



IGNACIO TOWN BOARD MEETING AGENDA
Monday, February 13, 2023 – 6:00 PM
Abel F. Atencio Community Room, 570 Goddard Avenue
or via Remote Public Meeting

The remote meeting is hosted by Zoom and requires Attendees to login to the Zoom meeting website at the following address: <https://us06web.zoom.us/j/81401895172>, or Attendees wishing to participate by phone shall call: [346-248-7799](tel:346-248-7799) and key in Webinar ID Number: [814 0189 5172](tel:814-0189-5172).

*There is a Zoom Etiquette file on the Town website that details how Zoom meetings work and what is expected of Attendees. All Attendees will be able to hear and/or see the Town Board meeting. Attendees will be muted until the Mayor takes Attendee comments. Attendees wanting to comment must click on the "Raised Hand" tab at the bottom of the screen, or callers will have to enter *9. The Mayor will acknowledge which Attendee is to speak (by name or phone number) and the meeting host will allow them to speak. The meeting host will unmute the Attendee (or notify the Attendee if they need to unmute themselves by entering *6). The Attendee shall first provide their name and address before they begin their comments. Failure to follow directions or maintain meeting decorum will result in the muting of your connection.*

- I. CALL REGULAR MEETING TO ORDER:** Pledge of Allegiance
- II. ROLL CALL**
- III. APPROVAL OF AGENDA**
- IV. PUBLIC COMMENTS:** *The Town Board values public comment and allows this time for citizens to voice their thoughts and concerns. The Mayor will open the comment period and prior to addressing the Board, state your name and address, and limit your comments to five (5) minutes. Meeting decorum will be maintained and failure to maintain composure and respect will result in the closure of your comment period. The Town Board and/or staff may respond to your comments or take your comments under advisement. Please do not comment on items listed on the Agenda, as opportunity will be given to comment during these discussions. Thank you.*
- V. CONSENT AGENDA**
 - A. Regular Town Board Meeting Minutes from January 9, 2023
 - B. Special Town Board Meeting Minutes from January 30, 2023
 - C. Financial Records – January 2023 Accounting Reports
- VI. UNFINISHED BUSINESS**
- VII. NEW BUSINESS**
 - A. Natural Gas Rate Structure – Public Hearing
 - B. ELHI Acquisition
- VIII. STAFF REPORTS**
 - A. Police Department
 - B. Public Works
 - C. Clerk / Treasurer
 - D. Town Manager
 - E. Attorney
- IX. TRUSTEE REPORTS**
- X. MISCELLANEOUS**
- XI. ADJOURNMENT**

TOWN OF IGNACIO
Check Register for Checking
For the Accounting Period: 1/23

Claim Checks

[illegible]

02/07/23
12:00:04

TOWN OF IGNACIO
Check Register for Checking
For the Accounting Period: 1/23

Page: 2 of 4
Report ID: AP300

Claim Checks

Check #	Type	Vendor #/Name	Check Amount	Date Issued	Period Redeemed	Claim #	Claim Amount
6461	S	692 WALKER DO IT BEST HARDWARE	73.52	01/03/23			
6467 *	S	53 AUTO PARTS INC	334.42	01/18/23		CL 16453	73.52
6468	S	220 BALLANTINE COMMUNICATIONS INC	115.95	01/18/23		CL 16479	334.42
6469	S	91 BRENNAN OIL COMPANY	115.39	01/18/23		CL 16475	115.95
6470	S	99 C & J GRAVEL PRODUCTS INC	393.74	01/18/23		CL 16467	115.39
6471	S	1187 Cardmember Service (TBK Bank)	7843.95	01/18/23		CL 16462	393.74
						CL 16482	334.84
						CL 16483	306.00
						CL 16484	253.42
						CL 16485	666.83
						CL 16487	1142.47
						CL 16488	191.93
						CL 16489	116.99
						CL 16490	693.03
						CL 16491	614.20
						CL 16492	590.97
						CL 16493	69.21
						CL 16494	234.69
						CL 16495	474.18
						CL 16496	604.96
						CL 16497	1550.23
6472	S	921 CASCADE WATER	30.00	01/18/23		CL 16478	30.00
6473	S	1227 CJB Auto Supply	748.14	01/18/23		CL 16471	748.14
6474	S	1243 Durango Herald	107.00	01/18/23		CL 16498	107.00
6475	S	237 ENERGY OUTREACH COLORADO	676.50	01/18/23		CL 16486	676.50
6476	S	971 FASTTRACK COMMUNICATIONS INC	127.22	01/18/23		CL 16464	127.22
6477	S	257 FOUR CORNERS WELDING & GAS SUPPLY	7.00	01/18/23		CL 16470	7.00
6478	S	263 GALLS, LLC.	644.50	01/18/23		CL 16481	644.50
6479	S	695 GFL Environmental	2742.50	01/18/23		CL 16468	2742.50
6480	S	1224 Grip Technology LLC	187.50	01/18/23		CL 16463	187.50
6481	S	981 HI PERFORMANCE CARWASH LLC	21.64	01/18/23		CL 16480	21.64
6482	S	1195 Ignacio Creative District	5000.00	01/18/23		CL 16466	5000.00

02/07/23
12:00:04

TOWN OF IGNACIO
Check Register for Checking
For the Accounting Period: 1/23

Page: 3 of 4
Report ID: AP300

Claim Checks

Check #	Type	Vendor #/Name	Check Amount	Date Issued	Period Redeemed	Claim #	Claim Amount
6483	S	894 KRISTIN ROEHRS	406.25	01/18/23		CL 16472	406.25
6484	S	394 LEWIS TRUE VALUE MERCANTILE	2.09	01/18/23		CL 16500	2.09
6485	S	1192 Mitel Networks, Inc.	416.13	01/18/23		CL 16477	416.13
6486	S	590 SAN JUAN BASIN HEALTH DEPARTMENT	35.00	01/18/23		CL 16476	35.00
6487	S	600 SOUTHERN UTE UTILITIES DIVISION	203290.54	01/18/23		CL 16499	203290.54
6488	S	1147 TDL RECYCLING, LLC	720.00	01/18/23		CL 16473	720.00
6489	S	650 TOWN OF IGNACIO	1812.34	01/18/23		CL 16469	1812.34
6490	S	675 UTILITY NOTIFICATION CENTER OF CO	6.50	01/18/23		CL 16465	6.50
Total for Claim Checks			274014.28				
Count for Claim Checks			48				

* denotes missing check number(s)

of Checks: 48 Total: 274014.28

02/07/23
12:00:05

TOWN OF IGNACIO
Fund Summary for Claim Check Register
For the Accounting Period: 1/23

Page: 4 of 4
Report ID: AP110

Fund/Account	Amount
100 GENERAL FUND	
110230	\$63,295.24
610 WATER FUND	
110230	\$9,119.59
620 GAS FUND	
110230	\$171,544.73
630 SEWER FUND	
110230	\$30,024.52
640 IRRIGATION FUND	
110230	\$30.20
Total:	\$274,014.28

TOWN OF IGNACIO

2021			2022			% up/down from PYM	Year-To-Date	Difference	% up/down from PYT
City Sales Tax	Month	Year-To-Date	City Sales Tax	Month	Difference				
Jan	45,778.54	45,778.54	1 Feb/Jan	50,799.76	5,021.22	10.97%	50,799.76	5,021.22	10.97%
Feb	34,956.77	80,735.31	2 Mar/Feb	41,290.95	6,334.18	7.85%	92,090.71	11,355.40	14.06%
Mar	34,875.59	115,610.90	3 Apr/Mar	43,286.70	8,411.11	7.28%	135,377.41	19,766.51	17.10%
Apr	40,256.52	155,867.42	4 May/Apr	44,081.72	3,825.20	2.45%	179,459.13	23,591.71	15.14%
May	39,924.32	195,791.74	5 Jun/May	43,055.54	3,131.22	1.60%	222,514.67	26,722.93	13.65%
June	40,842.76	236,634.50	6 Jul/Jun	47,274.66	6,431.90	2.72%	269,789.33	33,154.83	14.01%
July	47,265.88	283,900.38	7 Aug/Jul	47,798.20	532.32	0.19%	317,587.53	33,687.15	11.87%
Aug	46,527.60	330,427.98	8 Sep/Aug	51,699.44	5,171.84	1.57%	369,286.97	38,858.99	11.76%
Sept	41,298.20	371,726.18	9 Oct/Sep	50,334.22	9,036.02	2.43%	419,621.19	47,895.01	12.88%
Oct	44,132.78	415,858.96	10 Nov/Oct	50,282.82	6,150.04	1.48%	469,904.01	54,045.05	13.00%
Nov	46,196.31	462,055.27	11 Dec/Nov	49,555.69	3,359.38	0.73%	519,459.70	57,404.43	12.42%
Dec	44,605.31	506,660.58	12 Jan/Dec						0.00%
2021 City Total	506,660.58		2022 City Total	519,459.70					14.32%
2021 BUDGET		360,000.00	2022 BUDGET		xx% Increase		460,000.00		

2021			2022			% up/down from PYM	Year-To-Date	Difference	% up/down from PYT
County Sales Tax	Month	Year-To-Date	County Sales Tax	Month	Difference				
Mar/Jan	78,241.00	78,241.00	1 Mar/Jan	86,662.00	8,421.00	10.76%	86,662.00	8,421.00	10.76%
Apr/Feb	75,662.00	153,903.00	2 Apr/Feb	83,423.00	7,761.00	5.04%	170,085.00	16,182.00	10.51%
May/Mar	93,841.00	247,744.00	3 May/Mar	100,800.00	6,959.00	2.81%	270,885.00	23,141.00	9.34%
June/Apr	88,608.00	336,352.00	4 June/Apr	93,125.00	4,517.00	1.34%	364,010.00	27,658.00	8.22%
July/May	99,100.00	435,452.00	5 July/May	106,167.00	7,067.00	1.62%	470,177.00	34,725.00	7.97%
Aug/June	109,515.00	544,967.00	6 Aug/June	115,145.00	5,630.00	1.03%	585,322.00	40,355.00	7.41%
Sept/July	112,626.00	657,593.00	7 Sept/July	116,545.00	3,919.00	0.60%	701,867.00	44,274.00	6.73%
Oct/Aug	105,307.00	762,900.00	8 Oct/Aug	118,060.00	12,753.00	1.67%	819,927.00	57,027.00	7.48%
Nov/Sept	109,105.00	872,005.00	9 Nov/Sept	111,831.00	2,726.00	0.31%	931,758.00	59,753.00	6.85%
Dec/Oct	97,095.00	969,100.00	10 Dec/Oct	103,265.00	6,170.00	0.64%	1,035,023.00	65,923.00	6.80%
Jan/Nov	92,362.00	1,061,462.00	11 Jan/Nov	97,118.00	4,756.00	0.45%	1,132,141.00	70,679.00	6.66%
Feb/Dec	111,170.00	1,172,632.00	12 Feb/Dec						0.00%
2021 County Total	1,172,632.00		2022 County Total	1,132,141.00					10.21%
2021 BUDGET		850,000.00	2022 BUDGET		xx% Increase		1,000,000.00		

02/07/23
12:00:44

TOWN OF IGNACIO
Cash Report
For the Accounting Period: 1/23

Page: 1 of 1
Report ID: L160

Fund/Account	Beginning Balance	Received	Transfers In	Disbursed	Transfers Out	Ending Balance
100 GENERAL FUND						
110100 Petty Cash	100.00	0.00	0.00	0.00	0.00	100.00
110230 Operating Account	-489,845.52	8,865.17	109.09	0.00	185,647.01	-666,518.27
110250 Savings Account	245,711.38	32.31	0.00	0.00	0.00	245,743.69
110270 Investment Account	1,651,572.79	6,032.75	0.00	0.00	0.00	1,657,605.54
Total Fund	1,407,538.65	14,930.23	109.09		185,647.01	1,236,930.96
300 CAPITAL IMPROVEMENT FUND						
110230 Operating Account	204,869.82	0.00	0.00	0.00	0.00	204,869.82
110270 Investment Account	434,889.95	1,686.15	0.00	0.00	0.00	436,576.10
Total Fund	639,759.77	1,686.15				641,445.92
400 CONSERVATION TRUST FUND						
110230 Operating Account	11,638.51	0.00	0.00	0.00	0.00	11,638.51
110270 Investment Account	78,440.27	304.13	0.00	0.00	0.00	78,744.40
Total Fund	90,078.78	304.13				90,382.91
500 ECONOMIC DEVELOPMENT FUND						
110230 Operating Account	49,138.98	0.00	0.00	0.00	0.00	49,138.98
110270 Investment Account	14,276.35	426.08	0.00	0.00	0.00	14,702.43
Total Fund	63,415.33	426.08				63,841.41
610 WATER FUND						
110230 Operating Account	110,237.97	21,746.65	0.00	0.00	9,119.59	122,865.03
110270 Investment Account	44,957.60	174.30	0.00	0.00	0.00	45,131.90
Total Fund	155,195.57	21,920.95			9,119.59	167,996.93
620 GAS FUND						
110230 Operating Account	101,335.37	115,241.98	0.00	0.00	171,544.73	45,032.62
110270 Investment Account	138,159.53	535.63	0.00	0.00	0.00	138,695.16
Total Fund	239,494.90	115,777.61			171,544.73	183,727.78
630 SEWER FUND						
110230 Operating Account	143,134.80	45,965.03	0.00	0.00	30,024.52	159,075.31
110270 Investment Account	194.29	0.68	0.00	0.00	0.00	194.97
Total Fund	143,329.09	45,965.71			30,024.52	159,270.28
640 IRRIGATION FUND						
110230 Operating Account	33,395.46	26.00	0.00	0.00	30.20	33,391.26
110270 Investment Account	10,452.97	40.50	0.00	0.00	0.00	10,493.47
Total Fund	43,848.43	66.50			30.20	43,884.73
910 PAYROLL CLEARING FUND						
110230 Operating Account	11,289.00	0.00	122,318.68	115,550.44	0.00	18,057.24
930 CLAIMS CLEARING FUND						
110230 Operating Account	27,219.22	0.00	274,014.28	8,558.68	0.00	292,674.82
Totals	2,821,168.74	201,077.36	396,442.05	124,109.12	396,366.05	2,898,212.98

*** Transfers In and Transfers Out columns should match, with the following exceptions:

- 1) Cancelled electronic checks increase the Transfers In column. Disbursed column will be overstated by the same amount and will not balance to the Redeemed Checks List.
- 2) Payroll Journal Vouchers including local deductions with receipt accounting will reduce the Transfers Out column by the total amount of these checks.

02/07/23
12:01:21

TOWN OF IGNACIO
Statement of Revenue Budget vs Actuals
For the Accounting Period: 1 / 23

Page: 1 of 1
Report ID: B110F

Fund	Received Current Month	Received YTD	Estimated Revenue	Revenue To Be Received	% Received
100 GENERAL FUND	11,149.33	11,149.33	2,283,836.00	2,272,686.67	0 %
300 CAPITAL IMPROVEMENT FUND	1,686.15	1,686.15	3,752,498.00	3,750,811.85	0 %
400 CONSERVATION TRUST FUND	304.13	304.13	80,800.00	80,495.87	0 %
500 ECONOMIC DEVELOPMENT FUND	426.08	426.08	241,010.00	240,583.92	0 %
610 WATER FUND	174.30	174.30	318,200.00	318,025.70	0 %
620 GAS FUND	535.63	535.63	506,150.00	505,614.37	0 %
630 SEWER FUND	0.68	0.68	629,600.00	629,599.32	0 %
640 IRRIGATION FUND	40.50	40.50	44,700.00	44,659.50	0 %
Grand Total:	14,316.80	14,316.80	7,856,794.00	7,842,477.20	0 %

02/07/23
12:01:50

TOWN OF IGNACIO
Statement of Expenditure - Budget vs. Actual Report
For the Accounting Period: 1 / 23

Page: 1 of 1
Report ID: B100F

Fund	Committed Current Month	Committed YTD	Original Appropriation	Current Appropriation	Available Appropriation	% Committed
100 GENERAL FUND	185,537.92	185,537.92	2,150,979.00	2,150,979.00	1,965,441.08	9 %
300 CAPITAL IMPROVEMENT FUND	0.00	0.00	4,250,000.00	4,250,000.00	4,250,000.00	0 %
400 CONSERVATION TRUST FUND	0.00	0.00	120,000.00	120,000.00	120,000.00	0 %
500 ECONOMIC DEVELOPMENT FUND	0.00	0.00	248,226.00	248,226.00	248,226.00	0 %
610 WATER FUND	9,119.59	9,119.59	309,191.00	309,191.00	300,071.41	3 %
620 GAS FUND	171,544.73	171,544.73	456,316.00	456,316.00	284,771.27	38 %
630 SEWER FUND	30,024.52	30,024.52	580,931.00	580,931.00	550,906.48	5 %
640 IRRIGATION FUND	30.20	30.20	44,266.00	44,266.00	44,235.80	0 %
Grand Total:	396,256.96	396,256.96	8,159,909.00	8,159,909.00	7,763,652.04	5 %

02/07/23
12:02:37

TOWN OF IGNACIO
Payroll Summary For Payrolls from 01/01/23 to 01/31/23

Page: 1 of 2
Report ID: P130

Total for Payroll Checks

	Employee -----	Employer -----	Amount -----
COMA HOURS (Comp Time Accumulated)	81.75		
COMP HOURS (Comp Time Used)	16.00		349.44
HOL HOURS (Holiday Pay)	430.00		13,959.42
J004 HOURS (CELL PHONE ALLO)	0.00		166.14
*Non Taxable (added to gross wages, no addition to SS, Med, FIT & SIT bases)			
J015 HOURS (IN LIEU OF INSU)	0.00		1,261.02
LV2 HOURS (HFWA Hrs for PT Employees)	10.00		277.00
OVER HOURS (Overtime)	32.00		1,499.79
REG HOURS (Regular Time)	2,423.00		75,305.51
SICK HOURS (Sick Time)	93.25		4,534.64
VACA HOURS (Vacation Time Used)	30.00		1,037.10
GROSS PAY	98,390.06	0.00	
NET PAY	68,613.23	0.00	
NET PAY (CHECKS)	6,525.66		
NET PAY (DIRECT DEPOSIT)	62,087.57		
AFLAC-AFTERTAX	355.32	1,002.28	
AFLAC-PRETAX	1,038.96	60.08	
CEBT DENTAL	0.00	732.00	
CEBT HEALTH	4,508.32	10,868.68	
CEBT LIFE	136.45	42.98	
CEBT VISION	0.00	97.00	
EMPL WEAPONS AD	76.00	0.00	
FIT	7,800.48	0.00	
FPPA	5,371.58	4,252.50	
FPPA DROP	1,097.08	0.00	
FPPA-457	932.52	0.00	
FPPA-AD&D	0.00	1,588.12	
GARNISHMENT2	46.14	0.00	
MEDICARE	1,341.87	1,341.87	
MISSIONSQUARE/I	1,536.12	1,434.96	
SIT	3,224.28	0.00	
SOCIAL SECURITY	2,311.71	2,311.71	
UNEMPL. INSUR.	0.00	196.44	
BANK 4	4,416.99	0.00	
BANK 8-SAVINGS	2,776.40	0.00	
COMM BANK OF CO	10,146.66	0.00	
CU OF COLORADO	3,331.91	0.00	
SANDIA LAB FCU	150.00	0.00	
USAA	5,435.41	0.00	
VECTRA BANK CO	69.26	0.00	
WELLS FARGO	33,430.57	0.00	
WELLS FARGO N.A	138.52	0.00	
WELLS FARGO NEV	69.26	0.00	
WELLS FARGO OR	2,122.59	0.00	
FIT/SIT BASE	83,602.89	0.00	
MEDICARE BASE	92,540.19	0.00	
SOC SEC BASE	37,285.80	0.00	
UN BASE	98,223.92	0.00	

02/07/23
12:02:37

TOWN OF IGNACIO
Payroll Summary For Payrolls from 01/01/23 to 01/31/23

Page: 2 of 2
Report ID: P130

Total 23,928.62
Total Payroll Expense (Gross Pay + Employer Contributions): 122,318.68

Check Summary

Payroll Checks Prev. Out. \$2,352.67
Payroll Checks Issued \$6,571.80
Payroll Checks Redeemed \$0.00
Payroll Checks Outstanding \$8,924.47
Electronic Checks \$115,550.44

Deductions Accrued	Carried Forward From Previous Month	Deduction Checks Issued	Difference	Liab Account
-----	-----	-----	-----	-----
Social Security 4623.42		4623.42		221700
Medicare 2683.74		2683.74		221710
Unempl. Insur. 196.44			196.44	221760
FIT 7800.48		7800.48		221720
SIT 3224.28		3224.28		221730
FPPA 9624.08		9624.08		221742
AFLAC-PRETAX 1099.04		1099.04		221757
EMPL WEAPONS AD 76.00		76.00		221782
FPPA-457 932.52		932.52		221742
FPPA-AD&D 1588.12		1588.12		221743
MISSIONSQUARE/I 2971.08		2971.08		221741
AFLAC-AFTERTAX 1357.60		1357.60		221757
CEBT DENTAL 732.00		732.00		221754
CEBT HEALTH 15377.00		15377.00		221751
CEBT LIFE 179.43		179.43		221755
CEBT VISION 97.00		97.00		221756
GARNISHMENT2 46.14		46.14		221781
FPPA DROP 1097.08		1097.08		221742
Total Ded. 53705.45	0.00	53509.01	196.44	

**** Carried Forward column only correct if report run for current period.



MEMORANDUM

TO: Town Board of Trustees

FROM: Tuggy Dunton, Town Clerk/Treasurer

DATE: February 8, 2023

SUBJECT: Temporary Changes to the Utility Billing Policy

On January 30, 2023, the Board voted to approve the following temporary changes to the Utility Billing Policy until September 2023:

- No late fees, beginning in January 2023
- No reconnect fees
- Office staff will apply partial payments to all other utilities first, including gas tax (the only balance on each account should be gas and possibly some of the gas tax)
- Waive the 10% Capital Factor for the gas rate as long as the rate is \$10/MCF or higher
- No disconnections during the months of January through April

After that approval, work was done by staff, in conjunction with the Mayor, regarding the idea of switching the gas rate structure to Budget Billing. This was presented to the Board in a spreadsheet that was reviewed at the work session on February 6.

Staff has published a Public Hearing for the Regular Board Meeting on February 13, 2023, to officially present the idea of Budget Billing to the Board and allow for public comment prior to a decision of the Board.

Based on the work that was done regarding Budget Billing, the recommended temporary changes to the Utility Billing Policy are as follows:

- Set the gas rate at \$16.00 per MCF for 2023
- Review gas rates on a monthly basis to ensure that the Town's cost to the Tribe will be covered by the end of the year
- During 2023 the Board will have the authority, without the need for a Public Hearing, to adjust the natural gas rate (increase or decrease) to cover anticipated expenses throughout the year
- For all accounts that have outstanding balances in April 2023, reinstate late fees
- For all accounts that are past due in May 2023, reinstate disconnection of services and reconnect fees

LEASE PURCHASE AGREEMENT

THIS LEASE PURCHASE AGREEMENT dated as of February __, 2023 (the “Lease”), between **IGNACIO SCHOOL DISTRICT NO. 11-JT** (the “District”) a duly organized and existing school district and political subdivision and body corporate of the State of Colorado (the “State”), as lessor, and **TOWN OF IGNACIO** (the “Town”), a statutory town and political subdivision and body corporate of the State, as lessee.

WITNESSETH:

WHEREAS, the Town is a duly and regularly created, organized and existing political subdivision of the State, existing as such under and by virtue of the Constitution and statutes of the State; and

WHEREAS, the Town is authorized, under Section 31-15-801, Colorado Revised Statutes, as amended, to lease and purchase property and to execute, deliver and perform its obligations under this Lease; and

WHEREAS, the obligation of the Town to pay Base Rentals ~~and Additional Rentals (both as hereinafter defined)~~ and the obligation of the Town to pay the Purchase Price hereunder shall be subject to annual appropriation, and such obligation shall not constitute an indebtedness of the Town within the meaning of the constitutional limitations on contracting of indebtedness by municipalities; and

~~absolute and shall constitute a mandatory charge and requirement in all ensuing budget years within the term hereof; and shall constitute a general obligation and a multiple fiscal year direct debt and financial obligation of the Town, for which the Town Board has made an irrevocable pledge of current Town funds, as hereinafter set forth; and~~

WHEREAS, the execution, performance and delivery of this Lease **Purchase**, have been authorized, approved and directed by the Town Board of Trustees (the “Town Board”) by an ~~resolution~~ ordinance effective 30 days after its passage and publication finally passed and adopted by the Town Board; and

WHEREAS, the District is a duly and regularly created, organized and existing political subdivision of the State, existing as such under and by virtue of the Constitution and statutes of the State; and

WHEREAS, the District ~~has stated that it~~ is authorized, under Section 22-32-110(1)(e), Colorado Revised Statutes, as amended, to lease, sell, and convey property that is surplus to the District’s needs, and to execute, deliver and perform its obligations under this Lease **Purchase**; and

WHEREAS, this Lease **Purchase** has been authorized, approved and directed by the District Board of Education (the “School Board”) by a resolution finally passed and adopted by the School Board.

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NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

Article I. DEFINITIONS

A. Terms Defined in Preamble and Recitals. The following terms shall have the meanings set forth in the preamble and recitals hereto: "Town Board," "Town," "District," "School Board," "Lease," and "State."

B. Additional Definitions. The following additional terms shall have the meanings specified below:

~~1. "Additional Rentals" means the cost of all (a) reasonable expenses and fees of the District related to the performance of the provisions of this Lease related to the Leased Property, or otherwise incurred at the request of the Town, (b) taxes, if any, insurance premiums, utility charges, maintenance, upkeep, repair, improvement and replacement in respect of the Leased Property, and (c) all other charges and costs (together with all interest and penalties that may accrue thereon) in the event that the Town shall fail to pay the same, as specifically set forth herein which the Town assumes or agrees to pay hereunder. Additional Rentals do not include Base Rentals.~~

~~12.~~ "Authorized Officer of the Town" means the Town Mayor and/or Town Manager ~~Clark Craig~~, and any other person authorized by resolution of the Town Board to perform any act or execute any document.

~~23.~~ "Base Rentals" means the payments payable by the Town during the Lease Term pursuant to ~~Article VI, Section 6.02~~ of this Lease and as set forth in Exhibit ~~A~~B, ~~as it may be amended hereunder from time to time,~~ which constitute the payments payable by the Town for and in consideration of the right to use the Leased Property during the Lease Term and as consideration for the purchase of the property upon the final payment. The amount for the Lease is \$1,000 per month and is inclusive of the ~~amounts in Exhibit B paid in total for the Lease Purchase. beyond that go to the purchase. In the event that Exhibit A sets forth separate schedules of Base Rentals payable with respect to one or more separate portions of the Leased Property, such payments will be combined for purposes of Section 6.02, but may be treated as separate schedules for other purposes of this Lease.~~

~~34.~~ "Base Rental Payment Dates" means annual payments on July 1 of each Fiscal Year, commencing ~~July 1, 2023~~ and ending July 1, 2025 in the amounts shown on Exhibit B, unless there is an earlier purchase of the property made by the Town.

~~45.~~ "Business Day" means any day other than a Saturday, a Sunday or a day on which banks in Durango, Colorado are authorized by law to remain closed.

~~56.~~ "Counsel" means an attorney at law or law firm (who may be counsel for the District or the Town) who is satisfactory to ~~both the Town or and the District.~~

67. “*Event of Default*” means one or more events of default as defined in Article XIV of this Lease.

78. “*Fiscal Year*” means the fiscal or budget year of the Town, which begins on January 1 of any year and ends on December 31 of the same year (i.e., The Fiscal Year is the same as the calendar year).

89. “*Force Majeure*” means, without limitation, any of the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or any of their departments, agencies or officials or any civil or military authority; insurrection; riots; landslides; earthquakes; fires; storms; droughts; floods; explosions; breakage or accidents to machinery, transmission pipes or canals; public health emergencies; or any other cause or event not within the control of the Town.

940. “*Hazardous Substance*” means and includes: (a) the terms “hazardous substance,” “release” and “removal” which, as used herein, shall have the same meaning and definition as set forth in paragraphs (14), (22) and (23), respectively, of Title 42 U.S.C. §9601 and in Colorado law, provided, however, that the term “hazardous substance” as used herein shall also include “hazardous waste” as defined in paragraph (5) of 42 U.S.C. §6903 and “petroleum” as defined in paragraph (8) of 42 U.S.C. §6991; (b) the term “superfund” as used herein means the Comprehensive Environmental Response, Compensation and Liability Act, as amended, being Title 42 U.S.C. §9601 et seq., as amended, and any similar State of Colorado statute or local ordinance applicable to the Leased Property, including, without limitation, Colorado rules and regulations promulgated, administered and enforced by any governmental agency or authority pursuant thereto; and (c) the term “underground storage tank” as used herein shall have the same meaning and definition as set forth in paragraph (1) of 42 U.S.C. §6991.

140. “*Insurance Consultant*” means CIRSA (Colorado Intergovernmental Risk Sharing Agency). ~~an independent person or firm acceptable to the Town experienced in providing the specific type of insurance in question and capable of making an evaluation of the actuarial risk of loss from the types of events customarily covered by such insurance policies.~~

112. “*Lease Remedy*” or “*Lease Remedies*” means any or all remedial steps provided in Article XIV of this Lease whenever an Event of Default hereunder has happened and is continuing.

122. “*Lease Term*” means the time during which the Town is the lessee of the Leased Property under this Lease, as provided in and subject to Article IV of this Lease.

134. “*Leased Property*” means the real property described in Exhibit A attached hereto, situate in the County of La Plata and State of Colorado, and includes all existing facilities, structures, equipment, furnishings and improvements ~~situate in the County of La Plata and State of Colorado, and more particularly described as follows:~~
See Exhibits for specific property legal descriptions.

~~set forth legal description or refer to See Exhibits Attached Hereto including Parcel ID 5955-084-00-002, Parcel ID 5955-083-08-001, and Parcel ID 5955-83-08-002 comprising approximately 5.93 acres, an approximate 41,952 square foot school/community building, and 33 parking spaces] together with all water rights owned by District appurtenant to the property.~~

~~Also known by street and number as: [street address] 115 Ute Street, Ignacio, Colorado 81137~~

145. “Net Proceeds” when used with respect to any performance or payment bond proceeds, or proceeds of insurance, including self-insurance, required by this Lease, or proceeds from any condemnation award, or any proceeds resulting from default or breaches of warranty under any contract relating to the Leased Property or proceeds from any Lease Remedy, means the amount remaining after deducting from such proceeds (a) all expenses (including, without limitation, attorneys’ fees and costs) incurred in the collection of such proceeds or award; and (b) all other fees, expenses and payments due to the District.

156. “Opinion of Counsel” means a written opinion of legal counsel.

167. “Permitted Encumbrances” means, as of any particular time: (a) liens for taxes and assessments not then delinquent to be paid by the District, or liens which may remain unpaid pending contest pursuant to the provisions of Article VIII and Article IX of this Lease; (b) this Lease; (c) utility, access and other easements and rights of way, restrictions and exceptions which an Authorized Officer of the Town certifies will not interfere with or impair the Leased Property; (d) any financing statements filed to perfect security interests pursuant to this Lease Purchase; (e) any encumbrance represented by financing statements in forms appropriate to perfect purchase money security interests given by the District in any of the Leased Property; (f) existing easements, covenants, restrictions, liens and encumbrances (if any) to which title to the Leased Property was subject when the Leased Property was conveyed to the District, and which do not interfere in any material way with the Leased Property; and (g) such minor defects, irregularities, encumbrances and clouds on title as normally exist with respect to property of the general character of the Leased Property and as do not render the title unmarketable.

178. “Purchase Price” means the amount payable by the Town for the purpose of ~~terminating this Lease with respect to the Leased Property and~~ purchasing the Leased Property which amount is set forth in Article XII of this Lease Purchase.

189. “Requirement of Law” means any material federal, state or local statute, ordinance, rule or regulation, any judicial or administrative order (whether or not on consent), request or judgment, any common law doctrine or theory, any provision or condition of any permit required to be obtained or maintained, or any other binding determination of any governmental authority relating to the ownership or operation of property, including but not limited to any of the foregoing relating to environmental, health or safety matters.

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Commented [LL1]: Should identify the water rights that are appurtenant to the property that will be lease purchased by the Town.

Commented [LL2]: I think I heard mention there is a fourth parcel ID, as these only add up to 5.585 acres if my math is correct. Need to identify the fourth parcel if there is one.

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Article II. REPRESENTATIONS, COVENANTS AND WARRANTIES

A. Representations, Covenants and Warranties of the Town. The Town represents, covenants and warrants as follows:

1. The lease and purchase of the Leased Property from the District pursuant to this Lease serves a public purpose and is in the best interests of the Town and ~~the its residents of the State.~~

2. The execution, delivery and performance of this Lease Purchase by the Town have been duly authorized by the Town Board.

3. This Lease Purchase is enforceable against the Town in accordance with its terms, subject to annual appropriation, limited only by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, by equitable principles, whether considered at law or in equity, by the exercise by the State and its governmental bodies of the police power inherent in the sovereignty of the State and by the exercise by the United States of America of the powers delegated to it by the Constitution of the United States of America.

4. The execution, delivery and performance of the terms of this Lease Purchase by the Town does not and will not conflict with or result in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Town is now a party or by which the Town is bound, or constitute a default under any of the foregoing or, except as specifically provided in this Lease Purchase, result in the creation or imposition of a lien or encumbrance whatsoever upon any of the property or assets of the Town.

5. There is no litigation or proceeding pending or to the best of its knowledge threatened against the Town or any other person affecting the right of the Town to execute, deliver or perform its obligations of the Town under this Lease Purchase.

6. The Town will recognize economic and other benefits by the leasing of the Leased Property pursuant to this Lease Purchase; the Leased Property is and will be property that is necessary and essential to the Town's purpose and operations; and the Town finds, intends, and expects that the Leased Property will adequately serve the needs for which it is being leased throughout the full Lease Term.

7. The Base Rentals and the anticipated Additional Rentals payable in each Fiscal Year during the Lease Term are ~~not~~ more than the fair value of the use of the Leased Property during such Fiscal Year, and include ~~—The Purchase Price is the Town's best estimate of the fair purchase price of the Leased Property at the time of the Town's purchase of the Leased Property by paying the Purchase Price. Lease value is \$1,000 per month, amounts paid beyond that are toward the purchase price.~~ The full Lease Term does not exceed the weighted average useful life of the Leased Property. In making the representations, covenants and warranties set forth above in this subsection, the Town has given due consideration to the purposes for which the Leased Property will be used by the Town, the benefits to the Town from the use of the Leased Property, the Town's option to purchase the Leased Property hereunder prior to the agreed-upon date for the

expiration of the Lease Term and the terms of this Lease ~~Purchase~~ governing the use of the Leased Property.

8. The Town has, by ~~Resolution~~ Ordinance of the Town Board of even date herewith, made an irrevocable pledge of current funds to pay the first year's ~~all~~ Base Rentals ~~and estimated Additional Rentals~~ and the other payments during the Lease Term are subject to annual appropriation, ~~and the Purchase Price as herein provided.~~

B. Representations, Covenants and Warranties of the District. The District represents, covenants and warrants as follows:

1. The District has all requisite power to carry out its obligations under this Lease, and has duly executed and delivered this Lease ~~Purchase~~ and all other documents related to this Lease ~~Purchase~~.

2. The District is not aware of any current violation of any Requirement of Law or the presence of any Hazardous Substance or hazardous material that is not encapsulated relating to the Leased Property.

3. ~~To the best of the District's knowledge,~~ the Leased Property has never been subject to material damage from flooding.

4. The District ~~owns~~ ~~is the District in fee~~ ~~of~~ title to the Leased Property. No lien or encumbrance on the property will materially impair the Town's use of the real property on which the Leased Property is located for the purposes for which they are, or may reasonably be expected to be, held.

5. The District shall maintain and provide upon request by the Town an inventory of all furniture, fixtures and equipment that are included with the Leased Property.

6. Except as specifically provided in this Lease, the District will not pledge or assign its right, title and interest in and to any of its rights under this Lease or assign, pledge, mortgage, encumber or grant a security interest in its right, title and interest in, to and under this Lease or the Leased Property, except for Permitted Encumbrances.

7. ~~This Lease Purchase is enforceable against the District in accordance with its terms.~~ Neither the execution and delivery of this Lease nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions and provisions of any restriction or any agreement or instrument to which the District is now a party or by which the District is bound, or constitutes a default under any of the foregoing.

8. ~~There is no litigation or proceeding pending or threatened against the District or any other person affecting the right of the District to execute this Lease and to perform its obligations hereunder and thereunder.~~

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9. ~~9.~~ Purchase price payments (those exceeding \$1,000 per month) shall be held in an escrow account of the District or in a special trust account established by the District, and not spent or commingled with other funds until closing on the property.

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Article III. LEASE OF LEASED PROPERTY

The District demises and leases the Leased Property to the Town, and the Town leases the Leased Property from the District, in accordance with the provisions of this Lease ~~Purchase~~, subject only to Permitted Encumbrances, to have and to hold for the Lease Term.

Article IV. LEASE TERM

A. Duration of Lease Term. The Lease Term shall commence as of the date hereof and continue through ~~December 31, 2022~~ July 1, 2025.

B. Termination of Lease Term. The Lease Term shall terminate upon date set forth in Section A. above, unless sooner terminated by either of the following events:

1. The conveyance of the Leased Property to the Town upon payment of the Purchase Price and all Base Rentals and Additional Rentals as provided in Article XI of this Lease ~~Purchase~~; or

2. An Event of Default and termination of this Lease under Article XIV of this Lease ~~Purchase~~.

Article V. ENJOYMENT OF LEASED PROPERTY

A. District's Covenant of Quiet Enjoyment. The District hereby covenants that the Town shall during the Lease Term peaceably and quietly have, hold and enjoy the Leased Property without suit, trouble or hindrance from the District, except as expressly required or permitted by this Lease. The District shall, at the request of the Town ~~and at the cost of the Town~~, join and cooperate fully in any legal action in which the Town asserts its right to such possession and enjoyment, or which involves the imposition of any taxes or other governmental charges on or in connection with the Leased Property. In addition, the Town may ~~at its own expense~~ join in any legal action affecting its possession and enjoyment of the Leased Property and shall be joined in any action affecting its liabilities hereunder. Notwithstanding the foregoing, the Town hereby consents to the inspection by the District of all books, accounts and records maintained by the Town with respect to the Leased Property and this Lease ~~Purchase~~.

B. Town's Need for the Leased Property; Determinations as to Fair Value and Fair Purchase Price. The Town has determined and hereby determines that it has a current need for the Leased Property. The Town has determined and hereby determines that the Base Rentals and estimated Additional Rentals under this Lease during the Lease Term for the Leased Property represent the fair value of the ~~Lease (\$1,000 per month lease), with the balance of the payments going to the purchase of use of the Leased Property and that the Purchase Price for the Leased~~

~~Property will represent the fair purchase price of the District's interest in the Leased Property at the time of the purchase.~~ In making such determinations, the Town has given consideration to the estimated current value of the Leased Property, the uses and purposes for which the Leased Property will be employed by the Town, the benefit to the citizens and inhabitants of the Town by reason of the use and occupancy of the Leased Property pursuant to the terms and provisions of this Lease **Purchase**, and the expected eventual vesting of unencumbered title to the Leased Property in the Town. The Town hereby determines and declares that the Lease Term does not exceed the weighted average useful life of the Leased **Property**.

Commented [LL3]: I am not sure this is correct based upon the appraisal. Why do we need to represent this?

Article VI. PAYMENTS BY THE TOWN

A. Payments **Subject to Annual Appropriation and to Be Paid From Available Funds.** The Town and the District acknowledge and agree that current funds of the Town in amounts sufficient to pay the Base Rentals and Additional Rentals hereunder during the **first year of the Lease Purchase**, ~~and the Purchase Price~~, have been irrevocably pledged by ~~resolution of the Town Board~~, **but that payments beyond the first year are subject to annual appropriation.** ~~but that any and all payments due hereunder may be made from and with any lawfully available funds of the Town. The Town's obligations to pay Base Rentals, Additional Rentals, the Purchase Price payable at Closing, and/or any other payments provided for under this Lease shall constitute a mandatory charge and liability of the Town in all fiscal years in which an obligation for payment is due or may be due pursuant to this Lease.~~

B. Base Rentals and Additional Rentals.

1. **Subject to annual appropriation**, ~~t~~**The** Town shall pay all Base Rentals directly to the District during the Lease Term, on the Base Rental Payment Dates and in the amounts set forth in Exhibit B, attached hereto and made a part hereof, ~~as it may be amended from time to time hereunder.~~

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2. **Subject to annual appropriation**, ~~t~~**The** Town shall pay Additional Rentals during the Lease Term as herein provided. All Additional Rentals shall be paid by the Town on a timely basis directly to the person or entity to which such Additional Rentals are owed.

C. Interest Component. A portion of each payment of Base Rentals is paid as, and represents payment of, interest. Exhibit B hereto sets forth the interest component of each payment of Base Rentals. The interest component of Base Rentals shall accrue at the initial rate of ~~___%~~**0%** per annum, computed on the basis of a 365 day year as set forth in Exhibit B.

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D. Manner of Payment. The Base Rentals and, when paid, the Purchase Price, shall be paid by the Town by certified funds or other method of payment acceptable to the District in lawful money of the United States of America to the District at its administrative offices. The obligation of the Town to pay the Base Rentals and Additional Rentals during the **first year of the Lease Term** shall be absolute and unconditional, payable from all legally available sources, and payment of the Base Rentals and Additional Rentals shall not be abated through accident or unforeseen circumstances, or for any other reason, including without limitation, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Leased Property,

commercial frustration of purpose, ~~or failure of the District to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Lease,~~ it being the intention of the parties that the payments required by this Lease Purchase will be paid in full when due without any delay or diminution whatsoever, ~~subject to annual appropriation. Notwithstanding any dispute between the Town and District, the Town shall, during the Lease Term, make all payments of Base Rentals and Additional Rentals when due and shall not withhold any Base Rentals or Additional Rentals pending final resolution of such dispute (except to the extent permitted by Article VII, Section B hereof with respect to certain Additional Rentals), nor shall the Town assert any right of set off or counterclaim against its obligation to make such payments required hereunder. No action or inaction on the part of the District shall affect the Town's obligation to pay all Base Rentals and Additional Rentals (except to the extent provided by Article VII, Section B hereof with respect to certain Additional Rentals), during the Lease Term.~~ subject to annual appropriation.

Article VII. TITLE TO THE LEASED PROPERTY; LIMITATIONS ON ENCUMBRANCES

A. Title to the Leased Property. Title to the Leased Property shall remain in the District until conveyed to the Town at the time of the third payment, unless purchase price is paid earlier. Title and closing shall occur upon payment in full of the purchase price. ~~Except as expressly set forth in this Lease, the Town shall have no right or interest in the Leased Property until the Leased Property is conveyed to the Town at Closing upon payment of the Purchase Price.~~

B. No Encumbrance, Mortgage or Pledge of Leased Property. The District represents and warrants that it shall provide the Leased Property to the Town free of all liens including mechanic's liens. Thereafter, the Town shall not permit any mechanic's or other lien to remain against the Leased Property; provided that, if the Town shall first notify the District of the intention of the Town to do so, the Town may in good faith contest any mechanic's or other lien filed or established against the Leased Property, and in such event may permit the items so contested (which might be considered Additional Rentals) to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom unless the District shall notify the Town that, in the Opinion of Counsel, by nonpayment of any such items the District's title to or interest in the Leased Property will be materially endangered, or the Leased Property or any part thereof will be subject to loss or forfeiture, in which event the Town shall promptly pay and cause to be satisfied and discharged all such unpaid items (provided, however, that such payment shall not constitute a waiver of the right to continue to contest such items). The District will cooperate fully with the Town in any such contest, upon the request and at the expense of the Town. Except as may be permitted by this Lease Purchase, the District shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Property, except Permitted Encumbrances. The Town and the District shall promptly, at their own respective expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance or claim not excepted above which each shall respectively have created, incurred, or suffered to exist.

Article VIII. MAINTENANCE; TAXES; INSURANCE AND OTHER CHARGES

A. Maintenance of the Leased Property by the Town. The Town agrees that at all times during the Lease Term the Town will maintain, preserve and keep all portions of the Leased Property or cause the Leased Property to be maintained **in no worse condition then exists at the time of the lease purchase execution** (including without limitation regular janitorial services, snow removal and trash clean-up and removal), preserved and kept, in good repair, working order and condition, and that the Town will from time to time make or cause to be made all necessary and proper repairs. **The Town shall have no obligation to improve the Leased Property beyond its present condition.** The District shall not have any responsibility for such maintenance or repairs or for the making of any additions, modifications or replacements to the Leased Property.

Commented [LL4]: This could be expensive obligation, if for example roof collapses, furnace goes out, HVAC problem, or other expensive repair is needed.

B. Modification of the Leased Property, Installation of Furnishings and Equipment of the Town. The Town shall have the privilege of making substitutions, additions, modifications and improvements to any portion of the Leased Property, at its own cost and expense; and the same shall be the property of the District **unless the Leased Property is conveyed to the Town** and, subject to this Lease **Purchase**, shall be included under the terms of this Lease; provided, however, that such substitutions, additions, modifications and improvements shall not in any way damage the Leased Property or cause the Leased Property to be used for purposes other than lawful governmental or proprietary functions of the Town (except to the extent of subleasing permitted under Article XIII hereof); and provided that the Leased Property, as improved or altered, upon completion of such substitutions, additions, modifications and improvements, shall be of a value not less than the value of the Leased Property immediately prior to making such substitutions, additions, modifications and improvements.

Commented [LL5]: Typically Landlord is responsible for repairs beyond normal wear and tear. For example roof, furnace, HVAC, anything beyond normal wear and tear.

The Town may also, from time to time in its sole discretion and at its own expense, install machinery, equipment, and other tangible personal property in or on any Leased Property. All such machinery, equipment, and other tangible personal property shall remain the sole property of the Town in which the District shall have not any interests; provided, however, that title to any such machinery, equipment, and other tangible personal property which becomes permanently affixed to any Leased Property **as a fixture**, shall be **deemed part of the Leased Property** ~~in the name of the District~~ and shall be included under the terms of this Lease, ~~in the event the District shall reasonably determine that such Leased Property would be materially damaged or impaired by the removal of such machinery, equipment, or other tangible personal property.~~

C. Contractor Performance Bonds. Each contractor **retained by the Town to make improvements to the property** shall provide a performance bond or bonds covering with respect to any improvements to the Leased Property (a) performance of the applicable project contracts and (b) payment for labor and materials, in each case issued by a responsible surety company qualified to do business in the State of Colorado. Such bond or bonds shall name the District and Town as co-insured parties and shall be in amounts equal in the aggregate to the fixed contract price or prices.

D. Taxes, Other Governmental Charges and Utility Charges. In the event that the Leased Property or any portion thereof shall, for any reason, be deemed subject to taxation, assessments or charges lawfully made by any governmental body, the Town shall pay the amount of all such

taxes, assessments and governmental charges when due, as Additional Rentals, if they accrued during the lease term. With respect to special assessments or other governmental charges which may be lawfully paid in installments over a period of years, the Town shall be obligated to provide for Additional Rentals only for such installments as are required to be paid during the Lease Term, subject to annual appropriation. Except for Permitted Encumbrances, the Town shall not allow any liens for taxes, assessments or governmental charges to accrue after the Lease Purchase is entered into ~~exist~~ with respect to the Leased Property or any portion thereof (including, without limitation, any taxes levied upon the Leased Property or any portion thereof which, if not paid, will become a charge on the rentals and receipts from the Leased Property or any portion thereof, or any interest therein, including the interest of the District), or the rentals and revenues derived therefrom or hereunder. The Town shall also pay as Additional Rentals, as the same respectively become due, all utility and other charges incurred in the maintenance and upkeep of the Leased Property that accrue during the lease term.

E. Provisions Regarding Liability, Property and Worker's Compensation Insurance.

Upon the delivery and acceptance of the Leased Property as provided in this Lease, the Town shall, at its own expense, cause casualty and property insurance to be carried and maintained with respect to the Leased Property in an amount equal to the purchase price ~~maximum insurable value~~ of the Leased Property. Such insurance policy may have a deductible clause in an amount not to exceed One Thousand Dollars (\$1,000.00) or such greater amount as is approved in writing by the District. The Town may, in its discretion, insure the Leased Property under blanket insurance policies which insure not only the Leased Property, but other property as well, as long as such blanket insurance policies otherwise comply with the requirements hereof. Any property damage insurance policy required by this Section E shall be so written or endorsed as to show the District, as loss payee and/or additional insured, and to make losses exceeding \$25,000, if any, payable to the Town and the District, as their respective interests may appear.

Commented [LL6]: Need to run this paragraph by CIRSA to make sure they can do it.

1. Upon the execution and delivery of this Lease, the Town shall, at its own expense, cause public liability insurance, including blanket contractual liability or specific contractual liability insurance for this Lease Purchase and public officials' errors and omissions coverage, to be carried and maintained with respect to the activities to be undertaken by the Town and its officers, officials, agents and employees in connection with the use and possession of the Leased Property. All such policies (other than errors and omissions) shall show the District and all directors, officers, and employees thereof, as additional insureds. Such coverage shall be in amounts not less than the limits of liability per occurrence set by the Colorado Governmental Immunity Act as the same may from time to time be amended, to a \$2,000,000 annual aggregate, for claims to which the defense of sovereign immunity applies. The public liability insurance required by this Subsection E.1. may be by blanket insurance policy or policies.

Commented [LL7]: Not sure why 2,000,000 if immunity act provides a lesser ceiling.

Commented [LL8]: Need to ask CIRSA if they can do this.

2. If the Town shall insure against similar risks by self-insurance, the Town, at its election and in accordance with the standards of the State relating thereto, may in lieu of obtaining policies for casualty and property, and public liability insurance coverage as required by this Section E. provide one or more such coverages by a self-insurance fund so long as the Town provides an annual certification to the District that the reserves therein are adequate as determined by, in the case of public liability and workers' compensation insurance, the Town's risk manager or Insurance Consultant.

3. Each property and liability insurance policy provided for in this Section E. shall, to the extent that local industry practice permits, contain a provision to the effect that the insurance company shall not cancel the policy or modify it materially and adversely to the interests of the District without first giving written notice thereof to the District at least 30 days in advance of such cancellation or modification. In the event that the Town has received such notice of cancellation or modification, it shall immediately furnish to the District a new insurance policy or certificate evidencing such policy replacing the cancelled or modified policy and effective on or before the effective date of such cancellation or modification.

4. The Town shall provide certified copies of all insurance policies required under this Section E. or certificates of insurance with appropriate endorsements attached evidencing, that the District has been named as loss payee and/or additional insured and that the thirty-day notice of cancellation provision is in effect. A certificate of insurance will be acceptable evidence of insurance at closing, with the understanding that the Town shall furnish the policy or endorsements within 30 days after closing. No agent or employee of the Town shall have the power to adjust or settle any loss with respect to the Leased Property, whether or not covered by insurance, without the prior written consent of the District; except that losses not exceeding \$25,000 may be adjusted or settled by the Town without the District's consent.

Commented [LL9]: Need to ask CIRSA about this too.

Article IX. EASEMENTS

As long as no Event of Default shall have happened and be continuing, the District shall ~~at any time or times, but~~ only upon the request of the Town, grant easements, licenses, rights-of-way (including the dedication of public highways) and other rights or privileges in the nature of easements with respect to any property or rights included in this Lease Purchase, free from this Lease Purchase and any security interest or other encumbrance created hereunder or thereunder, and the District shall release existing easements, licenses, rights-of-way, and other rights and privileges with respect to such property or rights, with or without consideration, and shall execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way or other grant or privilege upon receipt of: (a) a copy of the instrument of grant or release; and (b) a written application signed by an Authorized Officer of the Town requesting such instrument and stating that such grant or release will not impair the effective use or interfere with the operation of the Leased Property.

Article X. DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

A. Damage, Destruction and Condemnation. If, during the Lease Term (a) the Leased Property or any portion thereof shall be destroyed (in whole or in part), or damaged by fire or other casualty; or (b) title to, or the temporary or permanent use of, the Leased Property or any portion thereof or the estate of the Town or the District in the Leased Property or any portion thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority; ~~or (c) a breach of warranty or a material defect in the construction, manufacture or design of the Leased Property shall become apparent; or (d) title to or the use of all or any portion of the Leased Property shall be lost by reason of a defect in title thereto;~~ then the Town shall not be obligated to continue to pay Base Rentals

and the Purchase Price (at the required time) without offset or abatement. Lease Purchase may be terminated at option of Town upon which any purchase price beyond the \$1,000 per month rent shall be returned to the Town.

B. Obligation of the Town to Repair and Replace the Leased Property. The Town and, to the extent such Net Proceeds are within their control, the District, shall cause the Net Proceeds of any insurance policies, performance bonds or condemnation awards to be deposited in a separate trust fund held by the District and the Town. All Net Proceeds so deposited ~~shall~~ may be applied, upon mutual agreement of the parties, to the prompt repair, restoration, modification, improvement or replacement of the Leased Property by the Town upon receipt of requisitions acceptable to the District signed by an Authorized Officer of the Town stating with respect to each payment to be made; (a) the requisition number; (b) the name and address of the person, firm or corporation to whom payment is due; (c) the amount to be paid; and (d) that each obligation mentioned therein has been properly incurred, is a proper charge against the separate trust fund and has not been the basis of any previous withdrawal and specifying in reasonable detail the nature of the obligation, accompanied by a bill or a statement of account for such obligation.

C. Insufficiency of Net Proceeds. If the Net Proceeds from an insurance policy (plus any amounts withheld from such Net Proceeds by reason of any deductible clause) shall be insufficient to pay in full the cost of any repair, restoration, ~~modification, improvement or~~ replacement of the Leased Property required under this Article X, the Town shall, within ninety (90) days after the occurrence of an event specified in Article X, Section A above, proceed with one of the following two options after providing to the District written notice of the option selected:

1. Complete the work or replace such Leased Property (or portion thereof) with similar property of a value equal to or in excess of such Leased Property or portion thereof ~~and pay as Additional Rentals any cost in excess of the amount of the Net Proceeds,~~ and the Town agrees that, if by reason of any such insufficiency of the Net Proceeds, the Town shall make any payments pursuant to the provisions of this Article X, the Town shall not be entitled to any reimbursement therefor from the District, nor shall the Town be entitled to any diminution of the Base Rentals and Additional Rentals payable under this Lease; or

2. Apply the Net Proceeds to the payment of the Purchase Price in accordance with Article XI of this Lease; (i) in the event of an insufficiency of the Net Proceeds for such purpose, the Town shall pay such amounts as may be necessary to equal that portion of the Purchase Price which is attributed to the Leased Property for which the Net Proceeds have been received (as certified to the District by the Town), and (ii) in the event the Net Proceeds shall exceed such portion of the Purchase Price, such excess shall be retained by the Town.

3. Terminate this Lease Purchase Agreement.

D. Cooperation of the District. At the expense of the Town, the Town shall cooperate fully with the District in filing any proof of loss with respect to any insurance policy or performance bond covering the events described in Article X, Section A of this Lease and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Leased Property or any portion thereof and in the enforcement of all warranties relating to the Leased Property. In no event shall the District voluntarily settle, or consent to the settlement of, any

proceeding arising out of any insurance claim, performance or payment bond claim, prospective or pending condemnation proceeding, or any portion thereof without the written consent of the Town.

E. Condemnation by the Town. The Town agrees that, to the extent permitted by law, in the event it brings an eminent domain or condemnation proceeding with respect to all or any portion of the Leased Property, the fair market value of the condemned portion of the Leased Property shall be not less than the Purchase Price.

Article XI. DISCLAIMER OF WARRANTIES; OTHER COVENANTS

A. Disclaimer of Warranties. THE DISTRICT DOES NOT MAKE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR USE OF THE LEASED PROPERTY OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LEASED PROPERTY. THE TOWN HEREBY ACKNOWLEDGES AND DECLARES THAT THE TOWN IS SOLELY RESPONSIBLE FOR THE USE, CONSTRUCTION, IMPROVEMENT, EQUIPPING, MAINTENANCE AND OPERATION OF THE LEASED PROPERTY, AND THAT THE DISTRICT DOES NOT HAVE ANY RESPONSIBILITY THEREFOR. For the purpose of enabling the Town to discharge such responsibility, the District constitutes and appoints the Town as its attorney in fact for the purpose of constructing, improving, equipping, maintaining and operating the Leased Property, and asserting and enforcing, at the sole cost and expense of the Town, all constructor's or manufacturer's warranties and guaranties, express or implied, with respect to the Leased Property, as well as any claims or rights the District may have in respect of the Leased Property against any manufacturer, supplier, contractor or other person. In no event shall the District be liable for any direct or indirect, incidental, special or consequential damage in connection with or arising out of this Lease or the existence, furnishing, functioning or use by the Town of any item, product or service provided for herein.

Commented [LL10]: Do we want the District to be responsible for major repairs during the Lease?

B. Further Assurances and Corrective Instruments. The District and the Town agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Property hereby leased or intended so to be, or for otherwise carrying out the intention hereof.

C. Compliance With Requirements. During the Lease Term, the Town and the District shall observe and comply promptly to the extent possible with all current and future orders of all courts having jurisdiction over the Leased Property or any portion thereof, provided that the Town and the District may contest or appeal such orders so long as they are in compliance with such orders during the contest or appeal period, and all current and future requirements of all insurance companies writing policies covering the Leased Property or any portion thereof.

~~**D. Tax Covenant of Town.** The Town will not use or permit others to use the Leased Property in a manner that would cause the interest component of the Base Rentals to be included in gross income for federal income tax purposes or to be an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations (except, with respect~~

~~to corporations, as such interest is required to be taken into account in determining “adjusted net book income” for the purpose of computing the alternative minimum tax imposed on such corporations).~~

E. Tax and Securities Disclaimer. The District disclaims any and all representations that this Lease and/or the Town’s obligations and/or benefits hereunder comply with any tax or securities legal requirements under state or federal law. Each party hereto shall obtain its own separate tax and securities legal advice and take such measures with respect thereto as such party shall determine necessary and appropriate.

F. Immunity and Indemnification.

1. In the exercise of the powers of the District by its employees and agents under this Lease, including (without limiting the foregoing) the application of moneys and the investment of funds, the District shall not be accountable to the Town for any action taken or omitted with respect to this Lease by it or its employees and agents reasonably believed by it or them to be authorized or within the discretion or rights or powers conferred under this Lease. The District and its employees and agents shall be protected in its or their actions taken in reliance upon any paper or documents believed by it or them to be genuine and consistent with their rights or powers under this Lease, and it or they may conclusively rely upon the advice of Counsel and may (but need not) require further evidence of any fact or matter before taking any action. No recourse shall be had by the Town for any claims based on this Lease against any employee or agent of the District alleging personal liability on the part of such person.

~~2. To the fullest extent permitted by law, the Town shall indemnify the District and any of its directors, employees or agents and save them harmless against any liability resulting from acts or omissions of the Town in connection with any acts taken pursuant to this Lease as it relates to the Town and the Leased Property. To the fullest extent permitted by law, the Town shall also indemnify the District and its directors, employees or agents against all claims arising from: (a) the conduct, management, operation or use of, or from any work or thing done on, the Leased Property during the Lease Term; (b) any condition of the Leased Property; and (c) any act of negligence of the Town or of any of its agents, contractors or employees or any violation of law by the Town or breach of any covenant or warranty by the Town hereunder. To the fullest extent permitted by law, the Town shall indemnify and save the District and its employees and agents harmless from any such claim arising as aforesaid or in connection with any action or proceeding brought thereon and, upon notice from the District or any of its employees or agents, shall defend the District and its employees and agents in any such action or proceeding. Notwithstanding anything to contrary herein, nothing in this Subsection F.2. or otherwise contained in this Lease shall be construed in any way or applied in any manner as a compromise or waiver of the Town’s rights, defenses, and protections under the Colorado Governmental Immunity Act, Article X, Section 20, and/or Article XI, Section 1 of the Colorado Constitution.~~

G. Access to Leased Property. The Town agrees that the District, and any authorized representative of the District, shall have the right at all reasonable times to examine and inspect the Leased Property and all of the Town’s books and records with respect thereto. The Town further agrees that the District, and any such representative shall have such rights of access to the

Commented [LL11]: Town can’t indemnify

Leased Property as may be reasonably necessary to cause the proper maintenance of the Leased Property in the event of failure by the Town to perform its obligations under this Lease.

H. Annual Budgets and Audited Financial Statements. The Town shall provide its annual budget to the District within the first five Business Days of the Fiscal Year for each annual budget which shall be fulfilled by posting on the Town's website. Additionally, the Town shall provide its audited financial statements by an independent certified public accountant to the District, annually, within fifteen Business Days of their acceptance by the Board, upon request by the District. The Town shall use its best efforts to provide such audited financial statements to be delivered to the District no later than seven months after the close of the Town's Fiscal Year.

I. Environmental Covenant. The Town shall not store, locate, generate, produce, process, treat, transport, incorporate, discharge, emit, release, deposit or dispose of any Hazardous Substance in, upon, under, over or from the Leased Property in violation of any Requirement of Law, ~~shall not permit any Hazardous Substance to be stored, located, generated, produced, processed, treated, transported, incorporated, discharged, emitted, released, deposited, disposed of or to escape therein, thereupon, thereunder, there over or therefrom in violation of any Requirement of Law, shall cause all Hazardous Substances to be properly removed therefrom and properly disposed of in accordance with all applicable Requirement of Law,~~ shall not install or permit to be installed any underground storage tank therein or thereunder in violation of any Requirement of Law and shall comply with all other Requirement of Law which are applicable to the Leased Property.

Commented [LL12]: Can't be responsible for fixing asbestos or mold or other things presently on property.

~~1. In the event any Hazardous Substance is found upon, under, over or from the Leased Property in violation of any Requirement of Law or if any lien or claim for lien in favor of any governmental entity or agency as a result of any release of any Hazardous Substance is threatened, the Town, at its sole cost and expense, shall, within ten days of such finding, deliver written notice thereof to the District and shall promptly remove such Hazardous Substance and prevent the imposition of any liens against the Leased Property for the cleanup of any Hazardous Substance. Such removal shall be conducted and completed in compliance with all applicable federal, state and local laws, regulations, rules, ordinances and policies in accordance with the orders and directives of all federal, state and local governmental authorities.~~

~~2. To the fullest extent permitted by law, the Town further agrees to reimburse the District for any and all claims, demands, judgments, penalties, liabilities, costs, damages and expenses, including court costs and attorneys' fees directly or indirectly incurred by the District in any action against or involving the District, resulting from any breach of the foregoing covenants or the representations and warranties herein, or from the discovery of any Hazardous Substance, in, upon, under or over, or emanating from, the Leased Property.~~

Article XI. PURCHASE AND SALE OF THE LEASED PROPERTY

A. Purchase and Sale. This Article XI shall constitute an agreement for purchase and sale between the District and the Town, whereby District agrees to sell and the Town agrees to purchase the Leased Property upon the terms and conditions stated herein below.

1. The purchase price shall be One million ~~one~~^{two} hundred thousand **Dollars** **(\$1,200,000)** (the "Purchase Price") payable as follows: the Purchase Price, shall be paid in funds available for immediate withdrawal by the District **in the amounts and dates as set forth in Exhibit B at the time of closing.**

2. The Purchase Price shall include all **structures, facilities,** fixtures and improvements ~~presently~~ located on the Leased Property, conveyed free and clear of all taxes, liens and encumbrances. Any items of personal property that the District is willing to sell will be priced based upon a separate negotiation, and any such personal property shall be conveyed by bill of sale.

B. Inspection Rights; Survey. Upon execution of this **Lease Purchase**, the Town shall be provided with full access to the Leased Property and shall be permitted to inspect and examine the Leased Property and improvements thereon, as well as all conditions relating thereto including, without limitation, zoning, drainage, flood control, water, sewage, electricity, gas and other utility connections, economic feasibility, construction suitability, submittals, the parcel map (and any conditions thereto) and any other matter, element or concern with respect to the operation of the Leased Property. Town may at Town's election also obtain a complete ALTA survey ("ALTA Survey") or other survey deemed adequate by the Town, at Town's own sole cost and expense. Town shall also have the right to perform any environmental assessment, or any other investigation that would drill, extract or physically alter or change the condition of the Leased Property; provided that Town shall restore the Leased Property, or either of them, if necessary, to its original condition promptly after completing its inspection work and any testing of the Leased Property, and such obligation shall survive the termination of this Lease. Except as expressly required by applicable law or contract, **or as needed to enforce this agreement, the** Town shall keep confidential the results and findings of Town's studies, surveys, and inspections of the Leased Property. No examination, surveys, inspections or tests by Town shall unreasonably interfere with, or damage, any current use of the Leased Property by the District. Town shall promptly notify the District in writing of any matter discovered during inspection, survey, and/or investigation pursuant to this Section B which makes the Leased Property unsuitable for the Town's purposes, in the Town's sole judgment, and such any such matters shall be deemed Objections to which the provisions of Section D below shall apply.

Commented [LL13]: Probably want to do all the inspection, disclosures, and due diligence prior to initiating lease, just as would prior to buying a piece of property. Additionally should have the Seller's disclosures prior to inspections and survey.

C. Title Insurance/Title Conditions. A current commitment for title insurance policy issued by a title company to be selected by the District, in an amount equal to the Purchase Price, shall be furnished by the District to the Town within ~~thirty-sixty~~ ⁽³⁰⁾⁶⁰ days ~~prior to~~ ^{after} the execution of this Lease. Except for modifications, if any, pursuant to Objections as defined below, the Town shall take title to the Leased Property subject to all easements, covenants, **restrictions,** mineral leases, and other conditions which appear in the Schedule B-2 Exceptions to Title as provided in the insurance commitment for the Leased Property. Moreover, Town shall take the Leased Property subject to the inclusion of the Leased Property within any special taxing districts, utility distribution easements, and those off-record conditions which have been disclosed to Town pursuant to this Lease. The District will provide written disclosure of off-record conditions within ~~thirty-60~~ ⁽³⁰⁾ days of the execution of this Lease **Purchase.**

Commented [LL14]: Since big payment are due upon execution of lease, we really need all the due diligence to occur before the lease.

D. Objections. In the event that the Town determines that any matter disclosed by any survey or ALTA Survey, or discovered in the Town's inspection under Section B above, or discovered in

the Town's title review or review of off-record disclosures under Section C above, or discovered in other due diligence, which makes the Leased Property unsuitable for the Town's purposes, in the Town's sole judgment, the Town shall promptly notify the District in writing of such matter or matters (hereinafter referred to as "Objections"). The District shall have no responsibility whatsoever for curing any Objections; provided however, the District, at its option, may cure or remove any Objections by giving the Town written notice of the District's intention to cure or remove such Objections within ~~fifteen~~ (15) business days after receipt of Town's written notice thereof. If the District fails to give Town written notice within ~~fifteen~~ (15) business days after receipt of written notice of Objections, the Town shall have ~~ten-Fifteen~~ (10/15) business days in which to decide whether this Lease shall be deemed canceled and of no further force or effect, or whether to waive such Objections. **If the Lease is cancelled, the District shall return payments made by the Town.** If the Town has not given The District notice within such ~~Fifteen~~ business day period that the Objections will be waived, then this Lease shall be deemed canceled and of no further force or effect, and the parties hereto shall have no further obligations hereunder **and payments made by the Town shall be returned** (except obligations hereunder that expressly survive termination of this Lease). Unless Town provides notice of an Objection as set forth in this Section D, or if the Town provides written notice of waiver of Objections, the Town shall be deemed to have accepted all conditions of the Leased Property, survey, and title as satisfactory.

E. Costs. The cost of the title commitment and the premium on the title insurance policy shall be ~~split equally between the parties~~ paid by the District. **The closing costs shall be split equally between the parties.** ~~title company shall deliver the title insurance policy to the Town after Closing. Additionally, at the Closing, Town shall pay: (a) any document recording charges pertaining to documents received by Town as purchaser; (b) all transfer taxes if any are applicable; and (c) Town's share of pro-rations to which the Town is subject.~~ The District and Town shall each pay their own respective legal and professional fees and fees of other consultants incurred by the the District and Town. ~~All other costs and expenses shall be allocated between the the District and Town in accordance with the customary practice within La Plata County.~~ The Town shall pay one hundred percent (100%) of all costs of the Town's due diligence, including fees due its consultants and attorneys and all costs and expenses of any survey or Phase I, Phase II, or other environmental studies which the Town desires to obtain, and all fees related to any financing to be obtained by the **Town**.

F. Closing. The closing and date for payment of the Purchase Price and delivery of the deed shall be **upon the final installment of the payment of the purchase price.** ~~within thirty (30) days of the last day of the Lease Term, or within sixty (60) days of the exercise by the Town of the option to purchase the Leased Property prior to the expiration of the Lease Term pursuant to Section G below.~~ The specific date and hour of closing shall be determined by mutual agreement of the parties. The closing shall be held at the **Ignacio Town Hall** title insurance company or such other location as may be determined by mutual agreement of the parties.

1. Title shall be merchantable in the District. Subject to payment or tender as above provided, the District shall execute and deliver a good and sufficient **SPECIAL GENERAL WARRANTY DEED** to the Town conveying the Leased Property free and clear of all taxes, except the general real estate property taxes for the year of closing, and free and clear of all liens, mortgages, deeds of trust, and encumbrances except those that may be permitted by the Town

Commented [LL15]: Generally, I think we need to beef up the purchase part of the provision based upon CO Real Estate Commission Sales contracts, including dates, and the provisions for items such as 3 § 8 Record Title Deadline (and Tax Certificate)

4 § 8 Record Title Objection Deadline

CBSF1--6-21. CONTRACT TO BUY AND SELL REAL ESTATE (RESIDENTIAL) (Colorado Foreclosure Protection Act) Page 3 of 20

5 § 8 Off-Record Title Deadline

6 § 8 Off-Record Title Objection Deadline

7 § 8 Title Resolution Deadline

Owners' Association

9 § 7 Association Documents Deadline

10 § 7 Association Documents Termination Deadline

Seller's Disclosures

11 § 10 Seller's Property Disclosure Deadline

12 § 10 Lead-Based Paint Disclosure Deadline

Appraisal

22 § 6 Appraisal Deadline

23 § 6 Appraisal Objection Deadline

24 § 6 Appraisal Resolution Deadline

Survey

25 § 9 New ILC or New Survey Deadline

26 § 9 New ILC or New Survey Objection Deadline

27 § 9 New ILC or New Survey Resolution Deadline

Inspection and Due Diligence

28 § 2 Water Rights Examination Deadline

29 § 8 Mineral Rights Examination Deadline

30 § 10 Inspection Termination Deadline

31 § 10 Inspection Objection Deadline

32 § 10 Inspection Resolution Deadline

33 § 10 Property Insurance Termination Deadline

34 § 10 Due Diligence Documents Delivery Deadline

35 § 10 Due Diligence Documents Objection Deadline

36 § 10 Due Diligence Documents Resolution Deadline

37 § 10 Conditional Sale Deadline

38 § 10 Lead-Based Paint Termination Deadline

following review of the title commitment. The term “permitted” in the preceding sentence refers to any means by which the Town expresses the permission contemplated in such sentence, but expressly includes the Town’s failure to submit an Objection or the Town’s waiver of Objections as described in Section D above. ~~The District's water rights shall be conveyed by bargain and sale deed at closing.~~

2. Any encumbrance required to be paid by the District may be paid at the time of settlement at closing from the proceeds of this transaction or from any other source.

3. The Town shall remain in possession of the Leased Property from the last day of the Lease Term through the date of Closing, ~~and for such period of possession shall pay to the District per diem Base Rental through the date of Closing and applicable Additional Rentals for the same period. Such amounts shall be calculated and paid at Closing as part of the Town's obligation.~~

G. Early Purchase Option. The District hereby grants to the Town the option to proceed to Closing prior to the expiration of the Lease Term, upon sixty days’ prior written notice to the District. The District hereby acknowledges the sufficiency of the consideration provided by the Town for such Early Purchase Option. In the event the Town exercises this Early Purchase Option, all the parties’ respective obligations hereunder will continue through the date of Closing, and this Lease will terminate at 11:50 pm on the date of Closing, provided that all obligations of the Town are met and fulfilled and no Event of Default has occurred.

Article XII. NOTICES

Any notices required or permitted hereunder shall be in writing and shall be sufficient if personally delivered, sent by overnight delivery or sent by certified mail, return receipt, addressed as follows:

If to the District:

Ignacio School District No. 11-JT
PO Box 460
Ignacio, CO 81137
Attn: Superintendent of Schools

with a required copy (which shall not constitute notice) to:

Semple, Farrington, Everall & Case, P.C.
1120 Lincoln Street, Suite 1308
Denver, Colorado 80203

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If to the Town:

Town of Ignacio
PO Box 459
Ignacio, CO 81137
Attn: Town Manager

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with a required copy (which shall not constitute notice) to:

Law Office David Liberman, LLC
1099 Main, Suite 312
Durango, CO 81301

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Notice personally delivered and overnight delivery shall be effective upon delivery. Mail notice shall be effective three (3) business days after mailing.

Article XIII. ASSIGNMENT, SUBLEASING AND USE BY TOWN

A. Assignment and Subleasing of the Lease Purchase. This Lease Purchase may not be assigned by the Town for any reason other than to a successor by operation of law **except with the District's consent, which shall not be unreasonably withheld.** However, the Leased Property may be subleased to any other person or entity, as a whole or in part, by the Town, but without the necessity of obtaining the consent of the District, subject, however, to each of the following conditions:

1. This Lease Purchase, and the obligations of the Town hereunder, shall, at all times during the Lease Term remain obligations of the Town, and the Town shall maintain its obligations to the District, notwithstanding any sublease.

2. The Town shall furnish or cause to be furnished to the District a copy of any sublease agreement.

3. No sublease by the Town shall violate the Constitution or laws of the State.

4. The temporary use of the Leased Property by one or more community groups under the Town's community use of Town facilities policies or similar procedures shall not constitute an assignment or subletting in violation of this section.

Article XIV. EVENTS OF DEFAULT AND REMEDIES

A. Events of Default Defined. Any one of the following shall be an “Event of Default” under this Lease ~~Purchase~~:

1. Failure by the Town to pay any Base Rentals or Additional Rentals during the Lease Term within ~~fifteen~~ ~~five~~ business days after the same become due, ~~however payments beyond the current fiscal year are subject to annual appropriation, and provided the District shall provide five days advance notice that the rent is overdue prior to declaring this default;~~

2. Failure by the Town to observe and perform any ~~material~~ covenant, condition or agreement on its part to be observed or performed hereunder or under any certificates executed and delivered by the Town in connection with the execution and delivery of this Lease, for a period of 30 days after written notice, specifying such failure and requesting that it be remedied shall be given to the Town by the District, unless the District shall agree in writing to an extension of such time prior to its expiration; provided, however, that if the failure stated in the notice cannot be corrected within the applicable period, the District shall not withhold its consent to an extension of such time if corrective action is instituted by the Town within the applicable period and diligently pursued until the default is corrected. Such consent by the District shall not be unreasonably withheld.

3. The Town (i) files a petition or application seeking reorganization, arrangement under federal bankruptcy law, or other debtor relief under the laws of the State or (ii) is the subject of such a petition or application which is not contested by the Town, or otherwise dismissed or discharged, within 30 days.

B. Force Majeure. If, by reason of Force Majeure, the Town shall be unable in whole or in part to carry out any obligation on its part herein contained, other than the obligations on the part of the Town contained in Article VI of this Lease, the Town shall not be deemed in default during the continuance of such inability. The Town agrees, however, to remedy, as promptly as legally and reasonably possible, the cause or causes preventing the Town from carrying out its obligations; provided that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the Town.

C. Remedies on Default. Whenever any Event of Default referred to in Section A of this Article XIV shall have happened and be continuing, the District may, without any further demand or notice, take one or any combination of the following remedial steps:

1. The District may ~~provide a notice of its intent to terminate the Lease~~ ~~Term~~ ~~Purchase~~ and ~~initiate judicial proceeding necessary to foreclose the lease purchase interest as necessary.~~ ~~give notice to the Town to vacate and surrender possession of the Leased Property in accordance with Colorado law.~~ ~~within ten Business Days of such notice.~~

~~2. The District may lease or sublease the Leased Property or any portion thereof or sell the Leased Property.~~

Commented [LL16]: The Town is really paying more than rent each year, it is paying a 1/3rd of the purchase price. Accordingly, these provisions should be tailored to allow the Town to obtain its equity.

Commented [LL17R16]: I think there are CO real estate commission approved forms of lease purchase agreements, and I would like to have opportunity to compare against this document and include additional provisions that are applicable.

~~23.~~ The District may recover from the Town:

a. The portion of Base Rentals and Additional Rentals which would otherwise have been payable hereunder, ~~adjusted to \$1,000 per month Base Rentals, -pro-rated~~ during any period in which the Town continues to occupy, use or possess the Leased Property and shall return to the Town that portion of the payments to the Town it has made to the District beyond \$1,000 per month; and

~~b. Base Rentals and Additional Rentals which would otherwise have been payable by the Town hereunder during the remainder, after the Town vacates and surrenders possession of the Leased Property, of remaining Lease Term.~~

~~4. The District may commence a legal action seeking to enforce specific performance of the Town's obligations under this Lease, including without limitation payment of the Purchase Price in exchange for the Leased Property.~~

D. No Remedy Exclusive. No remedy herein conferred upon or reserved to the District is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the District to exercise any remedy reserved in this Article XIV, it shall not be necessary to give any notice, other than such notice as may be required in this Article XIV ~~or as required by law.~~

E. Waivers. The District may waive any Event of Default under this Lease and its consequences. In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

F. Agreement to Pay Attorneys' Fees and Expenses. To the extent permitted by law, the prevailing party in litigation shall be entitled to an award of its reasonable attorney's fees and court costs. Prior to litigation, the parties shall enter into good faith negotiations to resolve a dispute, and shall attempt to engage in non-binding mediation to resolve any dispute. ~~in the event that either party hereto shall default under any of the provisions hereof and the nondefaulting party shall employ attorneys or incur other expenses for the collection of Base Rentals and Additional Rentals, or the enforcement of performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it shall on demand therefor pay to the nondefaulting party the fees of such attorneys and such other expenses so incurred by the nondefaulting party, to the extent that such attorneys' fees and expenses may be determined to be reasonable by a court of competent jurisdiction.~~

Article XV. MISCELLANEOUS

A. Sovereign Powers of Town. Nothing in this Lease ~~Purchase~~ shall be construed as diminishing, delegating, or otherwise restricting any of the sovereign powers of the Town.

B. Binding Effect. This Lease **Purchase** shall inure to the benefit of and shall be binding upon the District and the Town and their respective successors and assigns.

C. Amendments, Changes and Modifications. Except as otherwise provided in this Lease **Purchase**, this Lease **Purchase** may not be effectively amended, changed, modified or altered without the written consent of the parties hereto.

D. Net Lease. This Lease **Purchase** shall be deemed and construed to be a “triple net lease,” and the Town shall, pay absolutely net during the Lease Term, the Base Rentals, Additional Rentals and all other payments required hereunder, ~~free of any deductions, and without abatement, deduction or setoff (other than credits against Base Rentals expressly provided for in this Lease).~~

E. Recording of Lease. The Town may record this Lease **Purchase**, at the sole decision of the Town, in the office of the La Plata County Clerk and Recorder; provided, however, that the Town will promptly provide the District with a full and true copy of the recorded Lease showing the recording information.

F. Joint Preparation. The parties hereto have participated jointly in the negotiations and drafting of this Lease. In the event any ambiguity or question of intent or interpretation arises, this Lease **Purchase** shall be construed as if drafted jointly by both parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Lease **Purchase**.

G. Article and Section Headings. Article and Section headings are inserted for convenience only and in no way limit or define the interpretation to be placed upon this Lease.

H. Time is of the Essence. Time is of the essence hereof, and all terms, conditions, obligations and covenants shall be tendered or performed as specified herein. If any obligation hereunder is not performed or waived as herein provided, the Parties shall have such remedies as are available under applicable law.

I. Payments Due on Holidays. If the date for making any payment or the last day for performance of any act or the exercising of any right, as provided in this Lease, shall be a day other than a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Lease **Purchase**.

J. Severability. In the event that any provision of this Lease, ~~other than the requirement of the Town to pay Base Rentals, Additional Rentals, and the Purchase Price and the requirement of the District to provide quiet enjoyment of the Leased Property and to convey the Leased Property to the Town under the conditions set forth in this Lease,~~ shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

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~~K. **No Merger.** The District and the Town intend that the legal doctrine of merger shall have no application to this Lease and that the exercise of any remedies under this Lease shall not operate to terminate or extinguish this Lease, except as specifically provided herein.~~

L. Execution in Counterparts. This Lease **Purchase** may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

M. Applicable Law; Venue. This Lease **Purchase** shall be governed by and construed in accordance with the laws of the State, without regard to conflict of laws principles. Venue for any legal proceedings arising from or in connection with this Lease shall be in the District Court of La Plata County, Colorado.

WITNESS the due execution hereof as of the day and the year first mentioned above.

[Signature Page to Lease Purchase Agreement follows]

[Lease Signature Page]

Exhibit A

~~Please see email attachments~~ Below are details for four (4) separate properties associated with this Lease:

- 1: Parcel Number: 595508400002
Legal Description: Halls First Addition – Town of Ignacio; Section: 8, Township: 33, Range: 7, Tract in NW/4, SE/4, totaling 4.48 acres
- 2: Parcel Number: 595508308001
Legal Description: Halls First Addition – Town of Ignacio; Block 5; Lots 1-13, totaling .933 acres
- 3: Parcel Number: 595508308002
Legal Description: Halls First Addition – Town of Ignacio; Block 5; Lots 14-26 (East 70 feet) totaling .522 acres
- 4: Parcel Number: 595508305013
Legal Description: Halls First Addition – Town of Ignacio; Block 4; Lots 1-2, totaling .172 acres

All water rights owned by the District that are assigned or conveyed to the above properties will transfer with this Lease Purchase Agreement.

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Exhibit B—Payment Schedule for Lease Purchase Agreement for the ElHi property

Date of payment due	Payment	Remaining Amount
---------------------	---------	-----------------------------

July 1, 2023	\$ 600,000 366,666.67 (including consisting of \$1,000 per month lease payment rent, balance is toward purchase)	\$ 600,000 presently appropriated
July 1, 2024	\$ 366,666.67 300,000 (including consisting of \$1,000 per month lease payment rent, balance is toward purchase)	\$ 300,000 subject to appropriation
July 1, 2025	\$ 366,666.66 300,000 (consisting of \$1,000 per month rent, balance is toward purchase)	\$ — subject to appropriation. Conveyance of property to Town shall occur on July 1, 2025 upon this final payment or earlier upon any prepayment date.
July 1, 2026		



Town of Ignacio

P.O. Box 459
540 Goddard Ave
Ignacio, CO 81137

970/563-9494 
townofignacio.com 

Public works Department Staff Report

2/6/2023

Compliance

610 Browning – Complaint about cars and trash in yard. Pending due to property under investigation.

100 Browning – Talked with property owner about van that has not been moved for 2 months. Pending.

270 Burns – Talked with property owner about parking trucks on street. Pending.

Natural Gas System

Monthly meter reads, re-reads and Shut offs

Leak Survey

Mercaptan Testing

Energy World Net operator qualification Compliance for D.O.T. compliance

State compliance and filing

DOT training

OQ training

System maintenance and repair

Working on getting all steel piping replaced in system through the Capital improvement plan

Sewer and Storm Drain System

Monthly line flushing

System maintenance and repair

State compliance training and filing

Working with CDOT SUIT and Darren Stewart with SEH to finalize storm drain route for Phase 1 of the Browning Ave Project

Have identified several problem areas in the Sanitary sewer system that need repaired





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Drinking Water system

- Monthly meter reads, re-reads and shut offs
- Monthly water sampling
- System maintenance and repair
- State compliance training and filing
- New water meter installs and pit repairs
- Meter inventory and leak survey
- Lead and Copper water sampling
- Meter pits insulated
- Sanitary survey to be conducted on February 13 2023 with CDPHE

Irrigation System

- System maintenance and repair
- Monitor irrigation pond level
- Irrigation will be shut down for the season on 10/10/2022 Winterize system

Parks

- Irrigation line, pump and sprinkler repair
- Special Event preparation
- End of season preparations complete

Roadways and Alleys

- Snow plowing
- Drainage maintenance and repair

General Maintenance

- UNCC locates completed filed and reported
- Daily and weekly trash collection
- Daily Utilities issues and complaint call outs addressed
- Maintain and clean up the burn pile area
- Tree removal
- Snow removal Equipment installed
- Salt slicer hauled on site





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Equipment and Vehicles

Daily maintenance

Monthly maintenance

Repair snow removal equipment

Building code enforcement

815 Shoshone Building Permit submitted for resident re model and window replacement
4/28/2022 near completion

610 Browning Exterior panel and window replacement. Permit issued and approved on
4/24/2022 Estimated completion October Pending investigation

111 Maple Ave Room addition plans submitted and approved building permit issued on
4/8/2022 near completion electrical and plumbing inspection Completed COO issued
on 12/21/2022

New residence for Rokfor, LLC Lot 4 Walkers first adds 150 County Road 320A Plans on hold per
Contractor's request

110 Maple New rear attached rear patio permit issued 11/15/22

505 Tranquillo Ct new construction single family residence plans approved building permit
issued on 6/14/22 Footing and stem wall inspection completed on 7/12/2022 Roof inspection
8/12/2022 Home scheduled to close in February

457 Burns Ave remodel building permit approved and issued 9/14/2022

455 Browning Roof replacement Home and Garage decking damaged needs repaired Permit
required. Application approved and issued on 10/27/2022 Amcat Construction Inc

405 Browning Ave Ignacio Community Church new side walk and front stair entrance
Excavation permit and Business license approved and issued 11/14/2022 Complete

500 Tranquillo Court New construction single family residence Building permit application
issued on 12/14/2022

355 Goddard Ave interior re model Permit issued on 12/15/2022 new gas line installed on
2/01/23

225 Goddard Ave building permit issued on 1/26/23

516 Tranquillo Ct New residents Building permit issued on 2/6/2023

CROSS CONNECTION CONTROL PROGRAM

CDPHE 11.39 (3) Cross Connection Control

All businesses required have been established and contacted with positive response.

Continue to work and communicate with various plumbing services to monitor and implement
the regulation requirements Goal to be full compliant by the end of 2022





Town Clerk / Treasurer Report

February 2023

Honorable Mayor and Trustees,

The following is a report of my activities since the last Town Board Meeting.

Treasurer:

- The Accounting Reports for January are included in the consent agenda.

Utilities:

- All the new rates for water, sewer and irrigation have been added to our utility billing software. After the Public Hearing and action from the Board on the gas rate, I will update that rate in the billing software, calculate bills on Tuesday morning (February 14) and get them mailed out as quickly as possible. I will also enclose information with this bill regarding the decision of the Board on the rate structure.

Events:

- Monday, February 20, 2023 – Town Hall closed in observance of Presidents Day
- Monday, March 13, 2023 – Regular Town Board Meeting
- Thursday, March 23, 2023 – Town Board Joint Work Session with the La Plata Board of County Commissioners at 6 PM at Willows Café at the Casino.

Licenses:

- Animal: 34 current licenses; 10 overdue and all have been contacted
- Business: 60 current licenses; 8 overdue and all have been contacted
- Business Service Licenses: 68 current licenses
- Liquor Licenses: None this month

Please contact me with any questions. Thank you.

Tuggy



Town Managers Report

DATE: February 08, 2023

REPORT PERIOD: January 09, 2022 – February 08, 2023

This report focuses on items within the Town Board Meeting Agenda and also on work completed during the report period listed above.

TOWN BOARD MEETING AGENDA ITEMS

VII. NEW BUSINESS:

- A. Natural Gas Rate Structure – Public Hearing: The January SUUD natural gas rate and recommended changes to Town utility billing policy have been discussed in a special meeting and work session. Enclosed in your packet is a memorandum detailing the recommended changes which came from Town Board guidance and feedback. This meeting has been noticed as a Public Hearing. Please contact Tuggy or I with any questions.
- B. ELHI Acquisition: The acquisition of the ELHI from the Ignacio School District was discussed during the February 6th work session and included review of a draft Lease Purchase agreement from ISD. In your packet is a revised draft agreement which has been forwarded to ISD for consideration with the terms proposed by the Town Board. ISD is meeting on Thursday night and will consider the revised IGA. We will discuss this negotiation and may have a revised agreement for you at our regularly scheduled meeting. Please contact me with any questions.

VIII.D TOWN MANAGER REPORT

Town Storm Drainage Project: The Town is working on material purchasing and final permit approval from CDOT. This project will begin when weather permits. Please contact Jeremy or I with any questions.

Ignacio Downtown Redevelopment Plan: The University of Colorado Technical Assistance (UCTA) team has been apprised of the ELHI discussion and is poised to add more work on this site to the downtown redevelopment plan. I will work with the lead and team on how best to further their work and include more details on this site. Please contact me with any questions.

Colorado Housing and Finance Authority Technical Assistance Grant: Reinen Consulting has completed a site plan and proforma on the Rock Creek site. The new plan details a total of 49 housing units with 24 single family residential units and 25 multi-family units in five (5) five-plex units. This information is included in your packet. **I will discuss this in more detail during our meeting.** Please contact me with any questions.

Timber Age Construction/Sinton Development: No new work has occurred with this team since the last meeting. They both are still very interested in working with the Town on the Rock Creek project.

CDOT 172/Goddard Overlay Project: CDOT has awarded a contract for this project and work will be done this year. Unfortunately, the sidewalk pricing came in higher (50%) than CDOT estimated and they are asking for additional funds for this work. I will meet with CDOT on Friday and can share more information during our meeting. The Town also has some work to do on pedestrian lighting infrastructure in advance of this project and will complete this work once the weather improves.

Town Activities and Grant Programs: I submitted a \$2M Innovative Housing Incentive grant for the Rock Creek project. Hopefully this funding along with County and Town match funds will be available for completion of the Rock Creek housing project infrastructure improvements. We should know in March and there's a chance there might be partial funding for completion of a percentage of the planned project. There are other grants that are also on my radar and I'm considering depending on the outcome of this grant.

Local Assistance and Tribal Assistance Fund (LATAF) Request with La Plata County: The County has received a letter from the Town requesting LATAF funding and hopefully these funds will be awarded for part of match on the Rock Creek IHOI infrastructure grant. Please contact me with any questions.

Broadband Initiatives: There continues to be work on regional broadband efforts and also the tribe's broadband project which has deployed fiber through Town. I do not have any new information on local broadband efforts and will keep you apprised of any developments.

MEETINGS ATTENDED – I continue to attend numerous conference calls and webinars remotely on a variety of matters, as well as on multiple grant opportunities. I continually exchange multiple emails and phone calls on related town matters and projects.

Please contact me with any questions on the above material or if in need of anything. Thanks!



UNIT MIX (MULTIFAMILY)
(24) TWO BEDROOM S.F.D. - 888 SF (TIMBERAGE)
(25) THREE BEDROOM TOWNHOME UNITS - 1,368 SF
PARKING: 2/UNIT + 16 GUEST P.S.'S

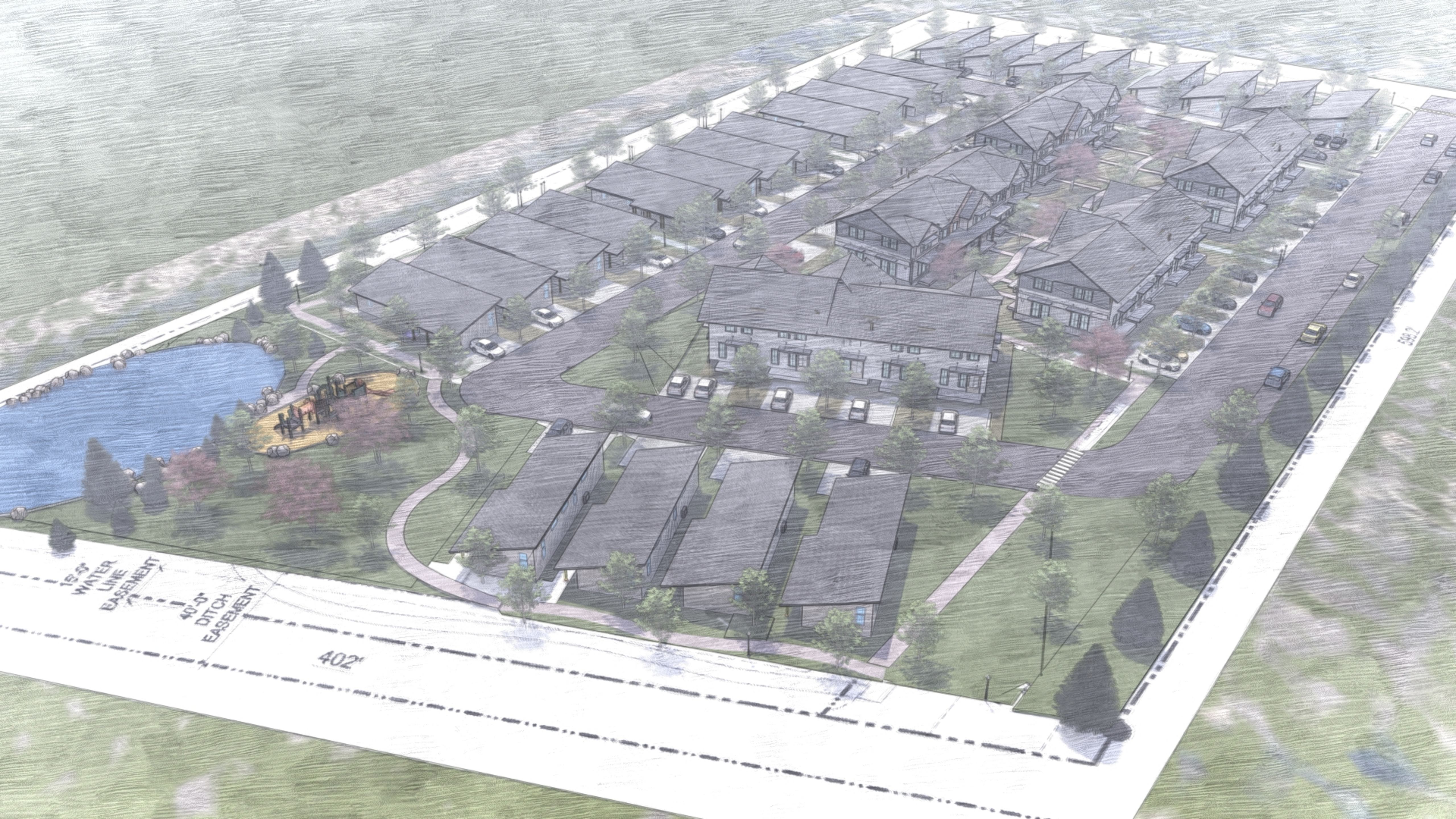
(49) TOTAL UNITS



3927

15-00
ACCENT
EASEMENT

QUICHAS HILLS AVE



15'-0" WATER LINE EASEMENT
40'-0" DITCH EASEMENT

402

508.2



QUICHAS HILLS AVE

15'-0" ACCESS EASEMENT

