



**TOWN OF SILT, COLORADO
RESOLUTION NO. 38
SERIES OF 2024**

A RESOLUTION OF THE TOWN OF SILT, COLORADO, APPROVING AN ENCROACHMENT LICENSE AGREEMENT TO GRANT ICC FDDT SILT, LLC AN ENCROACHMENT LICENSE ON A TOWN EASEMENT.

WHEREAS, the Board of Trustees (“Board”) of the Town of Silt (“Town”) 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, Sections 1-2 and 1-18 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, lease or otherwise deal with real property, including easements, lease or encumber such property; and

WHEREAS, pursuant to Section 1-2(d) of the Charter, the Board has the power to enter into revocable license agreements and lease agreements for the use of easements without the need for an election; and

WHEREAS, the Town Code mandates that the Board “shall approve” any encroachment upon any municipal property; and

WHEREAS, ICC FDDT Silt, LLC (“Licensee”) owns a parcel of property at 1007 Main Street, Town of Silt, Garfield County, Colorado, Parcel Number 217910143001 (the “Property”); and

WHEREAS, the Town is the owner of an existing easement comprised of the vacated 10th Street South of Main Street as shown on the Plat of Amedeo's First Addition recorded January 4, 1957 under Reception No. 196355 and as vacated by the Town of Silt Ordinance No. 29 Series of 2001 recorded March 4, 2002 in Book 1333 at Page 899 under Reception No. 598284 County of Garfield State of Colorado, and as described on the Lot Line Adjustment Plat, recorded at Reception No. 871700, attached hereto as **Exhibit A** (the “Easement”); and

WHEREAS, In connection with construction of the commercial retail store and adjacent parking area on the Property, Licensee has requested that the Town enter into an Encroachment Agreement with Licensee to permit Licensee’s trash enclosure structure (“Licensee’s Structure”) to remain within the Easement (the “Encroachment Agreement”); and

WHEREAS, the Board has determined that it is in the best interest of the Town to enter into the Encroachment Agreement; and

WHEREAS, the Town has negotiated the Encroachment Agreement with License, which said Agreement is attached hereto as **Exhibit B**, and incorporated herein by reference; and

WHEREAS, the Encroachment Agreement is contingent on the Board's approval; and

WHEREAS, the Board has reviewed the Encroachment Agreement and desires to approve it; and

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

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

SECTION 1

The Board hereby approves the encroachment of the permanent concrete trash enclosure on the Easement pursuant to the terms of the Encroachment Agreement, attached hereto as **Exhibit B**.

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 at a regular meeting of the Board of Trustees of the Town of Silt, Colorado held on this 12th day of November 2024, at 7:00 PM in the municipal building of the Town of Silt, Colorado.

TOWN OF SILT


Mayor Keith B. Richel

ATTEST:


Town Clerk Sheila M. McIntyre, CMC



ENCROACHMENT LICENSE AGREEMENT

This ENCROACHMENT LICENSE AGREEMENT (the "Agreement") entered into this 28th day of October, 2024, by and between the Town of Silt, a Colorado Home Rule Municipality, (the "Town" or "Licensor") and ICC FDDT Silt, LLC, the owner of real property located at 1007 Main Street, Silt, Colorado ("Licensee").

RECITALS

This Agreement is made with reference to the following facts:

- A. Licensee owns a parcel of property at 1007 Main Street, Town of Silt, Garfield County, Colorado, Parcel Number 217910143001 (the "Property").
- B. Licensor owns a 30' Utility Easement located along the western boarder of the Property, which Utility Easement was the former 10th Street right of way that was previously vacated by Licensor, as set forth in the Town of Silt Ordinance No. 29, Series of 2001, and as described on the Lot Line Adjustment Plat, recorded at Reception No. 871700, attached hereto as **Exhibit A** (the "Easement").
- C. The Easement contains a Town owned irrigation line, which is buried below the surface, which provides irrigation water to other properties in the Town (the "Irrigation Line").
- D. In developing the Property, Licensee moved the Irrigation Line within the Easement, but during the re-installation of the Irrigation Line did not sleeve the Irrigation Line with a pipe that could allow for easier access when installing an irrigation line under a structure.
- E. In connection with construction of the commercial retail store and adjacent parking area on the Property, Licensee's contractor constructed a permanent concrete trash enclosure structure ("Licensee's Structure") within the Easement and above the Irrigation Line (the "Encroachment").
- F. Sections 12.08.010 and 12.28.030 of the Town's Municipal Code prohibit encroachments onto the Town's easements or rights-of-way without express written consent of the Town after approval of the encroachment by the Board of Trustees.
- G. The Town is willing to grant to Licensee a license for the Encroachment within the "License Area" depicted on **Exhibit B**.
- H. The Board of Trustees has approved the Encroachment within the License Area.
- I. This Agreement shall constitute the express written consent of Town permitting the Encroachment and reflect that Licensee has paid any applicable fees required by the Town's Municipal Code.

*Town of Silt Encroachment License
ICC FDDT Silt, LLC
Page 2 of 5*

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual agreements, promises and covenants herein contained, and other good and valuable consideration, the parties mutually undertake, promise, and agree as follows:

1. **Recitals.** The foregoing Recitals are incorporated herein.
2. **Grant of Encroachment License.** The Town hereby grants to Licensee a non-exclusive license (the "License") for the Encroachment to permit Licensee's Structure to occupy the License Area depicted on **Exhibit B**. The License is expressly limited to and for the sole purpose of permitting the Licensee's Structure within the Encroachment. The Encroachment and the License Area are limited to Licensee's Structure currently existing on the Property. Use of the License Area by Licensee, its invitees', or its permittees' as allowed in this Agreement is strictly permissive.
3. **Term.** The initial term of this Agreement ("Initial Term") shall extend from the date of the execution of this Agreement for a period of 30 years. Upon or before the expiration of the Initial Term, Licensee may apply to the Silt Board of Trustees to renew or extend the term of this Agreement. The Initial Term and any subsequent extensions or renewals thereof are collectively referred to herein as the "Term" of this Agreement. If the Parties fail to extend the Term of this Agreement, all rights in this Agreement which inure to Town shall survive and the Licensee shall continue to follow the conditions set forth herein until Licensee's Structure has been removed and the License Area has been restored.
4. **Condition of Site.** Licensee shall keep the License Area and the Licensee's Structure in good and safe condition, free from debris or refuse. At all times Licensee shall comply with the terms of the Town Code related to encroachments.
5. **Licensee's Responsibility.** Licensee agrees and acknowledges that Licensee's Structure may be required to be partially or completely removed, at Licensee's sole cost and expense, in the event that replacement or repair the Irrigation Line is necessary, as determined in good faith by the Town Engineer. The Town shall bear all costs and expenses associated with repair and/or replacement of its Irrigation Line, unless the damage to be repaired was caused by Licensee. Once the Town completes its work on its Irrigation Line within the License Area, during the Term of this Agreement, Licensee may restore, repair, or rebuild Licensee's Structure in the same location. If Licensors' Irrigation Line was or is damaged by Licensee's Structure or by Licensee's use of the Easement, Licensee agrees and acknowledges that Licensee must repair or replace the damaged portion of Licensors' Irrigation Line at its sole cost and expense.
6. **Termination.** The Town reserves the right to terminate the License for any material breach by Licensee of the terms of this Agreement, as determined by the Silt Board of Trustees. If the Board of Trustees determines a material breach by Licensee has occurred, it shall provide written notice to Licensee, identifying the nature and basis of the material breach. Licensee shall have 21 days after receipt of any such notice from the Board of Trustees to cure the material breach. If an uncured material breach persists following expiration of the notice and cure period, the Town may terminate the License upon written notice to Licensee. Upon Termination, it is Licensee's

*Town of Silt Encroachment License
ICC FDDT Silt, LLC
Page 3 of 5*

obligation to remove Licensee's Structure at Licensee's sole cost and expense and restore the area where Licensee's Structure was built to conditions similar to the surrounding area within the Easement. Under no circumstances will Licensor be liable for any costs to repair, replace, or remove Licensee's Structure.

7. Holding Over. Nothing in this Agreement shall be construed to give Licensee the right to hold over in the License Area, and Town may exercise any remedy at law or in equity to recover possession of the License Area, as well as any damages incurred by Town, following thirty days after the expiration of the Term or Termination. Failure by the Town to exercise its rights hereunder shall not constitute a waiver or laches.

8. Maintenance and Repair. The Licensee shall maintain and repair any improvements of Licensee existing or erected within the License Area so that the improvements do not create a hazard to life or property. Licensee's Structure is used and may continue to be used as a commercial waste receptacle and collection area, which may result in the temporary presence of refuse or debris in or on Licensee's Structure. Licensee shall not expand or enlarge any improvements without Town's prior written consent.

9. Indemnification. To the extent permitted by applicable law, Licensee, during the Term of this Agreement and for a period of one year after the expiration of the Term or Termination, shall indemnify, defend and hold the Town, its managers, agents, and employees, harmless from and against all losses, claims, demands, liabilities, injuries, damages and expenses, including, without limitation, reasonable attorneys' fees and court costs, that the Town suffers or incurs as a result of Licensee's, its invitees', or its permittees' use of Licensee's Structure or as a result of the Encroachment. Licensee shall be solely responsible to defend any action, proceeding, or claim for which the Town is entitled to indemnification under this Agreement, and the Town hereby agrees to fully cooperate with Licensee in the defense or settlement, as the case may be, of such action, proceeding or claim. Notwithstanding the foregoing, the Town reserves the right to participate in the defense of any such action, proceeding or claim at its own expense.

10. Title. Notwithstanding any expenditure of money, time, or labor by Licensee on or within the License Area, no adverse possession of the License Area shall be construed to have occurred. Licensee shall not deny Town's ownership of the Easement in the License Area.

11. No Partnership Created. The provisions of this Agreement are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the Town and Licensee.

12. No Assignment. The License granted herein is personal to Licensee and may not be assigned without the express written consent of Town. The License extends to use of Licensee's Structure by Licensee's invitees and permittees, including without limitation, Licensee's tenant (Family Dollar at Silt) and such tenant's employees and independent contractors, as necessary for the operation of tenant's business. Any attempt to assign the License to another party without the Town's written consent shall automatically terminate the License.

Town of Silt Encroachment License
ICC FDDT Silt, LLC
Page 4 of 5

13. Severability. Should any portion of this Agreement be declared invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement shall be deemed severable, shall not be affected, and shall remain in force and effect.

14. Notice. All notices to be given hereunder shall be in writing, and may be given, served or made by depositing the same in the United States mail properly addressed, postage prepaid, for delivery by certified mail with return receipt requested, or by delivering the same in person. There shall be a presumption that notice was received if a return receipt shows delivery of the notice and the notice, as appropriate, was addressed to the Town's address of record or the Licensee's address set forth below or as amended pursuant notice from the Licensee.

15. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. The District Court in and for Garfield County, Colorado, shall be the exclusive venue for any dispute arising hereunder. In the event of such a dispute, the prevailing party shall be entitled to reasonable expenses, including attorney fees.

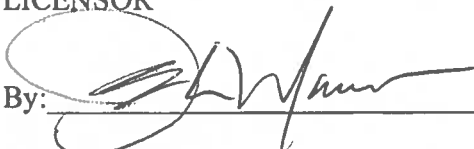
16. Recordation. Licensee shall record this Agreement in the public records of Garfield County.

17. Counterparts and Facsimile Signatures. This Agreement may be executed in counterparts, each of which may be considered an original, and all of which together shall constitute one and the same document. Facsimile copies of signature pages shall be treated as original signature pages.

18. Entire Agreement. This Agreement is the entire agreement of the parties, and neither party has relied on any promises or representations except as expressly described herein.

WHEREFORE, the parties have executed this Agreement effective as of the date first written above.

TOWN OF SILT
LICENSOR

By:  _____

ATTEST:

 _____

Town Clerk



Town of Silt Encroachment License
ICC FDDT Silt, LLC
Page 5 of 5

ICC FDDT SILT, LLC
LICENSEE

[Signature]
By: Erik Conrad
Title: Manager

Licensee's Address

117 N Jefferson St #303
Chicago IL 60661

STATE OF Illinois)
County of Cook) ss.

The foregoing instrument was acknowledged before me this 28 day of October, 2024,
by Erik Conrad as Manager of the ICC FDDT Silt, LLC.

Witness my hand and official seal.

[Signature]
Notary Public

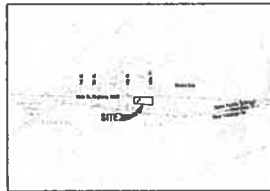


EXHIBIT A

**Lots 1 Through 20, Block 2, Amedeo's First Addition to the Town of Silt and
Town Parcel (Reception No. 673652)
Lot Line Adjustment Plat**

Parcels of Land Situated in the NW1/4NE1/4 Section 10, Township 6 South, Range 92 West of the 6th P.M.,
Town of Silt, County of Garfield, State of Colorado

Sheet 1 of 2



SECTION 10
TOWNSHIP 6 SOUTH
RANGE 92 WEST
TOWN OF SILT
COUNTY OF GARFIELD
STATE OF COLORADO

SECTION 10
TOWNSHIP 6 SOUTH
RANGE 92 WEST
TOWN OF SILT
COUNTY OF GARFIELD
STATE OF COLORADO

SECTION 10
TOWNSHIP 6 SOUTH
RANGE 92 WEST
TOWN OF SILT
COUNTY OF GARFIELD
STATE OF COLORADO

SECTION 10
TOWNSHIP 6 SOUTH
RANGE 92 WEST
TOWN OF SILT
COUNTY OF GARFIELD
STATE OF COLORADO

SECTION 10
TOWNSHIP 6 SOUTH
RANGE 92 WEST
TOWN OF SILT
COUNTY OF GARFIELD
STATE OF COLORADO

SECTION 10
TOWNSHIP 6 SOUTH
RANGE 92 WEST
TOWN OF SILT
COUNTY OF GARFIELD
STATE OF COLORADO

SECTION 10
TOWNSHIP 6 SOUTH
RANGE 92 WEST
TOWN OF SILT
COUNTY OF GARFIELD
STATE OF COLORADO

SECTION 10
TOWNSHIP 6 SOUTH
RANGE 92 WEST
TOWN OF SILT
COUNTY OF GARFIELD
STATE OF COLORADO

SECTION 10
TOWNSHIP 6 SOUTH
RANGE 92 WEST
TOWN OF SILT
COUNTY OF GARFIELD
STATE OF COLORADO

Garfield County
Recorder's Office
1000 1st Street
Silt, CO 81651
Phone: 970-838-2200
Fax: 970-838-2201
www.garfieldcounty.com

North

Lot Line Adjustment Plat
NW1/4NE1/4 Sect. 10, T.6S., R.92W. of the 6th P.M.
Town of Silt, County of Garfield, State of Colorado.

1 of 2

871700-1



Reception#: 1001816
 11/14/2024 12:17:49 PM Jacklyn K. Harmon
 9 of 10 Rec Fee:\$58.00 Doc Fee:0.00 GARFIELD COUNTY CO

**Lots 1 Through 20, Block 2, Amedeo's First Addition to the
 Town of Silt and Town Parcel (Reception No. 673652)
 Lot Line Adjustment Plat**

Parcels of Land Situated in the NW1/4NE1/4 Section 10, Township 6 South, Range 92
 West of the 6th P.M., Town of Silt, County of Garfield, State of Colorado

Sheet 2 of 2

LEGEND

	Survey Boundary
	Lot Boundary
	Easement
	Right-of-Way
	Other Boundary

Garfield County
 Planning & Zoning Department
 1000 Main Street, Suite 200
 Silt, Colorado 81751
 Phone: (970) 838-3100
 Fax: (970) 838-3101
 Email: planning@co.garfield.co.us

Garfield County
 Planning & Zoning Department
 1000 Main Street, Suite 200
 Silt, Colorado 81751
 Phone: (970) 838-3100
 Fax: (970) 838-3101
 Email: planning@co.garfield.co.us

NORTH

Garfield County
 Planning & Zoning Department
 1000 Main Street, Suite 200
 Silt, Colorado 81751
 Phone: (970) 838-3100
 Fax: (970) 838-3101
 Email: planning@co.garfield.co.us

Lot Line Adjustment Plat
 NW1/4NE1/4 Sect. 10, T.6S., R.92W. of the 6th PM
 Town of Silt, County of Garfield, State of Colorado.

2 of 2

871700-2

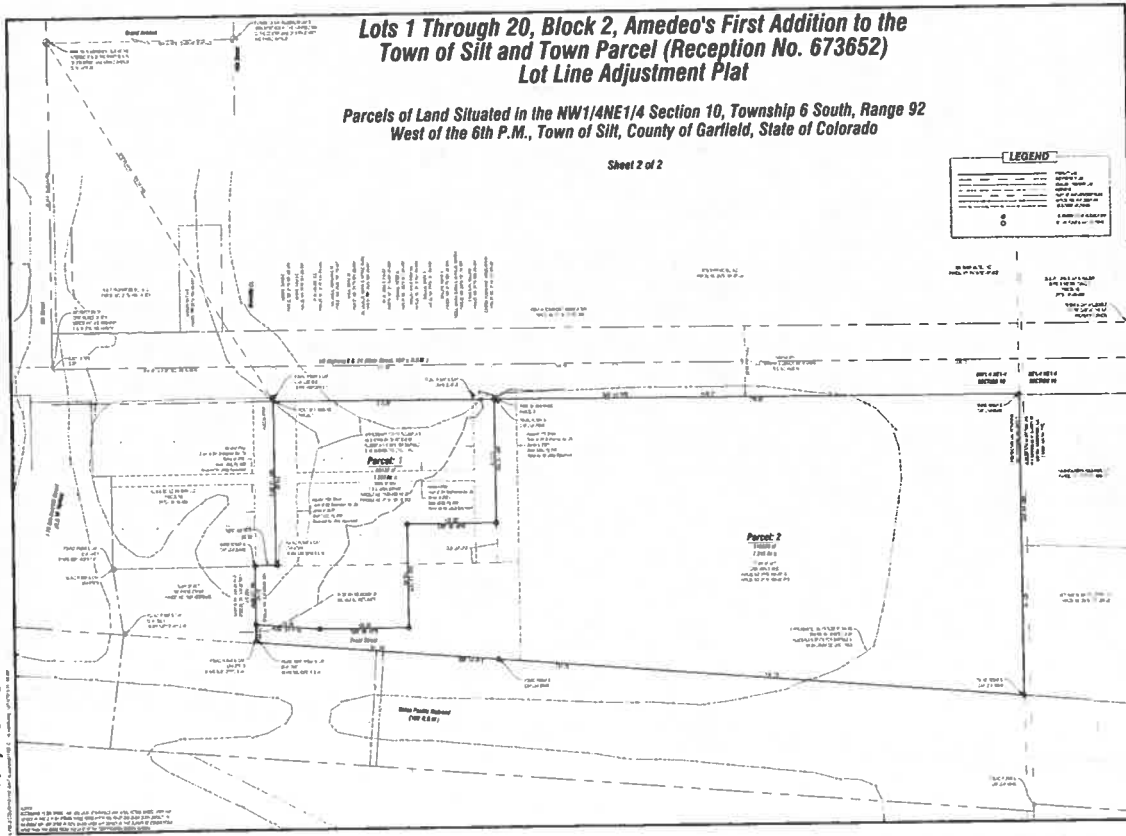
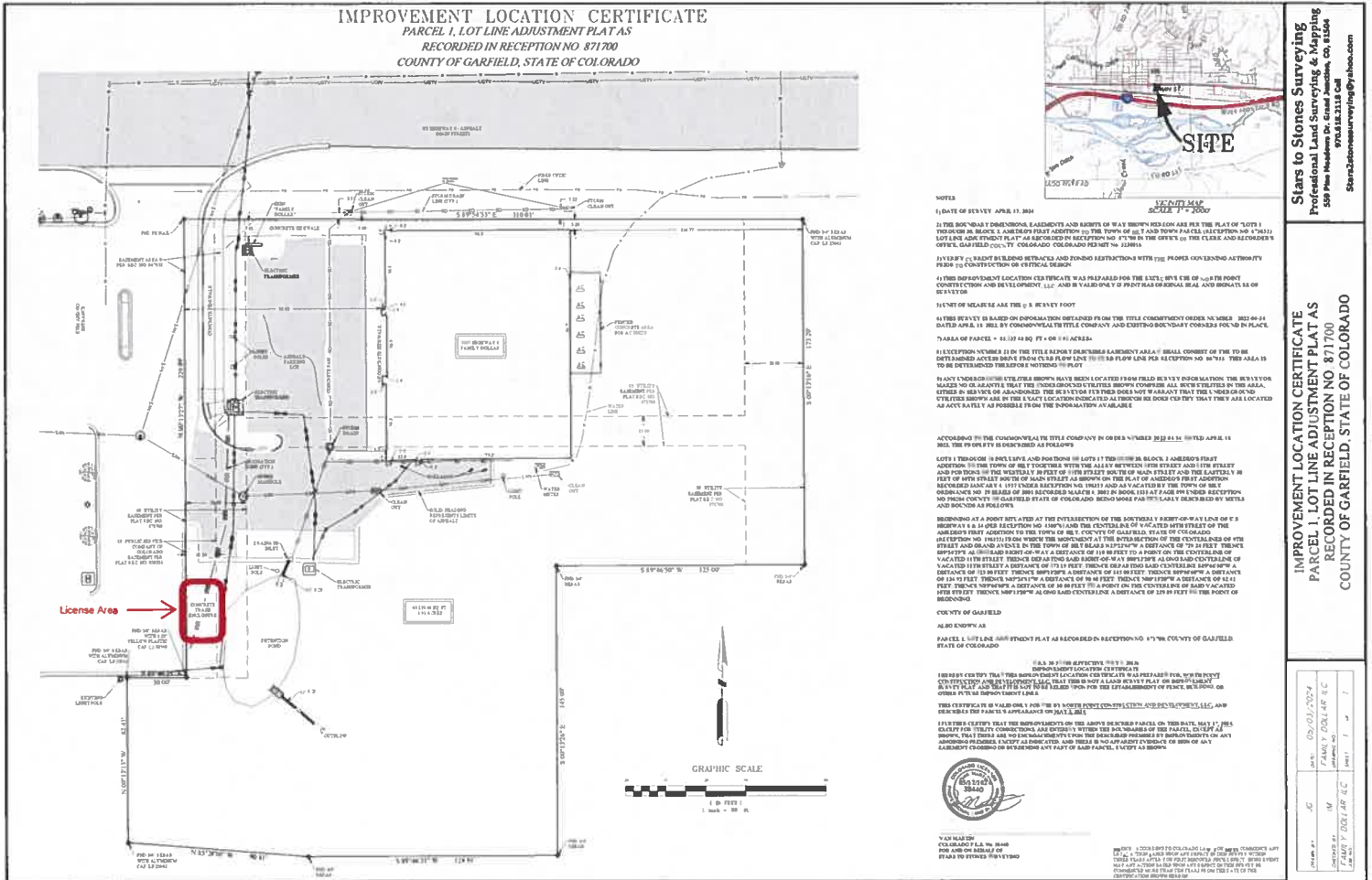


EXHIBIT B



Stans J. Stones Surveying & Mapping
 Professional Land Surveying & Mapping
 569 Pine Meadows Dr. Grand Junction, CO 81504
 970.838.3118 Cell
 stans@stonesurveying.com

IMPROVEMENT LOCATION CERTIFICATE
 PARCEL 1, LOT LINE ADJUSTMENT PLAT AS
 RECORDED IN RECEPTION NO. 871700
 COUNTY OF GARFIELD, STATE OF COLORADO

Date:	05/02/2024
Surveyor:	JACKLYN K. HARMON
License No.:	1001816
Signature:	Jacklyn K. Harmon