

**TOWN OF SILT  
RESOLUTION NO. 27  
SERIES 2024**

**A RESOLUTION OF THE BOARD OF TRUSTEES APPROVING A  
REIMBURSEMENT AGREEMENT WITH MAIN STREET PLAZA AND  
EXECUTING A CHANGE ORDER TO THE WEST HOME AVENUE PROJECT  
FOR THE TOWN OF SILT, COLORADO**

**WHEREAS**, the Board of Trustees (“Board”) of the Town of Silt (“Town”), Colorado, has the authority to approve agreements in accordance with the Home Rule Charter and Silt Municipal Code; and

**WHEREAS**, the Town awarded a contract to Frontier Paving Inc. for the reconstruction of a portion of West Home Avenue in the amount of \$764,351.75; and

**WHEREAS**, Main Street Plaza, LLC, a Colorado limited liability corporation has requested certain improvements be made to benefit the property identified by the Garfield County Assessor as Parcel Number 217909100045; and

**WHEREAS**, Frontier Paving has submitted a Change Order in the amount of \$76,123.00; and

**WHEREAS**, the Town’s engineer estimates that engineering review costs and administration will not exceed \$2,500; and

**WHEREAS**, Main Street Plaza, LLC is desirous of entering into a Reimbursement Agreement with the Town for an approximate amount of \$78,623.00; and

**WHEREAS**, the Town agrees that undertaking the underground work to benefit the above stated parcel is in the best interest of the Town and Main Street Plaza, LLC.

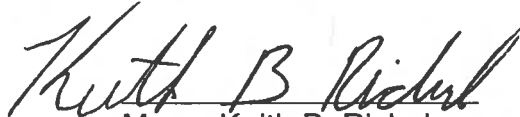
**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF SILT, COLORADO, that**

1. The above recitals are hereby incorporated as findings by the Town of Silt.
2. The Board hereby authorizes the execution of the Reimbursement Agreement in the approximate amount of \$78,623.00, in substantial form as that of the form attached hereto as **Exhibit A**, subject to the Town’s attorney review and approval.
3. The Board hereby authorizes the Frontier Paving, Inc. Change Order, attached hereto as **Exhibit B**, for the West Home Avenue Project be approved in the approximate amount of \$76,123.00.

4. Upon approval of this Resolution, the Town Administrator is hereby authorized to sign the Reimbursement Agreement and the Contract with Frontier for the utility work on behalf of the City.
  
5. Town staff is directed to separately track all Town legal and engineering costs related to the Reimbursement Agreement in order that the Town may be reimbursed for said costs.

**INTRODUCED, APPROVED AND ADOPTED** at a regular meeting of the Board of Trustees of the Town of Silt on the 12th day of August, 2024.

TOWN OF SILT

  
Mayor Keith B. Richel

ATTEST:

  
Town Clerk Sheila M. McIntyre, CMC





**REIMBURSEMENT AGREEMENT**

This REIMBURSEMENT AGREEMENT (the “Agreement”) is made this 17<sup>th</sup> day of August 2024, by and between the Town of Silt, a Colorado home-rule municipality (the “Town”), whose address is 231 N. 7<sup>th</sup> Street, P.O. Box 70, Silt, CO 81652, and Main Street Plaza, LLC, a Colorado limited liability corporation (the “Developer”), whose address is 160 W. Main Street, Silt, Colorado 81652.

WITNESSETH

WHEREAS, Developer is the owner of a 1.32-acre property located within the Town identified by the Garfield County Assessor as Parcel Number 217909100045 (the “Property”), which property is more particularly described as:

Section: 9 Township: 6 Range: 92 A PARCEL LOCATED IN THE NENE AND MORE PARTICULARLY DESCRIBED ON THE PLAT REC.# 792720.

WHEREAS, Developer is in the pre-application process for a development on the Property, which will require utilities being connected to the north side of Home Avenue;

WHEREAS, the Town is repaving Home Avenue; and

WHEREAS, the Developer would benefit from the Town initiating design and construction of certain capital infrastructure on the Property prior to repaving Home Avenue, and the Town will benefit from initiating design and construction of the infrastructure prior to repaving Home Avenue to avoid street cuts to Home Avenue after it is repaved; and

WHEREAS, the Developer is not able to complete the infrastructure improvements contemplated above due to the short timeframe before the repaving work is to begin, and the Town has agreed to complete the improvements and then to be reimbursed later by Developer; and

WHEREAS, the Parties are willing to enter into this Agreement to minimize construction in the Town by performing the infrastructure improvements now, which will be less expensive for the Developer; and

WHEREAS, a scope of work and preliminary estimate of costs associated with completing the infrastructure improvements to the Property has been obtained from Frontier Paving, Inc., a Colorado corporation (“Frontier”), a copy of the Budget proposal is attached hereto as Exhibit A (the “Work”); and

WHEREAS, the preliminary estimate of costs for the Work is approximately Seventy-Six Thousand, One Hundred and Twenty-Three Dollars (\$76,123.00), which estimate is based on a time and materials contract, and said estimate may not change by the end of the project; and

WHEREAS, the Town of Silt, Board of Trustees (the “Board”), of the Town has determined that undertaking the Work is important to the growth and development of the Town, is in

furtherance of the public health, safety and welfare, and is consistent with the approved plans for the Property; and

WHEREAS, the Parties are desirous of the Town beginning construction of the Work on the Property in August 2024; and

WHEREAS, Developer specifically acknowledges and agrees that it will derive a material benefit (a benefit estimated to be approximately \$76,123.00 in cost savings) in that some or all of the required infrastructure improvements will be completed by Town during the Work and not required to be completed by the Developer; and

WHEREAS, Developer agrees to reimburse Town for up to the full amount of its costs in accordance with the terms and provisions of this Agreement; and

NOW THEREFORE, the parties hereto, for themselves, and their respective successors and assigns, in and for the consideration of the full and faithful performance of the conditions and obligations set forth herein by each party, the receipt and adequacy of which is hereby acknowledged, do hereby covenant and agree as follows:

1. Town Authority. In making the commitment to proceed with the Work, the Town Board specifically finds and determines that the Work is within the lawful authority and powers of the Town.

2. Reimbursement Amount. Within thirty (30) calendar days following completion of the Work, Town shall certify to the Developer the total costs incurred in completing the Work (the "Town's Certification"). Said amount certified by the Town shall be the total amount for the completed Work on the project, together with the Town Costs, including any legal, engineering, and other administrative costs associated with the preparation and performance of this Agreement (hereafter, the "Reimbursement Amount"). As set forth below, the Reimbursement Amount shall also include penalty interest, plus costs and attorneys' fees incurred by the Town in enforcing the terms and provisions of this Agreement. The Town will provide the Developer with a copy of the contract with Frontier Paving, Inc. (or other grading contractor selected by Town) and copies of any and all contractor invoices, authorized change orders, and other documentation of other costs related to the Work, including but not limited to the Town Costs, in order that the Developer may fully and completely substantiate the Reimbursement Amount certified by the Town. The Developer shall be obligated to pay interest on the Reimbursement Amount as follows:

6.25% per annum from the date on which the Town provides  
Town's Certification to Developer through August 31, 2026;  
18% per annum penalty interest after September 1, 2026.

3. Third Party Beneficiary. The Town agrees that the Developer is a third-party beneficiary to the Town's Contract with Frontier. If Developer determines that it needs to assert a claim against Frontier or any subcontractors for the Work, the Town agrees to cooperate with Developer in prosecuting that claim, including asserting claims against Frontier. Developer agrees that it will reimburse the Town for all costs and expenses incurred

4. Obligation to Repay. Developer agrees that it shall be obligated to cause the payment of the Reimbursement Amount to Town. Developer shall be personally liable for the representations



and warranties made in this Agreement. Repayment of the Reimbursement Amount is not contingent upon the Work being performed in a satisfactory manner to the Developer, in any way whatsoever.

A. Developer shall repay the Reimbursement Amount to the Town at the earliest of 1) the Town’s Approval of a revised Final Plat, 2) by September 1, 2026, or 3) any subsequent sale or conveyance of the property, as specified below in subsection 3(D) and paragraph 4.

B. This Agreement shall be recorded in the real property records of the Clerk and Recorder of Garfield County, Colorado against the Property, being more particularly described as:

Section: 9 Township: 6 Range: 92 A PARCEL  
LOCATED IN THE NENE AND MORE  
PARTICULARLY DESCRIBED ON THE  
PLAT REC.# 792720, GARFIELD COUNTY,  
STATE OF COLORADO

C. The Parties to this Agreement specifically acknowledge and agree that the Reimbursement Amount shall constitute a valid special assessment of Town imposed against the Property.

D. At the time of any subsequent sale or conveyance of the Property, the total amount of the Reimbursement Amount shall be conveyed to Town. Developer shall have the affirmative obligation to inform any title company conducting the closing of the Property of the existence of this Agreement and ensure that the Reimbursement Amount is paid out of closing proceeds or otherwise satisfied. If the proceeds of the sale of the Property are insufficient to fully pay the Reimbursement Amount to Town, Developer’s obligation to pay the Reimbursement Amount shall continue to run with the Property until fully satisfied.

5. Sale or Gift of Property. Developer agrees that it shall use commercially reasonable efforts to sell the Property for a price which is commercially reasonable and not at an unreasonably discounted or inflated rate. Notwithstanding anything herein, the Developer shall in no event sell, convey or donate the Property for an amount that would provide net proceeds to the Town of less than the Reimbursement Amount. Developer agrees to provide Town with written notice of the pending sale of the Property, which notice shall include: (a) the scheduled closing date; and (b) a copy of the preliminary settlement statement showing estimated net proceeds to Developer, as seller.

6. Town Right to Foreclose Penalty Interest. Developer specifically acknowledges and agrees that if Town has not received the Reimbursement Amount, including all interest accrued, as specified in Paragraph 3(A) above, or at the latest on or before September 1, 2026, any outstanding balance of the Reimbursement Amount shall be considered immediately due and payable to Town. In addition, Town shall be permitted to foreclose its lien for the Reimbursement Amount in accordance with Section 31-25-1101 et seq., C.R.S., and collect its costs as permitted



therein, including but not limited to publication costs, costs of sale, and service of process fees. Unless and until the Reimbursement Amount is fully satisfied, the Town shall have the additional right to deny Developer, and/or its successors and assigns, building permits for any lots or tracts located within the Property.

7. Satisfaction of Special Assessment. Upon the Town's receipt of the Reimbursement Amount from Developer, the Town shall record a notice of satisfaction, release of lien, or other document the form of which is acceptable to the Town Attorney evidencing that the Property is no longer subject to the special assessment represented by the Reimbursement Amount.

8. Governing Law and Enforceability. This Agreement shall be construed in accordance with the laws of the State of Colorado, and venue shall be in the District Court of the County of Garfield, State of Colorado.

9. Time if of the Essence. Time is of the essence hereof provided, however, that if the last day permitted or the date otherwise determined for the performance of any act required or permitted under this Agreement falls on a Saturday, Sunday, or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

10. Developer Representations. Developer hereby represents and warrants to and for the benefit of Town:

- A. That it has full power and authority to enter into this Agreement; and
- B. Neither execution and delivery of this Agreement nor compliance by Developer with any terms, covenants and conditions is or shall become a default under any other agreement or contract to which Developer is a party, or by which Developer is or may be bound; and
- C. Developer has taken and performed all requisite acts or actions which may be required by its organizational or operational documents to confirm its authority to execute, deliver, and perform its obligations under this Agreement.

The foregoing representations and warranties are made as of the date hereof and shall be deemed continually made by Developer to Town for the entire term of this Agreement.

11. Assignment. No party to this Agreement may assign its interest herein without the prior written consent of the other parties. Any assignment without such consent shall be void.

12. Waiver. No waiver by any of the parties of any term or condition of this Agreement shall be deemed to be or shall be construed as a waiver of any other term or condition of this Agreement, nor shall any waiver of a breach of any provision of this Agreement be deemed to constitute a waiver of any subsequent breach of the same provision.

13. Recording of Agreement. Upon execution of this Agreement by all parties, this Agreement shall be recorded in the office of the Clerk and Recorder of Garfield County. Upon

receipt of the full amount of the Reimbursement Amount by Town, the Town shall record a document releasing the Property from the lien.

14. Entire Agreement. This Agreement contains the entire agreement of the parties relating to the subject matter hereof and, except as provided herein, may not be modified or amended except by written agreement of the parties. Nothing in this Agreement shall be construed or interpreted as amending, altering or providing any development rights at the Property.

15. Severability. In the event a court of competent jurisdiction holds any provision of this Agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Agreement.

16. Headings. Paragraph headings used in this Agreement are for convenience of reference and shall in no way control or affect the meaning or interpretation of any provision of this Agreement.

17. Attorney's Fees. In the event any party hereto should default in any of its obligations herein and the party or parties not in default commence legal action against the defaulting party, the defaulting party expressly agrees to pay all the non-defaulting party's or parties' reasonable expenses of litigation, including attorney's fees.

18. No Third-Party Beneficiaries. Except as herein provided, no person or entity, other than a party to this Agreement, shall have any right of action under this Agreement including, but not limited to, Frontier Paving Inc., or other grading contractor selected by Town to undertake the Work, or any other subcontractor(s) providing work, services or materials for the Work.

19. Notices. Written notices required under this Agreement and all other correspondence between the parties shall be directed to the addresses set forth in the introductory paragraph of this Agreement and shall be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested.

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

TOWN OF SILT

*Keith B. Richel*

Mayor Keith B. Richel



ATTEST:

*Sheila M. McIntyre*  
Town Clerk Sheila M. McIntyre

APPROVED AS TO FORM:

*Michael Sawyer*  
Michael Sawyer, Town Attorney







P.O. Box 1167  
 Silt, Colorado 81652



Office 970.625.2224  
 Fax 970.625.2715

**Proposal**

<b>Submitted To:</b>	<b>Phone:</b>	<b>7/30/2024</b>
Town of Silt 231 N 7th Street, Silt, Co 81652  jlundeen@townofsilt.org Deric@bu-inc.com	<b>Job Name:</b> Joe Lundeen Home Avenue-Main street Plaza Utilities	

**WE PROPOSE:**

<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Extension</u>
Mob	1	EA	\$3,160.00	\$3,160.00
Water Line	110	LF	\$397.00	\$43,670.00
Irrigation	15	LF	\$880.00	\$13,200.00
Sewer	25	LF	\$396.00	\$9,900.00
Man Hole Core 8" Pipe 6" thick concrete	1	Ea	\$1,500.00	\$1,500.00
Traffic Control	2	Day	\$1,800.00	<u>\$3,200.00</u>
			<b>Sub Total</b>	<b>\$74,630.00</b>
Bond 2% of Project Total			\$1,493.00	\$1,493.00
			<b>Bid Total:</b>	<b>\$76,123.00</b>

**Notes:**

- \* Retail Delivery Fee included.
- \* Permits, fees, testing, & water excluded.
- \* Bypass Pumping Excluded.
- \* Survey, soft subgrade repair, utility, excluded.
- \* No work other than what is specifically stated above is included, implied or assumed in the prices quoted.
- \* Acceptance of quote based on mutually acceptable schedule.
- \* Altering any of the above quantities will require review of proposal.
- \* Pricing only valid for 2024 season.

"This Change Order includes 150' pipe, 3 tees, fittings, 5 gate valves, 6 thrust blocks, tracer wire, trenching, bedding, compacted backfill, manhole coring, pipe boots, etc. (as may be required for a completed project) to extend the potable water, irrigation water and sanitary sewer mains/services to the Main Street Plaza property

- \* A resale certificate or tax exempt certificate must be provided or material tax will be added.

**UNLESS OTHERWISE NOTED, THIS IS A UNIT PRICE PROPOSAL**

All of the above work to be completed in a workmanlike manner for the above stated sum.

Important: The terms and conditions stated on page 2 hereof are expressly made a part of this contract. This proposal shall not become a binding contract unless and until the Acceptance of Proposal and Confirmation by Contractor on page 2 has been executed. This proposal must be accepted as provided and delivered to Frontier Paving Inc. 20 days from above date or it shall expire.

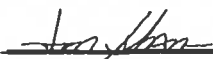
Accepted Proposal # 14521

Date: \_\_\_\_\_

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

Print Name: \_\_\_\_\_

Respectfully submitted  
 Frontier Paving Inc.

By: 

Jon Isham



Reception#: 1000558  
 10/03/2024 10:40:33 AM Jacklyn K. Harmon  
 11 of 11 Rec Fee:\$63.00 Doc Fee:0.00 GARFIELD COUNTY CO

P.O. Box 1167  
 Silt, Colorado 81652



Office 970.625.2224  
 Fax 970.625.2715

**TERMS AND CONDITIONS**

This contract amount is payable to Frontier Paving Inc. for monthly work as it progresses with the entire balance payable upon completion unless otherwise provided in this contract or in the plans and specifications. Unless otherwise specified herein, the plans and specifications, if any, are expressly made a part of this contract. The contractor shall perform all the work in accordance with the terms of the plans and specifications.

If payments for work are not made when due, the contractor may stop work or terminate this contract and recover from the customer payment for all work executed and any loss sustained and reasonable profit and damages. It is hereby mutually agreed that the contractor shall not be held responsible or liable for any loss, damage, liquidated damages or delay caused by fire, strike, civil or military authority or any other cause beyond its control.

The customer may order additional work or changes in writing at any time, at an agreed price or at the contractor's regular rates for the time and material work.

A late charge of 18% per annum on the outstanding balance may be imposed upon all past due amounts. Customer agrees to pay all costs of collection and a reasonable attorney's fee if the account becomes delinquent and is referred for collection.

**ACCEPTANCE OF PROPOSAL**

The prices, specifications, term and conditions stated above and on page 1 hereof are satisfactory and are hereby accepted. By acceptance, I understand that a binding contract has been created when confirmed by Frontier Paving Inc.

ACCEPTED PROPOSAL # 14521

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

**CONFIRMATION BY CONTRACTOR**

**FRONTIER PAVING INC.**

Date: \_\_\_\_\_

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

**Jon Isham**