

TOWN OF SUPERIOR
RESOLUTION NO. R-60
SERIES 2023

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR APPROVING THE PURCHASE OF CERTAIN REAL PROPERTY FROM PATRICK KILBRIDE, FOR \$615,000, PURSUANT TO A PURCHASE AND SALE AGREEMENT


NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, as follows:

Section 1. The purchase of the property more particularly described in the attached Purchase and Sale Agreement (the "Property"), for \$615,000, is hereby approved. The Purchase and Sale Agreement with Patrick Kilbride, for the purchase of the Property, is hereby approved in substantially the same form as attached hereto, subject to final approval by the Town Attorney.

ADOPTED this 23rd day of October, 2023.


Mark Lacis, Mayor

ATTEST:


Lydia Yecke, Town Clerk



PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (the "Agreement") is made and entered into as of this 30th day of October, 2023 (the "Effective Date"), by and among the Town of Superior, a Colorado municipal corporation with a legal address of 124 East Coal Creek Drive, Superior, CO 80027 (the "Town") and Patrick Kilbride, an individual with a legal address of 2810 29th Street, Boulder, CO 80301 ("Seller") (the Town and Seller each a "Party" and collectively, the "Parties").

WHEREAS, Patrick Kilbride owns the real property referred to as "Parcel A", located in Boulder County, Colorado and further set forth in **Exhibit A**, attached hereto and made a part hereof (Parcel A referred to as the "Property"); and

WHEREAS, the Town wishes to purchase the Property from Seller and Seller wishes to sell the Property to the Town, pursuant to the terms set forth in this Agreement.

NOW, THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Conveyance. Seller agrees to convey, sell, transfer, and assign to the Town, and the Town agrees to purchase from Seller, on the terms and conditions of this Agreement, the Property, all improvements thereon and any appurtenant rights now owned by Seller.
2. Earnest Money. The Town shall tender \$5,000 as Earnest Money. The Earnest Money shall be payable to and held by First American Title, 4940 Pearl East Circle, Suite 104, Boulder, CO 80301 (the "Closing Company") in an interest-bearing account, on behalf of Seller and the Town. The Earnest Money is part of and included in the total Purchase Price. The Town shall deliver the Earnest Money to the Closing Company within 10 days after the Effective Date.
3. Purchase Price. Subject to the terms of this Agreement, the total Purchase Price for the Property is \$615,000, to be paid by the Town at Closing in funds which comply with applicable Colorado law, including electronic transfer funds, certified check, or cashier's check, as directed by Seller.
4. Closing. The closing will occur at a mutually agreeable location. The date of closing shall be on or before November 30, 2023, or such other date to which the Parties agree. The Parties shall pay their respective closing costs and all other items required to be paid at closing, except as otherwise provided herein. The Parties shall sign and complete all customary or required documents at or before closing.
5. Possession. Possession of the Property shall be delivered to the Town at closing.
6. Seller's Deliverables. On or prior to closing, Seller shall deliver to the Town a general warranty deed duly in the form as set forth in **Exhibit B**, attached hereto and made a part hereof, executed and acknowledged by the Seller, conveying title to the Property to the Town, and such other instruments of transfer, certificates and additional documents as may be required hereunder or reasonably required by the Town.

7. Town's Deliverables. On or prior to closing, the Town shall deliver to the Closing Company the Purchase Price, less the amount of Earnest Money, and such other documents as may be required hereunder or reasonably required by Seller, so that the Closing Company may deliver the Purchase Price to Seller. The Town shall have no obligation to determine how much of the Purchase Price is delivered to Seller.

8. Seller's Representations and Warranties. Seller hereby represent and warrant that the following statements are now, and will be as of the Closing date, true and correct, to the best of Seller' knowledge.

a. Seller has the full right, power, and authority to transfer and convey their respective portion of the Property, as provided in this Agreement, and to carry out Seller's obligations under the Agreement and Seller, if not a natural person, is a corporation, partnership, limited partnership, limited liability company, or other entity validly existing and in good standing under the laws of the State of Colorado. Seller has not (i) commenced a voluntary case, or had entered against it a petition, for relief under Title 11 of the United States Code, as amended (the "Bankruptcy Code") or any similar petition, order, or decree under any federal or state law or statute relative to bankruptcy, insolvency, or other relief for debtors; (ii) caused, suffered, or consented to the appointment of a receiver, trustee, administrator, conservator, liquidator, or similar official in any federal, state, or foreign judicial or non-judicial proceeding, to hold, administer, and liquidate all or substantially all of its property; or (iii) made an assignment for the benefit of creditors; and that the Seller's signature below is fully authorized and binding upon that Seller.

b. There is no action, suit or proceeding pending, or to the best of Seller's knowledge threatened, against or otherwise affecting the Seller or the Property in any court of law or equity, or before any governmental authority, in which an adverse decision might materially impair the Seller's ability to perform its obligations under this Agreement.

c. There is no pending or threatened condemnation or similar proceeding affecting the Property.

d. The Property is being sold free and clear of all service contracts, agreements, leases, and other occupancy rights.

e. Seller has not received any notice of any violations of any applicable law related to the Property.

f. Seller is not aware of any special assessments to be levied against the Property after its acquisition by the Town.

g. The Property is not contaminated with any hazardous substance, including asbestos material.

h. There are no underground storage tanks located in, on, or beneath the Property.

i. There are no natural or artificial conditions upon the Property, or any part thereof, any of which would result in any material change in the Property, or any part thereof, for any purpose.

j. Seller shall give the Town prompt written notice if any of these representations or warranties are no longer true or correct in any material manner.

9. Condition of Property. Except as provided in this Agreement, Town understands that it is purchasing the Property in its existing condition, "as is". Except for those warranties expressly set forth in this Agreement, Seller make no warranties, representations or guarantees, either express or implied, of any kind, nature or type whatsoever. Without limiting the generality of the preceding sentence, Seller acknowledges and agrees that neither Seller nor anyone acting for or on behalf of Seller makes or has made any statements, promises, warranties or representations, either express or implied, with respect to the absence or presence of any hazardous substance, material or condition affecting the Property, the soil condition, geologic condition or other physical aspect of the Property or the accuracy or completeness of any reports or information pertaining to such matters.

10. Remedies.

a. *Seller's Remedies.* If the closing does not occur by reason of a breach of the Town, Seller shall have the right to terminate this Agreement, the Earnest Money shall be refunded to the Town and neither Party shall have any further obligation hereunder. Termination of this Agreement shall be Seller' exclusive remedy.

b. *Town's Remedies.* If the closing does not occur by reason of a breach of the Seller, and the Town has complied with the terms of this Agreement, the Town may terminate this Agreement by written notice to the Seller and the Earnest Money shall be refunded to the Town. In addition, the Town shall have all remedies available at law or equity for such breach, including specific performance.

11. Miscellaneous.

a. *Entire Agreement.* This Agreement contains the entire agreement of the Parties. There are no other agreements, oral or written, and this Agreement can be amended only by written agreement signed by the Parties.

b. *Agreement Binding.* This Agreement, and the terms, covenants, and conditions herein contained, shall inure to the benefit of and be binding upon the heirs, personal representatives, successors, and assigns of the Parties.

c. *Notice.* Any notice under this Agreement shall be in writing and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the party at the address set forth on the first page of this Agreement.

d. *Governing Law and Venue.* This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Boulder County, Colorado.

e. *Severability.* If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.


f. *Third Parties.* There are no intended third-party beneficiaries to this Agreement.

g. *Subject to Annual Appropriation.* Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt, or liability beyond the current fiscal year.


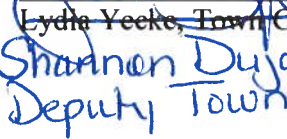
h. *Governmental Immunity.* The Town and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities or protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

TOWN OF SUPERIOR, COLORADO


Mark Lacis, Mayor



ATTEST:

Lydia Yecke, Town Clerk

Shannon Dujardin
Deputy Town Clerk


SELLER:

Patrick Kilbride

EXHIBIT A
Legal Description

Parcel A:

Address: 213 South 2nd Avenue, Superior, CO 80027

Parcel Number: 157724018001

Account Number: R0029333

Legal Description: LOTS 1 AND 2, BLOCK I, SOUTH ADDITION TO
SUPERIOR, COUNTY OF BOULDER, STATE OF COLORADO

