit for the Camario in place. We have finally gotten through the underwriting process and are working on the details for managing the collateral and getting the documents put together. We are also still working on the CCRs for the project, I think we have received back from the City Attorney's office the CCR package we submitted, but I haven't seen it. I don't know the changes we may have to make.

Our deadline for filling the plat is upon us, and we are going to need a little more time to get these issues completed. We have all of the construction contracts ready to go, and we are anxious to get started, but the hold ups on these two issues have us blocked for the time being. We are doing everything we can to get issues resolved as soon as possible, but we will need some more time to record the plat.

We appreciate you help in this regard.

Respectfully,

--

Ken Ash  
(303) 517-5248

**East Quincy Energy Park**  
34501 E. Quincy Ave  
Watkins CO 80137

[KenAsh152@gmail.com](mailto:KenAsh152@gmail.com)  
Office & Cell 303.517.5248



April 4, 2023

Silt Ventures LLC  
Sreenath Rayalla  
Ken Ash  
Venkata Kallepalli

RE: Letter of Credit  
Camario PUD Development town of Silt

To Whom it May Concern,

This letter confirms that we are actively pursuing a Letter of Credit transaction with Silt Ventures, LLC in the amount of \$3,300,000. This transaction would allow for demand by the Town of Silt in the event of default on the land development project known as "Camario PUD Development."

Blue Federal Credit Union is working through the loan structure to pursue an approval from our credit committee provided all underwriting and collateral analysis is complete. Due to the complexity and legal review needed this process is ongoing but progressing forward. The sponsors/guarantors for this lending facility have been highly diligent and cooperative in providing any documentation and assets needed to complete the request.

LOAN AMOUNT:	\$3,300,000.00 Estimated Not to exceed 110% of construction expense
COLLATERAL:	Cash & DOT on eligible collateral
BORROWERS:	Silt Ventures LLC
ADDITIONAL TERMS:	Reduction of collateral will be permitted upon acceptable documentation that the LOC size has been reduced.

Please note that these are basic guidelines and we have not yet reached a commitment to lend under any of the terms described herein. Terms and conditions are subject to final approval by the Blue FCU loan committee.

If you have any questions, please feel free to contact me at 303.441.7820 (O) or 720.955.3880 (C). We look forward to the opportunity to assist you with your financing needs.

Sincerely,

A handwritten signature in cursive script that reads "Stacy Aurich".

Stacy Aurich  
VP of Business, Mortgage & Wealth  
Blue Federal Credit Union

**TOWN OF SILT COLORADO  
RESOLUTION NO. 11  
SERIES OF 2023**

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF SILT, COLORADO, EXTENDING THE APPROVAL OF THE AMENDED AND RESTATED SUBDIVISION IMPROVEMENTS AND DEVELOPMENT AGREEMENT FOR THE CAMARIO PLANNED UNIT DEVELOPMENT SUBDIVISION PHASE II IN THE TOWN OF SILT, COLORADO.**

**WHEREAS**, by Resolution No. 19, Series of 2022, the Town approved an Amended and Restated Subdivision Improvements & Development Agreement for the Camario Planned Unit Development Subdivision Phase II (the "Property"), which Resolution No. 19, Series of 2022 is attached hereto as Exhibit A that includes conditions of approval and the legal description of the Property; and

**WHEREAS**, Silt Municipal Code Section 16.04.330 requires final plats to be recorded within 180 days of approval and the owner/developer of the Property is diligently pursuing meeting the requirements of the Code and conditions of Resolution No. 19, Series of 2022; and

**WHEREAS**, the owner/developer of the Property is requesting an extension of the approval to meet such conditions and requirements and the Board of Trustees is willing to grant such extension

**NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF TRUSTEES OF THE TOWN OF SILT, COLORADO THAT:**

The approval of the Camario PUD Phase II Amended and Restated Subdivision Improvements & Development Agreement is extended to June 13, 2023 subject to all of the conditions of Resolution No. 19, Series of 2022 which are hereby ratified and affirmed, and all conditions of the Silt Municipal Code, including, but not limited to Section 6.04.330.

**INTRODUCED, READ, PASSED AND ADOPTED** at a regular meeting, following a public hearing, of the Board of Trustees of the Town of Silt, Colorado held on the 10th day of April, 2023.

TOWN OF SILT

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Town Clerk

**TOWN OF SILT  
RESOLUTION NO. 19  
SERIES OF 2022**

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF SILT, COLORADO, APPROVING THE AMENDED AND RESTATED SUBDIVISION IMPROVEMENTS AND DEVELOPMENT AGREEMENT FOR THE CAMARIO PLANNED UNIT DEVELOPMENT SUBDIVISION PHASE II IN THE TOWN OF SILT, COLORADO.**

**WHEREAS**, the Town of Silt ("Town") is a Colorado home rule municipality organized under Article XX of the Colorado Constitution and with the authority of the Silt Home Rule Charter; and

**WHEREAS**, the Local Government Land Use Control Enabling Act of 1974, C.R.S. §§ 29-20-101, et seq.; Article 23 of Title 31, C.R.S.; and other applicable laws grant broad authority to the Town to plan for and regulate the development and use of land on the basis of the impact thereof on the community and surrounding area; and

**WHEREAS**, Silt Ventures, LLC is the owner, (collectively "Owner") of a 9.511 acre property known as the 1990 Grand Annexation (portion) and the Camario Planned Unit Development ("Camario PUD") Phase II Annexation, hereinafter collectively known as the "Property", located north of Grand Avenue and north of the Lyon Residential Planned Unit Development, and more particularly described on **Exhibit A**, attached hereto; and

**WHEREAS**, on or about July 22, 2002, the Board of Trustees ("Board") adopted Ordinance 7, Series of 2001, approving the 1990 Grand Annexation and the 1190 Grand Annexation and Development Agreement, setting forth specific conditions for development of the Subject Property, and such documents were later recorded with Garfield County Clerk and Recorder on October 9, 2002 as Reception No. 612254 and Reception No. 612255, respectively; and

**WHEREAS**, on or about April 9, 2007, the Board approved Resolution 21, Series of 2007, approving the Camario PUD Phase I Final Plan and Final Plat, with conditions, and recorded such resolution on June 22, 2007 as Reception No. 726114, and establishing twenty-one (21) multi-family units; and

**WHEREAS**, on or about May 17, 2007, the Board approved an Amended and Restated Annexation and Development Agreement ("ARADA") for the Camario PUD, and recorded such agreement on June 22, 2007 as Reception No. 726115, which governed the entire 1990 Grand Annexation; and

**WHEREAS**, on or about May 17, 2007, the Board approved a Master Subdivision and Off-Site Improvements and Development Agreement ("Master

SIDA”) for the Camario PUD, and recorded such agreement on June 22, 2007, with Reception No. 726117, which governed the entire 1990 Grand Annexation, including Phase I (21 lots), and anticipated further development within the 1990 Grand Annexation; and

**WHEREAS**, on or about August 13, 2012, the Board approved Ordinance 17, Series of 2012, annexing that property known as the Camario Phase II Annexation, also known as the “T” Parcel, and which document also included the Annexation and Development Agreement for the T parcel and a portion of the 1990 Grand Annexation, which was later recorded on June 24, 2015 as Reception No. 864395; and

**WHEREAS**, on or about August 13, 2012, the Board approved Ordinance 18, Series of 2012, zoning the T Parcel and the remainder of the 1990 Grand Annexation (not including Phase I Final Plat lots), as a Planned Unit Development, which was later recorded on June 24, 2015 as Reception No. 864396; and

**WHEREAS**, on or about August 13, 2012, the Board approved Resolution 37, Series of 2012, approving the Camario PUD Phase II Sketch/Preliminary Plan, within a portion of the 1990 Grand Annexation and within the Camario PUD Phase II Annexation, which was later recorded on June 24, 2015 as Reception No. 864397; and

**WHEREAS**, on or about November 10, 2016, Owner submitted the Camario Phase II Final Plat and Final Plan revised application for the Subject Property, which the Town deemed complete and, pursuant to Title 16 of the Silt Municipal Code (“Code”), processed the application as required by the Code; and

**WHEREAS**, on or about December 6, 2016, the Town Planning & Zoning Commission (“Commission”) considered the Final Plat, following a public hearing, and recommended to the Board approval of the Camario PUD Phase II Final Plat and Final Plan, with conditions; and

**WHEREAS**, on or about January 9, 2017, following a public hearing, the Board considered the Camario PUD Phase II Final Plat and Final Plan and adopted a resolution approving the same, subject to conditions; and

**WHEREAS**, on or about January 23, 2017, following a public hearing, the Board adopted Ordinance 1, Series of 2017, which corrected a typographical error regarding the number of allowable units within the Camario Phase II PUD by repealing and replacing Ordinance 18, Series of 2012 to allow for 74 units rather than the 65 units erroneously stated in the previous ordinance, which was recorded as Reception No. 888681; and

**WHEREAS**, Owner did not proceed with development of the Property, the Camario PUD Phase II Final Plat approval expired, and the Camario PUD Phase II Final Plat was not recorded; and

**WHEREAS**, in May 2022 the Board approved Resolution 13, Series 2022 reinstating the Camario PUD Phase II Final Plat with conditions; and

**WHEREAS**, The Owner has submitted information in compliance with the conditions contained in Resolution 13, Series 2022 and made application to record the Camario PUD Phase II Final Plat; and

**WHEREAS**, the Town Code requires that a Subdivision Improvements Agreement be approved by the Board contemporaneously with the recordation of a final plat; and

**WHEREAS**, the parties desire to amend and restate the Master SIDA and to have the Amended and Restated Subdivision Improvements & Development Agreement (“SIDA”) supersede the Master SIDA; and

**WHEREAS**, following a public meeting, on October 11, 2022, the Board of Trustees has determined that it is in the best interest of the Town to adopt the Amended and Restated Subdivision Improvements & Development Agreement for Camario PUD Phase II subject to the following conditions.

**NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF TRUSTEES OF THE TOWN OF SILT, COLORADO THAT:**

The Camario PUD Phase II Amended and Restated Subdivision Improvements & Development Agreement is adopted, subject to the following conditions:

1. That all statements made in the application and in meetings before the Planning Commission and the Board of Trustees are conditions of approval, unless modified in the following conditions; and
2. That all fees incurred by the Town for review of this application, including but not limited to public notification, copying, printing, legal, engineering, planning and recordation costs have been paid; and
3. That the Owner present to the Town a version of the Final Plat that includes changes requested by the Town Attorney and the Town Engineer; and
4. That the Owner present final construction plans to the Town that include changes requested by the Town Engineer and that includes a detail for trail construction consistent with Ordinance 18, Series of 2012; and

5. That the Owner present a final cost estimate for the public improvements that includes the full costs of trails, landscaping, park improvements, and irrigation improvements; and
6. That the Owner present to the Town an updated Declaration of Covenants, Conditions, and Restrictions (CCR) for Camario Phase II that includes comments made by the Town Attorney and that have been updated by an attorney who specializes in the Colorado Common Interest Ownership Act for compliance with recent legislative changes, and thereafter records the same contemporaneously with the updated ARSIDA and Final Plat; and
7. Owner pays any dedication or impact fees required under the Town Code, Ordinance 18, Series 2012, and the ARSIDA at the appropriate stage of construction; and
8. Owner submits an up-to-date title commitment and current information identifying the ownership of the Property and the Final Plat is updated consistent with the title commitment; and
9. Owner obtains any access permit required from the Colorado Department of Transportation; and
10. Owner submits the required security for public improvements to the Town in the amount provided for in the ARSIDA.
11. Owners shall install a durasafe soft surface or similar material approved by the Town in the “tot lot” and the construction plans and cost estimate for the public improvements shall be updated accordingly.
12. Nothing in Resolution 13, Series 2022 to the contrary, the deadlines to record the Final Plat shall be governed by the Town Code. For purposes of determining the date of final plat approval, it shall be the date of this Resolution.

**INTRODUCED, READ, PASSED AND ADOPTED** at a regular meeting, following a public hearing, of the Board of Trustees of the Town of Silt, Colorado held on the 11th day of October, 2022.

ATTEST:

TOWN OF SILT

---

Mayor Keith B. Richel

---

Town Clerk Sheila M. McIntyre, CMC

## **Exhibit A Legal Description**

The Land referred to herein is located in the County of Garfield, State of Colorado, and described as follows:

Parcel A:

Tract C,  
CAMARIO SUBDIVISION, according to the Plat thereof recorded June 27, 2007 as  
Reception No. 726116.

Parcel B:

T-Parcel:

A parcel of land situate in the SW¼ of Section 2, Township 6 South, Range 92 West of the 6th P.M., County of Garfield, State of Colorado. Said parcel of land being a portion of the parcels of land as described in Book 938, Page 68 and Book 1211, Page 561 and Book 1125, Page 344 of the Garfield County Clerk and Recorder's Office. Said parcel of land being more particularly described as follows:

Commencing at the Southwest corner of Section 2, a 3¼" aluminum cap L.S. No. 36572 in place, thence N. 88°29'20" E. 210.49 feet to the Southwest corner of a parcel of land as described in Book 938, Page 68 as filed with the Garfield county Clerk and Recorder's Office; said point also being a point on the Northerly Right-of-Way line of County Road No. 218 (Grand Avenue). The True Point of Beginning;  
thence departing said Northerly Right-of-Way line N. 00°00'43" W. along the Westerly line of said parcel of land 751.49 feet to a point on the Southerly line of a parcel of land as described in Book 1125, Page 344 as filed with the Garfield County Clerk and Recorder's Office;  
thence departing said Westerly line N. 80°04'27" W. and along said Southerly line 115.75 feet to the Southwesterly corner of said parcel of land;  
thence departing said Southerly line N. 00°03'46" E. along the Westerly line of said parcel of land 108.20 feet;  
thence departing said Westerly line S. 80°58'14" E. 417.22 feet to a point on the Easterly line of said parcel of land;  
thence S. 01°50'42" W. along said Easterly line 158.28 feet to a point on the Southerly line of said parcel of land;  
thence along said Southerly line the following three (3) courses:  
1.) N. 46°03'40" W. 33.41 feet;  
2.) N. 77°48'20" W. 27.10 feet;  
3.) N. 72°13'19" W. 124.78 feet to a point on the Easterly line of a parcel of land as described in Book 1211, Page 561 as filed with the Garfield County Clerk and Recorder's Office;  
thence departing said Southerly line S. 00°05'06" W. along said Easterly line 474.58 feet;



thence continuing along said Easterly line S. 00°06'59" E. 246.25 feet to a point on said Northerly Right-of-Way line;  
thence departing said Easterly line S. 89°00'16" W. along said Northerly Right-of-Way 123.34 feet to the Point of Beginning.

**BOARD OF TRUSTEES REGULAR MEETING**  
**April 10, 2023**

**AGENDA ITEM SUMMARY**

---

**SUBJECT:** Real Estate Offer

**PROCEDURE:** Public Hearing

**BACKGROUND OF SUBJECT MATTER:**

The Town owned property at 1555 River Frontage Road is listed for sale with realtor Joe Carpenter. You will recall that we set the sale price of this lot at \$299,000 last July. Mr. Carpenter has recently received a full price offer for the property.

**SUMMARY:**

Mr. Carpenter introduced the potential buyers to the Board on April 10. They presented the attached power point document. After an executive session conversation, the Board, back in the regular meeting, directed Staff to negotiate terms that would compel the buyer to develop the property into a sales tax generating business as soon as possible.

Accordingly, Town Attorney Jim New drafted an Option Agreement as a condition of the Real Estate Contract and Closing on the sale of the Property. Buyer states in the Contract that they will commence construction within 180 days of Closing. To enforce that post-Closing requirement, the Option Agreement states that if no building permit is issued and water and sewer taps paid after 180 days of Closing, the Town, at its option and in its sole discretion, can repurchase the Property for the same Purchase Price. That Option remains in effect for 2 years after Closing.

The following regarding plans for the property was provided by the potential buyer to Mr. Carpenter and is repeated in the real estate contract:

"The purpose of the property acquisition would be to build an upscale travel center for alternative energy including EV, natural gas, and hydrogen fuels. The travel center will also include quality public restroom facilities, a cafe, and coffee shop". Please see the attached power point, presented at the last Board meeting.

**RECOMMENDATION:** Discussion with Trustees, realtor, attorney, staff

**ORIGINATED BY:** Jeff Layman

**PRESENTED BY:** Jim Neu

**TOWN ATTORNEY REVIEW:** / X / Yes / / No JSN

**DOCUMENTS ATTACHED:**

1. Real Estate Contract w/ Option Agreement
2. Option Agreement
3. Power Point Presentation

**SUBMITTED BY:**

Jeff Layman  
Jeff Layman, Town Administrator

**REVIEWED BY:**

Lori Malsbury  
Lori Malsbury, Deputy Town Clerk

**TOWN OF SILT, COLORADO  
ORDINANCE NO. 2  
SERIES OF 2023**

**AN ORDINANCE OF THE TOWN OF SILT, COLORADO, APPROVING THE SALE  
OF TOWN OWNED PROPERTY LOCATED AT 1555 RIVER FRONTAGE ROAD  
WHICH IS UNNEEDED FOR ANY GOVERNMENTAL PURPOSE.**

**WHEREAS**, the Board of Trustees ("Board") of the Town of Silt ("Town") has the power pursuant to C.R.S. § 31-15-103 to make and publish ordinances for carrying into effect certain powers and duties that are necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort and convenience of the Town and the inhabitants thereof; and

**WHEREAS**, the Board has the power pursuant to C.R.S. §§ 31-15-101(d) and 31-15-713(1)(b) to sell and dispose of, by ordinance, real property owned by the Town and not used or held for any governmental purpose; and

**WHEREAS**, Section 10-1 of the Town's Home Rule Charter ("Charter") grants the Town full authority, power and control over all Town-owned property, including the power and authority to sell such property; and

**WHEREAS**, pursuant to Section 1-2(a) of the Charter, the Board of Trustees ("Board") of the Town of Silt has the power to dispose of real property and may enter into such contracts as necessary, convenient or appropriate; and

**WHEREAS**, Section 1-6 of the Charter provides that the Board's disposition of any municipally-owned real estate shall be by ordinance; and

**WHEREAS**, the Town is the owner of real property located at 1555 River Frontage Road, Silt, Colorado with a legal description of Parcel A, Town of Silt Minor Subdivision According to the plat thereof recorded September 8, 2006 as Reception No. 70648 with the Garfield County Clerk and Recorder (the "Property"); and

**WHEREAS**, the Board has determined that it is in the best interest of the Town to sell the Property; and

**WHEREAS**, the Town has negotiated a Contract to Buy and Sell Real Estate for the Property (the "Contract") with the Buyer, Silt Energy Development, LLC. Such Contract is attached hereto as **Exhibit 1**, and incorporated herein by reference; and

**WHEREAS**, the Contract is contingent on the Board's approval of the Contract; and

**WHEREAS**, the Board has reviewed the Contract and desires to approve it; and

**WHEREAS**, the Town gave proper and timely published and/or posted notice of the dates and times of the public hearings at which the Board considered this ordinance; and

**WHEREAS**, the Board has determined that the adoption of this ordinance is necessary and proper to provide for the safety, health, prosperity and order of the Town.

**NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SILT THAT:**

**SECTION 1**

The Board hereby approves the sale of the Property pursuant to the terms of the Contract to Buy and Sell Real Estate, attached hereto as Exhibit 1.

**SECTION 2**

If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent, be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections thereof to any person or circumstance, shall remain in full force and shall in no way be affected, impaired or invalidated.

**INTRODUCED, READ AND APPROVED ON FIRST READING** following a public hearing, this 10<sup>th</sup> day of April 2023 at 7:00 PM in the municipal building of the Town of Silt, Colorado.

**PASSED, APPROVED ON SECOND READING, ADOPTED AND ORDERED PUBLISHED IN FULL** following a public hearing this 24<sup>th</sup> day of April 2023.

TOWN OF SILT

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Town Clerk Sheila M. McIntyre, CMC

**Exhibit 1**  
Contract to Buy and Sell Real Estate  
(See Attached)



Market Trends Real Estate  
PO Box 983 Silt, CO 81652  
Joe Carpenter  
joe@MarketTrendsRE.com  
Ph: 970-309-0910

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission. (CBS4-6-21) (Mandatory 1-22)

THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

## CONTRACT TO BUY AND SELL REAL ESTATE (LAND)

☒ **Property with No Residences)**  
☐ **Property with Residences-Residential Addendum Attached)**

Date: 3/31/2023

### AGREEMENT

1. **AGREEMENT.** Buyer agrees to buy and Seller agrees to sell the Property described below on the terms and conditions set forth in this contract (Contract).

2. **PARTIES AND PROPERTY.**

2.1. **Buyer.** Silt Energy Development LLC (Buyer) will take title to the Property described below as ☐ Joint Tenants ☐ Tenants In Common ☒ Other limited liability company.

2.2. **No Assignability.** This Contract **IS NOT** assignable by Buyer unless otherwise specified in Additional Provisions.

2.3. **Seller.** Town of Silt (Seller) is the current owner of the Property described below.

2.4. **Property.** The Property is the following legally described real estate in the County of Garfield, Colorado (insert legal description):

Parcel A Town of Silt Minor Subdivision According to the plat thereof recorded September 8, 2006 as Reception No. 70648

known as: 1555 River Frontage Road, Silt, CO 81652

together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto and all interest of Seller in vacated streets and alleys adjacent thereto, except as herein excluded (Property).

2.5. **Inclusions.** The Purchase Price includes the following items (Inclusions):

2.5.1. **Inclusions.** The following items, whether fixtures or personal property, are included in the Purchase Price unless excluded under **Exclusions**:

None

If any additional items are attached to the Property after the date of this Contract, such additional items are also included in the Purchase Price.

2.5.2. **Encumbered Inclusions.** Any Inclusions owned by Seller (i.e., owned solar panels) must be conveyed at Closing by Seller free and clear of all taxes (except personal property and general real estate taxes for the year of Closing), liens and encumbrances, except:

None

2.5.3. **Personal Property Conveyance.** Conveyance of all personal property will be by bill of sale or other applicable legal instrument.

**2.5.4. Leased Items.** The following personal property is currently leased to Seller which will be transferred to Buyer at Closing (Leased Items):

None

**2.6. Exclusions.** The following items are excluded (Exclusions):

Lighted sign on Property and all appliances and equipment related thereto.

**2.7. Water Rights, Well Rights, Water and Sewer Taps.**

☐ **2.7.1. Deeded Water Rights.** The following legally described water rights:

None

Any deeded water rights will be conveyed by a good and sufficient n/a deed at Closing.

☐ **2.7.2. Other Rights Relating to Water.** The following rights relating to water not included in §§ 2.7.1., 2.7.3., 2.7.4. and 2.7.5., will be transferred to Buyer at Closing:

None

☐ **2.7.3. Well Rights.** Seller agrees to supply required information to Buyer about the well. Buyer understands that if the well to be transferred is a "Small Capacity Well" or a "Domestic Exempt Water Well" used for ordinary household purposes, Buyer must, prior to or at Closing, complete a Change in Ownership form for the well. If an existing well has not been registered with the Colorado Division of Water Resources in the Department of Natural Resources (Division), Buyer must complete a registration of existing well form for the well and pay the cost of registration. If no person will be providing a closing service in connection with the transaction, Buyer must file the form with the Division within sixty days after Closing. The Well Permit # is n/a.

☐ **2.7.4. Water Stock Certificates.** The water stock certificates to be transferred at Closing are as follows:

None

**2.7.5. Water and Sewer Taps.** The parties agree that water and sewer taps listed below for the Property are being conveyed as part of the Purchase Price as follows:

None

**If any water or sewer taps are included in the sale, Buyer is advised to obtain, from the provider, written confirmation of the amount remaining to be paid, if any, time and other restrictions for transfer and use of the taps.**

**2.7.6. Conveyance.** If Buyer is to receive any rights to water pursuant to § 2.7.2. (Other Rights Relating to Water), § 2.7.3. (Well Rights), § 2.7.4. (Water Stock Certificates), or § 2.7.5. (Water and Sewer Taps), Seller agrees to convey such rights to Buyer by executing the applicable legal instrument at Closing.

**2.7.7. Water Rights Review.** Buyer ☐ **Does** ☐ **Does Not** have a Right to Terminate if examination of the Water Rights is unsatisfactory to Buyer on or before the **Water Rights Examination Deadline**.

**2.8. Growing Crops.** With respect to growing crops, Seller and Buyer agree as follows:

None

### 3. DATES, DEADLINES AND APPLICABILITY.

#### 3.1. Dates and Deadlines.

Item No.	Reference	Event	Date or Deadline
1	§ 3	Time of Day Deadline	<u>5:00 PM Mountain Time</u>
2	§ 4	Alternative Earnest Money Deadline	<u>7 days after MEC</u>
		<b>Title</b>	
3	§ 8	Record Title Deadline (and Tax Certificate)	<u>14 days after MEC</u>
4	§ 8	Record Title Objection Deadline	<u>60 days after MEC</u>
5	§ 8	Off-Record Title Deadline	<u>30 days after MEC</u>

116	6	§ 8	Off-Record Title Objection Deadline	<i>60 days after MEC</i>
117				
118	7	§ 8	Title Resolution Deadline	<i>90 days after MEC</i>
119				
120	8	§ 8	Third Party Right to Purchase/Approve Deadline	<i>n/a</i>
121			<b>Owners' Association</b>	
122	9	§ 7	Association Documents Deadline	<i>N/A</i>
123				
124	10	§ 7	Association Documents Termination Deadline	<i>N/A</i>
125			<b>Seller's Disclosures</b>	
126				
127	11	§ 10	Seller's Property Disclosure Deadline	<i>30 days after MEC</i>
128				
129	12	§ 10	Lead-Based Paint Disclosure Deadline (if Residential Addendum attached)	<i>n/a</i>
130				
131			<b>Loan and Credit</b>	
132	13	§ 5	New Loan Application Deadline	<i>n/a</i>
133				
134	14	§ 5	New Loan Terms Deadline	<i>n/a</i>
135				
136	15	§ 5	New Loan Availability Deadline	<i>n/a</i>
137	16	§ 5	Buyer's Credit Information Deadline	<i>n/a</i>
138				
139	17	§ 5	Disapproval of Buyer's Credit Information Deadline	<i>n/a</i>
140				
141	18	§ 5	Existing Loan Deadline	<i>n/a</i>
142	19	§ 5	Existing Loan Termination Deadline	<i>n/a</i>
143				
144	20	§ 5	Loan Transfer Approval Deadline	<i>n/a</i>
145	21	§ 4	Seller or Private Financing Deadline	<i>n/a</i>
146			<b>Appraisal</b>	
147				
148	22	§ 6	Appraisal Deadline	<i>n/a</i>
149	23	§ 6	Appraisal Objection Deadline	<i>n/a</i>
150	24	§ 6	Appraisal Resolution Deadline	<i>n/a</i>
151				
152			<b>Survey</b>	
153	25	§ 9	New ILC or New Survey Deadline	<i>75 days after MEC</i>
154				
155	26	§ 9	New ILC or New Survey Objection Deadline	<i>90 days after MEC</i>
156	27	§ 9	New ILC or New Survey Resolution Deadline	<i>120 days after MEC</i>
157				
158			<b>Inspection and Due diligence</b>	
159	28	§ 2	Water Rights Examination Deadline	<i>n/a</i>
160				
161	29	§ 8	Mineral Rights Examination Deadline	<i>n/a</i>
162	30	§ 10	Inspection Termination Deadline	<i>120 days after MEC</i>
163				
164	31	§ 10	Inspection Objection Deadline	<i>90 days after MEC</i>
165	32	§ 10	Inspection Resolution Deadline	<i>120 days after MEC</i>
166				
167	33	§ 10	Property Insurance Termination Deadline	<i>n/a</i>
168	34	§ 10	Due Diligence Documents Delivery Deadline	<i>60 days after MEC</i>
169	35	§ 10	Due Diligence Documents Objection Deadline	<i>90 days after MEC</i>
170				
171	36	§ 10	Due Diligence Documents Resolution Deadline	<i>120 days after MEC</i>
172	37	§ 10	Environmental Inspection Termination Deadline	<i>120 days after MEC</i>
173				
174				

Initials \_\_\_\_\_



38	§ 10	ADA Evaluation Termination Deadline	<i>n/a</i>
39	§ 10	Conditional Sale Deadline	<i>n/a</i>
40	§ 10	Lead-Based Paint Termination Deadline (if Residential Addendum attached)	<i>n/a</i>
41	§ 11	Estoppel Statements Deadline	<i>n/a</i>
42	§ 11	Estoppel Statements Termination Deadline	<i>n/a</i>
<b>Closing and Possession</b>			
43	§ 12	Closing Date	<i>See §29 Addition Provisions</i>
44	§ 17	Possession Date	<i>Date of Closing</i>
45	§ 17	Possession Time	<i>Immediately after Closing</i>
46	§ 27	Acceptance Deadline Date	<i>4/11/2023</i> Tuesday
47	§ 27	Acceptance Deadline Time	<i>5:00 PM Mountain Time</i>
48	<i>§ 29</i>	<i>Final Seller Approval Deadline</i>	<i>5/9/2023</i> Tuesday
49	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>

**3.2. Applicability of Terms.** If any deadline blank in § 3.1. (Dates and Deadlines) is left blank or completed with "N/A", or the word "Deleted," such deadline is not applicable and the corresponding provision containing the deadline is deleted. Any box checked in this Contract means the corresponding provision applies. If no box is checked in a provision that contains a selection of "None", such provision means that "None" applies.

The abbreviation "MEC" (mutual execution of this Contract) means the date upon which both parties have signed this Contract. The abbreviation "N/A" as used in this Contract means not applicable.

### 3.3. Day; Computation of Period of Days; Deadlines.

**3.3.1. Day.** As used in this Contract, the term "day" means the entire day ending at 11:59 p.m., United States Mountain Time (Standard or Daylight Savings, as applicable). Except however, if a **Time of Day Deadline** is specified in § 3.1. (Dates and Deadlines), all Objection Deadlines, Resolution Deadlines, Examination Deadlines and Termination Deadlines will end on the specified deadline date at the time of day specified in the **Time of Day Deadline**, United States Mountain Time. If **Time of Day Deadline** is left blank or "N/A" the deadlines will expire at 11:59 p.m., United States Mountain Time.

**3.3.2. Computation of Period of Days.** In computing a period of days (e.g., three days after MEC), when the ending date is not specified, the first day is excluded and the last day is included.

**3.3.3. Deadlines.** If any deadline falls on a Saturday, Sunday or federal or Colorado state holiday (Holiday), such deadline ☒ **Will** ☐ **Will Not** be extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box be checked, the deadline will not be extended.

## 4. PURCHASE PRICE AND TERMS.

**4.1. Price and Terms.** The Purchase Price set forth below is payable in U.S. Dollars by Buyer as follows:

Item No.	Reference	Item	Amount	Amount
1	§ 4.1.	Purchase Price	\$ <i>299,000.00</i>	
2	§ 4.3.	Earnest Money		\$ <i>30,000.00</i>
3	§ 4.5.	New Loan		\$
4	§ 4.6.	Assumption Balance		\$
5	§ 4.7.	Private Financing		\$
6	§ 4.7.	Seller Financing		\$

7	<i>n/a</i>	<i>n/a</i>		\$
8	<i>n/a</i>	<i>n/a</i>		\$
9	§ 4.4.	Cash at Closing		\$ 269,000.00
10		Total	\$ 299,000.00	\$ 299,000.00

**4.2. Seller Concession.** At Closing, Seller will credit to Buyer \$*n/a* (Seller Concession). The Seller Concession may be used for any Buyer fee, cost, charge or expenditure to the extent the amount is allowed by the Buyer's lender and is included in the Closing Statement or Closing Disclosure at Closing. Examples of allowable items to be paid for by the Seller Concession include, but are not limited to: Buyer's closing costs, loan discount points, loan origination fees, prepaid items and any other fee, cost, charge, expense or expenditure. Seller Concession is in addition to any sum Seller has agreed to pay or credit Buyer elsewhere in this Contract.

**4.3. Earnest Money.** The Earnest Money set forth in this Section, in the form of a Good Funds, will be payable to and held by Commonwealth Title (Earnest Money Holder), in its trust account, on behalf of both Seller and Buyer. The Earnest Money deposit must be tendered, by Buyer, with this Contract unless the parties mutually agree to an **Alternative Earnest Money Deadline** for its payment. The parties authorize delivery of the Earnest Money deposit to the company conducting the Closing (Closing Company), if any, at or before Closing. In the event Earnest Money Holder has agreed to have interest on Earnest Money deposits transferred to a fund established for the purpose of providing affordable housing to Colorado residents, Seller and Buyer acknowledge and agree that any interest accruing on the Earnest Money deposited with the Earnest Money Holder in this transaction will be transferred to such fund.

**4.3.1. Alternative Earnest Money Deadline.** The deadline for delivering the Earnest Money, if other than at the time of tender of this Contract, is as set forth as the **Alternative Earnest Money Deadline**.

**4.3.2. Disposition of Earnest Money.** If Buyer has a Right to Terminate and timely terminates, Buyer is entitled to the return of Earnest Money as provided in this Contract. If this Contract is terminated as set forth in § 24 and, except as provided in § 23 (Earnest Money Dispute), if the Earnest Money has not already been returned following receipt of a Notice to Terminate, Seller agrees to execute and return to Buyer or Broker working with Buyer, written mutual instructions (e.g., Earnest Money Release form), within three days of Seller's receipt of such form. If Seller is entitled to the Earnest Money, and, except as provided in § 23 (Earnest Money Dispute), if the Earnest Money has not already been paid to Seller, following receipt of an Earnest Money Release form, Buyer agrees to execute and return to Seller or Broker working with Seller, written mutual instructions (e.g., Earnest Money Release form), within three days of Buyer's receipt.

**4.3.2.1. Seller Failure to Timely Return Earnest Money.** If Seller fails to timely execute and return the Earnest Money Release Form, or other written mutual instructions, Seller is in default and liable to Buyer as set forth in "If Seller is in Default", § 20.2. and § 21, unless Seller is entitled to the Earnest Money due to a Buyer default.

**4.3.2.2. Buyer Failure to Timely Release Earnest Money.** If Buyer fails to timely execute and return the Earnest Money Release Form, or other written mutual instructions, Buyer is in default and liable to Seller as set forth in "If Buyer is in Default, § 20.1. and § 21, unless Buyer is entitled to the Earnest Money due to a Seller Default.

#### **4.4. Form of Funds; Time of Payment; Available Funds.**

**4.4.1. Good Funds.** All amounts payable by the parties at Closing, including any loan proceeds, Cash at Closing and closing costs, must be in funds that comply with all applicable Colorado laws, including electronic transfer funds, certified check, savings and loan teller's check and cashier's check (Good Funds).

**4.4.2. Time of Payment.** All funds, including the Purchase Price to be paid by Buyer, must be paid before or at Closing or as otherwise agreed in writing between the parties to allow disbursement by Closing Company at Closing **OR SUCH NONPAYING PARTY WILL BE IN DEFAULT.**

**4.4.3. Available Funds.** Buyer represents that Buyer, as of the date of this Contract, ☒ **Does** ☐ **Does Not** have funds that are immediately verifiable and available in an amount not less than the amount stated as Cash at Closing in § 4.1.

#### **4.5. New Loan.** (Omitted as inapplicable)

- 4.6. **Assumption.** (Omitted as inapplicable)  
4.7. **Seller or Private Financing.** (Omitted as inapplicable)

## TRANSACTION PROVISIONS

### 5. **FINANCING CONDITIONS AND OBLIGATIONS.** (Omitted as inapplicable)

- 5.3. **Credit Information.** (Omitted as inapplicable)  
5.4. **Existing Loan Review.** (Omitted as inapplicable)

### 6. **APPRAISAL PROVISIONS.**

**6.1. Appraisal Definition.** An "Appraisal" is an opinion of value prepared by a licensed or certified appraiser, engaged on behalf of Buyer or Buyer's lender, to determine the Property's market value (Appraised Value). The Appraisal may also set forth certain lender requirements, replacements, removals or repairs necessary on or to the Property as a condition for the Property to be valued at the Appraised Value.

**6.2. Appraised Value.** The applicable appraisal provision set forth below applies to the respective loan type set forth in § 4.5.3., or if a cash transaction (i.e., no financing), § 6.2.1. applies.

**6.2.1. Conventional/Other.** Buyer has the right to obtain an Appraisal. If the Appraised Value is less than the Purchase Price, or if the Appraisal is not received by Buyer on or before **Appraisal Deadline** Buyer may, on or before **Appraisal Objection Deadline**:

**6.2.1.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1., that this Contract is terminated; or

**6.2.1.2. Appraisal Objection.** Deliver to Seller a written objection accompanied by either a copy of the Appraisal or written notice from lender that confirms the Appraised Value is less than the Purchase Price (Lender Verification).

**6.2.1.3. Appraisal Resolution.** If an Appraisal Objection is received by Seller, on or before **Appraisal Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Appraisal Resolution Deadline**, this Contract will terminate on the **Appraisal Resolution Deadline**, unless Seller receives Buyer's written withdrawal of the Appraisal Objection before such termination, (i.e., on or before expiration of **Appraisal Resolution Deadline**).

**6.3. Lender Property Requirements.** If the lender imposes any written requirements, replacements, removals or repairs, including any specified in the Appraisal (Lender Property Requirements) to be made to the Property (e.g., roof repair, repainting), beyond those matters already agreed to by Seller in this Contract, this Contract terminates on the earlier of three days following Seller's receipt of the Lender Property Requirements, or Closing, unless prior to termination: (1) the parties enter into a written agreement to satisfy the Lender Property Requirements; (2) the Lender Property Requirements have been completed; or (3) the satisfaction of the Lender Property Requirements is waived in writing by Buyer.

**6.4. Cost of Appraisal.** Cost of the Appraisal to be obtained after the date of this Contract must be timely paid by ☐ Buyer ☐ Seller. The cost of the Appraisal may include any and all fees paid to the appraiser, appraisal management company, lender's agent or all three.

### 7. **OWNERS' ASSOCIATIONS.** This Section is applicable if the Property is located within one or more Common Interest Communities and subject to one or more declarations (Association).

**7.1. Common Interest Community Disclosure.** THE PROPERTY IS LOCATED WITHIN A COMMON INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR THE COMMUNITY. THE OWNER OF THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNERS' ASSOCIATION FOR THE COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION. THE DECLARATION, BYLAWS AND RULES AND REGULATIONS WILL IMPOSE FINANCIAL OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN OBLIGATION TO PAY ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE ASSESSMENTS, THE ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO PAY THE DEBT. THE DECLARATION, BYLAWS AND RULES AND

REGULATIONS OF THE COMMUNITY MAY PROHIBIT THE OWNER FROM MAKING CHANGES TO THE PROPERTY WITHOUT AN ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION. PURCHASERS OF PROPERTY WITHIN THE COMMON INTEREST COMMUNITY SHOULD INVESTIGATE THE FINANCIAL OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY READ THE DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION.

**7.2. Association Documents to Buyer.** Seller is obligated to provide to Buyer the Association Documents (defined below), at Seller's expense, on or before **Association Documents Deadline**. Seller authorizes the Association to provide the Association Documents to Buyer, at Seller's expense. Seller's obligation to provide the Association Documents is fulfilled upon Buyer's receipt of the Association Documents, regardless of who provides such documents.

**7.3. Association Documents.** Association documents (Association Documents) consist of the following:

**7.3.1.** All Association declarations, articles of incorporation, bylaws, articles of organization, operating agreements, rules and regulations, party wall agreements and the Association's responsible governance policies adopted under § 38-33.3-209.5, C.R.S.;

**7.3.2.** Minutes of: (1) the annual owners' or members' meeting and (2) any executive boards' or managers' meetings; such minutes include those provided under the most current annual disclosure required under § 38-33.3-209.4, C.R.S. (Annual Disclosure) and minutes of meetings, if any, subsequent to the minutes disclosed in the Annual Disclosure. If none of the preceding minutes exist, then the most recent minutes, if any (§§ 7.3.1. and 7.3.2., collectively, Governing Documents); and

**7.3.3.** List of all Association insurance policies as provided in the Association's last Annual Disclosure, including, but not limited to, property, general liability, association director and officer professional liability and fidelity policies. The list must include the company names, policy limits, policy deductibles, additional named insureds and expiration dates of the policies listed (Association Insurance Documents);

**7.3.4.** A list by unit type of the Association's assessments, including both regular and special assessments as disclosed in the Association's last Annual Disclosure;

**7.3.5.** The Association's most recent financial documents which consist of: (1) the Association's operating budget for the current fiscal year, (2) the Association's most recent annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the Association's last Annual Disclosure, (3) the results of the Association's most recent available financial audit or review, (4) list of the fees and charges (regardless of name or title of such fees or charges) that the Association's community association manager or Association will charge in connection with the Closing including, but not limited to, any fee incident to the issuance of the Association's statement of assessments (Status Letter), any rush or update fee charged for the Status Letter, any record change fee or ownership record transfer fees (Record Change Fee), fees to access documents, (5) list of all assessments required to be paid in advance, reserves or working capital due at Closing and (6) reserve study, if any (§§ 7.3.4. and 7.3.5., collectively, Financial Documents);

**7.3.6.** Any written notice from the Association to Seller of a "construction defect action" under § 38-33.3-303.5, C.R.S. within the past six months and the result of whether the Association approved or disapproved such action (Construction Defect Documents). Nothing in this Section limits the Seller's obligation to disclose adverse material facts as required under § 10.2. (Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition) including any problems or defects in the common elements or limited common elements of the Association property.

**7.4. Conditional on Buyer's Review.** Buyer has the right to review the Association Documents. Buyer has the Right to Terminate under § 24.1., on or before **Association Documents Termination Deadline**, based on any unsatisfactory provision in any of the Association Documents, in Buyer's sole subjective discretion. Should Buyer receive the Association Documents after **Association Documents Deadline**, Buyer, at Buyer's option, has the Right to Terminate under § 24.1. by Buyer's Notice to Terminate received by Seller on or before ten days after Buyer's receipt of the Association Documents. If Buyer does not receive the Association Documents, or if Buyer's Notice to Terminate would otherwise be required to be



received by Seller after **Closing Date**, Buyer's Notice to Terminate must be received by Seller on or before Closing. If Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the provisions of the Association Documents as satisfactory and Buyer waives any Right to Terminate under this provision, notwithstanding the provisions of § 8.6. (Third Party Right to Purchase/Approve).

## **8. TITLE INSURANCE, RECORD TITLE AND OFF-RECORD TITLE.**

### **8.1. Evidence of Record Title.**

☒ **8.1.1. Seller Selects Title Insurance Company.** If this box is checked, Seller will select the title insurance company to furnish the owner's title insurance policy at Seller's expense. On or before **Record Title Deadline**, Seller must furnish to Buyer, a current commitment for an owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price, or if this box is checked, ☐ an **Abstract of Title** certified to a current date. Seller will cause the title insurance policy to be issued and delivered to Buyer as soon as practicable at or after Closing.

☐ **8.1.2. Buyer Selects Title Insurance Company.** If this box is checked, Buyer will select the title insurance company to furnish the owner's title insurance policy at Buyer's expense. On or before **Record Title Deadline**, Buyer must furnish to Seller, a current commitment for owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price.

If neither box in § 8.1.1. or § 8.1.2. is checked, § 8.1.1. applies.

**8.1.3. Owner's Extended Coverage (OEC).** The Title Commitment ☒ **Will** ☐ **Will Not** contain Owner's Extended Coverage (OEC). If the Title Commitment is to contain OEC, it will commit to delete or insure over the standard exceptions which relate to: (1) parties in possession, (2) unrecorded easements, (3) survey matters, (4) unrecorded mechanics' liens, (5) gap period (period between the effective date and time of commitment to the date and time the deed is recorded) and (6) unpaid taxes, assessments and unredeemed tax sales prior to the year of Closing. Any additional premium expense to obtain OEC will be paid by ☒ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer and One-Half by Seller** ☐ **Other** n/a.

Regardless of whether the Contract requires OEC, the Title Insurance Commitment may not provide OEC or delete or insure over any or all of the standard exceptions for OEC. The Title Insurance Company may require a New Survey or New ILC, defined below, among other requirements for OEC. If the Title Insurance Commitment is not satisfactory to Buyer, Buyer has a right to object under § 8.7. (Right to Object to Title, Resolution).

**8.1.4. Title Documents.** Title Documents consist of the following: (1) copies of any plats, declarations, covenants, conditions and restrictions burdening the Property and (2) copies of any other documents (or, if illegible, summaries of such documents) listed in the schedule of exceptions (Exceptions) in the Title Commitment furnished to Buyer (collectively, Title Documents).

**8.1.5. Copies of Title Documents.** Buyer must receive, on or before **Record Title Deadline**, copies of all Title Documents. This requirement pertains only to documents as shown of record in the office of the clerk and recorder in the county where the Property is located. The cost of furnishing copies of the documents required in this Section will be at the expense of the party or parties obligated to pay for the owner's title insurance policy.

**8.1.6. Existing Abstracts of Title.** Seller must deliver to Buyer copies of any abstracts of title covering all or any portion of the Property (Abstract of Title) in Seller's possession on or before **Record Title Deadline**.

**8.2. Record Title.** Buyer has the right to review and object to the Abstract of Title or Title Commitment and any of the Title Documents as set forth in § 8.7. (Right to Object to Title, Resolution) on or before **Record Title Objection Deadline**. Buyer's objection may be based on any unsatisfactory form or content of Title Commitment or Abstract of Title, notwithstanding § 13, or any other unsatisfactory title condition, in Buyer's sole subjective discretion. If the Abstract of Title, Title Commitment or Title Documents are not received by Buyer on or before the **Record Title Deadline**, or if there is an endorsement to the Title Commitment that adds a new Exception to title, a copy of the new Exception to title and the modified Title Commitment will be delivered to Buyer. Buyer has until the earlier of Closing or ten days after receipt of such documents by Buyer to review and object to: (1) any required Title Document not timely received by Buyer, (2) any change to the Abstract of Title, Title Commitment or Title Documents, or (3) any endorsement to the

Title Commitment. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection, pursuant to this § 8.2. (Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.7. (Right to Object to Title, Resolution). If Seller has fulfilled all Seller's obligations, if any, to deliver to Buyer all documents required by § 8.1. (Evidence of Record Title) and Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the Abstract of Title, Title Commitment and Title Documents as satisfactory.

**8.3. Off-Record Title.** Seller must deliver to Buyer, on or before **Off-Record Title Deadline**, true copies of all existing surveys in Seller's possession pertaining to the Property and must disclose to Buyer all easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or other title matters not shown by public records, of which Seller has actual knowledge (Off-Record Matters). This Section excludes any **New ILC** or **New Survey** governed under § 9 (New ILC, New Survey). Buyer has the right to inspect the Property to investigate if any third party has any right in the Property not shown by public records (e.g., unrecorded easement, boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of Title Objection of any unsatisfactory condition (whether disclosed by Seller or revealed by such inspection, notwithstanding § 8.2. (Record Title) and § 13 (Transfer of Title), in Buyer's sole subjective discretion, must be received by Seller on or before **Off-Record Title Objection Deadline**. If an Off-Record Matter is received by Buyer after the **Off-Record Title Deadline**, Buyer has until the earlier of Closing or ten days after receipt by Buyer to review and object to such Off-Record Matter. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection pursuant to this § 8.3. (Off-Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.7. (Right to Object to Title, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline specified above, Buyer accepts title subject to such Off-Record Matters and rights, if any, of third parties not shown by public records of which Buyer has actual knowledge.

**8.4. Special Taxing Districts. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR.**

**8.5. Tax Certificate.** A tax certificate paid for by ☒ **Seller** ☐ **Buyer**, for the Property listing any special taxing districts that affect the Property (Tax Certificate) must be delivered to Buyer on or before **Record Title Deadline**. If the Property is located within a special taxing district and such inclusion is unsatisfactory to Buyer, in Buyer's sole subjective discretion, Buyer may terminate, on or before **Record Title Objection Deadline**. Should Buyer receive the Tax Certificate after **Record Title Deadline**, Buyer, at Buyer's option, has the Right to Terminate under § 24.1. by Buyer's Notice to Terminate received by Seller on or before ten days after Buyer's receipt of the Tax Certificate. If Buyer does not receive the Tax Certificate, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller after **Closing Date**, Buyer's Notice to Terminate must be received by Seller on or before Closing. If Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the provisions of the Tax Certificate and the inclusion of the Property in a special taxing district, if applicable, as satisfactory and Buyer waives any Right to Terminate under this provision. If Buyer's loan specified in §4.5.3. (Loan Limitations) prohibits Buyer from paying for the Tax Certificate, the Tax Certificate will be paid for by Seller.

**8.6. Third Party Right to Purchase/Approve.** If any third party has a right to purchase the Property (e.g., right of first refusal on the Property, right to purchase the Property under a lease or an option held by a third party to purchase the Property) or a right of a third party to approve this Contract, Seller must promptly submit this Contract according to the terms and conditions of such right. If the third-party holder of such right exercises its right this Contract will terminate. If the third party's right to purchase is waived explicitly or expires, or the Contract is approved, this Contract will remain in full force and effect. Seller must promptly

notify Buyer in writing of the foregoing. If the third party right to purchase is exercised or approval of this Contract has not occurred on or before **Third Party Right to Purchase/Approve Deadline**, this Contract will then terminate. Seller will supply to Buyer, in writing, details of any Third Party Right to Purchase the Property on or before the Record Title Deadline.

**8.7. Right to Object to Title, Resolution.** Buyer has a right to object or terminate, in Buyer's sole subjective discretion, based on any title matters including those matters set forth in § 8.2. (Record Title), § 8.3. (Off-Record Title), § 8.5. (Special Taxing District) and § 13 (Transfer of Title). If Buyer exercises Buyer's rights to object or terminate based on any such title matter, on or before the applicable deadline, Buyer has the following options:

**8.7.1. Title Objection, Resolution.** If Seller receives Buyer's written notice objecting to any title matter (Notice of Title Objection) on or before the applicable deadline and if Buyer and Seller have not agreed to a written settlement thereof on or before **Title Resolution Deadline**, this Contract will terminate on the expiration of **Title Resolution Deadline**, unless Seller receives Buyer's written withdrawal of Buyer's Notice of Title Objection (i.e., Buyer's written notice to waive objection to such items and waives the Right to Terminate for that reason), on or before expiration of **Title Resolution Deadline**. If either the Record Title Deadline or the Off-Record Title Deadline, or both, are extended pursuant to § 8.2. (Record Title) or § 8.3. (Off-Record Title) the Title Resolution Deadline also will be automatically extended to the earlier of Closing or fifteen days after Buyer's receipt of the applicable documents; or

**8.7.2. Title Objection, Right to Terminate.** Buyer may exercise the Right to Terminate under § 24.1., on or before the applicable deadline, based on any title matter unsatisfactory to Buyer, in Buyer's sole subjective discretion.

**8.8. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and should be reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the title, ownership and use of the Property, including, without limitation, boundary lines and encroachments, set-back requirements, area, zoning, building code violations, unrecorded easements and claims of easements, leases and other unrecorded agreements, water on or under the Property and various laws and governmental regulations concerning land use, development and environmental matters.

**8.8.1. OIL, GAS, WATER AND MINERAL DISCLOSURE. THE SURFACE ESTATE OF THE PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE AND TRANSFER OF THE SURFACE ESTATE MAY NOT NECESSARILY INCLUDE TRANSFER OF THE MINERAL ESTATE OR WATER RIGHTS. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS, OTHER MINERALS, GEOTHERMAL ENERGY OR WATER ON OR UNDER THE SURFACE OF THE PROPERTY, WHICH INTERESTS MAY GIVE THEM RIGHTS TO ENTER AND USE THE SURFACE OF THE PROPERTY TO ACCESS THE MINERAL ESTATE, OIL, GAS OR WATER.**

**8.8.2. SURFACE USE AGREEMENT. THE USE OF THE SURFACE ESTATE OF THE PROPERTY TO ACCESS THE OIL, GAS OR MINERALS MAY BE GOVERNED BY A SURFACE USE AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE COUNTY CLERK AND RECORDER.**

**8.8.3. OIL AND GAS ACTIVITY. OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR ADJACENT TO THE PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING, WELL COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES, PRODUCING WELLS, REWORKING OF CURRENT WELLS AND GAS GATHERING AND PROCESSING FACILITIES.**

**8.8.4. ADDITIONAL INFORMATION. BUYER IS ENCOURAGED TO SEEK ADDITIONAL INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THE PROPERTY, INCLUDING DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE COLORADO OIL AND GAS CONSERVATION COMMISSION.**

**8.8.5. Title Insurance Exclusions.** Matters set forth in this Section and others, may be excepted, excluded from, or not covered by the owner's title insurance policy.

**8.9. Mineral Rights Review.** Buyer ☐ Does ☐ Does Not have a Right to Terminate if examination of the Mineral Rights is unsatisfactory to Buyer on or before the **Mineral Rights Examination Deadline**.

9. NEW ILC, NEW SURVEY.

9.1. New ILC or New Survey. If the box is checked, (1) ☐ New Improvement Location Certificate (New ILC); or, (2) ☒ New Survey in the form of as specified by title insurance company; is required and the following will apply:

9.1.1. Ordering of New ILC or New Survey. ☐ Seller ☒ Buyer will order the New ILC or New Survey. The New ILC or New Survey may also be a previous ILC or survey that is in the above-required form, certified and updated as of a date after the date of this Contract.

9.1.2. Payment for New ILC or New Survey. The cost of the New ILC or New Survey will be paid, on or before Closing, by: ☐ Seller ☒ Buyer or:

n/a

9.1.3. Delivery of New ILC or New Survey. Buyer, Seller, the issuer of the Title Commitment (or the provider of the opinion of title if an Abstract of Title) and Broker will receive a New ILC or New Survey on or before **New ILC or New Survey Deadline**.

9.1.4. Certification of New ILC or New Survey. The New ILC or New Survey will be certified by the surveyor to all those who are to receive the New ILC or New Survey.

9.2. Buyer's Right to Waive or Change New ILC or New Survey Selection. Buyer may select a New ILC or New Survey different than initially specified in this Contract if there is no additional cost to Seller or change to the **New ILC or New Survey Objection Deadline**. Buyer may, in Buyer's sole subjective discretion, waive a New ILC or New Survey if done prior to Seller incurring any cost for the same.

9.3. New ILC or New Survey Objection. Buyer has the right to review and object based on the New ILC or New Survey. If the New ILC or New Survey is not timely received by Buyer or is unsatisfactory to Buyer, in Buyer's sole subjective discretion, Buyer may, on or before **New ILC or New Survey Objection Deadline**, notwithstanding § 8.3. or § 13:

9.3.1. Notice to Terminate. Notify Seller in writing, pursuant to § 24.1., that this Contract is terminated; or

9.3.2. New ILC or New Survey Objection. Deliver to Seller a written description of any matter that was to be shown or is shown in the New ILC or New Survey that is unsatisfactory and that Buyer requires Seller to correct.

9.3.3. New ILC or New Survey Resolution. If a **New ILC or New Survey Objection** is received by Seller, on or before **New ILC or New Survey Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **New ILC or New Survey Resolution Deadline**, this Contract will terminate on expiration of the **New ILC or New Survey Resolution Deadline**, unless Seller receives Buyer's written withdrawal of the New ILC or New Survey Objection before such termination (i.e., on or before expiration of **New ILC or New Survey Resolution Deadline**).

**DISCLOSURE, INSPECTION AND DUE DILIGENCE**

10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY, DUE DILIGENCE AND SOURCE OF WATER.

10.1. Seller's Property Disclosure. On or before **Seller's Property Disclosure Deadline**, Seller agrees to deliver to Buyer the most current version of the applicable Colorado Real Estate Commission's Seller's Property Disclosure form completed by Seller to Seller's actual knowledge and current as of the date of this Contract.

10.2. Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition. Seller must disclose to Buyer any adverse material facts actually known by Seller as of the date of this Contract. Seller agrees that disclosure of adverse material facts will be in writing. In the event Seller discovers an adverse material fact after the date of this Contract, Seller must timely disclose such adverse fact to Buyer. Buyer has the Right to Terminate based on the Seller's new disclosure on the earlier of Closing or five days after Buyer's receipt of the new disclosure. Except as otherwise provided in this Contract, Buyer acknowledges that Seller is conveying the Property to Buyer in an "As Is" condition, "Where Is" and "With All Faults."



**10.3. Inspection.** Unless otherwise provided in this Contract, Buyer, acting in good faith, has the right to have inspections (by one or more third parties, personally or both) of the Property, Leased Items, and Inclusions (Inspection), at Buyer's expense. If (1) the physical condition of the Property, including, but not limited to, the roof, walls, structural integrity of the Property, the electrical, plumbing, HVAC and other mechanical systems of the Property, (2) the physical condition of the Inclusions and Leased Items, (3) service to the Property (including utilities and communication services), systems and components of the Property (e.g., heating and plumbing), (4) any proposed or existing transportation project, road, street or highway, or (5) any other activity, odor or noise (whether on or off the Property) and its effect or expected effect on the Property or its occupants is unsatisfactory, in Buyer's sole subjective discretion, Buyer may:

**10.3.1. Inspection Termination.** On or before the **Inspection Termination Deadline**, notify Seller in writing, pursuant to § 24.1., that this Contract is terminated due to any unsatisfactory condition, provided the Buyer did not previously deliver an Inspection Objection. Buyer's Right to Terminate under this provision expires upon delivery of an Inspection Objection to Seller pursuant to § 10.3.2.; or

**10.3.2. Inspection Objection.** On or before the **Inspection Objection Deadline**, deliver to Seller a written description of any unsatisfactory condition that Buyer requires Seller to correct.

**10.3.3. Inspection Resolution.** If an Inspection Objection is received by Seller, on or before **Inspection Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Inspection Resolution Deadline**, this Contract will terminate on **Inspection Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Inspection Objection before such termination (i.e., on or before expiration of **Inspection Resolution Deadline**). Nothing in this provision prohibits the Buyer and the Seller from mutually terminating this Contract before the Inspection Resolution Deadline passes by executing an Earnest Money Release.

**10.4. Damage, Liens and Indemnity.** Buyer, except as otherwise provided in this Contract or other written agreement between the parties, is responsible for payment for all inspections, tests, surveys, engineering reports, or other reports performed at Buyer's request (Work) and must pay for any damage that occurs to the Property and Inclusions as a result of such Work. Buyer must not permit claims or liens of any kind against the Property for Work performed on the Property. Buyer agrees to indemnify, protect and hold Seller harmless from and against any liability, damage, cost or expense incurred by Seller and caused by any such Work, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by Seller to defend against any such liability, damage, cost or expense, or to enforce this Section, including Seller's reasonable attorney fees, legal fees and expenses. The provisions of this Section survive the termination of this Contract. This § 10.4. does not apply to items performed pursuant to an Inspection Resolution.

**10.5. Insurability.** Buyer has the Right to Terminate under § 24.1., on or before **Property Insurance Termination Deadline**, based on any unsatisfactory provision of the availability, terms and conditions and premium for property insurance (Property Insurance) on the Property, in Buyer's sole subjective discretion.

**10.6. Due Diligence.**

**10.6.1. Due Diligence Documents.** Seller agrees to deliver copies of the following documents and information pertaining to the Property and Leased Items (Due Diligence Documents) to Buyer on or before **Due Diligence Documents Delivery Deadline**:

**10.6.1.1. Occupancy Agreements.** All current leases, including any amendments or other occupancy agreements, pertaining to the Property. Those leases or other occupancy agreements pertaining to the Property that survive Closing are as follows (Leases):

[Lighted sign for Holiday Inn Express](#)

**10.6.1.2. Leased Items Documents.** If any lease of personal property (§ 2.5.4., Leased Items) will be transferred to Buyer at Closing, Seller agrees to deliver copies of the leases and information pertaining to the personal property to Buyer on or before **Due Diligence Documents Delivery Deadline**. Buyer ☒ **Will** ☐ **Will Not** assume the Seller's obligations under such leases for the Leased Items (§ 2.5.4., Leased Items).

**10.6.1.3. Encumbered Inclusions Documents.** If any Inclusions owned by Seller are encumbered pursuant to § 2.5.2. (Encumbered Inclusions) above, Seller agrees to deliver copies of the

evidence of debt, security and any other documents creating the encumbrance to Buyer on or before **Due Diligence Documents Delivery Deadline**. Buyer ☐ **Will** ☐ **Will Not** assume the debt on the Encumbered Inclusions (§ 2.5.2., Encumbered Inclusions).

**10.6.1.4. Other Documents.** If the respective box is checked, Seller agrees to additionally deliver copies of the following:

☒ **10.6.1.4.1.** All contracts relating to the operation, maintenance and management of the Property;

☐ **10.6.1.4.2.** Property tax bills for the last n/a years;

☐ **10.6.1.4.3.** As-built construction plans to the Property and the tenant improvements, including architectural, electrical, mechanical and structural systems; engineering reports; and permanent Certificates of Occupancy, to the extent now available;

☐ **10.6.1.4.4.** A list of all Inclusions to be conveyed to Buyer;

☐ **10.6.1.4.5.** Operating statements for the past n/a years;

☐ **10.6.1.4.6.** A rent roll accurate and correct to the date of this Contract;

☐ **10.6.1.4.7.** A schedule of any tenant improvement work Seller is obligated to complete but has not yet completed and capital improvement work either scheduled or in process on the date of this Contract;

☐ **10.6.1.4.8.** All insurance policies pertaining to the Property and copies of any claims which have been made for the past n/a years;

☒ **10.6.1.4.9.** Soils reports, surveys and engineering reports or data pertaining to the Property (if not delivered earlier under § 8.3.);

☒ **10.6.1.4.10.** Any and all existing documentation and reports regarding Phase I and II environmental reports, letters, test results, advisories and similar documents respective to the existence or nonexistence of asbestos, PCB transformers, or other toxic, hazardous or contaminated substances and/or underground storage tanks and/or radon gas. If no reports are in Seller's possession or known to Seller, Seller warrants that no such reports are in Seller's possession or known to Seller;

☐ **10.6.1.4.11.** Any *Americans with Disabilities Act* reports, studies or surveys concerning the compliance of the Property with said Act;

☐ **10.6.1.4.12.** All permits, licenses and other building or use authorizations issued by any governmental authority with jurisdiction over the Property and written notice of any violation of any such permits, licenses or use authorizations, if any; and

☐ **10.6.1.4.13.** Other:

**The delivery of all indicated Selected Documents pertaining to Section 10.6.1.4 and subsections thereof are limited to those that currently exist and are in Seller's possession.**

**10.6.2. Due Diligence Documents Review and Objection.** Buyer has the right to review and object based on the Due Diligence Documents. If the Due Diligence Documents are not supplied to Buyer or are unsatisfactory, in Buyer's sole subjective discretion, Buyer may, on or before **Due Diligence Documents Objection Deadline**:

**10.6.2.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1., that this Contract is terminated; or

**10.6.2.2. Due Diligence Documents Objection.** Deliver to Seller a written description of any unsatisfactory Due Diligence Documents that Buyer requires Seller to correct.

**10.6.2.3. Due Diligence Documents Resolution.** If a Due Diligence Documents Objection is received by Seller, on or before **Due Diligence Documents Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Due Diligence Documents Resolution Deadline**, this Contract will terminate on **Due Diligence Documents Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Due Diligence Documents Objection before such termination (i.e., on or before expiration of **Due Diligence Documents Resolution Deadline**).

**10.6.3. Zoning.** Buyer has the Right to Terminate under § 24.1., on or before **Due Diligence Documents Objection Deadline**, based on any unsatisfactory zoning and any use restrictions imposed by any governmental agency with jurisdiction over the Property, in Buyer's sole subjective discretion.

**10.6.4. Due Diligence – Environmental, ADA.** Buyer has the right to obtain environmental inspections of the Property including Phase I and Phase II Environmental Site Assessments, as applicable. ☐ Seller ☒ Buyer will order or provide **Phase I Environmental Site Assessment, Phase II Environmental Site Assessment** (compliant with most current version of the applicable ASTM E1527 standard practices for Environmental Site Assessments) and/or as required by Buyer, at the expense of ☐ Seller ☒ Buyer (Environmental Inspection). In addition, Buyer, at Buyer's expense, may also conduct an evaluation whether the Property complies with the *Americans with Disabilities Act* (ADA Evaluation). All such inspections and evaluations must be conducted at such times as are mutually agreeable to minimize the interruption of Seller's and any Seller's tenants' business uses of the Property, if any.

If Buyer's Phase I Environmental Site Assessment recommends a Phase II Environmental Site Assessment, the **Environmental Inspection Termination Deadline** will be extended by 60 days (Extended Environmental Inspection Objection Deadline) and if such Extended Environmental Inspection Objection Deadline extends beyond the **Closing Date**, the **Closing Date** will be extended a like period of time. In such event, ☐ Seller ☒ Buyer must pay the cost for such Phase II Environmental Site Assessment.

Notwithstanding Buyer's right to obtain additional environmental inspections of the Property in this § 10.6.4., Buyer has the Right to Terminate under § 24.1., on or before **Environmental Inspection Termination Deadline**, or if applicable, the Extended Environmental Inspection Objection Deadline, based on any unsatisfactory results of Environmental Inspection, in Buyer's sole subjective discretion.

Buyer has the Right to Terminate under § 24.1., on or before **ADA Evaluation Termination Deadline**, based on any unsatisfactory ADA Evaluation, in Buyer's sole subjective discretion.

**10.7. Conditional Upon Sale of Property.** This Contract is conditional upon the sale and closing of that certain property owned by Buyer and commonly known as n/a. Buyer has the Right to Terminate under § 24.1. effective upon Seller's receipt of Buyer's Notice to Terminate on or before **Conditional Sale Deadline** if such property is not sold and closed by such deadline. This Section is for the sole benefit of Buyer. If Seller does not receive Buyer's Notice to Terminate on or before **Conditional Sale Deadline**, Buyer waives any Right to Terminate under this provision.

**10.8. Source of Potable Water (Residential Land and Residential Improvements Only).** Buyer ☐ Does ☒ Does Not acknowledge receipt of a copy of Seller's Property Disclosure or Source of Water Addendum disclosing the source of potable water for the Property. ☒ There is **No Well**. Buyer ☐ Does ☒ Does Not acknowledge receipt of a copy of the current well permit.

**Note to Buyer: SOME WATER PROVIDERS RELY, TO VARYING DEGREES, ON NONRENEWABLE GROUND WATER. YOU MAY WISH TO CONTACT YOUR PROVIDER (OR INVESTIGATE THE DESCRIBED SOURCE) TO DETERMINE THE LONG-TERM SUFFICIENCY OF THE PROVIDER'S WATER SUPPLIES.**

**10.9. Existing Leases; Modification of Existing Leases; New Leases.** Seller states that none of the Leases to be assigned to the Buyer at the time of Closing contain any rent concessions, rent reductions or rent abatements except as disclosed in the Lease or other writing received by Buyer. Seller will not amend, alter, modify, extend or cancel any of the Leases nor will Seller enter into any new leases affecting the Property without the prior written consent of Buyer, which consent will not be unreasonably withheld or delayed.

**10.10. Lead-Based Paint.** [Intentionally Deleted - See Residential Addendum if applicable]

**10.11. Carbon Monoxide Alarms.** [Intentionally Deleted - See Residential Addendum if applicable]

**10.12. Methamphetamine Disclosure.** [Intentionally Deleted - See Residential Addendum if applicable]

## **11. TENANT ESTOPPEL STATEMENTS.**

**11.1. Estoppel Statements Conditions.** Buyer has the right to review and object to any Estoppel Statements. Seller must request from all tenants of the Property and if received by Seller, deliver to Buyer on or before **Estoppel Statements Deadline**, statements in a form and substance reasonably acceptable to Buyer, from each occupant or tenant at the Property (Estoppel Statement) attached to a copy of the Lease stating:

816 11.1.1. The commencement date of the Lease and scheduled termination date of the Lease;  
817 11.1.2. That said Lease is in full force and effect and that there have been no subsequent  
818 modifications or amendments;  
819 11.1.3. The amount of any advance rentals paid, rent concessions given and deposits paid to  
820 Seller;  
821 11.1.4. The amount of monthly (or other applicable period) rental paid to Seller;  
822 11.1.5. That there is no default under the terms of said Lease by landlord or occupant; and  
823 11.1.6. That the Lease to which the Estoppel Statement is attached is a true, correct and  
824 complete copy of the Lease demising the premises it describes.  
825  
826 11.2. **Seller Estoppel Statement.** In the event Seller does not receive from all tenants of the Property  
827 a completed signed Estoppel Statement, Seller agrees to complete and execute an Estoppel Statement  
828 setting forth the information and documents required §11.1. above and deliver the same to Buyer on or  
829 before **Estoppel Statements Deadline**.  
830  
831 11.3. **Estoppel Statements Termination.** Buyer has the Right to Terminate under § 24.1., on or  
832 before **Estoppel Statements Termination Deadline**, based on any unsatisfactory Estoppel Statement, in  
833 Buyer's sole subjective discretion, or if Seller fails to deliver the Estoppel Statements on or before **Estoppel**  
834 **Statements Deadline**. Buyer also has the unilateral right to waive any unsatisfactory Estoppel Statement.  
835

## 836 CLOSING PROVISIONS

### 837 12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.

838 12.1. **Closing Documents and Closing Information.** Seller and Buyer will cooperate with the  
839 Closing Company to enable the Closing Company to prepare and deliver documents required for Closing to  
840 Buyer and Seller and their designees. If Buyer is obtaining a loan to purchase the Property, Buyer  
841 acknowledges Buyer's lender is required to provide the Closing Company, in a timely manner, all required  
842 loan documents and financial information concerning Buyer's loan. Buyer and Seller will furnish any  
843 additional information and documents required by Closing Company that will be necessary to complete this  
844 transaction. Buyer and Seller will sign and complete all customary or reasonably required documents at or  
845 before Closing.  
846

847 12.2. **Closing Instructions.** Colorado Real Estate Commission's Closing Instructions ☐ **Are**  
848 ☒ **Are Not** executed with this Contract.

849 12.3. **Closing.** Delivery of deed from Seller to Buyer will be at closing (Closing). Closing will be on the  
850 date specified as the **Closing Date** or by mutual agreement at an earlier date. At Closing, Seller agrees to  
851 deliver a set of keys for the Property to Buyer. The hour and place of Closing will be as designated by  
852 Seller.  
853

854 12.4. **Disclosure of Settlement Costs.** Buyer and Seller acknowledge that costs, quality and extent  
855 of service vary between different settlement service providers (e.g., attorneys, lenders, inspectors and title  
856 companies).  
857

858 12.5. **Assignment of Leases.** Seller must assign to Buyer all Leases at Closing that will continue  
859 after Closing and Buyer must assume Seller's obligations under such Leases. Further, Seller must transfer to  
860 Buyer all Leased Items and assign to Buyer such leases for the Leased Items accepted by Buyer pursuant to  
861 § 2.5.4. (Leased Items).  
862

863 13. **TRANSFER OF TITLE.** Subject to Buyer's compliance with the terms and provisions of this Contract,  
864 including the tender of any payment due at Closing, Seller must execute and deliver the following good and  
865 sufficient deed to Buyer, at Closing: ☒ special warranty deed ☐ general warranty deed  
866 ☐ bargain and sale deed ☐ quit claim deed ☐ personal representative's deed ☐ n/a deed. Seller, provided  
867 another deed is not selected, must execute and deliver a good and sufficient special warranty deed to Buyer,  
868 at Closing.  
869

870 Unless otherwise specified in § 29 (Additional Provisions), if title will be conveyed using a special  
871 warranty deed or a general warranty deed, title will be conveyed "subject to statutory exceptions" as defined  
872  
873  
874



in §38-30-113(5)(a), C.R.S.

**14. PAYMENT OF LIENS AND ENCUMBRANCES.** Unless agreed to by Buyer in writing, any amounts owed on any liens or encumbrances securing a monetary sum against the Property and Inclusions, including any governmental liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not, and previous years' taxes, will be paid at or before Closing by Seller from the proceeds of this transaction or from any other source.

**15. CLOSING COSTS, FEES, ASSOCIATION STATUS LETTER AND DISBURSEMENTS, TAXES AND WITHHOLDING.**

**15.1. Closing Costs.** Buyer and Seller must pay, in Good Funds, their respective closing costs and all other items required to be paid at Closing, except as otherwise provided herein.

**15.2. Closing Services Fee.** The fee for real estate closing services must be paid at Closing by ☐ Buyer ☐ Seller ☒ One-Half by Buyer and One-Half by Seller ☐ Other n/a.

**15.3. Association Fees and Required Disbursements.** At least fourteen days prior to **Closing Date**, Seller agrees to promptly request that the Closing Company or the Association deliver to Buyer a current Status Letter, if applicable. Any fees associated with or specified in the Status Letter will be paid as follows:

**15.3.1. Status Letter Fee.** Any fee incident to the issuance of Association's Status Letter must be paid by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☒ N/A.

**15.3.2. Record Change Fee.** Any Record Change Fee must be paid by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☒ N/A.

**15.3.3. Assessments, Reserves or Working Capital.** All assessments required to be paid in advance (other than Association Assessments as defined in § 16.2. (Association Assessments), reserves or working capital due at Closing must be paid by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☒ N/A.

**15.3.4. Other Fees.** Any other fee listed in the Status Letter as required to be paid at Closing will be paid by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☒ N/A.

**15.4. Local Transfer Tax.** Any Local Transfer Tax must be paid at Closing by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☒ N/A.

**15.5. Sales and Use Tax.** Any sales and use tax that may accrue because of this transaction must be paid when due by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☒ N/A.

**15.6. Private Transfer Fee.** Any private transfer fees and other fees due to a transfer of the Property, payable at Closing, such as community association fees, developer fees and foundation fees, must be paid at Closing by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☒ N/A.

**15.7. Water Transfer Fees.** Water Transfer Fees can change. The fees, as of the date of this Contract, do not exceed \$n/a for:

☐ Water Stock/Certificates ☐ Water District

☐ Augmentation Membership ☐ Small Domestic Water Company ☐ n/a

and must be paid at Closing by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☒ N/A.

**15.8. Utility Transfer Fees.** Utility transfer fees can change. Any fees to transfer utilities from Seller to Buyer must be paid by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☒ N/A.

**15.9. FIRPTA and Colorado Withholding.**

**15.9.1. FIRPTA.** The Internal Revenue Service (IRS) may require a substantial portion of the Seller's proceeds be withheld after Closing when Seller is a foreign person. If required withholding does not occur, the Buyer could be held liable for the amount of the Seller's tax, interest and penalties. If the box in this Section is checked, Seller represents that Seller ☐ **IS** a foreign person for purposes of U.S. income taxation. If the box in this Section is not checked, Seller represents that Seller is not a foreign person for purposes of U.S. income taxation. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably requested documents to verify Seller's foreign person status. If withholding is required, Seller authorizes Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to determine if withholding applies or if an exemption exists.

**15.9.2. Colorado Withholding.** The Colorado Department of Revenue may require a portion of the Seller's proceeds be withheld after Closing when Seller will not be a Colorado resident after Closing, if not otherwise exempt. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably requested documents to verify Seller's status. If withholding is required, Seller authorizes Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to determine if withholding applies or if an exemption exists.

## **16. PRORATIONS AND ASSOCIATION ASSESSMENTS.**

**16.1. Prorations.** The following will be prorated to the **Closing Date**, except as otherwise provided:

**16.1.1. Taxes.** Personal property taxes, if any, special taxing district assessments, if any, and general real estate taxes for the year of Closing, based on

☐ **Taxes for the Calendar Year Immediately Preceding Closing**

☐ **Most Recent Mill Levy and Most Recent Assessed Valuation,** ☒ **Other**

**No prorations as the Seller does not pay property taxes.**

**16.1.2. Rents.** Rents based on ☐ **Rents Actually Received** ☐ **Accrued.** At Closing, Seller will transfer or credit to Buyer the security deposits for all Leases assigned to Buyer, or any remainder after lawful deductions, and notify all tenants in writing of such transfer and of the transferee's name and address.

**16.1.3. Other Prorations.** Water and sewer charges, propane, interest on continuing loan and **n/a**

**16.1.4. Final Settlement.** Unless otherwise specified in Additional Provisions, these prorations are final.

**16.2. Association Assessments.** Current regular Association assessments and dues (Association Assessments) paid in advance will be credited to Seller at Closing. Cash reserves held out of the regular Association Assessments for deferred maintenance by the Association will not be credited to Seller except as may be otherwise provided by the Governing Documents. Buyer acknowledges that Buyer may be obligated to pay the Association, at Closing, an amount for reserves or working capital. Any special assessment assessed prior to **Closing Date** by the Association will be the obligation of ☐ **Buyer** ☒ **Seller.** Except however, any special assessment by the Association for improvements that have been installed as of the date of Buyer's signature hereon, whether assessed prior to or after Closing, will be the obligation of Seller unless otherwise specified in Additional Provisions. Seller represents there are no unpaid regular or special assessments against the Property except the current regular assessments and **no others**

Association Assessments are subject to change as provided in the Governing Documents.

**17. POSSESSION.** Possession of the Property and Inclusions will be delivered to Buyer on **Possession Date at Possession Time**, subject to the Leases as set forth in § 10.6.1.1.

If Seller, after Closing occurs, fails to deliver possession as specified, Seller will be subject to eviction and will be additionally liable to Buyer, notwithstanding § 20.2. (If Seller is in Default), for payment of \$ **n/a** per day (or any part of a day notwithstanding § 3.3., Day) from **Possession Date** and **Possession Time** until possession is delivered.

## **General Provisions**

**18. CAUSES OF LOSS, INSURANCE; DAMAGE TO INCLUSIONS AND SERVICES; CONDEMNATION; AND WALK-THROUGH.** Except as otherwise provided in this Contract, the Property, Inclusions or both will be delivered in the condition existing as of the date of this Contract, ordinary wear and tear excepted.

**18.1. Causes of Loss, Insurance.** In the event the Property or Inclusions are damaged by fire, other perils or causes of loss prior to Closing (Property Damage) in an amount of not more than ten percent of the total Purchase Price and if the repair of the damage will be paid by insurance (other than the deductible to be paid by Seller), then Seller, upon receipt of the insurance proceeds, will use Seller's reasonable efforts to repair the Property before **Closing Date**. Buyer has the Right to Terminate under § 24.1., on or before

**Closing Date**, if the Property is not repaired before **Closing Date**, or if the damage exceeds such sum. Should Buyer elect to carry out this Contract despite such Property Damage, Buyer is entitled to a credit at Closing for all insurance proceeds that were received by Seller (but not the Association, if any) resulting from damage to the Property and Inclusions, plus the amount of any deductible provided for in the insurance policy. This credit may not exceed the Purchase Price. In the event Seller has not received the insurance proceeds prior to Closing, the parties may agree to extend the **Closing Date** to have the Property repaired prior to Closing or, at the option of Buyer, (1) Seller must assign to Buyer the right to the proceeds at Closing, if acceptable to Seller's insurance company and Buyer's lender; or (2) the parties may enter into a written agreement prepared by the parties or their attorney requiring the Seller to escrow at Closing from Seller's sale proceeds the amount Seller has received and will receive due to such damage, not exceeding the total Purchase Price, plus the amount of any deductible that applies to the insurance claim.

**18.2. Damage, Inclusions and Services.** Should any Inclusion or service (including utilities and communication services), system, component or fixture of the Property (collectively Service) (e.g., heating or plumbing), fail or be damaged between the date of this Contract and Closing or possession, whichever is earlier, then Seller is liable for the repair or replacement of such Inclusion or Service with a unit of similar size, age and quality, or an equivalent credit, but only to the extent that the maintenance or replacement of such Inclusion or Service is not the responsibility of the Association, if any, less any insurance proceeds received by Buyer covering such repair or replacement. If the failed or damaged Inclusion or Service is not repaired or replaced on or before Closing or possession, whichever is earlier, Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, or, at the option of Buyer, Buyer is entitled to a credit at Closing for the repair or replacement of such Inclusion or Service. Such credit must not exceed the Purchase Price. If Buyer receives such a credit, Seller's right for any claim against the Association, if any, will survive Closing.

**18.3. Condemnation.** In the event Seller receives actual notice prior to Closing that a pending condemnation action may result in a taking of all or part of the Property or Inclusions, Seller must promptly notify Buyer, in writing, of such condemnation action. Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, based on such condemnation action, in Buyer's sole subjective discretion. Should Buyer elect to consummate this Contract despite such diminution of value to the Property and Inclusions, Buyer is entitled to a credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value of the Property or Inclusions, but such credit will not include relocation benefits or expenses or exceed the Purchase Price.

**18.4. Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, has the right to walk through the Property prior to Closing to verify that the physical condition of the Property and Inclusions complies with this Contract.

**18.5. Home Warranty. [Intentionally Deleted]**

**18.6. Risk of Loss – Growing Crops.** The risk of loss for damage to growing crops by fire or other casualty will be borne by the party entitled to the growing crops as provided in § 2.8. and such party is entitled to such insurance proceeds or benefits for the growing crops.

**19. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this Contract, Buyer and Seller acknowledge that their respective broker has advised that this Contract has important legal consequences and has recommended: (1) legal examination of title; (2) consultation with legal and tax or other counsel before signing this Contract as this Contract may have important legal and tax implications; (3) to consult with their own attorney if Water Rights, Mineral Rights or Leased Items are included or excluded in the sale; and (4) to consult with legal counsel if there are other matters in this transaction for which legal counsel should be engaged and consulted. Such consultations must be done timely as this Contract has strict time limits, including deadlines, that must be complied with.

**20. TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence for all dates and deadlines in this Contract. This means that all dates and deadlines are strict and absolute. If any payment due, including Earnest Money, is not paid, honored or tendered when due, or if any obligation is not performed timely as provided in this Contract or waived, the non-defaulting party has the following remedies:

1050 **20.1. If Buyer is in Default:**

1051 ☐ **20.1.1. Specific Performance.** Seller may elect to cancel this Contract and all Earnest Money  
1052 (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest  
1053 Money is not a penalty, and the parties agree the amount is fair and reasonable. Seller may recover such  
1054 additional damages as may be proper. Alternatively, Seller may elect to treat this Contract as being in full  
1055 force and effect and Seller has the right to specific performance or damages, or both.

1056 **20.1.2. Liquidated Damages, Applicable. This § 20.1.2. applies unless the box in § 20.1.1. is**  
1057 **checked.** Seller may cancel this Contract. All Earnest Money (whether or not paid by Buyer) will be paid to  
1058 Seller and retained by Seller. It is agreed that the Earnest Money amount specified in § 4.1. is LIQUIDATED  
1059 DAMAGES and not a penalty, which amount the parties agree is fair and reasonable and (except as provided  
1060 in §§ 10.4. and 21), such amount is SELLER'S ONLY REMEDY for Buyer's failure to perform the obligations  
1061 of this Contract. Seller expressly waives the remedies of specific performance and additional damages.  
1062

1063 **20.2. If Seller is in Default:**

1064 **20.2.1. Specific Performance, Damages or Both.** Buyer may elect to treat this Contract as  
1065 canceled, in which case all Earnest Money received hereunder will be returned to Buyer and Buyer may  
1066 recover such damages as may be proper. Alternatively, in addition to the per diem in § 17 (Possession) for  
1067 failure of Seller to timely deliver possession of the Property after Closing occurs, Buyer may elect to treat this  
1068 Contract as being in full force and effect and Buyer has the right to specific performance or damages, or  
1069 both.  
1070

1071 **20.2.2. Seller's Failure to Perform.** In the event Seller fails to perform Seller's obligations under  
1072 this Contract, to include, but not limited to, failure to timely disclose Association violations known by Seller,  
1073 failure to perform any replacements or repairs required under this Contract or failure to timely disclose any  
1074 known adverse material facts, Seller remains liable for any such failures to perform under this Contract after  
1075 Closing. Buyer's rights to pursue the Seller for Seller's failure to perform under this Contract are reserved and  
1076 survive Closing.  
1077

1078 **21. LEGAL FEES, COST AND EXPENSES.** Anything to the contrary herein notwithstanding, in the event  
1079 of any arbitration or litigation relating to this Contract, prior to or after **Closing Date**, the arbitrator or court  
1080 must award to the prevailing party all reasonable costs and expenses, including attorney fees, legal fees and  
1081 expenses.  
1082

1083 **22. MEDIATION.** If a dispute arises relating to this Contract (whether prior to or after Closing) and is not  
1084 resolved, the parties must first proceed, in good faith, to mediation. Mediation is a process in which the  
1085 parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators  
1086 cannot impose binding decisions. Before any mediated settlement is binding, the parties to the dispute must  
1087 agree to the settlement, in writing. The parties will jointly appoint an acceptable mediator and will share  
1088 equally in the cost of such mediation. The obligation to mediate, unless otherwise agreed, will terminate if the  
1089 entire dispute is not resolved within thirty days of the date written notice requesting mediation is delivered by  
1090 one party to the other at that party's last known address (physical or electronic as provided in § 26). Nothing  
1091 in this Section prohibits either party from filing a lawsuit and recording a *lis pendens* affecting the Property,  
1092 before or after the date of written notice requesting mediation. This Section will not alter any date in this  
1093 Contract, unless otherwise agreed.  
1094

1095 **23. EARNEST MONEY DISPUTE.** Except as otherwise provided herein, Earnest Money Holder must  
1096 release the Earnest Money following receipt of written mutual instructions, signed by both Buyer and Seller.  
1097 In the event of any controversy regarding the Earnest Money, Earnest Money Holder is not required to  
1098 release the Earnest Money. Earnest Money Holder, in its sole subjective discretion, has several options: (1)  
1099 wait for any proceeding between Buyer and Seller; (2) interplead all parties and deposit Earnest Money into a  
1100 court of competent jurisdiction (Earnest Money Holder is entitled to recover court costs and reasonable  
1101 attorney and legal fees incurred with such action); or (3) provide notice to Buyer and Seller that unless  
1102 Earnest Money Holder receives a copy of the Summons and Complaint or Claim (between Buyer and Seller)  
1103 containing the case number of the lawsuit (Lawsuit) within one hundred twenty days of Earnest Money  
1104  
1105  
1106  
1107



Holder's notice to the parties, Earnest Money Holder is authorized to return the Earnest Money to Buyer. In the event Earnest Money Holder does receive a copy of the Lawsuit and has not interpled the monies at the time of any Order, Earnest Money Holder must disburse the Earnest Money pursuant to the Order of the Court. The parties reaffirm the obligation of § 22 (Mediation). This Section will survive cancellation or termination of this Contract.

## **24. TERMINATION.**

**24.1. Right to Terminate.** If a party has a right to terminate, as provided in this Contract (Right to Terminate), the termination is effective upon the other party's receipt of a written notice to terminate (Notice to Terminate), provided such written notice was received on or before the applicable deadline specified in this Contract. If the Notice to Terminate is not received on or before the specified deadline, the party with the Right to Terminate accepts the specified matter, document or condition as satisfactory and waives the Right to Terminate under such provision.

**24.2. Effect of Termination.** In the event this Contract is terminated, and all Earnest Money received hereunder is timely returned to Buyer, the parties are relieved of all obligations hereunder, subject to §§ 10.4. and 21.

**25. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL; SUCCESSORS.** This Contract, its exhibits and specified addenda, constitute the entire agreement between the parties relating to the subject hereof and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Contract. No subsequent modification of any of the terms of this Contract is valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. Any right or obligation in this Contract that, by its terms, exists or is intended to be performed after termination or Closing survives the same. Any successor to a party receives the predecessor's benefits and obligations of this Contract.

## **26. NOTICE, DELIVERY AND CHOICE OF LAW.**

**26.1. Physical Delivery and Notice.** Any document or notice to Buyer or Seller must be in writing, except as provided in § 26.2. and is effective when physically received by such party, any individual named in this Contract to receive documents or notices for such party, Broker, or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing must be received by the party, not Broker or Brokerage Firm).

**26.2. Electronic Notice.** As an alternative to physical delivery, any notice may be delivered in electronic form to Buyer or Seller, any individual named in this Contract to receive documents or notices for such party, Broker or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing, cancellation or Termination must be received by the party, not Broker or Brokerage Firm) at the electronic address of the recipient by facsimile, email or [CTM e-Contracts](#).

**26.3. Electronic Delivery.** Electronic Delivery of documents and notice may be delivered by: (1) email at the email address of the recipient, (2) a link or access to a website or server provided the recipient receives the information necessary to access the documents, or (3) facsimile at the facsimile number (Fax No.) of the recipient.

**26.4. Choice of Law.** This Contract and all disputes arising hereunder are governed by and construed in accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in Colorado for real property located in Colorado.

**27. NOTICE OF ACCEPTANCE, COUNTERPARTS.** This proposal will expire unless accepted in writing, by Buyer and Seller, as evidenced by their signatures below and the offering party receives notice of such acceptance pursuant to § 26 on or before **Acceptance Deadline Date** and **Acceptance Deadline Time**. If accepted, this document will become a contract between Seller and Buyer. A copy of this Contract may be executed by each party, separately and when each party has executed a copy thereof, such copies taken together are deemed to be a full and complete contract between the parties.

**28. GOOD FAITH.** Buyer and Seller acknowledge that each party has an obligation to act in good faith

including, but not limited to, exercising the rights and obligations set forth in the provisions of **Financing Conditions and Obligations; Title Insurance, Record Title and Off-Record Title; New ILC, New Survey; and Property Disclosure, Inspection, Indemnity, Insurability Due Diligence and Source of Water.**

## ADDITIONAL PROVISIONS AND ATTACHMENTS

**29. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado Real Estate Commission.)

**1. This Contract to Buy and Sell Real Estate is contingent upon approval by the Silt Board of Trustees and further subject to a Closing not earlier than thirty (30) days after publications by the Town of Silt providing public notice of the pending sale as required by the town's charter (See §3.1 Item 48). Seller agrees to use its best efforts to accomplish all referenced approvals within the shortest timeframes reasonably possible.**

**2. The Seller reserves to itself all rights to minerals, hydrocarbons, oil and gas associated with the Property.**

**3. Buyers intended use of the Property is for the development of a travel center for alternative energy including EV, natural gas, and hydrogen fuels. The travel center will also include quality public restroom facilities, a cafe, and coffee shop with construction to commence not later than 180 days after Closing.**

**30. OTHER DOCUMENTS.**

**30.1. Documents Part of Contract.** The following documents **are a part** of this Contract:  
**Option Agreement**

**30.2. Documents Not Part of Contract.** The following documents have been provided but are **not** a part of this Contract:  
**None**

## Signatures

*Robert Switzer*

Date: 04/03/2023

Buyer: **Silt Energy Development LLC**

**By: Robert Switzer, Managing Member**

**[NOTE: If this offer is being countered or rejected, do not sign this document.]**

Date: \_\_\_\_\_

Seller: **Town of Silt**

**By: Jeff Layman, MPA, Town Administrator**

END OF CONTRACT TO BUY AND SELL REAL ESTATE

**BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.**

**A. Broker Working With Buyer**

Broker ☐ Does ☒ Does Not acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 23, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Broker is working with Buyer as a ☐ Buyer's Agent ☒ Transaction-Broker in this transaction.

☐ Customer. Broker has no brokerage relationship with Buyer. See § B for Broker's brokerage relationship with Seller.

Brokerage Firm's compensation or commission is to be paid by ☒ Listing Brokerage Firm ☐ Buyer ☐ Other .

This Broker's Acknowledgements and Compensation Disclosure is for disclosure purposes only and does NOT create any claim for compensation. Any compensation agreement between the brokerage firms must be entered into separately and apart from this provision.

Brokerage Firm's Name: **Market Trends Real Estate**

Brokerage Firm's License #: **EC 100044817**



Date: **3/31/2023**

Broker's Name: **Joe Carpenter**

Broker's License #: **EA 100001850**

Address: **PO Box 983 Silt, CO 81652**

Ph: **970-309-0910** Fax: Email Address: **joe@MarketTrendsRE.com**

**B. Broker Working with Seller**

Broker ☐ Does ☒ Does Not acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 23, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Broker is working with Seller as a ☐ Seller's Agent ☒ Transaction-Broker in this transaction.

☐ Customer. Broker has no brokerage relationship with Seller. See § A for Broker's brokerage relationship with Buyer.

Brokerage Firm's compensation or commission is to be paid by ☒ Seller ☐ Buyer ☐ Other .

This Broker's Acknowledgements and Compensation Disclosure is for disclosure purposes only and does NOT create any claim for compensation. Any compensation agreement between the brokerage firms must be entered into separately and apart from this provision.

Brokerage Firm's Name: **Market Trends Real Estate**

Brokerage Firm's License #: **EC 100044817**

Broker:



Date: **3/31/2023**

Broker's License #: **EA 100001850**

Address: **PO Box 983 Silt, CO 81652**

Ph: **970-309-0910** Fax: Email Address: **joe@MarketTrendsRE.com**

---

**CBS4-6-21. CONTRACT TO BUY AND SELL REAL ESTATE (LAND)**

CTM eContracts - ©2022 MRI Software LLC - All Rights Reserved

## OPTION AGREEMENT

This Option Agreement is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between the TOWN OF SILT, COLORADO (the "Seller") whose address is P. O. Box 70, Silt, Colorado 81652 and SILT ENERGY DEVELOPMENT, LLC, whose address is \_\_\_\_\_ (the "Buyer").

### WITNESSETH:

WHEREAS, the Seller and the Buyer have entered into that certain Contract to Buy and Sell Real Estate (the "Land Contract") under which Seller agreed to sell, and Buyer agreed to buy, certain real property known as Parcel A Town of Silt Minor Subdivision According to the plat thereof recorded September 8, 2006 as Reception No. 70648, also known as 1555 River Frontage Road, Silt, CO 81652 (hereinafter the "Property"); and

WHEREAS, the Seller and the Buyer have, on even date herewith, closed the sale of the Property; and

WHEREAS, the original purchase price for the Property is \$299,000; and

WHEREAS, as part of the consideration to induce the parties to enter into the Land Contract and to close such transaction, the parties agreed to enter into an Option Agreement in a mutually acceptable form; and

WHEREAS, the parties have agreed upon the form for the Option Agreement and now wish to reduce their agreements with respect to the Option Agreement to writing.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Seller's Right to Repurchase. At any time during the Option Period as defined below, Seller shall have a right to repurchase, and Buyer shall be obligated to sell, the Property free of all liens and encumbrances (other than those approved by Buyer at the time of purchase), at the original purchase price paid to Seller by Buyer (which is \$299,000), unless both of the following two (2) conditions are satisfied before the beginning of the Option Period:

- a. At least one valid building permit authorizing the construction of a structure on the Property has been issued pursuant to the Municipal Code of the Town of Silt, Colorado; and
- b. All water and sewer tap fees with respect to the first structure for which a building permit has been issued on the Property have been paid in full pursuant to the Municipal Code of the Town of Silt, Colorado.

2. Option Period. Unless both of the conditions in paragraphs 1(a) and 1(b) are first met prior to the commencement of the Option Period, the Option Period shall begin on \_\_\_\_\_ [180 days after closing] and end on [2 years later].

3. Seller's Notice of Exercise of Option. If Seller decides to exercise its right to repurchase as herein provided, Seller shall provide Buyer with written notice during the Option Period of its intent to do so. Seller shall then repurchase the Property at the original purchase price paid by Buyer to Seller within thirty (30) days of the date of such notice with the time and place of closing designated by Seller. Buyer shall convey merchantable title by a good and sufficient special warranty deed, at such time free and clear of all taxes and encumbrances except those that existed upon the original closing. If title is not merchantable prior to the repurchase closing, the purchase price paid by Seller to Buyer shall be reduced accordingly. Taxes, as determined by the current levy and assessment, and all pre-paid items shall be apportioned to the date of the repurchase closing when the deed and possession of the Property shall be delivered to Seller.

4. Restriction on Sale Prior to Option Period. Buyer agrees not to sell, transfer, convey or assign any of its right, title, or interest in the Property prior to the beginning of the Option Period unless Buyer first offers Seller the opportunity to repurchase the Property free of all liens and encumbrances (other than those approved by Buyer at the time of purchase) at the original purchase price paid by Buyer to Seller (as set forth in Paragraph (1), above). Any such offer to Seller shall be in writing, shall remain open for thirty (30) days, and shall be deemed rejected unless accepted in writing within that time period. Buyer shall not promise to sell, transfer, convey, or assign his right, title, or interest in the Property to any third party while the offer to Seller is pending, unless such offer to a third party is expressly contingent upon Seller's prior unilateral rejection of the offer to Seller.

5. Automatic Termination. If both of the two (2) conditions set forth in Paragraphs 1(a) and 1(b) above are met before the beginning of the Option Period, then this Option Agreement shall be deemed to have terminated in its entirety, Seller shall have no further rights to repurchase the Property by virtue of this Option Agreement, and Buyer shall be free to sell, transfer, convey or assign any or all of his interests in the Property to anyone without further obligation to first offer Seller the opportunity to repurchase the Property. This Option Agreement shall, in any event, terminate and be of no further force and effect thirty-one days after the expiration of the Option Period.

6. Governing Law/Attorney Fees. This Option Agreement shall be governed under the laws of the State of Colorado. In the event a civil action is filed regarding the terms of this Agreement, the prevailing party shall be entitled to recover all costs and expenses, including reasonable attorney's fees.

7. Severability. Should any portion of this Option Agreement be declared invalid by a court of competent jurisdiction, all other portions shall remain in full force and effect.

8. Notices. Any notices or demands pursuant to this Option Agreement shall be sent

via certified mail, return receipt requested, and shall be deemed effective upon mailing. Unless changed by the parties in writing, notices shall be provided to the parties as follows:

To Buyer: Silt Energy Development, LLC  
\_\_\_\_\_  
\_\_\_\_\_

To Seller: Town of Silt, Colorado  
P.O. Box 70  
Silt, CO 81652

9. Recordation. This Option Agreement shall be recorded in the Office of the Clerk and Recorder of Garfield County at the expense of Buyer.

IN WITNESS WHEREOF, the parties have executed this Option Agreement on the day and year first written above.

TOWN OF SILT, COLORADO

By \_\_\_\_\_  
Town Manager

ATTEST:

\_\_\_\_\_  
Town Clerk

SILT ENERGY DEVELOPMENT, LLC

\_\_\_\_\_  
Robert Switzer, Managing Member

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

Acknowledged, subscribed, and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2023, by  
Robert Switzer, Managing Member of Silt Energy Development, LLC.

WITNESS my hand and official seal.

My Commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public





# Silt Alternative Fuel Station

Presented by

Silt Energy Development  
Subsidiary of Astera

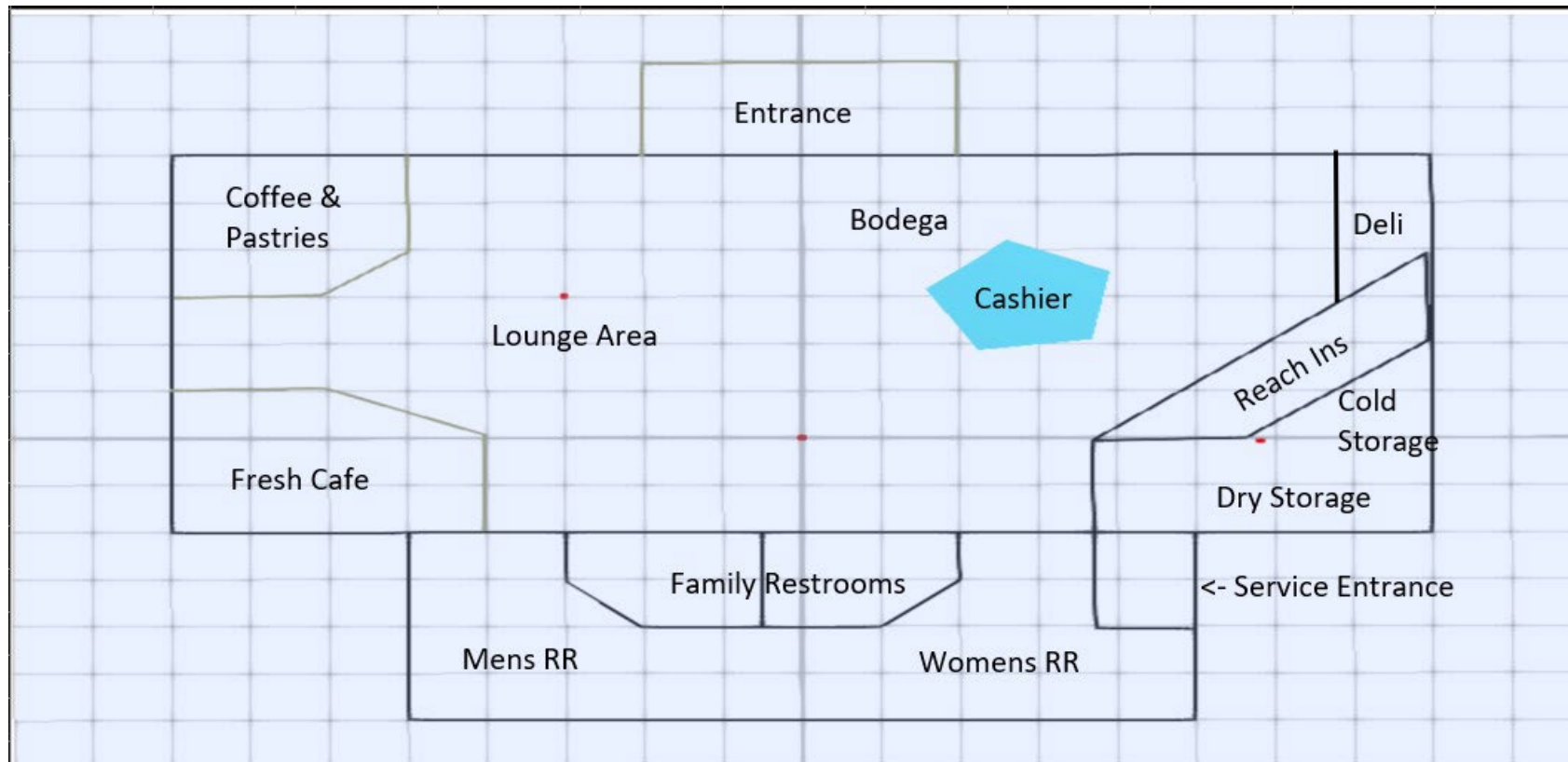
# Silt Energy Development Alternative Fuel Station

- ▶ 8- 150KW DC Fast Chargers
- ▶ 2- 380 KW DC Fast Chargers
- ▶ 4- CNG Fuel Pumps
- ▶ 4- Hydrogen Fuel Pumps
- ▶ 12- Additional 380 DC Fast Chargers for the future, prewired
- ▶ 3.5 MWh Battery for the DC Chargers
- ▶ All Parking and Charging Area's will be covered by Solar Carports
- ▶ Greenspace for walking and Dog area
- ▶ Parking Lot will be made from EarthCrete which is a Green, Carbon Negative Cement
- ▶ 490 KW of Solar installed on the property through Carports and Rooftop

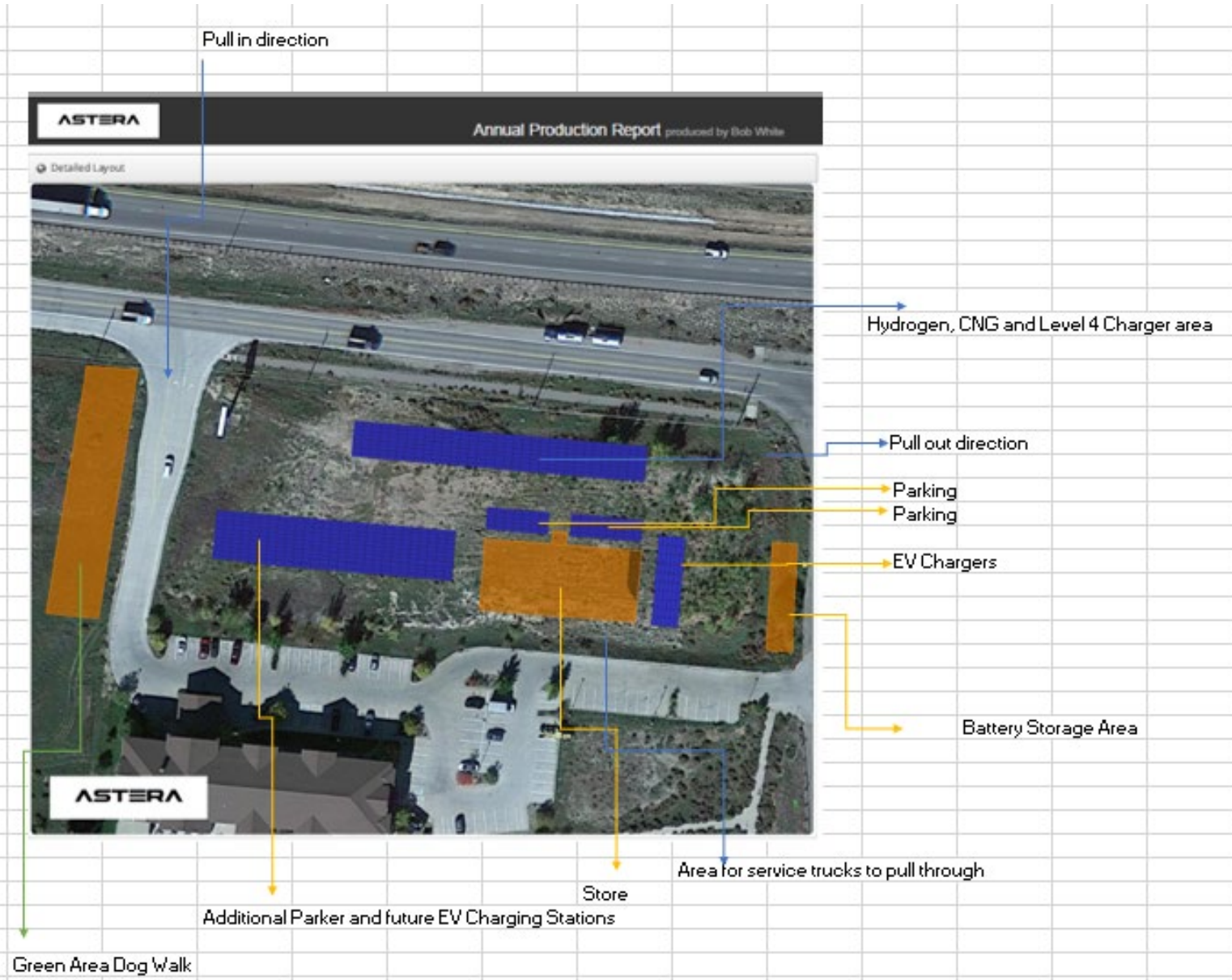
# Silt Energy Development Benefits for the Town of Silt

- ▶ Astera will be employing between 8-12 employees
- ▶ Provides tax income
- ▶ Provide a destination stop in Silt
- ▶ Unique, First of its kind *Alternative Fuel Station* in Silt
- ▶ Increase Hospitality stays
- ▶ Assist in meeting clean energy goals for Silt, Garfield County and the State of Colorado
- ▶ Charging station will have a ripple effect on the economy
- ▶ Fast charging infrastructure deployed along highway corridors facilitates mobility through the region

# Silt Energy Development Layout of the Upscale Bodega to be Operational by 1-30-2024



# Silt Energy Development Lot Layout



# Astera Partners

- ▶ STEM
- ▶ CarbonMeta
- ▶ CarbonMeta Green Building Technologies
- ▶ Chint Power Systems
- ▶ EV Loop
- ▶ Vsun Solar Panels
- ▶ EarthTech Solar
- ▶ Salvum Corp
- ▶ Powers Steel Solar Frames
- ▶ SolarEver
- ▶ Urban Solar Utility
- ▶ AeroCompact
- ▶ Greentech
- ▶ Lunna Solar
- ▶ GenZen Batteries



## Community Development Department

---

### MEMORANDUM

**TO:** Honorable Mayor and Board of Trustee Members  
**FROM:** Nicole Centeno, Community Development Manager  
**DATE:** 4/6/23  
**RE:** 2023 Party at the Pavilion Concert Series

In the past, the Town has hosted three Party at the Pavilion Concerts each year, which includes two “local” artists and one “traveling” artist/band. After restricted events in 2020 and 2021, the Town was able to offer a larger concert again in 2022. Last year’s concerts included El Loco Fandango and The Tyler Rust Band, for our smaller concerts, and Whiskey Stomp (local) as an opening band for the Van Halen Tribute, Completely Unchained, for our larger concert.

During the 2022 end of the year re-cap of events, the board expressed interest in finding a more well know artist for the larger concert. Town staff took this interest under advisement and have spoken to several different booking agencies. It has been discovered that prices have increased, substantially, over the past several years. The current 2023 budget will not allow for a more well known artist.

There are several artists that range from \$20k-\$35k (not including expenses and travel), which will require a supplemental to the budget, as there is currently a total of \$25k for the whole season. Staff has also spoken to several booking agents about the possibility of a lower cost when an artist is close by or traveling through. With no-compete clauses and the time restraints of travel, however, the agencies stated that our request was not possible.

As staff is trying to finalize artists and sound production, guidance on the budget would be greatly appreciated.





# Silt's 2023 Party At The Pavilion Concert Series



# 2022 Line-Up

Tyler Rust Band- \$1,900

Whiskey Stomp- \$1,200

Completely Unchained- \$9,000

El Loco Fandango- \$2,000

Sound Production- \$9,000

Farmers' Market- \$2,795

**Total Costs- \$25,895**



# 2023 Budget

## Community/Concert Events

\$25,000 Total

## Proposed Concerts

- Party at the Pavilion (June 23<sup>rd</sup>, July 14<sup>th</sup> & August 25<sup>th</sup>)
- Farmers' Market (Every Wednesday for 8 Weeks)
- Sound Production for Party at the Pavilion



# Party at the Pavilion

## Big Concert Options:

Lainey Wilson- \$350,000

38 Special- \$50,000

Foghat- \$25,000

Georgia Satellites- \$25,000

Little Texas- \$25,000

Craig Wayne Boyd- \$15,000

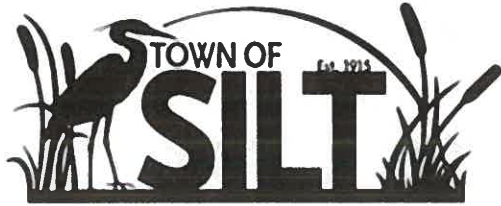
Tribute Band- \$10,000-12,000





To bring in a more well know artist or tribute band, the 2023 Community/Concert will need a supplemental increase. Staff would be happy to answer any additional questions ☺

THANK YOU!



Date: April 24, 2023  
To: Mayor Richel & Board of Trustees  
From: Jeff Layman, Town Administrator  
Subject: Staff Report

---

Activities, initiatives and news:

- **Silt Water Treatment Plant:** We met this week for the first time with our entire project design team, to include Garney Construction. The team got right to work on construction, design, materials, etc. conversations aimed at reducing the cost of the plant without impeding performance.
- **SB23-213 aka “More Housing Now” Legislative Bill:** The Colorado Municipal League (CML) urges Colorado legislators to vote “no” due to this bill’s removal of local control and home rule authority for many of Colorado’s towns and cities.

The only provision of the bill that currently impacts Silt, I’ve learned, that it requires that ADUs be treated as a right. Time will tell whether the measure will pass and whether it will have any practical impact in Silt.

Other provisions, as below, mostly impact Front Range cities and towns and resort communities.

- Allowing “Middle” housing (duplexes and triplexes) where it would typically be restricted.
- Loosen restrictions on prefabricated building materials and modular homes.
- Encourage density development near major transportation corridors.
- Reduce parking requirements since those living near mass transit would not likely need cars.
- Removes occupancy requirements for non-familial households.
- Requires municipalities to create strategic growth objectives in order to focus growth in urban areas near jobs and transit.
- Requires municipalities to develop water conservation strategies.

More information can be found at: <https://www.cml.org/home/advocacy-legal/sb23-213-land-use>

- **Plastic Pollution Reduction Act:** After we had concluded that the Town of Silt’s merchants were not subject to this plastic shopping bag fee, Treasurer Amie Tucker discovered that the Act did, in fact, apply to some of our merchants. Due to this discovery, Amie has prepared some public education documents to be distributed to some selected businesses in Silt. Those documents, including a copy of the Act, are attached.



- **Silt Water Treatment Plant Business Case:** I reported a couple of weeks ago that the Colorado Department of Local Affairs had been successful in presenting their “business case” to classify Silt as a “disadvantaged community” for the purpose of obtaining principal forgiveness for our water plant loan. I’ve attached that business case to this report.
- **Silt Senior Housing:** As we’ve reported over the last couple of years, the plumbing system at this facility, owned by the Town and operated by Garfield County Housing Authority (GCHA), is deteriorating. In a meeting last week with a representative of the Colorado Housing Finance Authority, we learned that there may be some increased grant funding to deal with this issue. We’re tentatively scheduled to meet with them and the GCHA to discuss whether we can come up with enough in grant funds to take on this work.
- **Colorado River Fire Rescue:** We met with Fire Chief Leif Sackett and members of his staff to discuss:
  - The potential of a new “public safety” building to house the fire district and Silt Police Department in Silt. We discussed the Town’s space needs at Town Hall and the District’s need to provide a better, more modern fire station in a better location. We discussed several potential sites, financing concepts, timing and other issues. No conclusions or recommendations were developed, other than we would continue to discuss the issue.
  - The idea of conducting “safety surveys” at Silt businesses, apparently discontinued some years ago. I was supportive of the idea, given proper development of objectives and notice to business owners.

Attachments:

1. Plastic Pollution Reduction Act material for Silt businesses
2. Silt Water Treatment Plant Business Case

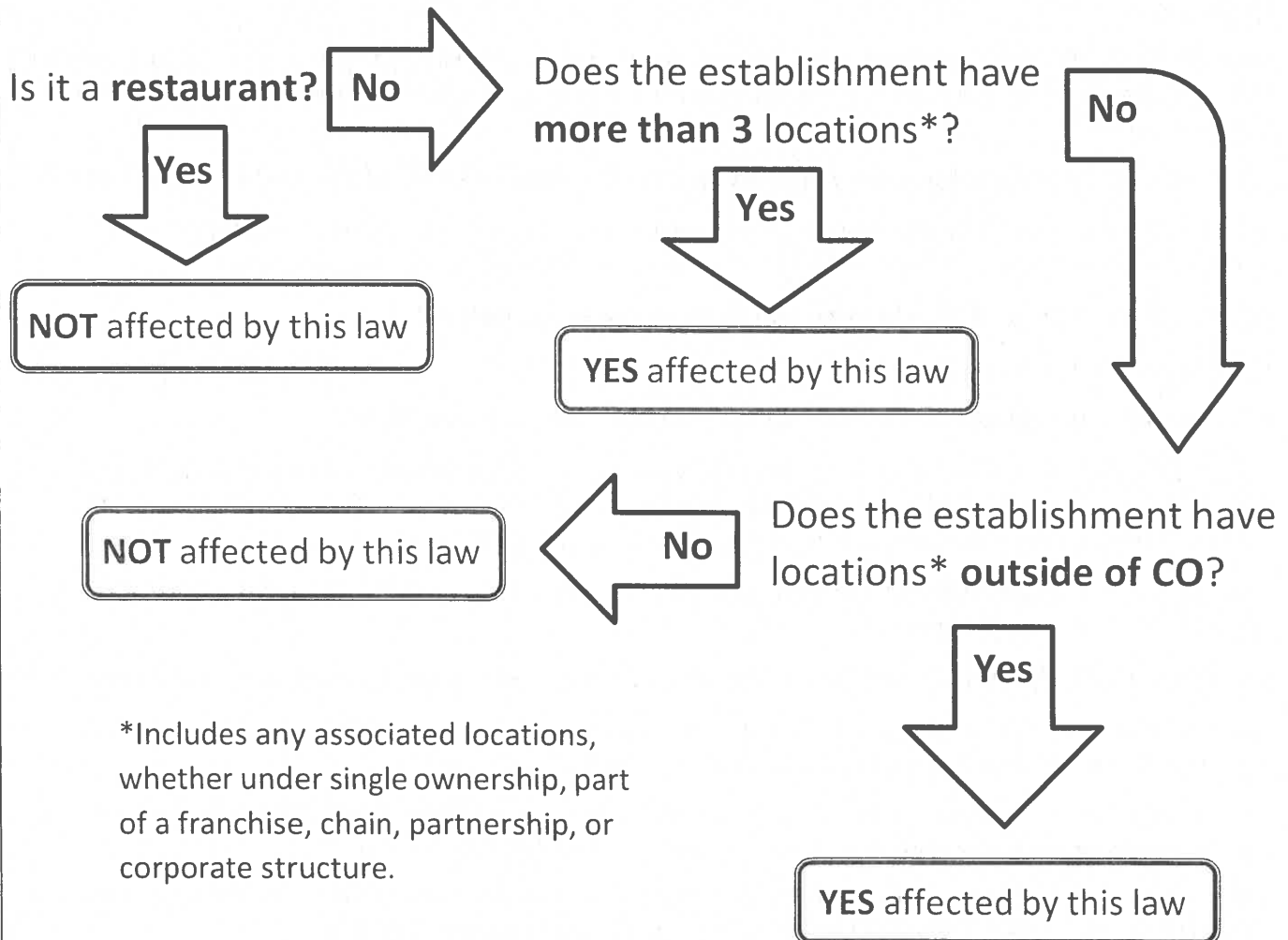


# The State of Colorado Plastic Pollution Reduction Act

## Explainer for Town of Silt Businesses

Certain retail stores are required to charge a \$0.10 fee on each single-use carryout **paper or plastic** bag. On a quarterly basis, stores remit (pay) 60% of what they collected to the Town of Silt, and the stores keep 40%.

Will the bag fee affect my retail establishment?



See the FAQ on the reverse side for more information.



# The State of Colorado

## Plastic Pollution Reduction Act

### FAQ

#### **Are there any additional considerations or requirements for affected stores?**

- Paper carry-out bags must be made from 100% recycled material or post-consumer content.
- Stores must keep records of fees collected and include the bag fee as an itemized line on customer receipts.
- Stores must display a sign notifying customers of this program.

#### **When do I need to provide payment to the Town of Silt based on the fees collected at my store?**

Stores must remit payment (\$0.06 per bag) to the Town of Silt on a quarterly basis. For example, if your store collected \$100 in bag fees between January 1 and March 31, you would submit a payment of \$60 to the Town of Silt within the first week of April.

#### **Does an affected store have to pay sales tax on the 40% portion of the bag fee they collect?**

No. The law explicitly states that the funds kept by the stores from this fee do not count as revenue and are not subject to sales tax. The law does not outline what the store can or should do with this fee revenue.

#### **What will the Town of Silt do with the 60% of the fee revenue?**

????? Proceeds will be applied to costs for our bi-annual Clean Up. ?????

#### **What counts as a single-use carry-out bag, and are there exceptions?**

A single-use carry-out bag is just what it sounds like: a paper or plastic bag that customers use to put items in as they leave a store at check-out. These do not include small and lightweight bags to collect items inside a store like produce, bulk food items, deli items, bulk seed/feed, or prescription medications.

Also, any customer that provides evidence they participate in a federal or state assistance program is allowed to be exempt from being charged the bag fee.

#### **My store is not affected by the law, but I want to reduce bag use at my store, what can I do?**

The rules for which stores are and are not affected by this law are automatic, and this can make it very confusing for stores that would like to opt-in to a program to discourage single-use carryout bags.

The most effective thing to do would be to look for ways to no longer use single-use carryout bags of any kind at your store. Promoting the use of reusable bags is encouraged as much as possible.

Stores that are not affected by this law are allowed to charge their own self-imposed fee on carryout bags. Your store is allowed to retain 100% of the revenue from this fee, but it would be subject to sales tax.



# Town of Silt

## Carryout Bag Fee Return Instructions

### General Information

Retailers must file a carryout bag fee return quarterly, even if the retailer did not collect over \$20 in carryout bag fees and will not be submitting any money.

The returns and checks should be mailed to the following address:

Town of Silt  
P.O. Box 70  
Silt, CO 81652

### Form Instructions

In preparing a carryout bag fee return, a retailer must include its identifying information (such as legal business name and Colorado account number), the filing period, due date, and authorized representative information and signature.

Retailers must enter their Colorado account number, which includes their eight-digit and four-digit site/location numbers, on each return and check. If a retailer has multiple locations, a separate return must be filed for each location.

Returns are due on the 20<sup>th</sup> day of the month following the reporting quarter.

1<sup>st</sup> Quarter (January – March): due April 20

2<sup>nd</sup> Quarter (April – June) due July 20

3<sup>rd</sup> Quarter (July – September) due October 20

4<sup>th</sup> Quarter (October – December) due January 20

The return is due the next business day if the 20<sup>th</sup> is on a Saturday, Sunday, or legal holiday.

- Line 1. Enter the total amount of carryout bag fees collected
- Line 2. The percent of carryout bag fees that is to be submitted to the Town of Silt
- Line 3. Multiple Line 1 and Line 2 to calculate the dollar amount that is to be submitted to the Town of Silt

The retailer’s check submitted to the Town of Silt should equal Line 3.

# Town of Silt

## Carryout Bag Fee Return

Legal Business Name

Colorado Account Number

Filing Period

Due Date

Check here if fees collected are under \$20 and will be remitted next quarter			<input type="checkbox"/>
1	Total Carryout Bag Fee Revenue collected for the quarter		
2	Fee Revenue owed to the Town (60%)		
3	Total Due		

### Authorized Representative

Name

Title

Phone #

Email

Signature

Date

**NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**



HOUSE BILL 21-1162

BY REPRESENTATIVE(S) Valdez A. and Cutter, Amabile, Bernett, Hooton, Kipp, Sirota, Woodrow, Bacon, Bird, Boesenecker, Caraveo, Duran, Froelich, Jackson, Jodeh, Kennedy, Lontine, McCormick, McLachlan, Michaelson Jenet, Mullica, Ortiz, Tipper, Titone, Gonzales-Gutierrez, McCluskie;  
also SENATOR(S) Gonzales and Garcia, Bridges, Buckner, Danielson, Fenberg, Ginal, Jaquez Lewis, Lee, Story.

CONCERNING THE MANAGEMENT OF PLASTIC PRODUCTS.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **repeal** 25-17-104 as follows:

**25-17-104. Local government preemption.** ~~No unit of local government shall require or prohibit the use or sale of specific types of plastic materials or products or restrict or mandate containers, packaging, or labeling for any consumer products.~~

**SECTION 2.** In Colorado Revised Statutes, **add** part 5 to article 17 of title 25 as follows:

*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

**PART 5**  
**MANAGEMENT OF PLASTIC PRODUCTS**

**25-17-501. Short title.** THE SHORT TITLE OF THIS PART 5 IS THE "PLASTIC POLLUTION REDUCTION ACT".

**25-17-502. Legislative declaration.** THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT LIMITING THE USE OF SINGLE-USE PLASTIC CARRYOUT BAGS AND EXPANDED POLYSTYRENE PRODUCTS WILL MITIGATE THE HARMFUL EFFECTS ON OUR STATE'S NATURAL RESOURCES AND OUR ENVIRONMENT THAT RESULT FROM DISPOSING OF THESE PRODUCTS IN OUR LANDFILLS.

**25-17-503. Definitions - rules.** AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) (a) "CARRYOUT BAG" MEANS A BAG THAT IS FURNISHED TO A CUSTOMER AT A STORE OR RETAIL FOOD ESTABLISHMENT AT THE POINT OF SALE FOR USE BY THE CUSTOMER TO TRANSPORT OR CARRY PURCHASED ITEMS.

(b) "CARRYOUT BAG" DOES NOT INCLUDE:

(I) A BAG MADE OF PAPER WHEN THE PAPER HAS A BASIS WEIGHT OF THIRTY POUNDS OR LESS;

(II) A BAG THAT A PHARMACY PROVIDES TO A CUSTOMER PURCHASING PRESCRIPTION MEDICATION;

(III) A BAG THAT A CUSTOMER USES INSIDE A STORE TO:

(A) PACKAGE LOOSE OR BULK ITEMS, SUCH AS FRUITS, VEGETABLES, NUTS, GRAINS, CANDY, OR GREETING CARDS; NAILS, BOLTS, SCREWS, OR OTHER SMALL HARDWARE ITEMS; LIVE INSECTS, FISH, CRUSTACEANS, MOLLUSKS, OR OTHER SMALL SPECIES; AND BULK SEED, BULK LIVESTOCK FEED, OR BULK PET FEED;

(B) CONTAIN OR WRAP FROZEN FOODS, MEAT, SEAFOOD, FISH, FLOWERS, POTTED PLANTS, OR OTHER ITEMS THAT, IF THEY WERE TO COME

IN CONTACT WITH OTHER ITEMS, COULD DAMPEN OR CONTAMINATE THE OTHER ITEMS; OR

(C) CONTAIN UNWRAPPED PREPARED FOODS OR BAKERY GOODS; OR

(IV) A LAUNDRY, DRY CLEANING, OR GARMENT BAG.

(2) "CONTAINER" MEANS A RECEPTACLE UPON WHICH OR INSIDE WHICH FOOD MAY BE PLACED FOR CONSUMPTION, WHETHER OR NOT THE RECEPTACLE CAN BE FULLY CLOSED. "CONTAINER" INCLUDES HINGED FOOD CONTAINERS, PLATES, BOWLS, CUPS, AND TRAYS.

(3) "EXPANDED POLYSTYRENE" MEANS BLOWN POLYSTYRENE, COMMONLY KNOWN AS STYROFOAM™, AND ANY OTHER EXPANDED OR EXTRUDED FOAM CONSISTING OF THERMOPLASTIC PETROCHEMICAL MATERIALS UTILIZING A STYRENE MONOMER AND PROCESSED BY TECHNIQUES THAT MAY INCLUDE:

(a) FOR EXPANDABLE BEAD POLYSTYRENE, FUSION OF POLYMER SPHERES;

(b) INJECTION MOLDING;

(c) FOAM MOLDING; AND

(d) FOR EXTRUDED FOAM POLYSTYRENE, EXTRUSION BLOW MOLDING.

(4) (a) "FOOD" MEANS ANY RAW, COOKED, OR PROCESSED EDIBLE SUBSTANCE, ICE, BEVERAGE, OR INGREDIENT USED OR INTENDED FOR USE OR FOR SALE, IN WHOLE OR IN PART, FOR HUMAN CONSUMPTION.

(b) "FOOD" DOES NOT INCLUDE A DRUG, AS THAT TERM IS DEFINED IN SECTION 25-5-402 (9).

(5) "PLASTIC" MEANS A SYNTHETIC MATERIAL MADE FROM LINKING MONOMERS THROUGH A CHEMICAL REACTION TO CREATE A POLYMER CHAIN THAT CAN BE MOLDED OR EXTRUDED AT HIGH HEAT INTO VARIOUS SOLID FORMS THAT RETAIN THEIR DEFINED SHAPES DURING THEIR LIFE CYCLE AND AFTER DISPOSAL.

(6) "POINT OF SALE" MEANS A CHECK-OUT STAND, CASH REGISTER, OR OTHER POINT AT WHICH A SALES TRANSACTION OCCURS IN A STORE OR RETAIL FOOD ESTABLISHMENT OR, FOR PRODUCTS THAT ARE ORDERED REMOTELY FROM A STORE OR RETAIL FOOD ESTABLISHMENT AND DELIVERED, THE LOCATION WHERE THE PRODUCTS ARE DELIVERED.

(7) "READY-TO-EAT FOOD" MEANS FOOD THAT IS COOKED OR OTHERWISE PREPARED IN ADVANCE FOR IMMEDIATE CONSUMPTION.

(8) "RECYCLED PAPER CARRYOUT BAG" MEANS A CARRYOUT BAG MADE FROM ONE HUNDRED PERCENT:

(a) RECYCLED MATERIAL; OR

(b) OTHER POST-CONSUMER CONTENT.

(9) (a) "RETAIL FOOD ESTABLISHMENT" HAS THE MEANING SET FORTH IN SECTION 25-4-1602 (14) EXCEPT AS PROVIDED IN SUBSECTION (9)(b) OF THIS SECTION.

(b) "RETAIL FOOD ESTABLISHMENT" DOES NOT INCLUDE FARMERS MARKETS AND ROADSIDE MARKETS AS DESCRIBED IN SECTION 25-4-1602 (14)(j).

(10) (a) "REUSABLE CARRYOUT BAG" MEANS A CARRYOUT BAG THAT IS DESIGNED AND MANUFACTURED FOR AT LEAST ONE HUNDRED TWENTY-FIVE USES, CAN CARRY AT LEAST TWENTY-TWO POUNDS OVER A DISTANCE OF ONE HUNDRED SEVENTY-FIVE FEET, HAS STITCHED HANDLES, AND IS MADE OF CLOTH, FIBER, OR OTHER FABRIC OR A RECYCLED MATERIAL SUCH AS POLYETHYLENE TEREPHTHALATE (PET).

(b) "REUSABLE CARRYOUT BAG" DOES NOT INCLUDE BAGS MADE OF BIOLOGICALLY BASED POLYMERS SUCH AS CORN OR OTHER PLANT SOURCES; EXCEPT THAT A CARRYOUT BAG MADE OF HEMP IS A REUSABLE CARRYOUT BAG IF IT IS DESIGNED AND MANUFACTURED IN ACCORDANCE WITH SUBSECTION (10)(a) OF THIS SECTION.

(11) "SCHOOL" HAS THE MEANING SET FORTH IN SECTION 23-3.9-101 (6).

(12)(a) "SINGLE-USE PLASTIC CARRYOUT BAG" MEANS A CARRYOUT BAG THAT IS A SINGLE-USE PLASTIC PRODUCT MADE PREDOMINANTLY OF PLASTIC DERIVED FROM NATURAL GAS, PETROLEUM, OR A BIOLOGICALLY BASED SOURCE, SUCH AS CORN OR OTHER PLANT SOURCES, AND THAT IS PROVIDED TO A CUSTOMER AT THE POINT OF SALE.

(b) "SINGLE-USE PLASTIC CARRYOUT BAG" DOES NOT INCLUDE A REUSABLE CARRYOUT BAG.

(13) "SMALL STORE" MEANS A STORE THAT OPERATES SOLELY IN COLORADO, HAS THREE OR FEWER LOCATIONS IN THE STATE, AND IS NOT PART OF A FRANCHISE, CORPORATION, OR PARTNERSHIP THAT HAS PHYSICAL LOCATIONS OUTSIDE OF COLORADO.

(14)(a) "STORE" MEANS, EXCEPT AS PROVIDED IN SUBSECTION (14)(c) OF THIS SECTION, A GROCERY STORE, SUPERMARKET, CONVENIENCE STORE, LIQUOR STORE, DRY CLEANER, PHARMACY, DRUG STORE, CLOTHING STORE, OR OTHER TYPE OF RETAIL ESTABLISHMENT AT WHICH CARRYOUT BAGS ARE TRADITIONALLY PROVIDED TO CUSTOMERS.

(b) "STORE" INCLUDES A FARMERS' MARKET, ROADSIDE MARKET OR STAND, FESTIVAL, OR OTHER TEMPORARY VENDOR OR EVENT THAT INCLUDES TEMPORARY VENDORS.

(c) "STORE" DOES NOT INCLUDE A SMALL STORE.

**25-17-504. Restrictions on use of single-use plastic carryout bag - inventory exception - repeal.** (1) SUBJECT TO SECTION 25-17-505 (1), ON AND AFTER JANUARY 1, 2024, A STORE OR RETAIL FOOD ESTABLISHMENT SHALL NOT PROVIDE A SINGLE-USE PLASTIC CARRYOUT BAG TO A CUSTOMER; EXCEPT THAT A RETAIL FOOD ESTABLISHMENT NEED NOT COMPLY WITH THIS SECTION IF THE RETAIL FOOD ESTABLISHMENT:

(a) PREPARES OR SERVES FOOD IN INDIVIDUAL PORTIONS FOR IMMEDIATE ON- OR OFF-PREMISES CONSUMPTION; AND

(b) IS NOT A GROCERY STORE OR CONVENIENCE STORE.

(2)(a) SUBJECT TO THE CARRYOUT BAG FEE APPLIED TO SINGLE-USE PLASTIC CARRYOUT BAGS IN SECTION 25-17-505, A STORE OR RETAIL FOOD

ESTABLISHMENT MAY PROVIDE A SINGLE-USE PLASTIC CARRYOUT BAG TO A CUSTOMER ON OR BEFORE JUNE 1, 2024, IF THE SINGLE-USE PLASTIC CARRYOUT BAG WAS PART OF THE STORE'S OR RETAIL FOOD ESTABLISHMENT'S INVENTORY BEFORE JANUARY 1, 2024.

(b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.

**25-17-505. Carryout bag fee - disposition of money - repeal.**

(1) (a) ON AND AFTER JANUARY 1, 2023, AND BEFORE JANUARY 1, 2024, A STORE MAY PROVIDE A CUSTOMER WITH ONE OR MORE RECYCLED PAPER CARRYOUT BAGS OR SINGLE-USE PLASTIC CARRYOUT BAGS AT THE POINT OF SALE ONLY IF THE CUSTOMER PAYS A CARRYOUT BAG FEE OF TEN CENTS PER RECYCLED PAPER CARRYOUT BAG OR SINGLE-USE PLASTIC CARRYOUT BAG, OR A HIGHER FEE IF A MUNICIPALITY OR COUNTY IN WHICH THE STORE IS LOCATED RAISES THE FEE AMOUNT BY ORDINANCE OR RESOLUTION. FOR EACH CARRYOUT BAG FEE COLLECTED PURSUANT TO THIS SUBSECTION (1)(a), THE STORE SHALL:

(I) REMIT, IN ACCORDANCE WITH SUBSECTION (3)(d) OF THIS SECTION, SIXTY PERCENT TO THE MUNICIPALITY WITHIN WHICH THE STORE IS LOCATED OR, IF THE STORE IS NOT LOCATED WITHIN A MUNICIPALITY, TO THE COUNTY WITHIN WHICH THE STORE IS LOCATED, WHICH MUNICIPALITY OR COUNTY SHALL USE THE REMITTED FEE TO PAY:

(A) ITS ADMINISTRATIVE AND ENFORCEMENT COSTS INCURRED AS A RESULT OF THIS SECTION; AND

(B) FOR ANY RECYCLING, COMPOSTING, OR OTHER WASTE DIVERSION PROGRAMS AND RELATED OUTREACH AND EDUCATION ACTIVITIES; AND

(II) RETAIN FORTY PERCENT, WHICH PORTION OF THE FEE DOES NOT COUNT AS REVENUE FOR THE PURPOSE OF CALCULATING SALES TAX.

(b) THE CARRYOUT BAG FEE SET FORTH IN SUBSECTION (1)(a) OF THIS SECTION DOES NOT APPLY TO A CUSTOMER THAT PROVIDES EVIDENCE TO THE STORE THAT THE CUSTOMER IS A PARTICIPANT IN A FEDERAL OR STATE FOOD ASSISTANCE PROGRAM.

(c) THIS SUBSECTION (1) IS REPEALED, EFFECTIVE SEPTEMBER 1,

2024.

(2) (a) ON AND AFTER JANUARY 1, 2024, A STORE MAY PROVIDE A CUSTOMER WITH ONE OR MORE RECYCLED PAPER CARRYOUT BAGS AT THE POINT OF SALE ONLY IF THE CUSTOMER PAYS A CARRYOUT BAG FEE OF TEN CENTS PER RECYCLED PAPER CARRYOUT BAG, OR A HIGHER FEE IF A MUNICIPALITY OR COUNTY IN WHICH THE STORE IS LOCATED RAISES THE FEE AMOUNT BY ORDINANCE OR RESOLUTION. FOR EACH CARRYOUT BAG FEE COLLECTED PURSUANT TO THIS SUBSECTION (2), THE STORE SHALL:

(I) REMIT, IN ACCORDANCE WITH SUBSECTION (3)(d) OF THIS SECTION, SIXTY PERCENT TO THE MUNICIPALITY WITHIN WHICH THE STORE IS LOCATED OR, IF THE STORE IS NOT LOCATED WITHIN A MUNICIPALITY, TO THE COUNTY WITHIN WHICH THE STORE IS LOCATED, WHICH MUNICIPALITY OR COUNTY SHALL USE THE REMITTED FEE TO PAY:

(A) ITS ADMINISTRATIVE AND ENFORCEMENT COSTS INCURRED AS A RESULT OF THIS SECTION; AND

(B) FOR ANY RECYCLING, COMPOSTING, OR OTHER WASTE DIVERSION PROGRAMS AND RELATED OUTREACH AND EDUCATION ACTIVITIES; AND

(II) RETAIN FORTY PERCENT, WHICH PORTION OF THE FEE DOES NOT COUNT AS REVENUE FOR THE PURPOSE OF CALCULATING SALES TAX.

(b) THE CARRYOUT BAG FEE SET FORTH IN SUBSECTION (2)(a) OF THIS SECTION DOES NOT APPLY TO A CUSTOMER THAT PROVIDES EVIDENCE TO THE STORE THAT THE CUSTOMER IS A PARTICIPANT IN A FEDERAL OR STATE FOOD ASSISTANCE PROGRAM.

(c) (I) BEGINNING JANUARY 1, 2024, AND ENDING JUNE 1, 2024, A STORE MAY PROVIDE A CUSTOMER WITH A SINGLE-USE PLASTIC CARRYOUT BAG AT THE POINT OF SALE FOR THE CARRYOUT BAG FEE DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION ONLY IF THE SINGLE-USE PLASTIC CARRYOUT BAG IS WITHIN THE STORE'S REMAINING INVENTORY PURSUANT TO SECTION 25-17-504 (2)(a). THE STORE SHALL REMIT THE FEE COLLECTED PURSUANT TO THIS SUBSECTION (2)(c) IN ACCORDANCE WITH SUBSECTION (2)(a) OF THIS SECTION.

(II) THIS SUBSECTION (2)(c) IS REPEALED, EFFECTIVE JULY 1, 2024.



(3) IN PROVIDING CARRYOUT BAGS FOR A FEE PURSUANT TO THIS SECTION, A STORE SHALL:

(a) FOR EACH CUSTOMER PROVIDED A CARRYOUT BAG FOR A FEE, PROVIDE ON THE CUSTOMER'S TRANSACTION RECEIPT A RECORD OF THE NUMBER OF CARRYOUT BAGS PROVIDED AS PART OF THE TRANSACTION AND THE TOTAL AMOUNT OF FEES CHARGED FOR THE CARRYOUT BAGS PROVIDED, ITEMIZED BY TYPE OF CARRYOUT BAG;

(b) NOT REFUND TO THE CUSTOMER ANY PORTION OF THE CARRYOUT BAG FEE, EITHER DIRECTLY OR INDIRECTLY, OR ADVERTISE OR OTHERWISE CONVEY TO CUSTOMERS THAT ANY PORTION OF THE CARRYOUT BAG FEE WILL BE REFUNDED;

(c) CONSPICUOUSLY DISPLAY A SIGN IN A LOCATION INSIDE OR OUTSIDE THE STORE, WHICH SIGN ALERTS CUSTOMERS ABOUT THE CARRYOUT BAG FEE; AND

(d) (I) ON A QUARTERLY BASIS STARTING APRIL 1, 2024, REMIT FROM THE TOTAL AMOUNT OF CARRYOUT BAG FEES COLLECTED IN THE PREVIOUS QUARTER THE AMOUNT THAT IS OWED TO THE MUNICIPALITY OR COUNTY:

(A) TO THE FINANCE DEPARTMENT OR DIVISION OR EQUIVALENT AGENCY OF THE MUNICIPALITY WITHIN WHICH THE STORE IS LOCATED; OR

(B) IF THE STORE IS NOT LOCATED WITHIN A MUNICIPALITY, TO THE FINANCE DEPARTMENT OR DIVISION OR EQUIVALENT AGENCY OF THE COUNTY WITHIN WHICH THE STORE IS LOCATED.

(II) A STORE NEED NOT REMIT CARRYOUT BAG FEES COLLECTED IN ANY QUARTER IN WHICH THE COLLECTED FEES TOTAL LESS THAN TWENTY DOLLARS. THE STORE SHALL RETAIN THOSE COLLECTED FEES UNTIL THE STORE HAS MORE THAN TWENTY DOLLARS WORTH OF COLLECTED FEES TO REMIT AND SHALL REMIT THOSE FEES AS PART OF THE NEXT QUARTERLY REMITTANCE.

**25-17-506. Prohibition on use of expanded polystyrene food containers.** (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, EFFECTIVE JANUARY 1, 2024, A RETAIL FOOD ESTABLISHMENT SHALL NOT DISTRIBUTE AN EXPANDED POLYSTYRENE PRODUCT FOR USE AS A CONTAINER

FOR READY-TO-EAT FOOD IN THIS STATE.

(2) IF A RETAIL FOOD ESTABLISHMENT PURCHASED EXPANDED POLYSTYRENE PRODUCTS BEFORE JANUARY 1, 2024, THE RETAIL FOOD ESTABLISHMENT MAY DISTRIBUTE ANY REMAINING INVENTORY OF THE EXPANDED POLYSTYRENE PRODUCTS THEN PURCHASED FOR USE AS CONTAINERS FOR READY-TO-EAT FOOD IN THIS STATE UNTIL THE INVENTORY IS DEPLETED.

**25-17-507. Enforcement - possible penalties.** (1) (a) EXCEPT AS PROVIDED IN SUBSECTIONS (1)(b) AND (1)(c) OF THIS SECTION, A LOCAL GOVERNMENT MAY ENFORCE A VIOLATION OF THIS PART 5 AGAINST A STORE OR RETAIL FOOD ESTABLISHMENT THAT IS LOCATED WITHIN THE BOUNDARIES OF THE LOCAL GOVERNMENT IN THE MANNER THAT THE LOCAL GOVERNMENT CHOOSES.

(b) (I) A COUNTY THAT CHOOSES TO ENFORCE A VIOLATION OF THIS PART 5 AGAINST A STORE OR RETAIL FOOD ESTABLISHMENT LOCATED WITHIN THE UNINCORPORATED BOUNDARIES OF THE COUNTY MAY SEEK INJUNCTIVE RELIEF AGAINST THE STORE OR RETAIL FOOD ESTABLISHMENT OR MAY ASSESS THE FOLLOWING CIVIL PENALTIES AGAINST THE STORE OR RETAIL FOOD ESTABLISHMENT:

(A) UP TO FIVE HUNDRED DOLLARS FOR A SECOND VIOLATION; OR

(B) UP TO ONE THOUSAND DOLLARS FOR A THIRD OR SUBSEQUENT VIOLATION.

(II) A COUNTY THAT CHOOSES TO ENFORCE A VIOLATION OF THIS PART 5 MAY BOTH SEEK INJUNCTIVE RELIEF AND IMPOSE A CIVIL PENALTY IN ACCORDANCE WITH THIS SUBSECTION (1)(b).

(c) A LOCAL GOVERNMENT SHALL NOT ENFORCE A VIOLATION OF THIS PART 5 AGAINST A RETAIL FOOD ESTABLISHMENT LOCATED WITHIN A SCHOOL.

(2) FOR PURPOSES OF THIS SECTION, EACH RETAIL SALES TRANSACTION IN WHICH A VIOLATION OF THIS PART 5 IS COMMITTED, REGARDLESS OF WHETHER MULTIPLE VIOLATIONS OF THIS PART 5 ARE COMMITTED IN ONE RETAIL SALES TRANSACTION, CONSTITUTES A SINGLE

VIOLATION OF THIS PART 5.

**25-17-508. Local government regulation - preemption.** ON AND AFTER JULY 1, 2024, A LOCAL GOVERNMENT MAY ENACT, IMPLEMENT, OR ENFORCE ANY ORDINANCE, RESOLUTION, RULE, OR CHARTER PROVISION THAT IS AS STRINGENT AS OR MORE STRINGENT THAN THIS PART 5.

**25-17-509. Exemption for medical products.** NOTHING IN THIS PART 5 PROHIBITS OR LIMITS THE USE OF ANY MATERIAL USED IN THE PACKAGING OF A PRODUCT THAT IS REGULATED AS A DRUG, MEDICAL DEVICE, OR DIETARY SUPPLEMENT BY THE FOOD AND DRUG ADMINISTRATION IN THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE "FEDERAL FOOD, DRUG, AND COSMETIC ACT", 21 U.S.C. SEC. 321 ET SEQ., AS AMENDED, OR ANY EQUIPMENT AND MATERIALS USED TO MANUFACTURE SUCH PRODUCTS.

**SECTION 3. Effective date.** This act takes effect upon passage; except that section 1 of this act takes effect July 1, 2024.

**SECTION 4. Safety clause.** The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

---

Alec Garnett  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

---

Leroy M. Garcia  
PRESIDENT OF  
THE SENATE

---

Robin Jones  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

---

Cindi L. Markwell  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_  
(Date and Time)

---

Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO

## BUSINESS CASE REQUEST

### Town of Silt ("The Town"), Garfield County

<b>Recommendation:</b>	<b>APPROVAL</b>	<b>Funding sources:</b>	<u>Est. DWRF Loan:</u>	<u>\$30,200,000</u>
<b>Est. Project Total:</b>	\$30,200,000		<b>Total:</b>	<u>\$30,200,000</u>
<b>Est. Amount of Loan:</b>	\$30,200,000			
<b>Pledge:</b>	Water & Sewer Revenue			

**Project Description:** Improvements to the Town of Silt water treatment plant (WTP) are necessary to address existing plant limitations, including filtration capacity and aging equipment. Proposed improvements to the facility include improved pretreatment, added filtration, and a water tank for additional storage. These improvements will help the WTP meet current demands, prepare for future growth, and improve resiliency.

**Recommendation:** Due to the lack of highly reliable data and anticipated cost burden of the proposed loan, we recommend approval of the Town's request for Disadvantaged Community (DAC) status. If approved, the Town will have access to a Design and Engineering Grant, a reduced interest rate for the first \$3 million repayable loan, and base program principal forgiveness (PF), in addition to Bipartisan Infrastructure Law (BIL) PF. The Town narrowly missed qualifying for DAC status due to a not highly reliable median household income (MHI) estimate. Historical MHI data shows the Town's MHI is consistently very close to the benchmark, and is growing more slowly than the state MHI. Additionally, the Town will meet two secondary factors at loan application, because the impact of the proposed debt burden and the associated rate increases will pose a substantial burden to the community.



In order to qualify as a disadvantaged community (DAC), an applicant must meet one (1) of three (3) scenarios.

1. Meets benchmarks for P1, and either P2 or P3
2. Meets benchmarks for P1, not for P2 or P3, and meets two or more secondary factors
3. P1 is unreliable. Meets benchmarks for P2 and P3, and two or more secondary factors

<u>Factor</u>	<u>Entity Figures</u>	<u>Benchmark</u>	<u>Qualify?</u>	<u>Notes</u>
P1: MHI	\$59,477	<=\$60,185	?	+/- \$19,602; The Town's MHI meets the benchmark, but is not highly reliable with 20.0% CV. The upper bound of the MHI is \$79,079 and the lower bound is \$39,875.
P2: MHV	\$301,900	<=\$369,900	Yes	
P3: County Unemployment or County Jobs	4.7% 3.2%	>=7.1% <= 0%	No	
S1: County MHI	\$75,435	<=\$60,185	No	
S2: Population change	13.08%	<=0.0%	No	
S3: AV/Households	\$36,864	<=\$21,569	No	
S4: Current system debt	0.64%	>0.73%	No	
S5: Current system cost	2.85%	>2.27%	?	Does not meet the benchmark using the top of MHI band: 2.14%.

## BUSINESS CASE REQUEST

### Town of Silt ("The Town"), Garfield County

The Town is currently eligible for BIL PF. The Town's funding package will ultimately depend on the amount of the loan request and availability of funds. However, based on current funding levels and PF caps/maxes, there are a few potential funding scenarios:

Scenario 1: \$30 million loan (no BIL or DAC PF; no funds available or ineligible).

Scenario 2: \$25 million loan; \$5 million BIL PF (BIL eligible, DAC business case rejected or no funds available).

Scenario 3: \$22.7 million loan; \$5 million BIL PF; up to \$2 million DAC PF; \$300,000 D&E (business case approved; DAC eligible)

It should be noted that the requested loan amount is expected to change as the Town moves through the design process, and the above scenarios are for illustration only.

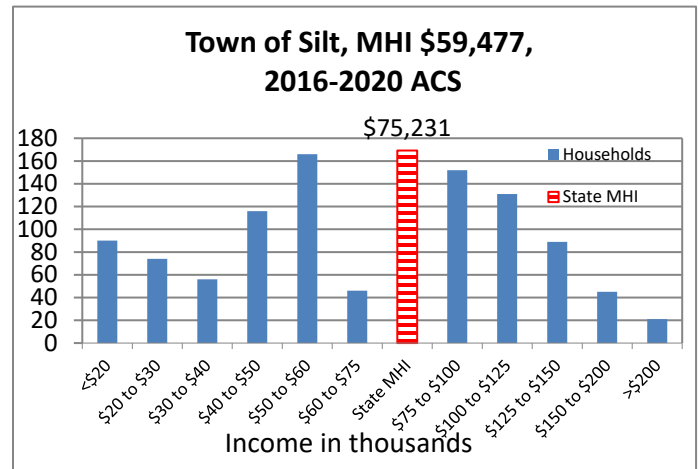
### Explanation of Factors

Existing debt as of December 31, 2021:

Executed	Lender	DAC?	Term End	Pledge	Outstanding	Interest Rate	Annual Payment
2020	Water & Wastewater Revenue Bonds	N/A	2027	Wastewater Revenue	\$2,591,800	2.2%	\$465,305

**P1:** The Town's MHI met the benchmark, but is considered not highly reliable due to a coefficient of variation (CV) that is above the DAC acceptance criteria of 12%. The full band of the Town's possible MHI is \$39,875 to \$79,079. This means that the Census Bureau has determined at the 90% statistical confidence level that the Town's actual MHI may fall anywhere in that band. The Town's estimated MHI is below the benchmark, and the lower MHI bound falls well under the benchmark.

It is reasonable to believe that the actual MHI falls somewhere near the estimated MHI. Up until the current set of ACS data, the Town consistently had a reliable MHI that was just above the DAC benchmark. Looking at the Town's MHI trend, it appears the Town's MHI growth lags behind that of the state; the ratio of the Town's MHI relative to that of the state has decreased from 90% to 79% over the five most recent data sets.



#### MHI History

ACS	MHI	MOE	CV	CO MHI	% of CO MHI
12-16	\$56,477	± \$7,537	8.12%	\$62,520	90%
13-17	\$56,764	± \$3,816	4.09%	\$65,458	87%
14-18	\$57,011	± \$6,212	6.62%	\$68,811	83%
15-19	\$58,779	± \$8,522	8.81%	\$72,331	81%
16-20	\$59,477	± \$19,602	20.03%	\$75,231	79%

## BUSINESS CASE REQUEST

### Town of Silt ("The Town"), Garfield County

There is no available substitute data. Two block groups bisect the Town and both are unreliable, as is the tract. The County is not a good substitute MHI per a T-test.

MHI - ACS 16-20			
ACS - Geography	MHI	MOE	CV
Silt	\$59,477	± \$19,602	20.03%
Tract: 9519.01	\$75,568	± \$18,091	14.55%
Garfield County	\$75,435	± \$4,012	3.23%

**P2:** The Town's MHV has hovered around 80% of the state MHV over the last five data sets. While home values are increasing, the Town is not experiencing the same boom in housing prices seen across the state.

MHV History					
ACS	MHV	MOE	CV	CO MHV	% of CO MHV
12-16	\$204,900	± \$16,955	5.03%	\$264,600	77%
13-17	\$223,900	± \$20,165	5.47%	\$286,100	78%
14-18	\$258,500	± \$24,601	5.59%	\$313,600	82%
15-19	\$277,800	± \$14,749	3.23%	\$343,300	81%
16-20	\$301,900	± \$23,150	4.66%	\$369,900	82%

**P3:** The County has experienced job growth over the last 10-years and the 24-month unemployment rate was lower than the benchmark.

The Town believes that about 90% of residents that report to work in-person must commute for work, as the Town has very few commercial businesses within its boundaries. Additionally, the Town has experienced the closure of a number of businesses in the last four years: two hardware stores, one small grocery store, and the closure of several oil and gas warehouses and office spaces. There is also no grocery store in Town, so between the lack of local places of work and businesses, as well as the water treatment capacity issues, the Town faces challenges in attracting new residents and businesses.

**S1:** The County MHI exceeded the benchmark, but, per a T-test, is not representative of the Town.

**S2:** The Town experienced approximately 13% population growth over the last 10-years. The Town's Water Treatment Plant Master Plan states the existing facility has a 0.6 MGD capacity, well below the design capacity of 1.0 MGD. As a result, the Town is considering limiting additional taps until the infrastructure issues are rectified. While future growth might be restricted by infrastructure limitations, according to the master plan the water treatment plant is currently able to meet production demands.

**S3:** The Town's assessed value per housing unit exceeded the benchmark. Despite not having many businesses in Town, commercial property comprises about one-third of the Town's assessed value, which is likely why the Town does not meet this benchmark despite having a lower MHV.

**S4:** With a score of 0.64%, the Town narrowly misses this benchmark (0.73%), which measures current debt per tap relative to MHV.

As the Town looks to complete the drinking water project, it anticipates approximately \$30,200,000 in additional debt according to the project needs assessment. The loan request may increase or decrease depending on how project costs change prior to loan application. Using an estimated loan of \$30,200,000, the Town will meet/exceed the S4b benchmark (0.73%) for this criterion at 8.05%.

# BUSINESS CASE REQUEST

## Town of Silt ("The Town"), Garfield County

**S5:** The Town's ratio of current system cost per tap compared to MHI, 2.85%, meets the benchmark (2.27%) when using the MHI of \$59,477. However, because the MHI is unreliable, the top of the MHI band must also be considered. When using the top of the MHI band, \$79,079, the calculation moves to 2.14%, which also does not meet the 2.27% benchmark.

When including the projected debt of \$30,200,000, the calculation moves to 5.58%, which meets the S5b benchmark of 2.15%. The benchmark is also met when using the top of the MHI band (\$79,079), 4.20%.

### Eligibility Determination for Bipartisan Infrastructure Law (BIL) Principal Forgiveness:

The Town was deemed eligible for BIL principal forgiveness during the August 9, 2022 pre-qualification meeting. In order to qualify for BIL principal forgiveness, a community must score three (3) points using the BIL Principal Forgiveness Eligibility Criteria outlined in the Intended Use Plans. Additionally, a community with DAC status is automatically eligible for BIL principal forgiveness. The Town scores 5 points using the following criteria:

#### BIL PF DETERMINATION

	Benchmark		Borrower	Points
1. Five Year % Change in Population	1.00%	>	7.31%	0
2a: County Job Loss	0	>	3.24%	0
2b: County Unemployment	7.10%	<	4.70%	
3: Median Household Income, or MHI exceeds 125% of state MHI (-1 point)	\$75,231	>	\$59,477	1
	\$94,039	<		
4: Rates to MHI	1.39%	<	2.45%	1
5: Project addresses removal of lead or emerging contaminants	Yes		No	0
6: % Minority	25%	<	36%	1
7: % Households Housing Burdened	30%	<	49%	1
8: % Population under 200% Poverty Level	35%	<	40%	1
9: % Population under 200% Poverty Level + % Population over 65 years old	50%	<	46%	0
10: Meets DAC criteria	Yes		No	0
Total Points Scored:				5



**2022 SRF Disadvantaged Community Criteria****Loan Terms**

Amount of Loan:	\$ 30,200,000
Interest Rate:	2.50%
Term (years):	20
Annual Payment:	\$ 1,928,053

<b>Applicant:</b>	Town of Silt	
	<b>Test Result</b>	<b>Conditions met to be DAC</b>
	N	Test 1: P1 & P2 or P3
	N	Test 2: P1, Not P2 or P3, & 2+ S1-S5
	N	Test 3: P1 ??, P2 & P3, & 2+ S1-S5

		<b>Benchmark</b>	<b>Applicant</b>	<b>Result</b>	<b>Notes on Data Used</b>
Current Population (2020)	<=	10,000	3,536	Y	
Population 5 years ago (2016)			3,295		
Poulation 10 years ago (2011)			3,127		

**Primary Factors**

P1	MHI (Place)	<=	\$ 60,185	59,477	Y	BG, tract unreliable and exceed benchmark. County not an acceptable sub per t test. See 7-2022 version of DAC template for T-test data.
	Margin of Error (MOE)	±		19,602	Sub	
	Reliability (CV)	<=	12.0%	20.2%	N	
P2	MHV (Place)	<=	\$ 369,900	301,900	Y	
	Margin of Error (MOE)	±		23,150		
	Reliability (CV)	<=	12.0%	4.7%	Y	
P3	24 Month Unemployment (County)	>=	7.10%	4.70%	N	
	or 10 Year % Chng. Jobs (County)	<=	0.0%	3.2%	N	
	Jobs (2020)			32,618		
	Jobs (2011)			31,593		

<b>Priority Factor Count</b>	1
------------------------------	---

**Secondary Factors**

S1	MHI (County)	<=	\$	60,185	75,435	N		
	Margin of Error (MOE)	±			4,012			
	Reliability (CV)	<=		12.0%	3.2%	Y		
S2	10 Year % Chng. Population	<=		0.00%	13.08%	N		
S3	Assessed Value / Housing Unit	<=	\$	21,569	36,884	N		
	Assessed Value				37,584,330			
	Total Housing Units				1019			
S4	Current Debt / Tap / MHV	>		0.73%	0.64%	N	If MHV CV > 12%, calculate result at top of band	Result
WS	Current + Projected Debt/Tap/MHV	>		0.73%	8.05%	Y		
	S4b 80th percentile			2.09%	8.05%	Y		
S5	System Full Cost / Tap / MHI	>		2.27%	2.85%	Y	If MHI CV > 12%, calculate result at top of band	Result
	Projected Rate @ 110% Coverage	>		2.15%	5.58%	Y	2.14%	No
	S5b 80th percentile			3.14%	5.58%	Y	4.20%	Yes
							4.20%	Yes

<b>Secondary Factor Count</b>	1
-------------------------------	---

**System Data for S4 and S5: To be completed by DLG**

Taps or EQR's	1,350
Total Debt	2,591,800
Principal	400,600
Interest	72,920
Operating Expenses	1,837,239
Operating Transfers Out	0
Depreciation	447,598



Date: March 30, 2023

To: Mayor, Trustees and Administrator Layman

From: Sheila McIntyre, Town Clerk/ Municipal Court Clerk

Re: Staff report for March 2023

Town Clerk duties:

- Attended staff meetings
- Worked on code change ordinances
- Meeting with retirement company
- Signed paychecks and A/P checks
- Misc research for various staff members and Attorney
- Customer service
- Prepared and sent out BOT packets, attended and followed up on meetings, work sessions, and transcribed minutes
- Signed business licenses
- Training Lori on doing BOT packet
- Attended Heyday meeting and prepared misc forms
- Index filing and purging of documents
- Training Lori on liquor licensing
- Ran errands: Bank, picked up food for work session, Post Office, Micro Plastics, DMV
- Prepared directives list
- Attended State of the Community luncheon
- Provided cemetery map changes for updated map
- Public notices and ad to paper for seasonal persons
- Attended meeting with Rislende reps
- Reviewed latest codification and put in books
- Transferred money to CSAFE
- Located plot for headstone placement

Municipal Court & Police Dept. duties:

- Input tickets and payments
- Forwarded arrest affidavits to County
- Prepared Appearance Bonds
- Prepared for court and provided notes to Prosecutor
- Attended court
- Processed plea deals approved by Judge
- Correspondences with Prosecuting Attorney & Judge regarding cases and plea deals
- Processed court files after court with Judges' orders and entered bench warrants
- Filing
- Calls with Caselle to fine tune new court module documents
- Processed bench warrants
- Assisted with ordering swag for bike rodeo
- Created a property report for PD
- Training Mary on misc court procedures
- Sealed case



TOWN OF SILT  
STAFF REPORT

---

Date: March 31, 2023

To: Mayor and Board of Trustees

From: Amie Tucker, Treasurer

---

Tasks Completed in March

- Bulk Water
- Payments
- Customer service
- Payroll
- Retirement contributions (FPPA & CRA)
- Payroll tax payments (State & Federal)
- Petty Cash Reconciliation (General and Recreation)
- Reconcile Bank Statements
- Journal Entries
- Financial Statements
- Sales Tax
- Grant Management
- Monthly Disbursements
- Senior Programs Meeting
- Weekly Staff Meetings
- Zoom meeting hosting for Board meetings
- CRA Annual Meeting
- Highway Users Tax Annual Report
- CMAR Interviews
- Compliance Report for State and Local Fiscal Recovery Funds

On St. Patrick's Day in 1973, Pink Floyd's "Dark Side of The Moon" first hits the Billboard Top 200 chart at number 95. A mere 14 years later (736 chart weeks, to be exact), it finally leaves the top 200 for the first time, setting a still-unbroken world record.

A handwritten signature in blue ink, located in the bottom right corner of the page. The signature is stylized and appears to be a first name followed by a last name, though the specific letters are not clearly legible.



## Community Development Department

### MEMORANDUM

TO: Jeff Layman, Town Administrator  
FROM: Nicole Centeno, Community Development Manager  
DATE: March 2023 – April 2023

#### Building Department

- \* Zoning & Building Reviews
- \* Inspections - 88 in March
- \* Contractor Licensing- 16 New / 142 YTD
- \* BEST Tests- 7 New / 16YTD
- \* Miscellaneous Permits – 10 New / 22 YTD
- \* Excavation Permits- 6 New / 10 YTD
- \* Single Family Permits – 2 New / 5 YTD
- \* Commercial Building Permit- 1 New / 2 YTD
- \* Stop Work Orders
- \* Building Code Updates

#### Administration

- \* Staff Meetings
- \* LED/Community Engagement/Communication
- \* Business Licenses- 105 YTD
- \* Customer Service (Calls, Emails, Walk-ins)
- \* Facility Rentals
- \* Office/File Organization
- \* P & Z Meetings and Minutes
- \* Website Management
- \* Social Media Management
- \* Vendor's Licenses- 0 YTD

#### Recreation

- \* Boys Basketball
- \* Lil' Dribblers Basketball
- \* Spring Soccer Reg Open

#### Code Enforcement

- \* Non-Compliant Business Licenses
- \* Commercial Red Tag
- \* RV Enforcement

#### Subdivisions In Process

- \* Stoney Ridge 2  
(Pending Applicant Phasing Plan)
- \* Camario Phase 2  
(Pending Final Plat)

#### Land Use/Planning & Zoning

- \* Family Dollar- Sign Exception
- \* Bunchman Fence Exception
- \* Silt Jumbo Storage
- \* Rislende
- \* Coats Lot Line Adjustment
- \* Trade Center Lot Line Adjustment
- \* Marionni Annexation

#### Special Events- Current & Future Planning

- \* 2023 Event Calendar
- \* Easter Egg Hunt Prep
- \* Concert Prep

- \* Path Obstruction
- \* Construction w/o permit, stop work

**TOWN OF SILT**  
**REGULAR PLANNING AND ZONING COMMISSION MEETING**  
**March 7, 2023 – 6:30 P.M.**  
**HYBRID MEETING**

The Silt Planning and Zoning Commission held their regularly scheduled meeting on Tuesday, March 1, 2023. Chair Williams called the meeting to order at 6:32 p.m.

---

**Roll call**

**Present**

Chair Lindsey Williams  
Vice-Chair Joelle Dorsey, arrived virtually  
after roll call at 6:35 PM  
Commissioner Eddie Aragon  
Commissioner Robert Doty  
Commissioner Michael Bertaux  
Commissioner Charlienna Chancey  
Commissioner Jennifer Stepisnik, arrived  
after roll call at 6:55pm

Also present were Planner Mark Chain, Community Development Manager Nicole Centeno.

---

**Pledge of Allegiance**

---

**Public Comments –**

Angelo II Centofante of 1819 Fawn Court asked to speak. He told the commission that he received a public hearing notice regarding a fence to be located along Highway 6 and 24. He said he was wondering why he got a notice for this fence application and did he not get a notice for the construction of the building. He thought the building was out of scale and he had lived in the area for many years, and this is going to disturb his view. Planner Chain indicated that he understood the concerns and wanted to inform the speaker that the public hearing notice requirements had been changed. From now on, he stated a plan review application will be noticed to all property owners within 200 feet.

---

**Consent Agenda**

1. Minutes of the February 7, 2023 Planning & Zoning Commission meeting.

**Commissioner Dorsey made a motion to approve the minutes of the February 7 meeting with the correction of the date as necessary. Commissioner Bertaux seconded the motion, and the motion carried unanimously**

---

**Conflicts of Interest –** There were no conflicts of interest.

---

**Agenda Changes –** There were no agenda changes.

---

## **Sign Exemption – Family Dollar**

Community Development Manager Centeno introduce the project. Staff indicated that Dave Randolph and Scott Kipnis representing the applicant (United Sign Systems) were virtually present. She noted that the property address was 1007 Main Street and this has been changed from a county address because of its located session in the middle of Silt's Downtown. She told the Commission that they looked at this before, with the previous sign exception. Just like their first application, United Signs is proposing dual branded signage on the east end of the building for Family Dollar/Dollar Tree. She indicated that staff had no problems with the application, that the size of the signage was comparable to the other stores in that vicinity. She also indicated that the signs will be turned off 30 minutes after the store closes. She went through other items in the application and recommended approval with the conditions listed. The applicant asked if there were any questions related to the application.

Planning Chair Williams indicated that the sign appeared bigger than she was aware of from the previous exemption. She was a bit concerned as the signs faced residential properties and that it was a "big push". Commissioner Doty noted that the signage in the front of the building was okay and perhaps this was easy to remedy. Perhaps it could be brought down a little in height and he said that the illumination did not appear to be too much. He thought was adequate for what it is.

Commissioner Bertaux said perhaps this signage should be made the same size as the previous signage on the other side of the building. Dave said that they could do this. Scott asked to address the Commission. He said that because the amount of space available and given the size of the building, that this was a reasonable sign proposal. Commissioner Aragon says that he had no comments regarding the size, but he did have a concern on the illumination. Chair Williams noted that the proportions could be modified slightly and that would make it a better proposal. There was some discussion on the dimensions of the sign etc. Dave thought that perhaps it was best to split the difference. After further calculations, Dave said the signs on the front and back were the exact same size, however, on the front, they are stacked and on the back they are not.

Commissioner Bertaux made a motion to approve the dual branding sign with the conditions listed but with adding a condition # 7 which would state: "the sign exception is approved but will be the same size and height and width as previously approved on the front (west) side of the building. Second by Commissioner Dorsey.

Chair Williams said she needed to open the public hearing before moving forward.

The public hearing was opened at 6:56 PM. There was no comment. The public hearing was closed at 6:57.

Commissioner Bertaux made the identical motion. Second by Commissioner Dorsey: the motion passed by a vote of 4 to 1. Voting "no" was Commissioner Doty.

### ***Conditions below for the record***

1. That the illuminated signs are automatically turned off at store closing each night, in order to best accommodate the surrounding residential properties.
2. If there is an increase in the illumination or change to the current proposal, the applicant

will be required to apply for a new sign exception.

3. All representations of the applicant made in writing, application materials and verbally at the Planning Commission meetings or that are reflected in the meeting minutes are considered to be part of the application and are binding on the applicant.
  4. Applicant will provide any additional requested documents and pay any remaining fees, prior to installation and recordation of the sign exception.
  5. Community Development will need to issue a permit before installation of signs can occur. The Town will also need to inspect the signs, prior to the permit being approved to close out.
  6. Any additional signs will require a permit and sign exception, if necessary.
  7. That the dual branding signs on the east side of the building will be the same size and height as those approved on the front, AKA the west side, of the building.
- 

### **Bunchman Fence Variance**

Commissioner Centeno introduced the project. She indicated that the owner, C T Western, received the site plan approval for a building in the Silt Trade center at 1828 Silver Spur in order to construct residential units on the second level. She indicated that the owner suggested it would be good to have privacy. She said the applicant, Mark Bunchman (Present virtually) indicated he wanted a higher fence due to the visibility of the project related to the lower grade adjacent to Highway 6 and 24. Manager Centeno said that there is not good guidance for this matter in the PUD and the height of the fence is not mentioned, outside of screening storage. She indicated that she thought the 6-foot fence, as requested, should be acceptable. She had noticed that across the street there were 6-foot-high fences along Highway 6 and 24 as well as along other nearby streets.

Staff recommended approval and noted that the application met the criteria in section 15.06 of the Silt Municipal Code. Centeno also went over her other conditions of approval including the fact that no construction should be placed within the easement, unless determined by staff that it's appropriate, based on utility placement. She read the conditions for the record.

Commissioner Bertaux noted that there was a bus stop nearby. He noted that there may be families renting there and he would like some separation from the street. Commissioner Aragon asked how far away the fence would be from the road. Mr. Bunchman then stated that it was about 10 feet off of the right-of-way. Chair Lindsay open the public hearing at 7:07 PM. There were no requests to speak. The public hearing was closed at 7:08 PM.

There were some comments on the motion. Commissioner Doty had some questions on the commercial zoning and whether this is employee housing. There were some discussions on parking, setbacks etc.

Commissioner Aragon made a motion to approve Bunchman Fence Variance requests with staff recommendations. Second by Commissioner Mike; The motion passed by a vote of 4 to 1. Voting No was Commissioner Doty.

**Conditions noted below for the record**

1. That the proposed fence meets all applicable criteria in the Silt Municipal Code Chapter 15.06.
2. That the proposed fence be located entirely on the applicant's property; but not installed in designated/recorded easements, unless approved by staff.
3. That the fence exception is limited to the exact request as depicted in the applicant's submitted photograph/site plan.
4. That all representations of the applicant made in writing, application materials and verbally at the Planning Commission meeting or that are reflected in the meeting minutes are considered to be part of the application and are binding on the applicant.
5. That applicant will provide any additional requested documents and pay any remaining fees, prior to installation and inspection of the approved fence.
6. That this approval is not for construction, but rather the exception of the height and location. Community Development will need to issue a permit before the installation of fence can occur.
7. That all future fencing proposals will require a permit and fence exception, if required.

---

**Request to continue public hearing for Site Plan Review for Silt Jumbo Storage.**

Planner Chain said that this was an agenda item originally placed on this agenda for a review of a project at 510 W. Main St. He told the commission that there was a glitch in sending out the notices because of schedule related to President's Day. He asked the Commission to continue the Public Hearing until the April 4 Planning Commission meeting. Motion by Commissioner Dorsey to continue the public hearing and discussion to April 4. Second by Commissioner Aragon; the motion passed unanimously.

---

**Planners Report**

Planner Chain provided this input. He wanted to tell the commission that the Preliminary Subdivision Plat for the Rislende project had been submitted and it would be reviewed at the April 4 meeting. He also reiterated the Silt Jumbo storage project would also be on that agenda for review.

Manager Centeno noted that some code items would be coming forward in the near future; the first batch would be to update Title 15 – regarding building code. Centeno also noted that the joint session between the Board and Commission is scheduled for March 27. Finally, Chain mentioned that at that meeting the commission also may see a potential development plan outlined for an introductory review by the Board for the 15 acres next to the Holiday Inn. He said that this was a mixed-use project was some residential by the river.



---

### Commissioner Comment

Commissioner Jody had a few comments to make about the fence variance previously discussed.

There was a question about the name of the upcoming storage project – what is the “Jumbo” term and what exactly does it mean. Chain said that’s what the applicant is calling it. He noted that the square footage for the project was somewhere in the mid 60,000 ft.<sup>2</sup>s.

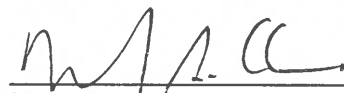
Commissioner Dorsey had some questions on the status of the storage at River Run. Manager Centeno noted that it was getting ready for issuance of building permit. She also said that there was a question and that it may be phased approval because the office and residential unit were undergoing some design changes.

Chair Williams said that the February 27 work session, where there is an extended discussion on the Water Treatment Plant was very interesting and she suggested commissioners watch that session if it was available online.

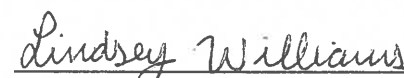
### Adjournment

Commissioner Bertaux made a motion to adjourn. Second by Doty; meeting adjourned at 7:34 PM.

Respectfully submitted,

  
\_\_\_\_\_  
Mark Chain  
Planner

Approved by the Planning Commission

  
\_\_\_\_\_  
Lindsey Williams  
Chair



---

March 24, 2023

News You Can Use

---

## **Silt Board of Trustees Considers Selecting Contractor for Water Plant Pre-Construction**



### **CMAR Process Provides Additional Transparency, Collaboration in Pricing**

The Silt Board of Trustees on Monday night, March 27, will consider the selection of a contractor to assist in the design and engineering of the improvements planned for the Silt Water Treatment Plant. The Town advertised for Construction Manager at Risk firms (CMAR) last month. Two national firms, Garney Construction and Hensel Phelps responded. Garney proposed doing the work for \$199,416, while Hensel Phelps proposed \$175,160.

By selecting the CMAR delivery method for this Project, the CMAR is expected to collaborate closely and transparently with the Town and its Design Engineer during Phase I to develop a design that achieves our objectives at a mutually agreeable Guaranteed Maximum Price (GMP).

With Town staff controlling the process, the Town, Dewberry engineers and the CMAR work together to develop cost models and assistance in securing State Revolving Fund (SRF) loans, avoiding and reducing impacts to existing operations and maintenance due to construction activity, and set and achieve realistic and appropriate completion dates.

A Town subcommittee consisting of Mayor Pro Tem Kyle Knott, Trustee Jerry Siefert, consulting engineers and staff interviewed representatives of both companies and decided that while both firms were well-qualified to perform the work, it was more comfortable with Garney Construction.

Garney was selected primarily for the following reasons:

- Experience in building and starting plants with the technology specified for the Silt plant.
- Exclusive construction experience in water supply, wastewater, pipe, pump, tank and heavy civil projects. They do not do projects *not* associated with water.
- The proposed Construction Manager for this project lives 20 minutes from Silt and has extensive Western Colorado construction experience.

Contracting with Garney at this point does not obligate the Town to actually pursue building the water plant improvements. Nor does it obligate the Town to contract with Garney beyond the \$199,416 CMAR process, which will be complete in November 2023. Only by amendment to the agreement, voted on by the Town of Silt Board of Trustees, will the contract with Garney be extended to include construction of the improvements.

It is well documented that the Silt Water Treatment Plant is not a reliable long-term facility for the Town. Our contract engineering firm, Dewberry, our contract Operator in Responsible Charge (ORC) and our Public Works Director have all recommended that the plant be substantially improved in the near future to address capacity issues, aid in turbidity filtration and treat iron and manganese issues effectively. Added to this is the urgency of not knowing how long this facility will remain operational.

The meeting on Monday evening will start at 7 PM at Silt Town Hall.

---

## Silt Board of Trustees to Discuss Water Rate Structures



Water rate structures will be the topic of conversation between Trustees on Monday night at the Board of Trustees meeting. The method of how to charge for water service has come up from time to time, but now that the Board is faced with paying for significant improvements in its inadequate water plant, it asked staff to develop an updated water rate structure for the Town. The new structure will address both the current state of affairs and future needs. Financial Analyst

Jim Mann will be on hand to introduce a couple of options and to discuss others.

The “current state of affairs” is led by the realization that Silt’s water service operates at a roughly \$200,000 deficit, paid for by wastewater revenue. A proposed “status quo” rate structure, averaging about \$95 per ratepayer would close this gap, but would not provide any improvements to the plant.

Other options, averaging between \$137 and \$143 per month would fully pay for water operations, provide a comfortable six-month reserve and make the improvements necessary for the water plant for the next 20+ years.

More information can be found at [www.townofsilt.org](http://www.townofsilt.org) on the home page, lower left hand corner under the button titled “Water Treatment Plant Planning Documents and Information”.

The meeting on Monday, March 27 will begin at 7 PM at Silt Town Hall.

---

## DMV Returning to Silt in April



---

## Join Us For Our Annual Easter Egg Hunt!



---

## Don't Forget to Check Out Silt's New Website!



# Town of Silt

## Find information & report issues!



### Connect Via Text

Introducing a new way to skip a phone call and use your mobile phone's text messaging service to quickly report issues and find information on the go.

### 24/7 Assistance

Smart texting technology searches keywords to provide assistance anytime, day or night.

### Get Started

Text **Hi** or any of the other featured keywords to:

**970.876.6007**

View terms and privacy policy info at: [textmygov.com/opt-in-terms-conditions](https://textmygov.com/opt-in-terms-conditions)  
Msg & Data rates apply. Msg frequency varies.

Powered by

**TextMyGov**<sup>™</sup>



---

March 31, 2023

News You Can Use

---

## Tara Subdivision; Eagle's View Street Improvements Top 2023 List



Streets in Silt's Tara and Eagle's view subdivisions will get significant upgrades starting this spring. Town crews have already started replacing water valves in Tara, the first step is fixing both a water distribution problem and road surface issues. Up to five valves were found to be broken and ineffective at shutting water off in emergencies and are in the process of being replaced.

Following the waterworks improvements, Cottonwood and Dogwood will be milled and re-surfaced. If the budget makes it possible, depending on bids, Birch will also be completed.

Home Avenue will require some additional civil engineering work being completed over the next year or so and is likely to be rebuilt in 2024. In the meantime, potholes will be fixed along Home to make the driving experience a little more acceptable.

Also on the agenda for summer of '23 is the complete rebuild of Eagle's View Circle in the Eagle's View subdivision. Due to poor road bed compaction, the street has been collapsing. This project is designed to bring it up to current standards.



## DMV Coming to Silt April 19th



**COLORADO**  
Department of Revenue

*Can't get to the  
DMV??*

**WE BRING  
OUR  
SERVICES  
TO YOUR  
COMMUNITY**

### WHERE:

Town of Silt  
231 N 7th St Silt, CO 81652

### WHEN:

Wednesday - 4/19/23  
9:00 AM - 4:00 PM



**RENEW OR REPLACE A DRIVER'S LICENSE,  
ID, OR PERMIT**

**NEED A FIRST-TIME DRIVERS LICENSE, ID, OR PERMIT? WE GOT YOUR BACK!!**



**CHECK OUT  
THE NEW  
WEBSITE!**

[discoversiltcolorado.com](http://discoversiltcolorado.com)

