



# Memo

To: Honorable Mayor Pinkham  
Board of Trustees  
Town Administrator Lancaster

From: Steve McFarland, Finance Officer

Date: April 23, 2013

RE: Ordinance #06-13 Approving Certificates of Participation

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## **Background:**

At its special meeting on February 7, 2013, the Town Board approved the construction of the Multi-Purpose Event Center (MPEC) and Stall Barn including on-site improvements and directed Staff to assemble a financing package using cash and Certificates of Participation. Staff has worked with the Town's Financial Consultant, Jim Manire, to review and negotiate a Certificate of Participation financing package to provide approximately \$6,100,000 of the funding for the MPEC and Stall Barn project.

The Town received 7 responses to the RFP issued on March 15, 2013, requesting entrance into a (approximately) \$6,100,000 lease purchase obligation for financing the MPEC and Stall Barn project. Branch Banking and Trust (BB&T), a bank headquartered in North Carolina, offered both the lowest interest rate (2.43%) and the best Call option (callable after December 1, 2020, without penalty). Annual payments are in the ~\$515,000-\$520,000 range, the final payment coming due December 2027. UMB Bank will act as the Trustee.

Financial (Jim Manire) and legal counsel (Rick Buddin, Greg White) have been working with BB&T (Taylor Vick) and their legal counsel (Colorado-based Sherman & Howard, LLC) to provide appropriate documents for this financing.

If approved, Ordinance No. 06-13 will be effective 30 days after signature of the Mayor and publication. In order to meet the financing timetable presented at the March 12, 2013, Study Session, approval of Ordinance No. 06-13 is requested at this time. Due to the holiday schedule (Memorial Day), this allows the Town to secure financing on or around May 28<sup>th</sup>, which will be within the approved timetable of May 31<sup>st</sup> to enter into an agreement with the Contractor.

Approval of Ordinance No. 06-13 approves and authorizes execution of the following documents:

1. The leasing of the Leased Property (Town Hall and a portion of the Municipal Parking Lot) to UMB Bank (the Trustee) by execution of the Site Lease.

2. The subleasing of the Leased Property from the Trustee back to the Town by the execution of the Lease Purchase Agreement.
3. Acknowledgement of the execution and delivery by the Trustee of the Indenture of Trust and the approval of \$6,125,000 as the maximum principal amount of the Certificates that may be executed and delivered under the indenture.

Please see the attached flow chart for a synopsis of the financing process. Please also note that the attached documents are the latest drafts; any changes from the date of this memo until the Tuesday April 23<sup>rd</sup> Board meeting will be discussed at the Board meeting.

The documents attached to this memo include:

1. Flow Chart of Proposed Financing
2. Ordinance # 06-13, authorizing Site Lease and Lease Purchase Agreement
3. Draft Site Lease
4. Draft Lease Purchase Agreement
5. Indenture of Trust

**Budget:**

The first payment of approximately \$75,000 due on December 1, 2013 pursuant to the Lease Purchase Agreement will be paid from the Community Reinvestment Fund in the 2013 Budget. Future payments will be budgeted in each individual year's budget. Please note that the required payments under the Lease Purchase Agreement are from year to year only, and shall constitute only each individual year budgeted expenditures of the Town and are not a general obligation indebtedness or multiple fiscal year direct or indirect debt of the Town.

No budget adjustments are necessary at this meeting. Prior to contracting with Dohn Construction to construct the MPEC and Stall Barn, the 2013 Budget (Community Reinvestment Fund) will have to be amended to reflect the above activity. Staff will bring the amendment to the 1<sup>st</sup> Board meeting in May.

**Staff Recommendation:**

Staff and financial/legal counsel recommend the adoption of Ordinance 06-13.

**Sample Motion:**

I move for the adoption of Ordinance 06-13.

## FLOW CHART OF PROPOSED FINANCING FOR MULTIPURPOSE EVENT CENTER AND STALL BARN

April 23, 2012

### SITE LEASE

The Site Lease is an agreement in which the Town (lessor) leases Town Hall to UMB Bank (Trustee, lessee) in exchange for \$6,100,000 in prepaid rent, which the Town will use to construct the multipurpose event center and stall barn and to pay the costs of the transaction.

### LEASE PURCHASE AGREEMENT (SUB LEASE)

In the Lease Purchase Agreement (Sub Lease), UMB Bank (sublessor) leases Town Hall back to the Town (sublessee) for semi-annual rental payments to be made through 2027. The payments will be based on a coupon (interest) rate of 2.43%. Total annual payments will range from \$515,000-\$520,000, depending upon the year. UMB's leasehold interest in Town Hall can be refinanced (or purchased) with no penalty beginning in 2020. The Site Lease terminates on the earlier of when the Lease Purchase Agreement is paid in full, or in 2042.

### CERTIFICATES OF PARTICIPATION (COPs)

Once the above agreements are in place, UMB will place the two leases in trust and issue Certificates of Participation (COPs). Branch Bank and Trust (BB&T) will be the sole purchaser of the issued COPs. BB&T is purchasing the revenue flow represented by the rent payable by the Town under the Lease Purchase Agreement. BB&T will pay ~\$6.1 million for the COPs and in return will be paid ~\$7.3 million over the life of the Agreement. The Town does not directly issue the COPs, but obviously the Town and its collateral (Town Hall) are the centerpieces of this transaction.

## **ORDINANCE NO. 06-13**

AN ORDINANCE AUTHORIZING THE FINANCING OF THE CONSTRUCTION OF A MULTI-PURPOSE EVENTS CENTER AND NEW STALL BARNs AT THE STANLEY PARK FAIRGROUNDS COMPLEX BY LEASING THE TOWN HALL AND A PORTION OF THE ADJACENT PARKING AREA TO UMB BANK, n.a., AS TRUSTEE, PURSUANT TO A SITE LEASE AND SUBLEASING SUCH REAL PROPERTY BACK FROM UMB BANK, n.a., AS TRUSTEE, PURSUANT TO A LEASE PURCHASE AGREEMENT.

WHEREAS, the Town of Estes Park, Colorado (the "Town") is a statutory town and political subdivision duly organized and existing pursuant to the laws of the State of Colorado (the "State"); and

WHEREAS, the Board of Trustees of the Town (the "Board") is authorized, pursuant to Section 31-15-713(1)(c), Colorado Revised Statutes, to lease any real estate, together with any facilities thereon, owned by the Town when deemed by the Board to be in the best interest of the Town; and

WHEREAS, the Board is authorized, pursuant to Section 31-15-101(1)(d), Colorado Revised Statutes, to acquire, hold and lease property, both real and personal; and

WHEREAS, the Town has an immediate need for a multi-purpose events center and new stall barns at the Stanley Park Fairgrounds complex (the "Project"); and

WHEREAS, the Town has a fee simple absolute interest in the land and building located at 170 MacGregor Avenue and being used as the Town Hall, together with a portion of the adjacent parking area (collectively, the "Town Hall"); and

WHEREAS, in order to provide funds for the construction of the Project, the Board has determined that it is in the best interest of the Town that the Town Hall (the "Leased Property") be leased to UMB Bank, n.a., as Trustee (the "Trustee"), and that the Leased Property be subleased by the Trustee back to the Town; and

WHEREAS, in order to carry out such transactions, the Town desires to (a) enter into that certain Site Lease (the "Site Lease"), between the Town, as lessor, and the Trustee, as lessee, whereby the Town will lease the Leased Property to the Trustee, and (b) enter into that certain annually renewable Lease Purchase Agreement (the "Lease"), between the Trustee, as sublessor, and the Town, as sublessee, whereby the Trustee will sublease the Leased Property back to the Town; and

WHEREAS, the obligation of the Town to pay Base Rentals and Additional Rentals (both as defined in the Lease) shall be from year to year only, shall constitute currently budgeted expenditures of the Town, shall not constitute a mandatory charge or requirement against the Town in any ensuing budget year beyond any budget year during which the Lease is in effect, and shall not constitute a general obligation indebtedness or multiple fiscal year direct or indirect

debt or other financial obligation whatsoever of the Town within the meaning of any constitutional or statutory limitation or requirement concerning the creation of indebtedness, nor a mandatory payment obligation of the Town in any ensuing fiscal year beyond any fiscal year during which the Lease shall be in effect; and

WHEREAS, there have been presented to the Board at this meeting copies of the proposed forms of the Lease and the Site Lease; and

WHEREAS, pursuant to Section 18-8-308, Section 24-18-109, and Section 24-18-110, Colorado Revised Statutes, no member of the Board has any substantial financial interest in the subject of this Ordinance, or any personal or private interest, whether or not financial, in the subject of this Ordinance; and

WHEREAS, the Board has engaged BLX Group of Denver, Colorado, as financial advisor to the Town (the "Financial Advisor") to assist the Town in structuring the financing of the Project; and

WHEREAS, the Finance Director of the Town received responses from bidders proposing to purchase proportionate undivided interests in the right of the Trustee to receive payments of Base Rentals under the Lease in order to finance the Project, and the Finance Director of the Town and the Financial Advisor have reviewed such bids and determined that the best bid was submitted by Branch Banking and Trust Company ("BB&T"); and

WHEREAS, the Trustee shall execute an Indenture of Trust pursuant to which there shall be executed and delivered to BB&T one or more Certificates of Participation, Series 2013 (the "Certificates"), which represent proportionate undivided interests in the right to receive the Base Rentals paid by the Town under the Lease; and

WHEREAS, the Board desires to authorize, approve and direct the execution of the agreements and instruments described above to be executed by the Town and the transactions evidenced thereby.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF ESTES PARK, COLORADO:

**Section 1.** All actions heretofore taken (not inconsistent with the provisions of this Ordinance) by the Board or the officers, employees and agents of the Board or the Town, directed toward the construction of the Project and the execution and delivery of the Lease and the Site Lease, are hereby ratified, approved and confirmed.

**Section 2.** The Board hereby finds and determines, pursuant to the Constitution and laws of the State of Colorado, that (a) the leasing of the Leased Property to the Trustee under the terms and provisions set forth in the Site Lease, and (b) the subleasing of the Leased Property from the Trustee to the Town under the terms and provisions set forth in the Lease, are necessary, convenient and in furtherance of the governmental purposes of the Town and are in the best interest of the Town; and the Board hereby authorizes, approves and directs the accomplishment of the foregoing under the terms and provisions of the Lease and the Site Lease.

**Section 3.** The Lease, in substantially the form and with substantially the content presented to this meeting of the Board, is in all respects approved, authorized and confirmed, and the Mayor or, in the absence thereof, the Mayor Pro Tem of the Town is authorized and directed to execute the Lease in substantially the form and with substantially the same content as the form thereof presented to this meeting of the Board, for and on behalf of the Town, but with such changes therein as shall be consistent with this Ordinance and as the Town Attorney and the Mayor or Mayor Pro Tem shall approve, the execution thereof being deemed conclusive of the approval of any such changes. The Board hereby approves the amount of \$7,600,000 as the maximum total amount of Base Rentals and the amount of \$540,000 as the maximum annual amount of Base Rentals to be paid for the leasing of the Leased Property by the Town from the Trustee under the terms and conditions of the Lease. The number of Renewal Terms (as defined in the Lease) of the Lease shall not exceed fifteen. The Board hereby delegates to the Town Administrator or the Finance Director of the Town the authority to determine the final amount of Base Rentals to be paid on each Base Rental Payment Date (as defined in the Lease) and the final number of Renewal Terms of the Lease, all of which shall be subject to the parameters and restrictions contained in this Ordinance.

**Section 4.** The Site Lease, in substantially the form and with substantially the content presented to this meeting of the Board, is in all respects approved, authorized and confirmed, and the Mayor or, in the absence thereof, the Mayor Pro Tem of the Town is authorized and directed to execute the Site Lease in substantially the form and with substantially the same content as the form thereof presented to this meeting of the Board, for and on behalf of the Town, but with such changes therein as shall be consistent with this Ordinance and as the Town Attorney and the Mayor or Mayor Pro Tem shall approve, the execution thereof being deemed conclusive of the approval of any such changes.

**Section 5.** The Mayor, the Mayor Pro Tem and other officials of the Board or the Town are hereby authorized to execute and deliver for and on behalf of the Town any other agreements and all other related certificates, documents and other papers associated with or necessitated by the lease and lease-back of the Leased Property, or necessary or advisable for the use of and access to the Leased Property or certain Town-owned parking lots near the Leased Property, by the Trustee.

**Section 6.** The Board hereby acknowledges the execution and delivery by the Trustee of the Indenture of Trust (the "Indenture"), in substantially the form and with substantially the same content as the form thereof presented to this meeting of the Board, and approves the amount of \$6,100,000 as the maximum principal amount of the Certificates that may be executed and delivered thereunder.

**Section 7.** The Board hereby acknowledges and consents to the placement in trust by the Trustee, pursuant to the Indenture, of all rights, title and interest of the Trustee in, to and under the Site Lease and the Lease.

**Section 8.** The Town Clerk or the Deputy Town Clerk is hereby authorized and directed to attest, as necessary, all signatures and acts of any official of the Board or the Town in connection with the matters authorized by this Ordinance, and to place the seal of the Town on the Lease and the Site Lease authorized and approved by this Ordinance and all other additional

certificates, documents and other papers associated with the transactions and other matters authorized by this Ordinance. The Mayor or, in the absence thereof, the Mayor Pro Tem of the Town, the Town Administrator and the Finance Director of the Town and all other officials, employees and agents of the Board or the Town are hereby authorized to execute and deliver for and on behalf of the Town any and all additional certificates, documents and other papers, including, but not limited to any agreement concerning the deposit and investment of funds in connection with the transactions contemplated by this Ordinance, and to perform all other acts that they may deem necessary or appropriate in order to implement and carry out the transactions and other matters authorized or contemplated by this Ordinance.

**Section 9.** No provision of this Ordinance, the Lease or the Site Lease or any other agreement, or other additional certificates, documents and other papers associated with the transactions authorized by this Ordinance shall be construed as creating or constituting a general obligation indebtedness or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the Town nor a mandatory payment obligation of the Town in any ensuing fiscal year beyond any fiscal year during which the Lease shall be in effect. The Town shall have no obligation to make any payment under the Indenture or with respect to the Certificates except in connection with the payment of the Base Rentals (as defined in the Lease) and certain other payments under the Lease, which payments may be terminated by the Town in accordance with the provisions of the Lease.

**Section 10.** The Board hereby determines and declares that the Base Rentals represent the fair value of the use of the Leased Property, and that the Purchase Option Price (as defined in the Lease) represents the fair purchase price of the Leased Property. The Board hereby determines and declares that the annual Base Rentals do not exceed a reasonable amount so as to place the Town under an economic or practical compulsion to appropriate moneys to make payments under the Lease or to exercise its option to purchase the Leased Property pursuant to the Lease. In making such determinations, the Board has given consideration to the current value of the Leased Property, the cost of acquiring, constructing or equipping property similar to the Leased Property, the uses and purposes for which the Leased Property is being and will be employed by the Town, the benefit to the citizens and residents of the Town by reason of the use and occupancy of the Leased Property by the Town pursuant to the terms and provisions of the Lease, the option of the Town to purchase the Leased Property, and the expected eventual vesting of full title to the Leased Property in the Town. The Board hereby determines and declares that the leasing of the Leased Property pursuant to the Lease will result in facilities of comparable quality for use by the Town and meeting the same requirements and standards as would be necessary if the Town acquired the Leased Property other than pursuant to the Lease. The Board hereby determines and declares that the duration of the Lease, including all optional Renewal Terms, authorized under this Ordinance, does not exceed the weighted average useful life of the Leased Property.

**Section 11.** The Board hereby determines and declares that, in the event the Site Lease shall remain in effect after the termination of the Lease related thereto and authorized under this Ordinance, the rentals received or to be received by the Town under the Site Lease represent the fair rental value of the property leased by the Town to the Trustee under the Site Lease, and that such rentals do not place the Town under an economic or practical compulsion to renew the Lease related thereto or to exercise its option to purchase the Leased Property.

**Section 12.** The Board hereby elects to apply all of the provisions of the Supplemental Public Securities Act, part 2 of article 57 of title 11, Colorado Revised Statutes, to the transactions authorized by this Ordinance.

**Section 13.** If any section, paragraph, clause or provision of this Ordinance (other than provisions as to the payment of Base Rentals by the Town during the Lease Term and provisions for conveyance of the Leased Property to the Town under the conditions provided in the Lease) shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

**Section 14.** All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance, or part thereof.

**Section 15.** This Ordinance, immediately upon its passage, shall be recorded in the Town book of Ordinances kept for that purpose, and shall be authenticated by the signatures of the Mayor and of the Town Clerk.

**Section 16.** Following its adoption, this Ordinance shall take effect and be in force on the date that is 30 days after its publication.

INTRODUCED, READ BY TITLE, APPROVED AND ADOPTED on the 23<sup>rd</sup> day April, 2013.

TOWN OF ESTES PARK, COLORADO

[SEAL]

By \_\_\_\_\_  
Mayor

Attest:

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

I hereby certify that the above Ordinance was introduced and read at the meeting of the Board of Trustees on the \_\_\_\_\_ day of \_\_\_\_\_, 2013, and published in a newspaper of general circulation in the Town of Estes Park, Colorado, on the \_\_\_\_ day of \_\_\_\_\_, 2013.

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



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**SITE LEASE**

by and between

**TOWN OF ESTES PARK, COLORADO,**  
as Lessor,

and

**UMB BANK, n.a.**  
in its capacity as Trustee under an Indenture of Trust dated the date hereof,  
as Lessee

Dated May \_\_, 2013

**THIS SITE LEASE** dated May \_\_, 2013 (this “Site Lease”), by and between the **TOWN OF ESTES PARK, COLORADO**, as lessor (the “Town”), and **UMB BANK, n.a.**, in its capacity as trustee under an Indenture of Trust dated the date hereof, and its successors and assigns, as lessee (the “Trustee”).

**WITNESSETH:**

WHEREAS, the Town is a statutory town and political subdivision of the State of Colorado (the “State”) duly organized and validly existing under the laws of the State; and

WHEREAS, the Board of Trustees of the Town (the “Board”) is authorized, pursuant to Section 31-15-713(1)(c), Colorado Revised Statutes, to lease any real estate, together with any facilities thereon, owned by the Town when deemed by the Board to be in the best interest of the Town; and

WHEREAS, the Board is authorized, pursuant to Section 31-15-101(1)(d), Colorado Revised Statutes, to acquire, hold and lease property, both real and personal; and

WHEREAS, the Town has an immediate need for a multi-purpose events center and new stall barns at the Stanley Park Fairgrounds complex (the “Project”); and

WHEREAS, the Town owns (a) the land that is legally described in Exhibit A attached hereto (the “Site”); and (b) the building located on the Site and located at 170 MacGregor Avenue and being used as the Town Hall (the “Building”); and

WHEREAS, in order to provide moneys for the construction of the Project, the Board has determined that it is in the best interest of the Town to lease the Site and the Building to the Trustee pursuant to this Site Lease and to lease the Site and the Building (collectively defined as the “Leased Property” under the hereinafter defined Lease) back from the Trustee pursuant to that certain Lease Purchase Agreement (the “Lease”) between the Trustee, as sublessor, and the Town, as sublessee; and

WHEREAS, the Trustee (a) is a national banking association duly organized and existing under the laws of the United States of America, (b) is duly qualified to do business in the State, (c) is executing and delivering and will perform its obligations under this Site Lease as trustee under the Indenture of Trust dated the date hereof by the Trustee (the “Indenture”) pursuant to which there will be executed and delivered Certificates of Participation, Series 2013 (the “Certificates”), in the aggregate principal amount of \$\_\_\_\_\_, evidencing proportionate interests in the right to receive Base Rentals and certain other Revenues (each as defined in the Lease) derived under the Lease and (d) in its capacity as Trustee, (i) will lease the Leased Property hereunder and (ii) is authorized, under its articles of association, action of its board of directors and applicable law, to lease the Leased Property and to execute, deliver and perform its obligations under this Site Lease; and

WHEREAS, the Town desires to lease the Leased Property to the Trustee and the Trustee desires to lease the Leased Property from the Town pursuant to this Site Lease; and

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

**Section 1. Definitions.** Unless the context otherwise requires, capitalized terms used herein shall have the meanings ascribed to them herein and in the Lease or the Indenture.

**Section 2. Representations, Covenants and Warranties by Trustee.** The Trustee represents, covenants and warrants that:

(a) The Trustee (i) is a national banking association duly organized, validly existing and in good standing under the laws of the United States of America, (ii) is duly qualified to do business in the State and (iii) is authorized, under its articles of association and bylaws, action of its board of directors and applicable law, to own and manage its properties, to conduct its affairs in the State, to lease the Leased Property from the Town and to execute, deliver and perform its obligations hereunder.

(b) The lease of the Leased Property from the Town pursuant to this Site Lease is in the best interests of the Owners of the Certificates.

(c) The execution, delivery and performance of this Site Lease by the Trustee has been duly authorized by the Trustee.

(d) This Site Lease is enforceable against the Trustee in accordance with its terms, 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 of Colorado and its governmental bodies of the police power inherent in the sovereignty of the State of Colorado 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.

(e) The execution, delivery and performance of the terms of this Site Lease by the Trustee 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 Trustee is now a party or by which the Trustee is bound, or constitute a default under any of the foregoing or, except as specifically provided in this Site Lease, the Lease or the Indenture, result in the creation or imposition of a lien or encumbrance whatsoever upon any of the property or assets of the Trustee.

(f) There is no litigation or proceeding pending or threatened against the Trustee or any other Person affecting the right of the Trustee to execute, deliver or perform its obligations under this Site Lease.

**Section 3. Representations, Covenants and Warranties by Town.** The Town represents, covenants and warrants that:

(a) The Town is authorized under Section 31-15-713(1)(c), Colorado Revised Statutes, as amended, and all other applicable law to lease the Leased Property to the Trustee and to execute, deliver and perform its obligations under this Site Lease.

(b) The lease of the Leased Property to the Trustee pursuant to this Site Lease serves a public purpose and is in the best interests of the Town and its residents.

(c) The execution, delivery and performance of this Site Lease by the Town has been duly authorized by the Town.

(d) This Site Lease is enforceable against the Town in accordance with its terms, 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 of Colorado and its governmental bodies of the police power inherent in the sovereignty of the State of Colorado 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.

(e) The execution, delivery and performance of the terms of this Site Lease 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 Site Lease or the Lease, result in the creation or imposition of a lien or encumbrance whatsoever upon any of the property or assets of the Town.

(f) There is no litigation or proceeding pending or threatened against the Town or any other Person affecting the right of the Town to execute, deliver or perform the obligations of the Town under this Site Lease.

(g) No provision of the Certificates, the Indenture, the Lease or this Site Lease shall be construed or interpreted (a) to directly or indirectly obligate the Town to make any payment in any Fiscal Year in excess of amounts appropriated for such Fiscal Year; (b) as creating a debt or multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the Town within the meaning of Article XI, Section 6 or Article X, Section 20 of the Colorado Constitution or any other constitutional or statutory limitation or provision; (c) as a delegation of governmental powers by the Town; (d) as a loan or pledge of the credit or faith of the Town or as creating any responsibility by the Town for any debt or liability of any person, company or corporation within the meaning of Article XI, Section 1 of the Colorado Constitution; or (e) as a donation or grant by the Town to, or in aid of, any person, company or corporation within the meaning of Article XI, Section 2 of the Colorado Constitution.

**Section 4. Lease and Terms.** The Town hereby leases to the Trustee and the Trustee hereby leases from the Town, on the terms and conditions hereinafter set forth, the real property consisting of the sites or parcels (the "Site") described in Exhibit A attached hereto and made a part hereof, and the building, improvements and facilities presently located thereon (the "Building") described in Exhibit B attached hereto and made a part hereof, subject to Permitted Encumbrances (as defined in the Lease).

The term of this Site Lease shall commence on the date hereof and shall end on December 1, 2037 (the "Site Lease Termination Date"), unless such term is sooner terminated as hereinafter provided. If, prior to the Site Lease Termination Date, the interest of the Trustee in the Leased Property has been conveyed to the Town pursuant to the Lease and the Lease has been discharged, then the term of this Site Lease shall end on the date of such conveyance.

**Section 5. Rent and Payment.** The Town acknowledges, as rent and payment hereunder, that the Trustee has paid or will pay in full, the lump-sum of Six Million \_\_\_\_\_ Dollars (\$6,\_\_\_\_,000) to the Town, for the lease of the Leased Property, and the receipt of other good and valuable consideration.

**Section 6. Purpose.** The Trustee shall use the Leased Property solely for the purpose of subletting the same to the Town pursuant to the Lease and for such purposes as may be incidental thereto; provided, that upon the occurrence of an Event of Nonappropriation or an Event of Default under the Lease, the Town shall vacate the Leased Property as provided in the Lease, and the Trustee may exercise the remedies provided in the Lease and may use or sublet the Leased Property for any lawful purpose.

**Section 7. Owner in Fee.** The Town covenants that it is the owner in fee of the Leased Property, subject only to Permitted Encumbrances (as defined in the Lease).

**Section 8. Assignments and Subleases.**

(a) Unless an Event of Nonappropriation or an Event of Default under the Lease shall have occurred and except as may otherwise be provided in the Lease, the Trustee may not assign its rights under this Site Lease or sublet the Leased Property without the written consent of the Town.

(b) In the event that (i) the Lease is terminated for any reason and (ii) this Site Lease is not terminated, the Trustee may sublease the Leased Property or any portion thereof, or sell or assign its interest in this Site Lease. Except as provided in this Site Lease, the Town and the Trustee agree that, except as may otherwise be provided in the Lease, neither the Town nor the Trustee or any sublessee or assignee of the Trustee will sell, mortgage or encumber the Leased Property or any portion thereof during the term of this Site Lease.

**Section 9. Right of Entry.** The Town reserves the right, so long as no Event of Nonappropriation or Event of Default shall have occurred under the Lease, for any of its duly authorized representatives to enter upon the Leased Property at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

**Section 10. Termination.** The Trustee agrees, upon the termination of this Site Lease, to quit and surrender the Leased Property to the Town, in the same order and condition as the same were at the time of commencement of the term hereunder, reasonable wear and tear excepted, and agrees that any fixtures, permanent improvements and structures existing upon the Leased Property at the time of the termination of this Site Lease shall remain thereon and all legal interests of the Trustee thereto shall vest in the Town. The Trustee and any sublessee or

assignee shall execute and deliver, upon request by the Town, any instrument of transfer, conveyance or release necessary or appropriate to confirm the vesting of such legal interests in the Town.

**Section 11. Default.** In the event the Trustee shall be in default in the performance of any obligation on its part to be performed under the terms of this Site Lease, which default continues for 30 days following notice and demand for correction thereof to the Trustee, the Town may exercise any and all remedies granted by law, except that no merger of this Site Lease and of the Lease shall be deemed to occur as a result thereof and that so long as any of the Certificates are outstanding and unpaid in accordance with the terms thereof, the Base Rentals payable to the Trustee under the Lease shall continue to be paid to the Trustee, except as provided in the Lease. In addition, so long as any of the Certificates are outstanding, this Site Lease shall not be terminated except as described in Section 4 hereof.

**Section 12. Quiet Enjoyment and Acknowledgment of Ownership.** The Trustee at all times during the term of this Site Lease shall peaceably and quietly have, hold and enjoy the Leased Property, subject to the provisions of the Lease, and the Town hereby acknowledges that the Trustee shall have a leasehold interest in the Leased Property and all improvements or additions thereto, subject to the Lease.

**Section 13. Waiver of Personal Liability.** All liabilities under this Site Lease on the part of the Trustee are solely liabilities of the Trustee, and the Town hereby releases each and every, member, director, employee and officer of the Trustee of and from any personal or individual liability under this Site Lease. No member, director, employee or officer of the Trustee shall at any time or under any circumstances be individually or personally liable under this Site Lease for anything done or omitted to be done by the Trustee hereunder.

**Section 14. Taxes; Maintenance; Insurance.**

(a) During the Lease Term of the Lease and in accordance with the provisions of the Lease, the Town covenants and agrees to perform its obligations under the Lease with respect to the payment of any and all assessments of any kind or character and all taxes levied or assessed upon the Leased Property, and all maintenance costs, insurance premiums and costs and utility charges in connection with the Leased Property, subject to the terms of the Lease.

(b) In the event that (i) the Lease is terminated for any reason, (ii) this Site Lease is not terminated and (iii) the Trustee subleases all or any portion of the Leased Property or sells or assigns its interest in this Site Lease, the Trustee or any sublessee or assignee of the Leased Property shall pay or cause to be paid when due, but in the case of the Trustee solely from the proceeds of such leasing or sale, all taxes and assessments imposed thereon and maintain the Leased Property in good condition.

(c) The provisions of the Lease shall govern with respect to the maintenance of insurance hereunder during the Lease Term of the Lease. In the event that (a) the Lease is terminated for any reason and (b) this Site Lease is not terminated and (c) the Trustee subleases all or any portion of the Leased Property or sells or assigns its interest

in this Site Lease, the Trustee or any sublessee or assignee of the Leased Property shall obtain and keep in force, but in the case of the Trustee solely from the proceeds of such subleasing or sale, (i) comprehensive general public liability insurance against claims for personal injury, death or damage to property of others occurring on or in the Leased Property in an amount not less than \$600,000 and (ii) property insurance in an amount not less than the full replacement value of the Building. All such insurance shall name the Trustee, any sublessee or assignee and the Town as insureds. The Trustee and the Town shall waive any rights of subrogation with respect to the Trustee, any lessee or assignee, and the Town, and the members of their governing bodies, directors, officers, agents and employees, while acting within the scope of their employment and each such insurance policy shall contain such a waiver of subrogation by the issuer of such policy.

**Section 15. Damage, Destruction or Condemnation.** The provisions of the Lease shall govern with respect to any damage, destruction or condemnation of the Leased Property during the Lease Term of the Lease. In the event that (a) the Lease is terminated for any reason and (b) this Site Lease is not terminated, and either (i) the Leased Property or any portion thereof is damaged or destroyed, in whole or in part, by fire or other casualty, or (ii) title to or use of the Leased Property or any part thereof shall be taken under the exercise of the power of eminent domain, or (iii) title to or the use of all or any portion of the Leased Property shall be lost by reason of a defect in the title thereto, the Town and the Trustee or any sublessee or assignee of the Trustee shall cause the Net Proceeds of any insurance claim or condemnation award to be applied to the prompt replacement, repair and restoration of the Site, the Building and any other improvements and structures built on the Site or any portion thereof. Any Net Proceeds remaining after such work has been completed will be paid to the Trustee or any sublessee or assignee of the Trustee. If the Net Proceeds are insufficient to pay the full cost of the replacement, repair and restoration, the Trustee or any sublessee or assignee shall complete the work and pay any cost in excess of the Net Proceeds (provided, however, that the Trustee is obligated to pay any such cost in excess of Net Proceeds only to the extent of any moneys available therefor in any of the Funds or Accounts created under the Indenture).

The Town agrees that, to the extent permitted by law, in the event it brings an eminent domain or condemnation proceeding with respect to the Site or the Building or any part thereof, the appraised value of the condemned property shall be not less than (a) if the Certificates are then subject to redemption under the Indenture, the redemption price of the Certificates or (b) if the Certificates are not then subject to redemption, the amount necessary to pay the principal of and interest on the Certificates to the first date on which the Certificates are subject to redemption under the Indenture and to redeem the Certificates on such date.

**Section 16. Reserved.**

**Section 17. Partial Invalidity.** If any one or more of the terms, provisions, covenants or conditions of this Site Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site Lease shall be affected thereby, and each provision of this Site Lease shall be valid and enforceable to the fullest extent permitted by law.

**Section 18. Compliance with Requirements of Law.** To the best knowledge of the Town: (i) the Leased Property has at all times been operated in substantial compliance with all Requirements of Law; (ii) all permits required by Requirements of Law in respect of the Leased Property have been obtained and are in full force and effect and the Town is in substantial compliance with the material terms and conditions of such permits; (iii) there is no pending litigation, investigation, administrative or other proceeding of any kind before or by any governmental authority or other Person relating to, or alleging, any violation of any Requirements of Law in connection with the Leased Property and there are no grounds on which any such litigation, investigation or proceedings might be commenced; and (iv) the Leased Property is not subject to any judgment, injunction, writ, order or agreement respecting any Requirements of Law.

**Section 19. No Merger.** The Town and the Trustee intend that the legal doctrine of merger shall have no application to this Site Lease and that neither the execution and delivery of the Lease by the Trustee and the Town nor the exercise of any remedies under this Site Lease or the Lease shall operate to terminate or extinguish this Site Lease or the Lease, except as specifically provided herein and therein.

**Section 20. Binding Effect.** This Site Lease shall inure to the benefit of and shall be binding upon the Trustee and the Town and their respective successors and assigns.

**Section 21. Trustee and Town Representatives.** Whenever under the provisions hereof the approval of the Trustee or the Town is required, or the Town or the Trustee is required to take some action at the request of the other, unless otherwise provided, such approval or such request shall be given for the Trustee by an Authorized Officer of the Trustee and for the Town by an Authorized Officer of the Town, and the Trustee and the Town shall be authorized to act on any such approval or request.

**Section 22. Notices.** All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or if mailed by United States registered mail, return receipt requested, postage prepaid, at the addresses indicated in the Lease, or to such other addresses as the respective parties may from time to time designate in writing.

**Section 23. Amendments, Changes and Modifications.** Except as otherwise provided herein or in the Indenture, this Site Lease may only be amended, changed, modified or altered as provided in the Indenture, and by the execution of a subsequent document in the same manner as this Site Lease is executed.

**Section 24. Events Occurring on Days that are not Business Days.** If the date for making any payment or the last day for performance of any act or the exercising of any right under this Site Lease is a day that is not a Business Day, such payment may be made, such act may be performed or such right may be exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Site Lease.



**Section 25. Applicable Law.** The laws of the State of Colorado shall be applied in the interpretation, execution and enforcement of this Site Lease, without regard to conflict of laws principles.

**Section 26. Section Headings.** All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Site Lease.

**Section 27. Execution.** This Site Lease may be executed in any number of counterparts, each of which shall be deemed to be an original but all together shall constitute but one and the same Site Lease.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Town and the Trustee have caused this Site Lease to be executed by their respective officers thereunto duly authorized all as of the day and year first above written.

TOWN OF ESTES PARK, COLORADO

[SEAL]

By \_\_\_\_\_  
Mayor

Attest:

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

UMB BANK, n.a., as Trustee

By \_\_\_\_\_  
Name \_\_\_\_\_

[Signature Page to Site Lease]



STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of May, 2013 by \_\_\_\_\_, as Vice President of UMB Bank, n.a..

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

[SEAL]

My Commission Expires:

\_\_\_\_\_

**EXHIBIT A**  
**DESCRIPTION OF THE SITE**

## **EXHIBIT B**

### **DESCRIPTION OF THE BUILDING**

The Town Hall, a steel framed two-story building containing approximately 30,500 square feet located at 170 MacGregor Avenue, Estes Park, Colorado.

#### **Description of Equipment**

All fixtures and machinery located in the Building, including but not limited to all lighting, heating, plumbing, ventilating and air conditioning fixtures, inside telephone wiring and connecting blocks/jacks, plants, mirrors, floor coverings, intercom systems, built-in kitchen appliances, sprinkler systems and controls and smoke/fire detectors.

**EXHIBIT C**  
**PERMITTED ENCUMBRANCES**

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**LEASE PURCHASE AGREEMENT**

by and between

**UMB BANK, n.a.,**  
in its capacity as Trustee under an Indenture of Trust dated the date hereof,  
as Sublessor

and

**TOWN OF ESTES PARK, COLORADO,**  
as Sublessee

Dated May \_\_, 2013



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## **LEASE PURCHASE AGREEMENT**

**THIS LEASE PURCHASE AGREEMENT** (this “Lease”) is dated May \_\_, 2013 and is entered into by and between **UMB BANK, n.a.**, a national banking association duly organized and validly existing under the laws of the United States of America, in its capacity as trustee under the Indenture (defined herein) (the “Trustee”) as sublessor, and the **TOWN OF ESTES PARK, COLORADO** (the “Town”), as sublessee.

### **W I T N E S S E T H :**

WHEREAS, the Town is a statutory town and political subdivision of the State of Colorado (the “State”) duly organized and validly existing under the laws of the State; and

WHEREAS, the Board of Trustees of the Town (the “Board”) is authorized, pursuant to Section 31-15-713(1)(c), Colorado Revised Statutes, to lease any real estate, together with any facilities thereon, owned by the Town when deemed by the Board to be in the best interest of the Town; and

WHEREAS, the Board is authorized, pursuant to Section 31-15-101(1)(d), Colorado Revised Statutes, to acquire, hold and lease property, both real and personal; and

WHEREAS, the Town has an immediate need for a multi-purpose events center and new stall barns at the Stanley Park Fairgrounds complex (the “Project”); and

WHEREAS, the Town owns (a) the land that is legally described in Exhibit A attached hereto (the “Site”); and (b) the building located on the Site and located at 170 MacGregor Avenue and being used as the Town Hall (the “Building”); and

WHEREAS, in order to provide moneys for the construction of the Project, the Board has determined that it is in the best interest of the Town to lease the Site and the Building to the Trustee pursuant to the Site Lease dated May \_\_, 2013 (the “Site Lease”), between the Town, as lessor, and the Trustee, as lessee, and to lease the Site and the Building (collectively defined as the “Leased Property”) back from the Trustee pursuant to this Lease; and

WHEREAS, the obligation of the Town to pay Base Rentals and Additional Rentals (both as hereinafter defined) hereunder shall be from year to year only, shall constitute currently budgeted expenditures of the Town, shall not constitute a mandatory charge or requirement in any ensuing budget year, and shall not constitute a general obligation or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the Town within the meaning of any constitutional or statutory limitation or requirement concerning the creation of indebtedness, nor a mandatory payment obligation of the Town in any ensuing fiscal year beyond any fiscal year during which this Lease shall be in effect; and

WHEREAS, the execution, performance and delivery of this Lease and the Site Lease have been authorized, approved and directed by the Board by an ordinance finally passed and adopted by the Board; and

WHEREAS, the Trustee (a) is a national banking association that is duly organized, validly existing and in good standing under the laws of the United States of America and authorized to exercise trust powers, (b) is duly qualified to do business in the State, (c) is the lessee of the Leased Property pursuant to the Site Lease and (d) is authorized, under its articles of association and bylaws, action of its board of directors and applicable law, to act as trustee under the Indenture of Trust dated May \_\_, 2013, executed by the Trustee (the “Indenture”), to lease the Leased Property from the Town, to sublease the Leased Property to the Town and to execute, deliver and perform its obligations under this Lease; and

WHEREAS, the Trustee has determined that the sublease of the Leased Property to the Town pursuant to this Lease is in the best interests of the Owners (as defined herein) of the Certificates (as defined herein) to be executed and delivered pursuant to the Indenture; and

WHEREAS, the Trustee desires to sublease the Leased Property to the Town and the Town desires to sublease the Leased Property from the Trustee pursuant to this Lease; and

WHEREAS, the execution, delivery and performance of this Lease by the Trustee has been duly authorized by the Trustee and, upon the execution and delivery of this Lease by the Trustee and the Town, this Lease will be enforceable against the Trustee in accordance with its terms, 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 of Colorado and its governmental bodies of the police power inherent in the sovereignty of the State of Colorado 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; and

WHEREAS, the execution, delivery and performance of this Lease by the Town has been duly authorized by the Town and, upon the execution and delivery of this Lease by the Town and the Trustee, this Lease will be enforceable against the Town in accordance with its terms, 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 of Colorado and its governmental bodies of the police power inherent in the sovereignty of the State of Colorado 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.

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

## **ARTICLE I**

### **DEFINITIONS**

The following capitalized terms shall have the following meanings in this Lease:

“*Additional Rentals*” means the costs and expenses incurred by the Town in performing its obligations under this Lease with respect to the Leased Property, this Lease, the Site Lease and any matter related thereto; the costs and expenses incurred by the Town in paying the reasonable fees and expenses of the Trustee pursuant to Sections 10.03 and 10.06 hereof; taxes,

insurance premiums, utility charges, maintenance, upkeep, repair, improvement and replacement in respect of the Leased Property; all amounts paid by the Town to the Trustee to fund the Rebate Fund pursuant to Section 10.07 hereof; all other costs and expenses incurred by the Town in connection with the foregoing; and 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 as Additional Rentals hereunder with respect to the Leased Property. Additional Rentals do not include the Base Rentals or the Purchase Option Price.

“*Authorized Officer*” means (a) in the case of the Town, the Mayor, the Mayor Pro Tem, the Town Administrator, the Assistant Town Administrator, the Finance Director, or any other person authorized by ordinance or resolution of the Board to perform any act or execute any document; and (b) in the case of the Trustee, any person authorized to perform any act or sign any document by or pursuant to the bylaws or any resolution of the governing body of the Trustee.

“*Base Rentals*” means the payments payable by the Town during the Lease Term pursuant to Section 6.01 hereof and as set forth in Exhibit B, for and in consideration of the right to use the Leased Property during the Lease Term.

“*Base Rental Payment Dates*” means June 1 and December 1 of each Fiscal Year.

“*Board*” means the Board of Trustees of the Town.

“*Building*” means the building located on the Site, as described in Exhibit A to this Lease.

“*Business Day*” means any day other than a Saturday, a Sunday or a day on which banks in New York, New York or Denver, Colorado are authorized by law to remain closed.

“*Certificates*” is defined in the Indenture.

“*Certificate Fund*” is defined in the Indenture.

“*Code*” means the Internal Revenue Code of 1986, as amended, and the Treasury regulations promulgated thereunder.

“*Equipment*” means the items of equipment, machinery and other personal property included in the Leased Property, if any, described in Exhibit A hereto, as such items of equipment, machinery and other personal property are replaced or substituted for pursuant to Sections 8.06, 8.07 or 8.08 of this Lease, and less any items of equipment, machinery or other personal property released from this Lease.

“*Event of Default*” means an event of default described in Section 12.01 hereof.

“*Event of Nonappropriation*” means an event described in Section 6.04 hereof.

“*Fiscal Year*” means the fiscal year of the Town, which begins on January 1 and ends on December 31 of each year.

“*Force Majeure*” means any event that is not within the control of the Town, including, without limitation, 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; or breakage or accidents affecting machinery, transmission pipes or canals.

“*Indenture*” means the Indenture of Trust dated the date hereof providing for the execution and delivery of the Certificates, and any amendment or supplement thereto.

“*Independent Counsel*” is defined in the Indenture.

“*Initial Term*” means the portion of the Lease Term that ends on December 31, 2013.

“*Lease*” means this Lease Purchase Agreement and any amendment or supplement hereto.

“*Lease Remedies*” means any or all of the remedial steps provided in Section 12.02 of this Lease whenever an Event of Default hereunder has happened and is continuing.

“*Lease Term*” means the time during which the Town is the sublessee of the Leased Property under this Lease, including the Initial Term and all Renewal Terms as provided in and subject to Article IV and Article VI of this Lease; certain provisions of this Lease survive the termination of the Lease Term, as provided in Section 4.02 of this Lease.

“*Leased Property*” means the Trustee’s interest in, collectively, the Site, the Building and the Equipment, described in Exhibit A attached hereto.

“*Net Proceeds*” means (a) the gross proceeds received from any event referred to in Section 8.07(b) hereof or Section 8.08(a) hereof, minus (b) all expenses incurred in the collection of such gross proceeds or award and all other fees, expenses and payments due to the Trustee. The trade in of Equipment pursuant to Section 8.07(b)(ii) hereof shall be deemed to have generated gross proceeds for purposes of this definition in an amount equal to the credit received upon such trade in.

“*Outstanding*” is defined in the Indenture.

“*Owners*” is defined in the Indenture.

“*Permitted Encumbrances*” means, as of any particular time, (a) liens for taxes and assessments not then delinquent, or liens which may remain unpaid pursuant to Section 8.02(b) hereof; (b) this Lease, the Indenture and the Site Lease; (c) utility, access and other easements, licenses, rights of way, rights and privileges, restrictions and exceptions which an Authorized Officer of the Town certifies will not materially adversely affect the value, or interfere with or impair the effective use or operation, of the Leased Property, including easements granted

pursuant to Section 8.03 hereof; (d) any financing statements filed with respect to the Trustee's interest in the Leased Property, this Lease or the Site Lease; (e) any encumbrance represented by financing statements filed to perfect purchase money security interests in any portion of or all of the Leased Property; (f) any claim filed pursuant to C.R.S. § 38-26-107; (g) any applicable zoning requirements; (h) existing leases, easements, covenants, restrictions, liens and encumbrances (if any) to which title to the Leased Property was subject when a leasehold interest therein was conveyed to the Trustee pursuant to the Site Lease, as shown on Exhibit C hereto and which do not interfere in any material way with the use of the Leased Property; and (i) 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, in the opinion of the Trustee, materially impair title to the Leased Property.

“*Person*” means any natural person, firm, corporation, partnership, limited liability company, state, political subdivision of any state, other public body or other organization or association.

“*Project*” means the acquisition, construction, renovation and equipping of a multi-purpose events center and new stall barns at the Stanley Park Fairgrounds complex.

“*Purchase Option Price*” means the amount that the Town must pay to purchase the interest of the Trustee in the Leased Property pursuant to Section 9.01 hereof.

“*Rebate Fund*” is defined in the Indenture.

“*Renewal Term*” means the twelve-month period, commencing on January 1 of each year and ending on December 31 of such year, for which the Town renews the Lease Term.

“*Requirement of Law*” means any 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 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 zoning, environmental, health or safety issues.

“*Revenues*” means (a) all amounts payable by or on behalf of the Town with respect to the Leased Property pursuant to this Lease including, but not limited to, all Base Rentals, the Purchase Option Price and Net Proceeds, but not including Additional Rentals payable hereunder; (b) any portion of the proceeds of the Certificates deposited with the Trustee in the Certificate Fund or the Project Account; (c) any earnings on moneys on deposit in the Certificate Fund and the Project Account; (d) all other revenues derived from this Lease, excluding Additional Rentals; and (e) any other moneys to which the Trustee may be entitled for the benefit of the Owners of the Certificates.

“*Scheduled Lease Term*” means the period from the commencement of the Initial Term through the date described in Section 4.01 hereof.

“*Site*” means the real estate or interests in real estate, the legal description of which is set forth in Exhibit A to this Lease.



“*Site Lease*” means the Site Lease dated the date hereof between the Town, as lessor, and the Trustee, in its capacity as trustee under the Indenture, as lessee, pursuant to which the Leased Property is being leased by the Town to the Trustee, and any amendment or supplement thereto.

“*State*” means the State of Colorado.

“*Town*” means the Town of Estes Park, Colorado, and any successor thereto.

“*Trust Estate*” is defined in the Indenture.

“*Trustee*” means UMB Bank, n.a., or any successor thereto, in its capacity as Trustee under the Indenture, or any successor trustee under the Indenture. Pursuant to Section 13.01 hereof, any successor trustee under the Indenture will automatically succeed to the interest of the previous trustee in the Leased Property and the previous trustee’s rights, title, interest and obligations in, to and under this Lease.

## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES

**Section 2.01. Representations, Covenants and Warranties by Trustee.** The Trustee represents, covenants and warrants that:

(a) The Trustee (i) is a national banking association that is duly organized, validly existing and in good standing under the laws of the United States of America and authorized to exercise trust powers, (ii) is duly qualified to do business in the State, (iii) is the lessee of the Leased Property pursuant to the Site Lease and (iv) is authorized, under its articles of association and bylaws, action of its board of directors and applicable law, to act as trustee under the Indenture, to lease the Leased Property from the Town, to sublease the Leased Property to the Town and to execute, deliver and perform its obligations under this Lease.

(b) The sublease of the Leased Property to the Town pursuant to this Lease is in the best interests of the Owners of the Certificates.

(c) The execution, delivery and performance of this Lease by the Trustee has been duly authorized by the Trustee.

(d) This Lease is enforceable against the Trustee in accordance with its terms, 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.

(e) The execution, delivery and performance of the terms of this Lease by the Trustee 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 Trustee is now a party or by which the Trustee is bound, or constitute a default under any of the foregoing or, except as specifically provided in this Lease, the Site Lease or the Indenture, result in the creation or imposition of a lien or encumbrance whatsoever upon any of the property or assets of the Trustee.

(f) There is no litigation or proceeding pending or threatened against the Trustee or any other Person affecting the right of the Trustee to execute, deliver or perform its obligations under this Lease.

(g) The Trustee acknowledges and recognizes that this Lease will be terminated upon the occurrence of an Event of Nonappropriation, and that a failure by the Town to appropriate funds in a manner that results in an Event of Nonappropriation is solely within the discretion of the Board.

**Section 2.02. Representations, Covenants and Warranties by Town.** The Town represents, covenants and warrants that:

(a) The Town is a political subdivision of the State duly organized and validly existing under the laws of the State.

(b) The Town is authorized, under Section 31-15-101(1)(d), C.R.S., to sublease the Leased Property from the Trustee and to execute, deliver and perform its obligations under this Lease.

(c) The sublease of the Leased Property from the Trustee pursuant to this Lease serves a public purpose and is in the best interests of the Town and its residents.

(d) The execution, delivery and performance of this Lease by the Town has been duly authorized by the Board.

(e) This Lease is enforceable against the Town in accordance with its terms, 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.

(f) The execution, delivery and performance of the terms of this Lease 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 or the Site Lease, result in the creation or imposition of a lien or encumbrance whatsoever upon any of the property or assets of the Town.

(g) There is no litigation or proceeding pending or threatened against the Town or any other Person affecting the right of the Town to execute, deliver or perform its obligations under this Lease.

(h) The Town will recognize economic and other benefits by the subleasing of the Leased Property pursuant to this Lease; the Leased Property is property that is necessary and essential to the Town's purpose and operations; the Town expects that the Leased Property will adequately serve the needs for which it is being leased throughout the Scheduled Lease Term.

(i) The Base 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. The Base Rentals and Additional Rentals payable in each Fiscal Year during the Lease Term do not exceed a reasonable amount so as to place the Town under an economic compulsion (i) to continue this Lease beyond any Fiscal Year, (ii) not to exercise its right to terminate this Lease at any time through an Event of Nonappropriation or (iii) to exercise any of its options to purchase the Leased Property hereunder. The Purchase Option Price is the Town's best estimate of the fair purchase price of the Leased Property at the time of exercise of the Town's option to purchase the Leased Property by paying the Purchase Option Price. The Scheduled 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 Leased Property, 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 options to purchase the Leased Property hereunder and the terms of this Lease governing the use of, and the Town's options to purchase, the Leased Property.

(j) The Town presently intends and expects to continue this Lease annually until full title to the Leased Property is acquired by the Town pursuant to this Lease; but this representation does not obligate or otherwise bind the Town.

(k) The Town is not aware of any current violation of any Requirement of Law relating to the Leased Property.

(l) The Town has appropriated sufficient moneys in its General Fund to pay the Base Rentals payable in the current Fiscal Year and the Additional Rentals estimated to be payable in the current Fiscal Year and, upon commencement of the Lease Term, such moneys will be encumbered to pay such Base Rentals and Additional Rentals.

(m) The acquisition of a leasehold interest in the Leased Property under the terms and conditions provided for in this Lease, is necessary, convenient, and in furtherance of the Town's governmental and proprietary purposes and functions, and no portion of the Leased Property will be used directly or indirectly in any trade or business carried on by any person other than a governmental unit of the State except with the prior approval of bond counsel.

(n) To the best knowledge of the Town, after due inquiry, (i) no dangerous, toxic or hazardous pollutants, contaminants, chemicals, waste, materials or substances, as defined in or governed by the provisions of any federal, state or local law, statute, code, ordinance, regulation, requirement or rule relating thereto (collectively, “Environmental Regulations”), and also including urea-formaldehyde, polychlorinated biphenyls, asbestos, asbestos containing materials, nuclear fuel or waste, radioactive materials, explosives, carcinogens and petroleum products, or any other waste, material, substance, pollutant or contaminant which would subject the owner of the Site to any damages, penalties or liabilities under any applicable Environmental Regulation (collectively, “Hazardous Substances”) are now or have been stored, located, generated, produced, processed, treated, transported, incorporated, discharged, emitted, released, deposited or disposed of in, upon, under, over or from the Site in violation of any Environmental Regulation; (ii) no threat exists of a discharge, release or emission of a Hazardous Substance upon or from the Site into the environment; (iii) the Site has not been used as or for a mine, landfill, a dump or other disposal facility, industrial or manufacturing facility, or a gasoline service station; (iv) no underground storage tank is located at the Site or, if previously located at the Site, has been removed therefrom; (v) no violation of any Environmental Regulation now exists relating to the Site, no notice of any such violation or any alleged violation thereof has been issued or given by any governmental entity or agency, and there is not now any investigation or report involving the Site by any governmental entity or agency which in any way relates to Hazardous Substances; (vi) no person, party or private or governmental agency or entity has given any notice of or asserted any claim, cause of action, penalty, cost or demand for payment or compensation, whether or not involving any injury or threatened injury to human health, the environment or natural resources, resulting or allegedly resulting from any activity or event described in (i) above; (vii) there are not now any actions, suits, proceedings or damage settlements relating in any way to Hazardous Substances, in, upon, under, over or from the Site; (viii) the Site is not listed in the United States Environmental Protection Agency’s National Priorities List of Hazardous Waste Sites or any other list of Hazardous Substance sites maintained by any federal, state or local governmental agency; and (ix) the Site is not subject to any lien or claim for lien or threat of a lien in favor of any governmental entity or agency as a result of any release or threatened release of any Hazardous Substance.

### **ARTICLE III**

#### **DEMISING CLAUSE; ENJOYMENT OF LEASED PROPERTY**

**Section 3.01. Demising Clause.** The Trustee demises and leases the Leased Property to the Town, and the Town leases the Leased Property from the Trustee, in accordance with the terms of this Lease, subject only to Permitted Encumbrances, to have and to hold for the Lease Term.

**Section 3.02. Enjoyment of Leased Property.** The Trustee covenants that, during the Lease Term and so long as no Event of Default shall have occurred, the Town shall peaceably and quietly have, hold and enjoy the Leased Property without suit, trouble or hindrance from the Trustee, except as expressly required or permitted by this Lease. The Trustee 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.

The provisions of this Article III shall be subject to the Trustee's right to inspect the Leased Property. The Town also hereby consents to the inspection by the Trustee of all books, accounts and records maintained by the Town with respect to the Leased Property and this Lease.

## ARTICLE IV

### LEASE TERM; TERMINATION OF LEASE

**Section 4.01. Duration of Lease Term; Town's Annual Right to Renew Lease.** The Lease Term shall commence as of May \_\_, 2013 and continue through the last day of the current Fiscal Year of the Town (the "Initial Term"). SUBJECT TO THE PROVISIONS OF SECTION 4.02 HEREOF, the Lease Term may be renewed at the end of the Initial Term and at the end of each Renewal Term thereafter for a term of twelve months coinciding with the next succeeding Fiscal Year of the Town (a "Renewal Term"), except that the Renewal Term beginning on January 1, 2027 shall terminate on December 1, 2027. The Town shall have the right to annually renew the Lease Term unless (a) the Town gives written notice to the Trustee not less than 90 days prior to the end of the Initial Term or the then current Renewal Term of the Town's intention not to renew this Lease at the end of the Initial Term or the then current Renewal Term, or (b) an Event of Nonappropriation shall have occurred with respect to a Renewal Term occurring after the Initial Term or any then current Renewal Term. The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Initial Term, except for the amount of Base Rentals and Additional Rentals to be paid during such Renewal Term. The Lease Term, including the Initial Term and all Renewal Terms, does not exceed the weighted average useful life of the Leased Property. If this Lease involves both real property and other property, the cost of such real property is amortized over a period not exceeding its weighted average useful life, and the cost of such other property is separately amortized over a period not exceeding its weighted average useful life. The combined amortization of such costs is set forth in Exhibit B, attached hereto and made a part hereof.

Except as otherwise provided in Section 4.02 hereof, the exercise of the Town's annual option to renew this Lease shall be conclusively determined by whether or not the Board has, on or before the last day of each Fiscal Year, duly enacted an appropriation ordinance or resolution for the ensuing Fiscal Year which includes (i) by specific line item reference sufficient amounts authorized and directed to be used to pay all the Base Rentals and (ii) sufficient amounts to pay such Additional Rentals as are estimated to become due, all as further provided in Section 6.04 of this Lease. The officer of the Town at any time charged with the responsibility of formulating budget proposals is hereby directed to include in the annual budget proposals submitted to the Board, items for all payments required under this Lease for the ensuing Fiscal Year, until such time (if any) as the Town's Board may determine not to renew this Lease; it being the intention of the Board that any decision to renew or not to renew this Lease shall be made solely by the

Board and not by any other official of the Town. Said officer shall also include in said budget proposal the total amount to be expended by the Town during the ensuing Fiscal Year for payment obligations under all lease-purchase agreements involving real property, including this Lease; the total maximum payment liability of the Town under all lease-purchase agreements involving real property, including this Lease, over the entire terms of such agreements, including all optional renewal terms; the total amount to be expended by the Town during the ensuing Fiscal Year for payment obligations under all lease-purchase agreements other than those involving real property, including this Lease (if applicable); and the total maximum payment liability of the Town under all lease-purchase agreements other than those involving real property, including this Lease (if applicable), over the entire term of such agreements, including all optional renewal terms. Each budget required by law to be filed with the State Department of Local Affairs, Division of Local Government, shall include a supplemental schedule that contains the foregoing information. The Town shall in any event, promptly furnish the Trustee with copies of its annual budget within seven days after the budget is adopted, but not later than the fourth day after the end of such Fiscal Year, provided that telephonic notice is provided by the Town to the Trustee of the adoption of the budget not later than the end of the first Business Day of the next succeeding Fiscal Year. If such budget and appropriation are not adopted, the Trustee shall notify the Town in writing as further provided in Section 6.04 hereof.

**Section 4.02. Termination of Lease Term.** The Lease Term shall terminate upon the earliest of any of the following events:

- (a) the last day of any Fiscal Year during which there has occurred an Event of Nonappropriation pursuant to Section 4.01 and Article VI of this Lease (provided that the Lease Term will be deemed to have been renewed and, therefore, not terminated if the Event of Nonappropriation is cured as provided in Section 6.04 hereof);
- (b) the conveyance of all of the Leased Property to the Town upon payment of the Purchase Option Price or all Base Rentals and Additional Rentals as provided in Article IX of this Lease, and discharge of the Indenture as it relates to this Lease; or
- (c) an Event of Default and termination of this Lease by the Trustee under Article XII of this Lease.

An election not to renew the Lease Term shall terminate all unaccrued obligations of the Town under this Lease, and shall terminate the Town's rights of possession under this Lease at the end of the last day of the Fiscal Year for which this Lease shall be in effect (except to the extent of the holdover provisions of Section 12.02(d)(i) hereof, and except for any conveyance pursuant to Article IX of this Lease); but all other provisions of this Lease, including all obligations of the Town accrued prior to such termination and all obligations of the Trustee with respect to the Owners and the receipt and disbursement of funds and all rights and remedies of the Trustee specifically provided herein, shall be continuing until the Indenture is discharged with respect to this Lease. Except for an event described in subparagraph (b) above, upon termination of this Lease, the Town agrees to peaceful delivery of the Leased Property to the Trustee or its assigns at such reasonable location specified by the Trustee.

**ARTICLE V**

**RESERVED**

**ARTICLE VI**

**BASE RENTALS AND ADDITIONAL RENTALS; EVENT OF NONAPPROPRIATION**

**Section 6.01. Payment of Base Rentals; Purchase Option Price.**

(a) The Town shall pay Base Rentals directly to the Trustee during the Lease Term in immediately available funds in the “Total Base Rentals” amounts and on the Base Rental Payment Dates set forth in Exhibit B hereto, as it may be modified from time to time; provided, however, that there shall be credited against the amount of Base Rentals payable on any Base Rental Payment Date the amount on deposit in the Certificate Fund representing (i) accrued interest from the sale of Certificates, (ii) earnings from the investment of moneys in the Certificate Fund, (iii) moneys transferred as provided in the Indenture and (iv) moneys delivered to the Trustee by the Trustee, the Town or any other Person that are accompanied by instructions to apply the same to the payment of Base Rentals or to deposit the same in the Certificate Fund. Thirty days prior to each Base Rental Payment Date, the Trustee shall notify the Town as to the exact amount that will be credited against the Base Rentals due on such date. If further amounts that are to be credited against Base Rentals accrue during such 30 day period, such amount shall be carried over to be applied as a reduction of the Base Rentals payable on the next succeeding Base Rental Payment Date.

(b) A portion of each payment of Base Rentals is paid as, and represents the payment of, interest, and Exhibit B hereto, as from time to time amended and supplemented, sets forth the interest component of each payment of Base Rentals. Upon receipt by the Trustee of each payment of Base Rentals, the Trustee shall apply the amount of each Base Rentals payment in the following manner and order:

(i) FIRST, the amount of such payment of Base Rentals designated and paid as interest under Exhibit B, as from time to time amended or supplemented, plus the amount of any past due interest on the Certificates, shall be deposited in the Interest Account of the Certificate Fund; and

(ii) SECOND, the remaining portion of such payment of Base Rentals shall be deposited in the Principal Account of the Certificate Fund.

(c) The Town may, at any time during the Lease Term, pay the then applicable Purchase Option Price related to the Leased Property for the purpose of terminating this Lease and purchasing the Leased Property shown on Exhibit A, as further provided in Article IX of this Lease. Certificates will be redeemed on the first date on which the Certificates may be redeemed following the payment of such Purchase Option Price. The Town shall give the Trustee notice of its intention to exercise its option not less than 45 days in advance of the date of exercise and shall deposit with the

Trustee on or prior to the date of redemption an amount equal to the Purchase Option Price.

Base Rentals set forth in Exhibit B to this Lease shall be recalculated in the event of any partial redemption of the Certificates prior to their respective principal payment dates, in order that such Base Rentals shall be paid in such amounts and at such times as will provide sufficient moneys to pay principal and interest on the Certificates which remain Outstanding.

**Section 6.02. Payment of Additional Rentals.** The Town shall, subject only to Sections 7.01(b) and 8.02(b) hereof and the other Sections of this Article, pay Additional Rentals directly to the Persons to which they are owed (which, in the case of payments required to be made to fund the Rebate Fund pursuant to the Indenture, is the Trustee) in immediately available funds in the amounts and on the dates on which they are due.

If the Town's estimates of Additional Rentals for any Fiscal Year are not itemized in the budget required to be furnished to the Trustee under Section 4.01 of this Lease, the Town shall furnish an itemization of such estimated Additional Rentals to the Trustee on or before the last day of such Fiscal Year.

**Section 6.03. Manner of Payment; Unconditional Obligations.** The Base Rentals and, if paid, the Purchase Option Price, shall be paid by the Town by certified funds or other method of payment acceptable to the Trustee in lawful money of the United States of America to the Trustee at its Operations Center for deposit in accordance with the provisions of the Indenture. The obligation of the Town to pay the Base Rentals and Additional Rentals, during the Initial Term and each Renewal 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 any default by the Trustee under this Lease, or under any other agreement between the Town and the Trustee, 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 Trustee 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 will be paid in full when due without any delay or diminution whatsoever, SUBJECT ONLY TO THE SPECIAL AND LIMITED NATURE OF THE TOWN'S OBLIGATION TO MAKE PAYMENTS HEREUNDER AS SET FORTH IN SECTION 4.01 ABOVE, and further subject to the Town's rights under Section 7.01 hereof. Notwithstanding any dispute between the Town and the Trustee, the Town shall, during the Initial Term and all Renewal Terms, 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 Section 7.01 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 Trustee shall affect the Town's obligation to pay all Base Rentals and Additional Rentals (except to the extent provided by Section 7.01 hereof with respect to certain Additional Rentals) during the Lease Term.



**Section 6.04. Nonappropriation.** In the event that the Board shall not specifically budget and appropriate, on or before the last day of each Fiscal Year, moneys to pay all Base Rentals and the reasonably estimated Additional Rentals coming due for the next ensuing Fiscal Year as provided in Section 4.01 hereof and this Article, an Event of Nonappropriation shall be deemed to have occurred, subject, however, to each of the following provisions:

(a) The Trustee shall declare an Event of Nonappropriation on any earlier date on which the Trustee receives specific written notice from the Town that this Lease will be terminated.

(b) Absent such notice from the Town, the Trustee shall give written notice to the Town of any Event of Nonappropriation, on or before the fifth day of the next following Fiscal Year; but any failure of the Trustee to give such written notice shall not prevent the Trustee from declaring an Event of Nonappropriation or from taking any remedial action which would otherwise be available to the Trustee.

(c) The Trustee shall waive any Event of Nonappropriation which is cured by the Town within a reasonable time if, in the Trustee's judgment, such waiver is in the best interest of the Owners of the Certificates.

(d) The Trustee shall waive any Event of Nonappropriation which is cured by the Town, within ten days of the giving of notice by the Trustee as provided in (b) above, by inclusion in a duly enacted appropriation ordinance or resolution, (i) by specific line item, amounts authorized and directed to be used to pay all Base Rentals and (ii) sufficient amounts to pay reasonably estimated Additional Rentals, coming due for such Fiscal Year.

In the event that during any Fiscal Year, any Additional Rentals shall become due which were not included in a duly enacted appropriation resolution then, in the event that moneys are not specifically budgeted and appropriated to pay such Additional Rentals within 45 days subsequent to the date upon which such Additional Rentals are due, an Event of Nonappropriation shall be deemed to have occurred, upon notice by the Trustee to the Town to such effect (subject to waiver by the Trustee as hereinbefore provided).

Notwithstanding any provision to the contrary herein, if an Event of Nonappropriation occurs, the Town's rights of possession of the Leased Property under this Lease shall terminate at the end of the last day of the Fiscal Year for which this Lease shall be in effect, and the Town shall not be obligated to make payment of the Base Rentals, Additional Rentals or any other payments provided for herein which accrue after the end of the last day of the Fiscal Year for which this Lease shall be in effect; provided, however, that, subject to the limitations of Sections 6.05 and 12.03 hereof, the Town shall continue to be liable for Base Rentals and Additional Rentals allocable to any period during which the Town shall continue to occupy, use or retain possession of the Leased Property, beginning with the first day of the Fiscal Year in respect of which the Event of Nonappropriation occurs. The Town shall in all events vacate or surrender possession of the Leased Property by the 20th Business Day of the Fiscal Year in respect of which an Event of Nonappropriation has occurred.

The Trustee shall, upon the occurrence of an Event of Nonappropriation, be entitled to all moneys then on hand and being held in the accounts within all funds created under the Indenture for the benefit of the Owners. After the 20th Business Day of the Fiscal Year in respect of which an Event of Nonappropriation has occurred, the Trustee shall proceed to exercise all or any Lease Remedies. All property, funds and rights acquired by the Trustee upon the termination of this Lease by reason of an Event of Nonappropriation as provided herein, less any moneys due and owing to the Trustee, shall be held by the Trustee for the benefit of the Owners of the Certificates as set forth in the Indenture.

**Section 6.05. Limitations on Obligations of Town.** The Town and the Trustee acknowledge and agree that the Base Rentals and Additional Rentals hereunder during the Initial Term and all of the Renewal Terms, if any, shall be paid from then currently budgeted expenditures of the Town, using any legally available funds of the Town. The Town's obligations to pay Base Rentals, Additional Rentals and any other payments provided for under this Lease during the Initial Term and all of the Renewal Terms, if any, shall be subject to the Town's annual right to renew this Lease (as further provided in Article IV and Sections 6.01 and 6.04 hereof), and shall not constitute a mandatory charge, requirement or liability in any ensuing Fiscal Year beyond the then current Fiscal Year. No provision of this Lease shall be construed or interpreted as a delegation of governmental powers or as creating indebtedness or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the Town within the meaning of any constitutional or statutory debt limitation, including without limitation, Article XI, Sections 1, 2 and 6, and Article X, Section 20, of the Colorado Constitution. Neither this Lease nor the execution and delivery of the Certificates shall directly or indirectly obligate the Town to make any payments of Base Rentals or Additional Rentals beyond the funds legally available to the Town for its then current Fiscal Year. The Town shall be under no obligation whatsoever to exercise its option to purchase the Leased Property. No provision of this Lease shall be construed to pledge or to create a lien on any class or source of Town moneys, nor shall any provision of this Lease restrict the future issuance of any bonds or obligations of the Town payable from any class or source of moneys of the Town.

## **ARTICLE VII**

### **OPERATION AND MAINTENANCE OF LEASED PROPERTY**

#### **Section 7.01. Taxes, Utilities and Insurance.**

(a) The Town shall pay, as Additional Rentals, all of the following expenses with respect to the Leased Property:

(i) all taxes, assessments and other charges lawfully made by any governmental body, provided that any such taxes, assessments or other governmental charges that may lawfully be paid in installments may be paid in installments as such installments are due;

(ii) all gas, water, steam, electricity, heat, power and other utility charges incurred in connection with the Leased Property;

(iii) casualty and property damage insurance with respect to the Leased Property in an amount equal to the greater of: (A) the principal amount of all Certificates Outstanding or (B) the full replacement cost of the Building and the Equipment; and

(iv) public liability insurance with respect to the activities to be undertaken by the Town in connection with the Leased Property and this Lease: (A) to the extent such activities result in injuries for which immunity is available under Section 24-10-114, C.R.S. or any successor statute, in an amount not less than the amounts for which the Town may be liable to third parties thereunder and (B) for all other activities, in an amount not less than \$1,000,000 per occurrence.

(b) Except for Permitted Encumbrances, the Town shall not allow any liens for taxes, assessments, other governmental charges or utility charges to exist with respect to any portion of the Leased Property. If the Town shall first notify the Trustee of the intention of the Town to do so, the Town may, however, in good faith and at its expense contest any such tax, assessment, other governmental charge or utility charge and, in the event of any such contest, may permit the tax, assessment, other governmental charge or utility charge so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Trustee shall notify the Town that, in the opinion of Independent Counsel, whose fees and expenses shall be paid by the Town, by nonpayment of any such item the interest of the Trustee in the Leased Property will be materially interfered with or endangered or the Leased Property or any portion thereof will be subject to loss or forfeiture or the Trustee will be subject to liability, in which event such tax, assessment, other governmental charge or utility charge shall be paid forthwith; provided, however, that such payment shall not constitute a waiver of the right to continue to contest such tax, assessment, other governmental charge or utility charge. At the request of the Town, the Trustee will cooperate fully with the Town in any such contest.

(c) The insurance policies provided pursuant to subsection (a) of this Section shall meet the following conditions: (i) any insurance policy may have a deductible clause in an amount deemed reasonable by the Town; (ii) each insurance policy shall be provided by an insurer rated "A" or better by A.M. Best Company or by S&P; (iii) each insurance policy shall be so written or endorsed as to make losses, if any, payable to the Town and the Trustee, as their respective interests may appear; (iv) each insurance policy shall contain a provision to the effect that the insurance company shall not cancel the policy or modify it materially and adversely to the interest of the Town or the Trustee without first giving written notice thereof to the Town and the Trustee at least 60 days in advance of such cancellation or modification; (v) each insurance policy, or each certificate evidencing such policy, shall be deposited with the Trustee; (vi) full payment of insurance proceeds under any insurance policy up to the dollar limit required by this Section in connection with damage to the Leased Property shall, under no circumstance, be contingent on the degree of damage sustained at other property owned or leased by the Town; and (vii) each insurance policy shall explicitly waive any co-insurance penalty. All insurance policies issued pursuant to this Section shall be deposited annually with the Trustee. In the event that the Town has received a notice of cancellation or modification

under (iv) above, the Town shall furnish to the Trustee 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.

(d) The Town may, in its discretion, provide any of the insurance required by subsection (a) of this Section under blanket insurance policies which insure not only the risks required to be insured hereunder but also other similar risks.

(e) The Town may, in its discretion, provide all or any portion of the insurance required by subsection (a) of this Section by self-insurance, provided that the following conditions are met: (i) the self-insurance program is approved by an independent insurance consultant referred to in subsection (f) of this Section; (ii) the self-insurance program is maintained on an actuarially sound basis; (iii) the self-insurance fund must be held in a separate trust fund by an independent trustee and (iv) if the self-insurance program is discontinued, the actuarial soundness of the claim reserve fund shall be maintained.

(f) The Town shall cause an insurance consultant, which may be the person providing the insurance, to annually review the coverage of the policies of insurance or self-insurance maintained pursuant to this Section and to make recommendations thereon, and shall comply with such recommendations.

**Section 7.02. Maintenance and Operation of Leased Property.** The Town agrees that at all times during the Lease Term the Town shall maintain, preserve and keep the Leased Property, or cause the Leased Property to be maintained, preserved and kept, in good repair, working order and condition, subject to normal wear and tear, shall operate the Leased Property, or cause the Leased Property to be operated, in an efficient manner and at a reasonable cost, and shall make or cause to be made all necessary and proper repairs, except as otherwise provided in Sections 8.06, 8.07 and 8.08 hereof. The Trustee shall have no responsibility for such maintenance or repair or for making any additions, modifications or replacements to the Leased Property.

## ARTICLE VIII

### OWNERSHIP, ENCUMBRANCES, MODIFICATIONS OR ADDITIONS TO LEASED PROPERTY; DAMAGE OR CONDEMNATION OF LEASED PROPERTY

**Section 8.01. Ownership of Leased Property.** At all times during the Lease Term, title to the Leased Property shall remain in the Town, subject to the Site Lease, this Lease, the Indenture and any other Permitted Encumbrances. Except for personal property purchased by the Town at its own expense pursuant to Section 8.07 of this Lease, a leasehold interest in the Leased Property and any and all additions and modifications thereto and replacements thereof shall be held in the name of the Trustee, subject to the Site Lease, this Lease and the Indenture, until the Trustee has exercised Lease Remedies or until such Leased Property is conveyed as provided in Article IX of this Lease, notwithstanding (a) a termination of this Lease by the Town by reason of an Event of Nonappropriation as provided in Section 6.04 of this Lease; (b) the occurrence of one or more Events of Default as defined in Section 12.01 of this Lease; (c) the

occurrence of any event of damage, destruction, condemnation, or, construction, manufacturing or design defect or title defect, as provided in Section 8.08 of this Lease; or (d) the violation by the Trustee of any provision of this Lease.

The Town shall have no right, title or interest in the Leased Property or any additions and modifications thereto or replacements thereof, except as expressly set forth in this Lease or the Site Lease.

**Section 8.02. Limitations on Disposition of and Encumbrances on Leased Property.**

(a) Except as otherwise permitted in this Article or Article IX or XII hereof and except for Permitted Encumbrances, (i) neither the Trustee nor the Town shall sell, assign, transfer or convey any portion of or any interest in the Leased Property or directly or indirectly create, incur or assume or suffer to exist any mortgage, pledge, lien (including a mechanic's lien), charge, encumbrance or claim on or with respect to the Leased Property, and (ii) the Town shall promptly take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance or claim.

(b) Notwithstanding subsection (a) of this Section, if the Town shall first notify the Trustee of the intention of the Town to do so, the Town may in good faith contest any such mortgage, pledge, lien (including a mechanic's lien), charge, encumbrance or claim on or with respect to the Leased Property, and in the event of any such contest, may permit the item so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless the Trustee shall notify the Town that, in the opinion of Independent Counsel, whose fees shall be paid by the Town, by failing to discharge or satisfy such item the interest of the Trustee in the Leased Property will be materially interfered with or endangered, or the Leased Property or any part thereof will be subject to loss or forfeiture, in which event such item shall be satisfied and discharged forthwith; provided, however, that such satisfaction and discharge shall not constitute a waiver by the Town of the right to continue to contest such item. At the request of the Town, the Trustee will cooperate fully with the Town in any such contest.

**Section 8.03. Granting of Easements.** As long as no Event of Nonappropriation or Event of Default shall have happened and be continuing, the Trustee shall, at the request of the Town:

(a) consent to the grant of easements, licenses, rights of way (including the dedication of public highways) and other rights or privileges in the nature of easements with respect to the real property included in this Lease and the Indenture, free from this Lease and the Indenture and any security interest or other encumbrance created hereunder, or under the Indenture or the Site Lease;

(b) Consent to the release of existing easements, licenses, rights of way and other rights and privileges with respect to the Leased Property, free from this Lease, the Site Lease and the Indenture and any security interest or other encumbrance created hereunder or thereunder, with or without consideration; and

(c) execute and deliver any instrument necessary or appropriate to confirm and grant or release any easement, license, right of way or other grant or privilege under subsection (a) or (b) of this Section, upon receipt of: (i) a copy of the instrument of grant or release; and (ii) a written application signed by an Authorized Officer of the Town requesting such instrument and stating that such grant or release will not materially adversely affect the value, or interfere with the effective use or operation, of the Leased Property.

**Section 8.04. Assignment and Subleasing by Town.** This Lease may not be assigned by the Town for any reason other than to a successor by operation of law. The Town may, subject to Section 10.04 hereof, (a) permit groups or individuals to use all or any portion of the Leased Property pursuant to the Town's policies for community use of Town facilities and (b) sublease or grant the right to use or otherwise permit other Persons to use all or any portion of the Leased Property for other purposes, provided that the following conditions are satisfied for any sublease, grant or use pursuant to clause (b):

(i) this Lease, and the obligations of the Town hereunder, shall remain obligations of the Town, and the Town shall maintain its direct relationship with the Trustee, notwithstanding any such sublease, grant or use;

(ii) if the sublease, grant or use is either (A) with respect to all the Leased Property or (B) makes it impossible or impractical for the Town to use any substantial portion of the Leased Property for any substantial period of time, the Trustee shall consent to such sublease, grant or use, which consent shall not be unreasonably withheld; and

(iii) the Town shall furnish or cause to be furnished to the Trustee a copy of any agreement for such sublease, grant or use.

**Section 8.05. Title Insurance.** Concurrently with the transfer of a leasehold interest in the Leased Property to the Trustee, the Trustee shall be provided with a ALTA Leasehold Title Insurance Policy, or a commitment therefor, issued to the Trustee in an amount equal to aggregate principal amount of the Certificates, insuring the Trustee's leasehold interest in the Site and the Building, subject only to Permitted Encumbrances.

**Section 8.06. Modification of Leased Property.** The Town, at its own expense, may remodel, or make additions, modifications or improvements to, the Leased Property and the same shall be leased to the Trustee, subject to this Lease and the Indenture, and shall be included under the terms of this Lease, the Site Lease and the Indenture, provided that (a) such remodeling, additions, modifications or improvements (i) shall not in any way damage the Leased Property as it existed prior thereto or cause the Leased Property to be used for purposes other than lawful governmental functions of the Town (except to the extent of subleasing permitted under Section 8.04 hereof), and (ii) shall become part of the Leased Property; (b) the value of the Leased Property after such remodeling, additions, modifications or improvements shall be of a value not less than the value of the Leased Property immediately prior thereto; and (c) the Leased Property, after such remodeling, additions, modifications or improvements, shall continue to be used as provided in, and shall otherwise be subject to the terms of, this Lease

**Section 8.07. Installation, Replacement and Substitution of Equipment.**

(a) The Town may, from time to time in its sole discretion and at its own expense, install machinery, equipment, and other tangible 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 neither the Trustee nor the Owners of the Certificates shall have any interests; provided, however, that a leasehold interest in any such machinery, equipment, and other tangible personal property which becomes permanently affixed to any Leased Property shall be in the Trustee, subject to this Lease and the Indenture, and shall be included under the terms of this Lease, the Site Lease and the Indenture, in the event the Trustee 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.

(b) The Town shall have no obligation to renew, repair or replace any inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary Equipment. In any instance where the Town determines that any Equipment included in the Leased Property has become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Town may (acting for the Trustee) sell, trade in, exchange or otherwise dispose of such Equipment (as a whole or in part) without any responsibility or accountability to the Trustee therefor; provided, however, that the Town shall either:

(i) substitute and install (by direct payment of the costs thereof or by designating equipment, machinery or personal property not theretofore included as part of the Leased Property) other equipment, machinery or personal property having (A) equal or greater value and utility (but not necessarily having the same function) in the operation of the Leased Property and (B) a useful life of not less than the remaining useful life of the item of Equipment for which it is substituted; or

(ii) not make any such substitution and installation, provided that (A) if the item of Equipment is sold to anyone other than the Town, the Town shall pay to the Trustee for deposit in the Principal Account of the Certificate Fund the Net Proceeds from such sale, (B) if the item of Equipment is traded in for other equipment, machinery or personal property that is not to be included in the Leased Property, the Town shall pay to the Trustee for deposit in the Principal Account of the Certificate Fund the Net Proceeds of the credit received by it in such trade in and (C) if the item of Equipment is sold or disposed of to the Town, the Town shall pay to the Trustee for deposit in the Principal Account of the Certificate Fund an amount equal to the original purchase price thereof less depreciation at rates calculated in accordance with generally accepted accounting principles.

(c) The Town shall promptly report in writing to the Trustee each substitution, sale, trade in, exchange or other disposition that must meet one of the conditions set forth in clause (i) or (ii) of subsection (b) of this Section and will pay amounts due to the Trustee thereunder promptly following any sale or disposition pursuant to clause (ii) of

subsection (b) of this Section. All equipment or personal property substituted for Equipment pursuant to this Section shall be free of all liens and encumbrances that are not Permitted Encumbrances and shall become a part of the Leased Property, and the Town shall execute and deliver to the Trustee a bill of sale transferring title to the substituted equipment, machinery or personal property to the Trustee.

(d) The Town will not remove, or permit the removal of, any of the Equipment except in accordance with this Section, Section 8.06 or 8.08 or Article IX hereof. The Trustee shall cooperate with the Town in implementing the Town's rights to dispose of Equipment pursuant to this Section and will execute any and all conveyances, releases or other documents necessary or appropriate in connection therewith.

(e) The disposal of any portion of the Equipment pursuant to this Section shall not entitle the Town to any postponement, abatement or diminution of the Base Rentals or Additional Rentals required to be paid hereunder.

**Section 8.08. Damage to, Condemnation of, Material Defect in or Loss of Title to Leased Property.**

(a) If, during the Lease Term (i) the Leased Property (or any portion thereof) is destroyed or damaged by fire or other casualty, (ii) title to, or the temporary or permanent use of, the Leased Property (or any portion thereof) or the estate of the Town or the Trustee in the Leased Property (or any portion thereof), is taken under the exercise of the power of eminent domain by any governmental body or by any Person acting under governmental authority, (iii) a breach of warranty or any material defect with respect to the Leased Property (or any portion thereof) becomes apparent or (iv) title to or the use of the Leased Property (or any portion thereof) is lost by reason of a defect in the title thereto, then, the Net Proceeds of any insurance, performance bond or condemnation award or the Net Proceeds received as a consequence of any default or breach of warranty under any contract relating to the Leased Property shall be deposited into a special trust fund held by the Trustee.

(b) If the costs of the repair, restoration, modification, improvement or replacement of the Leased Property following an event described in subsection (a) of this Section are equal to or less than the Net Proceeds available, such Net Proceeds shall be used promptly to repair, restore, modify, improve or replace the Leased Property (or portion thereof) and any excess shall be deposited into the Principal Account of the Certificate Fund, or, in the event that the Net Proceeds exceed the Purchase Option Price, the Net Proceeds shall be used to pay the Purchase Option Price and any excess shall be delivered to the Town.

(c) If the costs of the repair, restoration, modification, improvement or replacement of the Leased Property following an event described in subsection (a) of this Section are more than the amount of Net Proceeds available, then:



(i) The Town may elect either:

(A) to use the Net Proceeds promptly to repair, restore, modify, improve or replace the Leased Property (or portion thereof) with property of a value equal to or in excess of the value of the Leased Property (or applicable portion thereof), and pay (subject to Article VI hereof) as Additional Rentals the costs thereof in excess of the amount of the Net Proceeds or

(B) to apply the Net Proceeds to the payment of the Purchase Option Price and, in the event of an insufficiency of the Net Proceeds for such purpose, the Town shall, subject to Article VI hereof, appropriate and pay such amount as may be necessary to equal the Purchase Option Price.

(ii) If, within 90 days of the occurrence of the event described in subsection (a) of this Section, the Town has not elected to proceed under either (b) or (c) above and budgeted and appropriated sufficient funds to proceed under (c), an Event of Nonappropriation shall be deemed to have occurred and, subject to the Town's right to cure, the Trustee may pursue remedies available to it following an Event of Nonappropriation.

(d) The Town shall not 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 action relating to default or breach of warranty under any contract relating to the Leased Property without the written consent of the Trustee.

(e) No event described in subsection (a) of this Section shall affect the obligation of the Town to pay Base Rentals or Additional Rentals hereunder, regardless of whether the Leased Property is repaired, modified, improved or replaced in full or in part, subject, however, to Article VI hereof.

(f) Any repair, restoration, modification, improvement, or replacement paid for in whole or in part out of such Net Proceeds shall be the property of the Town, subject to this Lease, the Site Lease and the Indenture and shall be included as part of the Leased Property under this Lease, the Site Lease and the Indenture.

## ARTICLE IX

### TOWN'S PURCHASE OPTION

**Section 9.01. Town's Purchase Option.** The Town is hereby granted the option to purchase the Leased Property and terminate this Lease by paying to the Trustee an amount (the "Purchase Option Price") which, together with other amounts then on deposit in the Certificate Fund and the Project Account that are available for such purpose, is sufficient (a) to pay all the Outstanding Certificates at maturity, to redeem all the Outstanding Certificates in accordance with the redemption provisions of the Indenture or to defease all the Outstanding Certificates in accordance with the defeasance provisions of the Indenture and (b) to pay all Additional Rentals

payable through the date of conveyance of the Leased Property to the Town or its designee pursuant to this Article, including, but not limited to, all fees and expenses of the Trustee relating to the conveyance of the Leased Property and the payment, redemption or defeasance of the Certificates.

**Section 9.02. Exercise of Town’s Purchase Option.**

(a) The Town may exercise its option to purchase the Leased Property pursuant to Section 9.01 hereof by (i) giving written notice to the Trustee prior to the end of the Scheduled Lease Term (A) stating that the Town intends to purchase the Leased Property pursuant to Section 9.01 hereof, (B) identifying the source of funds it will use to pay the Purchase Option Price and (C) specifying a closing date for such purpose which is at least 45 days after the delivery of such notice and (ii) paying the Purchase Option Price to the Trustee in immediately available funds on the closing date. If the Town shall have given notice to the Trustee of its intention to purchase the Leased Property, but shall not have deposited the amounts with the Trustee on the date specified in such notice, the Town shall continue to pay Base Rentals as if no such notice had been given.

(b) At the closing of any purchase of the Leased Property pursuant to this Section, the Trustee shall execute and deliver to the Town or its designee all necessary documents assigning, transferring and conveying to the Town or its designee the same interest in the Leased Property that was conveyed to the Trustee, subject only to the following: (i) Permitted Encumbrances, other than this Lease, the Site Lease and the Indenture; (ii) all liens, encumbrances and restrictions created or suffered to exist by the Trustee as required or permitted by this Lease or the Site Lease or arising as a result of any action taken or omitted to be taken by the Trustee as required or permitted by this Lease or the Site Lease; (iii) any lien or encumbrance created or suffered to exist by action of the Town; and (iv) those liens and encumbrances (if any) to which the Leased Property was subject when acquired by the Trustee.

**Section 9.03. Conveyance of Leased Property to Town at End of Scheduled Lease Term.** If all Base Rentals scheduled to be paid through the end of the Scheduled Lease Term and all Additional Rentals payable through the date of conveyance of the Leased Property to the Town pursuant to this Section shall have been paid, the Leased Property shall be assigned, transferred and conveyed to the Town or its designee at the end of the Scheduled Lease Term in the manner described in Section 9.02(b) hereof without any additional payment by the Town.

**ARTICLE X**

**GENERAL COVENANTS**

**Section 10.01. Further Assurances and Corrective Instruments.** So long as this Lease is in full force and effect and no Event of Nonappropriation or Event of Default shall have occurred, the Trustee and the Town shall have full power to carry out the acts and agreements provided herein and the Trustee and the Town shall 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 leased or intended to be leased hereunder, or for otherwise carrying out the intention of or facilitating the performance of this Lease.

**Section 10.02. Compliance with Requirements of Law.** The Trustee and the Town shall comply with all Requirements of Law in performing their respective obligations with respect to the Leased Property hereunder. Without limiting the generality of the preceding sentence, the Town, in particular, shall use the Leased Property in a manner such that (a) the Leased Property at all times is operated in compliance with all Requirements of Law; (b) all permits required by Requirements of Law in respect of the Town's use of the Leased Property are obtained, maintained in full force and effect and complied with; (c) there shall be no hazardous substance, pollutant or contaminant (as those terms are defined in the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. § 9601, et seq., any applicable state law or regulations promulgated under either), solid or hazardous waste (as defined in the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, et seq., any applicable state law or regulations promulgated under either), special waste, petroleum or petroleum derived substance, radioactive material or waste, polychlorinated biphenyls, asbestos or any constituent of any of the foregoing located on, in or under the Leased Property in violation of any Requirements of Law; (d) there shall be no disposal of any of the items referred to in clause (c) on, from, into or out of the Leased Property in violation of any Requirements of Law; and (e) there shall be no spillage, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, disposing, depositing or dispersing of any of the items referred to in clause (c) into the indoor or outdoor environment from, into or out of the Leased Property, including but not limited to the movement of any such items through or in the air, soil, surface water, ground water from, into or out of the Leased Property or the abandonment or discard of barrels, containers or other open or closed receptacles containing any such items from, into or out of the Leased Property in violation of any Requirements of Law.

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 Environmental Regulation, 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, thereover or therefrom in violation of any Environmental Regulation, shall cause all Hazardous Substances to be properly removed therefrom and properly disposed of in accordance with all applicable Environmental Regulations, shall not install or permit to be installed any underground storage tank therein or thereunder in violation of any Environmental Regulation and shall comply with all other Environmental Regulations which are applicable to the Leased Property.

Subject to the limitations of Article IV hereof, in the event any Hazardous Substance is found upon, under, over or from the Leased Property in violation of any Environmental Regulation 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 Trustee and shall promptly remove such Hazardous Substances and prevent the imposition of any liens against the Leased Property for the cleanup of any Hazardous Materials. 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.

Subject to the limitations of Article IV hereof and to the fullest extent permitted by law, the Town further agrees to reimburse the Trustee 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 Trustee in any action against or involving the Trustee, resulting from any breach of the foregoing covenants or the covenant in Section 2.02(n) hereof, or from the discovery of any Hazardous Substance, in, upon, under or over, or emanating from, the Leased Property.

The representations and warranties in Section 2.02(n) hereof and the covenants of this Section 10.02 shall be deemed to be for the benefit of the Trustee and any successors and assigns of the Trustee.

**Section 10.03. Participation in Legal Actions.**

(a) At the request of and at the cost of the Town (payable as an Additional Rental hereunder), the Trustee shall join and cooperate fully in any legal action in which the Town asserts its right to the enjoyment of the Leased Property; that involves the imposition of any charges, costs or other obligations or liabilities on or with respect to the Leased Property or the Town's enjoyment of the Leased Property for which the Town is responsible hereunder; or that involves the imposition of any charges, costs or other obligations with respect to the Town's execution, delivery and performance of its obligations hereunder.

(b) At the request of the Trustee and upon a determination by the Town that such action is in the best interests of the Town, the Town shall, at the cost of the Town (payable as an Additional Rental hereunder), join and cooperate fully in any legal action in which the Trustee asserts its ownership of or interest in the Leased Property; that involves the imposition of any charges, costs or other obligations on or with respect to the Leased Property for which the Trustee is responsible hereunder; or that involves the imposition of any charges, costs or other obligations with respect to the execution and delivery of this Lease by the Trustee or the performance of its obligations hereunder.

**Section 10.04. Covenant to Comply with Internal Revenue Code.** The Town acknowledges that moneys in funds and accounts created under the Indenture will be invested or deposited by the Trustee at the direction of the Town. The Town certifies and covenants that it will not knowingly direct or otherwise cause the investment or use of any moneys in any fund or account in connection with the Certificates (including any moneys reasonably expected to be used to pay the Certificates or interest thereon, whether or not held by the Trustee pursuant to the Indenture and regardless of whether any such moneys were derived from the proceeds of the Certificates or from any other source), in a manner which will cause the Certificates to be classified as "arbitrage bonds" within the meaning of the Code.

The Town further covenants that it will perform all acts within its power which are or may be necessary to insure that the interest portion of the Base Rentals will at all times remain

excludable from gross income for purposes of federal income taxation under the Code and the regulations promulgated thereunder, as presently enacted and construed or as hereafter amended.

In particular, but without limitation, the Town further covenants to comply with the following restrictions of the Code, unless the Town receives an opinion of nationally recognized bond counsel substantially to the effect that noncompliance with such requirements will not adversely affect the exclusion from gross income for purposes of federal income taxation of interest on the Certificates.

(a) The Leased Property, the Project and gross proceeds of the Certificates, shall not be used in a manner which will cause the Certificates to be considered “private activity bonds” within the meaning of the Code.

(b) The Certificates are not and shall not become directly or indirectly “federally guaranteed.” A Certificate will be considered to be “federally guaranteed” if the payment of principal or interest with respect to such Certificate is guaranteed (in whole or in part) by the United States of America (or any agency or instrumentality thereof) or if 5% or more of the proceeds of the Certificates are used in making loans the payment of principal or interest with respect to which is guaranteed (in whole or in part) by the United States of America (or any agency or instrumentality thereof) or if invested (directly or indirectly) in federally insured deposits or accounts.

(c) The Town shall timely file Internal Revenue Form 8038-G pursuant to Section 149(e) of the Code.

**Section 10.05. Reimbursement.** To the extent proceeds of the Certificates are used to reimburse the Town for Costs of the Project incurred by or on behalf of the Town prior to the date the Certificates are issued (which costs are referred to in this subsection as the “reimbursed costs”):

(a) at the time the reimbursed costs were incurred by the Town, the Town intended to seek reimbursement for such costs from the proceeds of the Certificates or another financing source;

(b) the reimbursed costs either (i) were incurred no more than 60 days prior to the date of a reimbursement resolution by the Town or (ii) were for “preliminary expenditures,” which include architectural, engineering, surveying, soil testing or reimbursement of bond issuance and similar costs that were incurred prior to commencement of acquisition, construction or rehabilitation of the Project in an amount not in excess of 20% of the aggregate issue price of the Certificates;

(c) the reimbursed costs are for items that would have to be capitalized for federal income tax purposes (determined without regard to any election to treat such costs in another manner) if the Town was subject to federal income taxation;

(d) none of the amounts paid to the Town to reimburse it for the reimbursed costs is reasonably expected to be used to pay any amounts payable by the Town under the Indenture; and

(e) all of the amounts paid to the Trustee for payment of the reimbursed costs will actually be expended by the Trustee within 12 months after the date the Certificates are issued.

**Section 10.06. Payment of Fees and Expenses of the Trustee.** The Town shall pay the reasonable fees and expenses of the Trustee as Additional Rentals (subject to any agreement with the Trustee limiting the amount of such fees and expenses) in connection with the Leased Property, this Lease, the Site Lease, the Indenture, the Certificates or any matter related thereto, including, but not limited to, costs of defending any claim or action brought against the Trustee or its directors or officers relating to the foregoing, excepting, however, any liability for any action constituting willful or wanton misconduct.

**Section 10.07. Payments to Rebate Fund.** The Town shall pay to the Trustee as Additional Rentals all amounts required to be deposited into the Rebate Fund as and when required by the Indenture.

**Section 10.08. Authorization of Permitted Investments with Term in Excess of Five Years.** By authorizing the execution and delivery of this Lease, the Board specifically authorizes the investment of moneys held by the Trustee in Permitted Investments (as defined in the Indenture) where the period from the date of purchase thereof to the maturity date is in excess of five years, except as provided in Section 5.01 of the Indenture.

**Section 10.09. Compliance with Requirements.** During the Lease Term, the Town and the Trustee 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 or the Trustee 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.

**Section 10.10. Immunity and Indemnification.** The Trustee and its directors, members, officers, 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.

Subject to the limitations of Article IV hereof and to the fullest extent permitted by law, the Town shall indemnify the Trustee and any of its directors, members, officers, employees or agents and save them harmless against any liability resulting from acts or omissions of the Town. The Town shall also indemnify the Trustee and its directors, members, officers, 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. The Town shall indemnify and save the Trustee and its directors, members, officers, 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 Trustee or

any of its directors, members, officers, employees or agents, shall defend the Trustee and any of its directors, members, officers, employees or agents in any such action or proceeding.

**Section 10.11. Access To Leased Property.** The Town agrees that the Trustee, and any authorized representative of the Trustee, 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 Trustee, and any such representative shall have such rights of access to the 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.

## ARTICLE XI

### LIMITS ON OBLIGATIONS OF TRUSTEE

**Section 11.01. Disclaimer of Warranties.** THE TRUSTEE MAKES NO 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 OR ANY PORTION THEREOF. In no event shall the Trustee 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.

**Section 11.02. Financial Obligations of Trustee Limited to Available Funds.** Notwithstanding any other provision hereof, all financial obligations of the Trustee under this Lease, except those resulting from its negligence or willful misconduct, are limited to the Trust Estate.

## ARTICLE XII

### EVENTS OF DEFAULT AND REMEDIES

**Section 12.01. Events of Default Defined.**

(a) Any one of the following shall constitute an "Event of Default" under this Lease:

(i) failure by the Town to pay any Base Rentals due during the Lease Term to the Trustee within five days following such Base Rental Payment Date;

(ii) failure by the Town to pay any Additional Rental during the Lease Term within five days after the same becomes due;

(iii) failure by the Town to vacate the Leased Property by the 20th Business Day of the Fiscal Year in respect of which an Event of Nonappropriation

under Section 4.02 hereof has occurred or within 90 days following an Event of Nonappropriation under Section 8.08 hereof has occurred;

(iv) any sublease, assignment, encumbrance, conveyance or other transfer of the interest of the Town in all or any portion of the Lease or the Leased Property in violation of Section 13.02(a) hereof;

(v) failure by the Town to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in clause (i), (ii), (iii) or (iv) above, 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 Trustee, unless the Trustee 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 Trustee shall not withhold its consent to an extension of such time if corrective action shall be instituted within the applicable period and diligently pursued until the default is corrected; or

(vi) the Town files a petition or application seeking reorganization or protection under federal bankruptcy law or for other debtor relief under the laws of the State or a receiver is appointed for all or any material portion of the Town's assets or revenues or the Town is the subject of such a petition or application which is not contested by the Town or otherwise dismissed, vacated, discharged or stayed within 60 days.

(b) The provisions of subsection (a) of this Section are subject to the following limitations:

(i) the Town shall be obligated to pay Base Rentals and Additional Rentals only during the Initial Term or current Renewal Term, except as otherwise expressly provided in this Lease; and

(ii) if, by reason of Force Majeure, the Town shall be unable in whole or in part to carry out any agreement on its part herein contained, other than its obligation to pay Base Rentals or Additional Rentals hereunder, the Town shall not be deemed in default during the continuance of such inability; provided, however, that the Town shall, as promptly as legally and reasonably possible, remedy the cause or causes preventing the Town from carrying out such agreement, except that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the Town.

**Section 12.02. Remedies on Default.** Whenever any Event of Default referred to in Section 12.01 of this Lease shall have happened and be continuing, the Trustee shall take one or any combination of the following remedial steps:

(a) terminate the Lease Term and give notice to the Town to immediately vacate and surrender possession of the Leased Property within 20 Business Days of such notice;



(b) foreclose through the courts on or otherwise repossess its interest in the Leased Property in any lawful manner and exercise all the rights and remedies of a secured party under the Uniform Commercial Code with respect to the Equipment and otherwise repossess, liquidate or otherwise dispose of the Equipment in any lawful manner; provided, however, that the Trustee may not recover from the Town any deficiency which may exist following the liquidation of the Equipment in excess of the amounts payable under subparagraph (d) of this Section 12.02;

(c) sell or assign its interest in or sublease all or any portion of the Leased Property;

(d) recover from the Town:

(i) the portion of Base Rentals and Additional Rentals, which would otherwise have been payable hereunder during any period in which the Town continues to occupy, use or possess the Leased Property;

(ii) Base Rentals for the then current Fiscal Year in which such Event of Default occurs that have been appropriated by the Board, regardless of when the Town vacates the Leased Property and delivers the Equipment to the Trustee; and

(iii) Additional Rentals for the then current Fiscal Year in which such Event of Default occurs that have been appropriated by the Board, but only to the extent such Additional Rentals are payable prior to the date, or are attributable to the use of the Leased Property prior to the date, the Town vacates the Leased Property and delivers the Equipment to the Trustee;

(e) enforce any provision of this Lease by equitable remedy, including, but not limited to, enforcement of the restrictions on assignment, encumbrance, conveyance, transfer or succession under Article XIII hereof by specific performance, writ of mandamus or other injunctive relief; and

(f) take whatever action at law or in equity may appear necessary or desirable to enforce its rights in and to the Leased Property under this Lease, subject, however, to the limitations on the obligations of the Town set forth in Sections 6.05 and 12.03 hereof and the limitations on the obligations of the Trustee set forth in Article X hereof.

**Section 12.03. Limitations on Remedies.** A judgment requiring a payment of money may be entered against the Town by reason of an Event of Default only as to the Town's liabilities described in Section 12.02(d) hereof. A judgment requiring a payment of money may be entered against the Town by reason of an Event of Nonappropriation only to the extent that the Town fails to vacate and surrender possession of the Leased Property as required by Section 6.04 of this Lease, and only to the extent provided in Section 12.02(d)(i) hereof. The remedy described in Section 12.02(d)(ii) and (iii) of this Lease is not available for an Event of Default consisting of failure by the Town to vacate and surrender possession of the Leased Property within 20 Business Days following notice of an Event of Nonappropriation.

**Section 12.04. No Remedy Exclusive.** Subject to Section 12.03 hereof, no remedy herein conferred upon or reserved to the Trustee 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 Trustee to exercise any remedy reserved in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article.

**Section 12.05. Waivers.**

(a) The Trustee may waive any Event of Default under this Lease and its consequences as the Trustee deems to be in the best interest of the Owners of the Certificates. 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.

(b) In the event the Trustee waives any Event of Default described in Section 12.01(a)(i) hereof, any subsequent payment by the Town of Base Rentals then due and owing shall be paid to the Trustee to be applied in accordance with the terms of the Indenture.

**Section 12.06. Reserved.**

**Section 12.07. Agreement to Pay Attorneys' Fees and Expenses.** To the extent permitted by law and subject to the provisions of Article IV hereof, 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.

**Section 12.08. Waiver of Appraisal, Valuation, Stay, Extension and Redemption Laws.** The Trustee and the Town agree, to the extent permitted by law, that in the case of an Event of Nonappropriation or an Event of Default neither the Trustee nor the Town nor any one claiming through or under any of them shall or will set up, claim or seek to take advantage of any appraisal, valuation, stay, extension or redemption laws now or hereafter in force in order to prevent or hinder the enforcement of the Indenture; and the Trustee and the Town, for themselves and all who may at any time claim through or under either of them, each hereby waives, to the full extent that it may lawfully do so, the benefit of all such laws.

## ARTICLE XIII

### TRANSFERS OF INTERESTS IN LEASE OR LEASED PROPERTY

**Section 13.01. Trustee's Rights, Title and Interest in Trust for Benefit of Owners; Successor Trustee; Assignment by Trustee.** The Trustee shall place its interest in the Leased Property and its rights, title and interest in, to and under this Lease (other than the Trustee's rights to payment of its fees and expenses and the rights of third parties to Additional Rentals payable to them) in trust for the benefit of the Owners pursuant to the Indenture. Any successor trustee under the Indenture shall automatically succeed to the previous trustee's interest in the Leased Property and the previous trustee's rights, title, interest and obligations in, to and under this Lease. The Trustee shall not, except as provided in this Section or as otherwise provided elsewhere in this Lease or in the Indenture, assign, convey or otherwise transfer to any Person any of the Trustee's interest in the Leased Property or the Trustee's rights, title or interest in, to or under this Lease.

**Section 13.02. Transfer of Town's Interest in Lease and Leased Property Prohibited.**

(a) Except as otherwise permitted by Section 8.04 hereof with respect to subleases, grants or uses of the Leased Property or subsection (b) of this Section with respect to transfers of the Leased Property following termination of this Lease or as otherwise required by law, the Town shall not sublease, assign, encumber, convey or otherwise transfer all or any portion of its interest in this Lease or the Leased Property to any Person, whether now in existence or organized hereafter.

(b) Notwithstanding subsection (a) of this Section, the Town may transfer its interest in the Leased Property after, and only after, this Lease has terminated and the Leased Property has been conveyed to the Town or its designee pursuant to Article IX hereof following the payment of the Purchase Option Price or all Base Rentals scheduled to be paid through the end of the Scheduled Lease Term, together with all other amounts required to be paid as a condition of such conveyance pursuant to Article IX hereof, and the payment or defeasance of all the Certificates in accordance with the Indenture.

## ARTICLE XIV

### MISCELLANEOUS

**Section 14.01. Binding Effect.** This Lease shall inure to the benefit of and shall be binding upon the Trustee and the Town and their respective successors and assigns, subject, however, to the limitations set forth in Article XIII hereof. This Lease and the covenants set forth herein are expressly intended to be covenants, conditions and restrictions running with the Leased Property and the leasehold estate in the Leased Property under this Lease.

**Section 14.02. Acknowledgement of Indenture.** The Town has received a copy of, and acknowledges the terms of, the Indenture.

**Section 14.03. Trustee and Town Representatives.** Whenever under the provisions hereof the approval of the Trustee or the Town is required, or the Town or the Trustee is required to take some action at the request of the other, unless otherwise provided, such approval or such request shall be given for the Trustee by the Authorized Officer of the Trustee and for the Town by the Authorized Officer of the Town and the Town and the Trustee shall be authorized to act on any such approval or request.

**Section 14.04. Manner of Giving Notices.** All notices, certificates or other communications hereunder shall be in writing and shall be deemed given when mailed by certified or registered mail, postage prepaid, addressed as follows: if to the Town, to Town of Estes Park, 170 MacGregor Avenue, Post Office Box 1200, Estes Park, Colorado 80517, Attention: Town Administrator; and if to the Trustee, to UMB Bank, n.a., 1670 Broadway, Denver, Colorado 80202, Attention: Corporate Trust Department. The Town and the Trustee may, by written notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**Section 14.05. No Individual Liability.** All covenants, stipulations, promises, agreements and obligations of the Town or the Trustee, as the case may be, contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Town or the Trustee, as the case may be, and not of any member, director, officer, employee, servant or other agent of the Town or the Trustee in his or her individual capacity, and no recourse shall be had on account of any such covenant, stipulation, promise, agreement or obligation, or for any claim based thereon or hereunder, against any member, director, officer, employee, servant or other agent of the Town or the Trustee or any natural person executing this Lease or any related document or instrument.

**Section 14.06. Amendments, Changes and Modifications.** Except as otherwise provided herein or in the Indenture, this Lease may only be effectively amended, changed, modified or altered as provided in the Indenture, and by the execution of a subsequent document in the same manner as this Lease is executed.

**Section 14.07. Events Occurring on Days that are not Business Days.** If the date for making any payment or the last day for performance of any act or the exercising of any right under this Lease is a day that is not a Business Day, such payment may be made, such act may be performed or such right may be exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Lease.

**Section 14.08. Severability.** In the event that any provision of this Lease, other than the obligation of the Town to pay Base Rentals or Additional Rentals and the Purchase Option Price hereunder and the obligation of the Trustee to provide quiet enjoyment of the Leased Property and to convey the Leased Property to the Town pursuant to Article IX hereof, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 14.09. Captions.** The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Lease.

**Section 14.10. Applicable Law.** The laws of the State shall be applied in the interpretation, execution and enforcement of this Lease, without regard to conflict of laws principles.

**Section 14.11. Execution in Counterparts.** This Lease 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.

**Section 14.12. Amounts Remaining in Funds.** It is agreed by the parties hereto that any amounts remaining in any of the funds or accounts created under the Indenture, upon termination of the Lease Term, and after payment in full of the Certificates (or provision for payment thereof having been made in accordance with the provisions of this Lease and the Indenture) and the fees and expenses of the Trustee in accordance with this Lease and the Indenture, shall belong to and be paid to the Town by the Trustee as an overpayment of Base Rentals.

**Section 14.13. Net Lease.** This Lease shall be deemed and construed to be a “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).

**Section 14.14. No Merger.** The Trustee and the Town intend that the legal doctrine of merger shall have no application to this Lease and that neither the execution and delivery of the Site Lease by the Town and the Trustee nor the exercise of any remedies under the Site Lease or this Lease shall operate to terminate or extinguish the Site Lease or this Lease, except as specifically provided therein and herein.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Trustee and the Town have executed this Lease as of the date first above written.

UMB BANK, n.a., in its capacity as Trustee  
under the Indenture

By \_\_\_\_\_  
Authorized Signatory

TOWN OF ESTES PARK, COLORADO, as  
Town and Sublessee

[SEAL]

By \_\_\_\_\_  
Mayor

Attest:

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

[Signature Page to Lease Purchase Agreement]

STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of May, 2013, by \_\_\_\_\_ as an authorized signatory of UMB Bank, n.a.

WITNESS MY HAND AND OFFICIAL SEAL, the day and year above written.

[NOTARIAL SEAL]

\_\_\_\_\_  
Notary

My commission expires:

\_\_\_\_\_

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF LARIMER         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of May, 2013, by William C. Pinkham, as Mayor, and by Jackie Williamson, as Town Clerk, of the Town of Estes Park, Colorado.

WITNESS MY HAND AND OFFICIAL SEAL, the day and year above written.

[NOTARIAL SEAL]

\_\_\_\_\_  
Notary

My commission expires:

\_\_\_\_\_



## **EXHIBIT A**

### **DESCRIPTION OF THE LEASED PROPERTY**

#### **Description of Site:**

#### **Description of Building:**

The Town Hall, a steel-framed, two story office building containing approximately 30,500 square feet, located at 170 MacGregor Avenue, Estes Park, Colorado.

#### **Description of Equipment:**

All fixtures and machinery located in the Building, including but not limited to all lighting, heating, plumbing, ventilating and air conditioning fixtures, inside telephone wiring and connecting blocks/jacks, built-in mirrors, floor coverings, intercom systems, built-in kitchen appliances, sprinkler systems and controls and smoke/fire detectors.

**EXHIBIT B**

**BASE RENTALS PAYMENT SCHEDULE**

<b>Base Rentals Payment Date</b>	<b>Base Rentals Principal Component</b>	<b>Base Rentals Interest Component</b>	<b>Total Base Rentals</b>
12/01/13	\$ 0	\$	\$
06/01/14	0		
12/01/14	370,000		
06/01/15	0		
12/01/15	380,000		
06/01/16	0		
12/01/16	390,000		
06/01/17	0		
12/01/17	395,000		
06/01/18	0		
12/01/18	405,000		
06/01/19	0		
12/01/19	415,000		
06/01/20	0		
12/01/20	425,000		
06/01/21	0		
12/01/21	435,000		
06/01/22	0		
12/01/22	450,000		
06/01/23	0		
12/01/23	460,000		
06/01/24	0		
12/01/24	470,000		
06/01/25	0		
12/01/25	480,000		
06/01/26	0		
12/01/26	495,000		
06/01/27	0		
12/01/27	<u>505,000</u>		
Total	<u>\$6,075,000</u>	\$_____	\$_____

**EXHIBIT C**  
**PERMITTED ENCUMBRANCES**

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**INDENTURE OF TRUST**

by

**UMB BANK, n.a.,**  
as Trustee

authorizing

\$6,\_\_\_\_\_

Certificates of Participation, Series 2013  
evidencing proportionate interests in rights to receive  
certain Revenues pursuant to the Lease Purchase  
Agreement between the Trustee, as sublessor,  
and the Town of Estes Park, Colorado, as sublessee

Dated May \_\_, 2013

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APPENDIX A FORM OF CERTIFICATE  
APPENDIX B DESCRIPTION OF THE LEASED PROPERTY  
APPENDIX C FORM OF INVESTMENT LETTER

**THIS INDENTURE OF TRUST** (this “Indenture”) is dated May \_\_, 2013, and is entered into by **UMB BANK, n.a.**, a national banking association duly organized and validly existing under the laws of the United States of America and authorized to exercise trust powers of the character herein set forth, as trustee (the “Trustee”) for the benefit of the Owners (defined herein) of the Certificates (defined herein).

RECITALS :

WHEREAS, the Town of Estes Park, Colorado (the “Town”) has an immediate need for a multi-purpose events center and new stall barns at the Stanley Park Fairgrounds complex (the “Project”); and

WHEREAS, the Town owns (a) the land that is legally described in Exhibit B attached hereto (the “Site”); and (b) the building constructed on the Site and located at 170 MacGregor Avenue and being used as the Town Hall (the “Building”); and

WHEREAS, in order to provide moneys for the construction of the Project, the Town has entered into that certain Lease Purchase Agreement of even date herewith (the “Lease”) with the Trustee whereby the Town has subleased, from the Trustee, the Site and the Building (collectively, the “Leased Property”) more particularly described in Exhibit B attached hereto; and

WHEREAS, pursuant to that certain Site Lease of even date herewith (the “Site Lease”) between the Town and the Trustee, the Leased Property will be leased by the Town to the Trustee, and the Leased Property is to be subleased to the Town by the Trustee under the Lease, subject only to Permitted Encumbrances (as defined in the Lease); and

WHEREAS, pursuant to the Lease, and subject to the right of the Town to terminate the Lease and other limitations as therein provided, the Town will pay certain Base Rentals and Additional Rentals (as such terms are defined in the Lease) to the Trustee in consideration for the right of the Town to use the Leased Property; and

WHEREAS, pursuant to this Indenture, the right of the Trustee to receive the Base Rentals, and rights to receive certain other payments as provided in the Lease (with certain exceptions as provided herein and in the Lease) will be placed in trust by the Trustee for the benefit of the Owners (defined herein) of the Certificates (defined herein); and

WHEREAS, the Trustee (a) is a national banking association that is duly organized, validly existing and in good standing under the laws of the United States of America and authorized to exercise trust powers of the character herein set forth, (b) is duly qualified to do business in the State of Colorado (the “State”), (c) is the lessee of the Leased Property pursuant to the Site Lease and (d) is authorized, under its articles of association, action of its board of directors and applicable law, to lease the Leased Property from the Town, to sublease the Leased Property to the Town, to place in trust the Trust Estate (defined herein) and to execute, deliver and perform its obligations under this Indenture; and



WHEREAS, in order to allow the Town to finance the construction of the Project, the Trustee will execute and deliver Certificates of Participation, Series 2013, in the aggregate principal amount of \$6,\_\_\_\_\_ (the "Certificates") pursuant to this Indenture; and

WHEREAS, the Certificates evidence proportionate undivided interests in the right to receive Revenues (defined herein), shall be payable solely from the Trust Estate (defined herein) and no provision of the Certificates, this Indenture, the Lease or the Site Lease shall be construed or interpreted (i) to directly or indirectly obligate the Town to make any payment in any Fiscal Year beyond a Fiscal Year for which the Lease is in effect; (ii) as creating a debt or multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the Town within the meaning of Article X, Section 6 or Article X, Section 20 of the Colorado Constitution or any other constitutional or statutory limitation or provision; (iii) as a delegation of governmental powers by the Town; (iv) as a loan or pledge of the credit or faith of the Town or as creating any responsibility by the Town for any debt or liability of any person, company or corporation within the meaning of Article XI, Section 1 of the Colorado Constitution; or (v) as a donation or grant by the Town to, or in aid of, any person, company or corporation within the meaning of Article XI, Section 2 of the Colorado Constitution; and

WHEREAS, the execution and performance of this Indenture by the Trustee has been duly authorized by the Trustee and, upon the execution of this Indenture by the Trustee, this Indenture will be enforceable against the Trustee in accordance with its terms, 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; and

WHEREAS, the Trustee has entered into this Indenture for and on behalf of the Owners (defined herein), and will, except as otherwise specifically provided herein, hold its rights hereunder, including its rights with respect to the Trust Estate (defined herein), for the equal and proportionate benefit of the Owners (defined herein), and will disburse moneys received by it in accordance with this Indenture; and

WHEREAS, all things necessary to make the Certificates, when executed and delivered by the Trustee as in this Indenture provided, legal, valid and binding assignments of proportionate interests in the right to receive Revenues, as herein provided, and to constitute this Indenture a legal, valid and binding instrument for the security of the Certificates, in accordance with its terms, have been done and performed;

NOW, THEREFORE, the Trustee declares for the benefit of the Owners of the Certificates as follows:

### **DESCRIPTION OF TRUST ESTATE**

That the Trustee shall hold in trust, upon the terms herein set forth for the equal and proportionate benefit, security and protection of all Owners, without privilege, priority or distinction as to the lien or otherwise of any of the Certificates over any other of the Certificates,

all and singular the following described property, franchises and income, including any title therein acquired after these presents (the “Trust Estate”):

- (a) the Leased Property (defined herein) and all buildings, additions and real property improvements now or hereafter located thereon and the tenements, hereditaments, appurtenances, rights, privileges and immunities thereto belonging or appertaining, subject to the terms of the Lease and the Site Lease including, but not limited to, the terms of the Lease permitting the existence of Permitted Encumbrances (as defined in the Lease);
- (b) all rights, title and interest of the Trustee in, to and under the Lease and the Site Lease (other than the Trustee’s rights to payment of its fees and expenses under the Lease and the rights of third parties to Additional Rentals payable to them under the Lease);
- (c) all Base Rentals (defined in the Lease);
- (d) all Additional Rentals (defined in the Lease) that are payable to the Trustee for the benefit of the Owners;
- (e) the Purchase Option Price (defined in the Lease), if paid;
- (f) all Net Proceeds (defined in the Lease); and
- (g) all money and securities from time to time held by the Trustee under this Indenture in the Certificate Fund, and the Project Account;

PROVIDED, HOWEVER, that if the principal of the Certificates and the premium, if any, and the interest due or to become due thereon, shall be paid at the times and in the manner provided in the Certificates in accordance with the terms and provisions thereof, and if there are paid to the Trustee all sums of money due or to become due to the Trustee in accordance with the terms and provisions hereof, then, upon such final payment, this Indenture and the rights hereby granted shall cease, determine and be void; otherwise this Indenture is to be and remain in full force and effect.

THIS INDENTURE FURTHER WITNESSETH and it is expressly declared, that all Certificates executed and delivered and secured hereunder are to be executed and delivered and all said property, rights, interests, revenues and receipts hereby pledged, assigned and mortgaged are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Trustee has agreed and covenanted, and does hereby agree and covenant, for the benefit of the Owners, as follows:

## **ARTICLE I**

### **DEFINITIONS**

The following capitalized terms shall have the following meanings in this Indenture:

“*Acquisition Fund*” means the special fund created by Section 3.03 hereof.

“*Additional Certificates*” means any certificates of participation executed and delivered after the execution and delivery of the Certificates pursuant to Section 2.10 hereof.

“*Additional Rentals*” is defined in the Lease.

“*Authorized Officer*” is defined in the Lease.

“*Base Rentals*” is defined in the Lease.

“*Bond Counsel*” means (a) as of the date of execution and delivery of the Certificates, Kutak Rock LLP, and (b) as of any other date, Kutak Rock LLP or such other attorneys selected by the Trustee with nationally recognized expertise in the issuance of municipal securities, the interest on which is excludable from gross income for federal income tax purposes.

“*Business Day*” means any day other than a Saturday, a Sunday or a day on which banks in New York, New York or Denver, Colorado are authorized by law to remain closed.

“*Certificate Fund*” means the special fund created by Section 3.01 hereof.

“*Certificates*” means the Certificates of Participation, Series 2013, in the aggregate principal amount of \$6,\_\_\_\_\_ which have been executed and delivered pursuant to this Indenture.

“*Code*” means the Internal Revenue Code of 1986, as amended, and Treasury regulations promulgated thereunder.

“*Completion Date*” means no later than \_\_\_\_\_.

“*Costs*” or “*Costs of the Project*” means all costs and expenses to be incurred, and the reimbursement to the Town for all costs and expenses heretofore incurred, by the Town prior to the Completion Date (except as otherwise provided below), including, without limitation:

(a) the rental payment by the Trustee for, and other costs incurred in connection with the leasing of, the Leased Property pursuant to the Site Lease and obtaining, or confirming, the Trustee’s interest therein;

(b) obligations incurred or assumed for acquisition of, and for labor, materials and equipment in connection with the Project;

(c) the cost of performance and payment bonds and of insurance of all kinds (including, without limitation, title and liability insurance) that may be necessary or appropriate in connection with the Project;

(d) the costs of engineering, architectural and other professional and technical services, including obligations incurred or assumed for preliminary design and

development work, test borings, surveys, estimates, plans and specifications in connection with the Project;

(e) administrative costs related to the Project incurred by the Town prior to the Completion Date, including supervision of the construction, acquisition, renovation and installation as well as the performance by the Town of all of the other duties required by or consequent upon the Project, including, without limitation, costs of preparing and securing all project documents, architectural, engineering and other professional and technical fees, legal fees and expenses, appraisal fees, independent inspection fees, auditing fees and advertising expenses in connection with the Project;

(f) all costs which shall be required to be paid under the terms of any Project Contract;

(g) all costs which are considered to be a part of the costs of the Project in accordance with generally accepted accounting principles;

(h) interest on the Certificates issued to finance the Project through the Completion Date, to the extent the moneys in the Certificate Fund are not sufficient to pay such interest;

(i) the actual costs incurred by the Trustee in acquiring any property or making any improvements for which moneys are deposited with the Trustee pursuant to Section 3.03(b) hereof; and

(j) any and all other costs necessary to effect the Project or to acquire or improve any Leased Property to the extent the same are permitted by the laws of the State and will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Certificates.

“*Costs of Issuance*” means administrative costs of executing and delivering of the Certificates, including any fees and expenses of the Trustee, any fees and expenses of any underwriter or financial advisor in connection with the execution and delivery of the Certificates, legal fees and expenses, costs incurred in obtaining ratings from rating agencies, costs of immediately available funds, costs of publication, printing and engraving, accountants’ fees and recording and filing fees.

“*Costs of Issuance Account*” means the account of the Acquisition Fund created by and designated as such in Section 3.03(a) hereof.

“*Defeasance Securities*” means Permitted Investments which are:

(a) cash;

(b) U.S. Treasury Certificates, Notes and Bonds, including State and Local Government Series (“SLGs”);

(c) direct obligations of the U.S. Treasury which have been stripped by the U.S. Treasury itself;

(d) Resolution Funding Corp. (REFCORP) strips: only the interest component of REFCORP strips which have been stripped by request to the Federal Reserve Bank of New York in book entry form;

(e) pre-refunded municipal bonds rated “Aaa” by Moody's and “AAA” by S&P; provided that if the issue is only rated by S&P (i.e., there is no Moody's rating), then the pre-refunded bonds must have been pre-refunded with cash, direct U.S. or U.S. guaranteed obligations, or AAA-rated pre-refunded municipal bonds;

(f) obligations issued by the following agencies which are backed by the full faith and credit of the U.S.:

(i) U.S. Export-Import Bank (Eximbank) direct obligations or fully guaranteed certificates of beneficial ownership;

(ii) Farmers Home Administration (FmHA);

(iii) Federal Financing Bank;

(iv) General Services Administration Participation Certificates;

(v) U.S. Maritime Administration Guaranteed Title XI financing;

(vi) U.S. Department of Housing and Urban Development (HUD):

(A) Project Notes;

(B) Local Authority Bonds;

(C) New Communities Debentures—U.S. government guaranteed debentures; and

(D) U.S. Public Housing Notes and Bonds—U.S. government guaranteed public housing notes and bonds.

“*Equipment*” is defined in the Lease.

“*Event of Default*” means an event described in Section 12.01 of the Lease.

“*Event of Nonappropriation*” means an event described in Section 6.04 of the Lease.

“*Failure to Perform*” is defined in Section 7.03 hereof.

“*Fiscal Year*” means the fiscal year of the Town, which begins on January 1 and ends on December 31 of each year.

“*Indenture*” means this Indenture of Trust and any amendment or supplement hereto.

“*Independent Counsel*” means an attorney duly admitted to the practice of law before the highest court in the State and who is not an employee of the Town or the Trustee.

“*Initial Purchaser*” means Branch Banking and Trust Company.

“*Interest Payment Date*” means June 1 and December 1 of each year, beginning on December 1, 2013, with respect to the Certificates.

“*Investment Instructions*” means (a) the Investment Instructions delivered to the Trustee upon the original delivery of the Certificates and (b) any subsequent Investment Instructions, amending or superseding such Investment Instructions, accompanied by an opinion of Bond Counsel addressed to the Town and the Trustee, substantially to the effect that such amendments or modifications of the original Investment Instructions will not cause the interest paid or to be paid on the Certificates to be or become includible in gross income for purpose of federal or State of Colorado income taxation.

“*Lease*” means the Lease Purchase Agreement dated the date hereof between the Trustee, as sublessor, and the Town, as sublessee, and any amendment or supplement thereto.

“*Lease Term*” is defined in the Lease.

“*Leased Property*” is defined in the Lease.

“*Moody’s*” means Moody’s Investors Service and its successors and assigns.

“*Net Proceeds*” is defined in the Lease.

“*Operations Center*” means the principal operations office of the Trustee.

“*Opinion of Counsel*” means a written opinion of legal counsel, who may be counsel to the Trustee.

“*Outstanding*” means all Certificates which have been executed and delivered, except:

(a) Certificates canceled or which shall have been surrendered to the Trustee for cancellation;

(b) Certificates in lieu of which other Certificates have been executed under Section 2.07 or 2.08 hereof;

(c) Certificates which have been redeemed as provided in Article IV hereof (including Certificates redeemed on payment of an amount less than the outstanding principal thereof and accrued interest thereon to the redemption date as provided in Section 4.01 hereof);

(d) Certificates which are due and for which the Trustee holds funds for the benefit of the Owner thereof pursuant to Section 3.07 hereof; and

(e) Certificates which are otherwise deemed discharged pursuant to Article IX hereof.

“*Owner*” of a Certificate means the registered owner of any Certificate as shown in the registration records of the Trustee.

“*Permitted Encumbrances*” is defined in the Lease.

“*Permitted Investments*” means any investment which is a lawful investment permitted for the investment of funds of the Town by the laws of the State and by any ordinance, resolution or policy of the Town.

“*Person*” means any natural person, firm, corporation, partnership, limited liability company, state, political subdivision of any state, other public body or other organization or association.

“*Project*” means the acquisition, construction, renovation and equipping of a multi-purpose events center and new stall barns at the Stanley Park Fairgrounds complex.

“*Project Account*” means the account of the Acquisition Fund created by and designated as such in Section 3.03(a) hereof.

“*Project Contract*” means, with respect to the Project, contracts for services or materials for the construction, acquisition or installation of the Project, including, but not limited to, contracts for construction, engineering and architectural services.

“*Purchase Option Price*” is defined in the Lease.

“*Rebate Fund*” means the special fund created by Section 3.04 hereof.

“*Record Date*” means, with respect to each Interest Payment Date, the fifteenth day of the month (whether or not a Business Day) immediately preceding the month in which such Interest Payment Date occurs.

“*Requirement of Law*” means any 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 zoning, environmental, health or safety matters.

“*Revenues*” is defined in the Lease.

“*S&P*” means Standard & Poor’s Public Finance Ratings, and its successors and assigns.

“*Site Lease*” is defined in the Lease.

“*Special Record Date*” means a special date fixed to determine the names and addresses of Owners of Certificates for purposes of paying defaulted interest in accordance with Section 2.02 hereof.

“*State*” means the state of Colorado.

“*Supplemental Indenture*” means any indenture supplementing or amending this Indenture that is adopted pursuant to Article VIII hereof.

“*Town*” is defined in the Lease.

“*Trust Estate*” means the property placed in trust by the Trustee pursuant to the Description of the Trust Estate in the preambles to this Indenture. The Trust Estate does not include the Rebate Fund or any escrow accounts established pursuant to Section 9.01 hereof.

“*Trustee*” is defined in the Lease.

## ARTICLE II

### AUTHORIZATION, TERMS, EXECUTION AND ISSUANCE OF CERTIFICATES

**Section 2.01. Authorized Amount of Certificates.** No Certificates may be executed and delivered hereunder except in accordance with this Article. The aggregate principal amount of Certificates that may be executed and delivered hereunder shall be \$6,\_\_\_\_\_ except as provided in Section 2.10 of this Indenture.

#### **Section 2.02. Execution and Delivery of Certificates.**

(a) The Certificates shall be executed, sold and delivered hereunder, for the purpose of paying the Costs of the Project.

(b) The Certificates shall be issuable only as fully registered Certificates in the denominations of \$25,000 and in integral multiples of \$5,000 if in excess of \$25,000 (provided that no Certificate may be in a denomination which exceeds the principal coming due on any maturity date and no individual Certificate may be issued for more than one maturity). The Certificates shall be numbered in such manner as shall be determined by the Trustee.

(c) The principal of (other than principal due on each mandatory sinking fund redemption date prior to maturity) and premium, if any, and the final installment of interest on any Certificate shall be payable to the Owner thereof as shown on the registration records of the Trustee upon maturity or prior redemption thereof (other than principal due on each mandatory sinking fund redemption date prior to maturity) and upon presentation and surrender at the Operations Center of the Trustee. Payment of interest (other than the final installment of interest) on each Certificate shall be made by check or draft of the Trustee mailed, on each Interest Payment Date, to the Owner thereof at the address of such Owner as it last appears on the registration records of the Trustee at the close of business on the Record Date. Principal due on any Certificate on a



mandatory sinking fund redemption date (other than on final maturity) shall be payable by check or draft of the Trustee mailed on the mandatory sinking fund redemption date to the Owner thereof at the address of such Owner as it last appears on the registration records of the Trustee at the close of business on the Record Date. Any such interest, or principal due on a mandatory sinking fund redemption date, not so timely paid (other than the final installment of interest) shall cease to be payable to the person who is the Owner thereof at the close of business on the Record Date and shall be payable to the person who is the Owner thereof at the close of business on a Special Record Date for the payment of such defaulted interest or principal. Such Special Record Date shall be fixed by the Trustee whenever moneys become available for payment of the defaulted interest or principal, and notice of the Special Record Date shall be given by the Trustee to the Owners of the Certificates, not less than 10 days prior to the Special Record Date, by first-class mail to each such Owner as shown on the Trustee's registration records on a date selected by the Trustee, stating the date of the Special Record Date and the date fixed for the payment of such defaulted interest or principal. Alternative means of payment of interest (other than the final installment of interest), and of the principal due on a mandatory sinking fund redemption date (other than on final maturity) may be used if mutually agreed to in writing between the Owner of any Certificate and the Trustee. All payments shall be made in lawful money of the United States of America without deduction for the services of the Trustee.

### **Section 2.03. Certificate Details.**

(a) The Certificates evidence undivided proportionate interests in the right to receive certain Revenues under the Lease. The Certificates shall be dated May \_\_, 2013, shall mature on the date and in the amount set forth below and shall bear interest from their original dated date to maturity or prior redemption at the rate per annum set forth below, payable on each Interest Payment Date; except that Certificates which are reissued upon transfer, exchange or other replacement shall bear interest at the rate per annum shown below from the most recent Interest Payment Date to which interest has been paid or duly provided for, or if no interest has been paid, from the original dated date of the Certificates. Interest on the Certificates shall be calculated on the basis of a year of 360 days, consisting of twelve 30-day months.

The Certificates shall be executed and delivered in the aggregate principal amount of \$6,\_\_\_\_\_, shall mature on December 1, 2027, subject to mandatory sinking fund redemption prior to maturity as set forth in Section 4.03 hereof, and shall bear interest at the rate per annum of \_\_\_\_%.

(b) The Certificates shall be in substantially the form set forth in Appendix A hereto, with such changes thereto, not inconsistent herewith, as may be necessary or desirable and approved by the official of the Trustee executing the same (whose manual or facsimile signature thereon shall constitute conclusive evidence of such approval). All covenants, statements, representations and agreements contained in the Certificates are hereby approved and adopted as the covenants, statements, representations and agreements of the Trustee. Although attached as an appendix for the convenience of the

reader, Appendix A is an integral part of this Indenture and is incorporated herein as if set forth in full in the body of this Indenture.

(c) Notwithstanding any other provision hereof, the Certificates initially shall be delivered only in physical, typewritten form registered in the name of the Initial Purchaser or beneficial owner thereof.

**Section 2.04. Limited Obligations.** Each Certificate shall evidence an undivided proportionate interest in the right to receive Revenues and shall be payable solely from the Trust Estate. No provision of the Certificates, this Indenture, the Lease or the Site Lease shall be construed or interpreted (a) to directly or indirectly obligate the Town to make any payment in any Fiscal Year in excess of amounts appropriated for such Fiscal Year; (b) as creating a debt or multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the Town within the meaning of Article XI, Section 6 or Article X, Section 20 of the Colorado Constitution or any other constitutional or statutory limitation or provision; (c) as a delegation of governmental powers by the Town; (d) as a loan or pledge of the credit or faith of the Town or as creating any responsibility by the Town for any debt or liability of any person, company or corporation within the meaning of Article XI, Section 1 of the Colorado Constitution; or (e) as a donation or grant by the Town to, or in aid of, any person, company or corporation within the meaning of Article XI, Section 2 of the Colorado Constitution.

NEITHER THE LEASE NOR THE CERTIFICATES CONSTITUTES A GENERAL OBLIGATION INDEBTEDNESS OR A MULTIPLE-FISCAL YEAR DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION WHATSOEVER OF THE TOWN WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION. NEITHER THE LEASE, THE INDENTURE NOR THE CERTIFICATES HAVE DIRECTLY OR INDIRECTLY OBLIGATED THE TOWN TO MAKE ANY PAYMENTS BEYOND THOSE APPROPRIATED FOR ANY FISCAL YEAR IN WHICH THE LEASE SHALL BE IN EFFECT. EXCEPT TO THE EXTENT PAYABLE FROM THE PROCEEDS OF THE SALE OF THE CERTIFICATES AND INCOME FROM THE INVESTMENT THEREOF, FROM NET PROCEEDS OF CERTAIN INSURANCE POLICIES AND CONDEMNATION AWARDS, FROM NET PROCEEDS OF THE SUBLEASING OF OR A LIQUIDATION OF THE TRUSTEE'S INTEREST IN THE LEASED PROPERTY OR FROM OTHER AMOUNTS MADE AVAILABLE UNDER THE INDENTURE, THE CERTIFICATES WILL BE PAYABLE DURING THE LEASE TERM SOLELY FROM BASE RENTALS TO BE PAID BY THE TOWN UNDER THE LEASE. ALL PAYMENT OBLIGATIONS OF THE TOWN UNDER THE LEASE, INCLUDING, WITHOUT LIMITATION, THE OBLIGATION OF THE TOWN TO PAY BASE RENTALS, ARE FROM YEAR TO YEAR ONLY AND DO NOT CONSTITUTE A MANDATORY PAYMENT OBLIGATION OF THE TOWN IN ANY FISCAL YEAR BEYOND A FISCAL YEAR IN WHICH THE LEASE SHALL BE IN EFFECT. THE LEASE IS SUBJECT TO ANNUAL RENEWAL AT THE OPTION OF THE TOWN AND WILL BE TERMINATED UPON THE OCCURRENCE OF AN EVENT OF NONAPPROPRIATION OR EVENT OF DEFAULT. IN SUCH EVENT, ALL PAYMENTS FROM THE TOWN UNDER THE LEASE WILL TERMINATE, AND THE CERTIFICATES AND THE INTEREST THEREON WILL BE PAYABLE FROM CERTAIN MONEYS, IF ANY, HELD BY THE TRUSTEE UNDER THE INDENTURE, AND ANY MONEYS MADE AVAILABLE BY ACTION OF THE TRUSTEE REGARDING THE LEASED PROPERTY.

**Section 2.05. Execution and Authentication of Certificates.** The manual signature of a duly authorized signatory of the Trustee shall appear on each Certificate. Any Certificate shall be deemed to have been executed by a duly authorized signatory of the Trustee if signed by the Trustee, but it shall not be necessary that the same signatory sign all of the Certificates issued hereunder. If any signatory of the Trustee whose signature appears on a Certificate shall cease to be such official before delivery of the Certificates, such signature shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained a duly authorized signatory of the Trustee until delivery.

**Section 2.06. Delivery of Certificates.** Upon the execution and delivery of this Indenture, the Trustee shall execute and deliver the Certificates to the Initial Purchaser thereof, as hereinafter in this Section provided:

(a) Prior to the delivery by the Trustee of any of the Certificates, there shall have been filed with the Trustee (i) an originally executed copy of this Indenture, (ii) an executed copy of the ordinance of the Board of Trustees of the Town approving the Site Lease and the Lease, (iii) executed copies of the Lease and the Site Lease, and (iv) the title insurance policy or commitment required by Section 8.05 of the Lease.

(b) Thereupon, the Trustee shall deliver such Certificates to the Initial Purchaser thereof, upon payment to the Trustee of the agreed purchase price, which sum shall be applied as follows: (i) the amount required to be deposited into the Costs of Issuance Account shall be deposited into the Costs of Issuance Account; (ii) the amount of \$6,000,000 shall be deposited into the Project Account of the Acquisition Fund and paid to the Town as the lump-sum rental payment due for the acquisition by the Trustee of a leasehold interest in the Leased Property pursuant to the Site Lease.

**Section 2.07. Mutilated, Lost, Stolen or Destroyed Certificates.** In the event that any Certificate is mutilated, lost, stolen or destroyed, a new Certificate may be executed and delivered by the Trustee, of like date, maturity and denomination as that mutilated, lost, stolen or destroyed; provided that the Trustee shall have received indemnity from the registered owner of the Certificate satisfactory to it and provided further, in case of any mutilated Certificate, that such mutilated Certificate shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Certificate, that there shall be first furnished to the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee. In the event that any such Certificate shall have matured, instead of executing and delivering a duplicate Certificate, the Trustee may pay the same without surrender thereof. The Trustee may charge the registered owner of the Certificate with its reasonable fees and expenses for this service.

**Section 2.08. Registration of Certificates; Persons Treated as Registered Owners; Transfer and Exchange of Certificates.** Books for the registration and for the transfer of Certificates shall be kept by the Trustee, which is hereby appointed the registrar. Upon surrender for transfer of a Certificate at the Operations Center of the Trustee, the Trustee shall execute and deliver in the name of the transferee or transferees a new fully registered Certificate or Certificates of a like aggregate principal amount and of the same maturity. A Certificate may be transferred only upon receipt by the Trustee from the proposed transferee of an Investment Letter substantially in the form of Appendix C to this Indenture.

Certificates may be exchanged at the Operations Center of the Trustee for an equal aggregate principal amount of Certificates of the same maturity and of other authorized denominations. The Trustee shall execute and deliver Certificates which the registered owner making the exchange is entitled to receive, bearing numbers not contemporaneously Outstanding.

All Certificates presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in form and with guaranty of signature satisfactory to the Trustee, duly executed by the registered owner or by his or her attorney duly authorized in writing.

The Trustee shall not be required to transfer the Certificates during the period beginning on a Record Date and ending on the next Interest Payment Date of the Certificates nor to transfer or exchange any Certificate after the mailing of notice calling such Certificate or any portion thereof for redemption has been given as herein provided, nor during the period of 15 days next preceding the giving of such notice of redemption.

New Certificates delivered upon any transfer or exchange shall evidence the same obligations as the Certificates surrendered, shall be secured by this Indenture and entitled to all of the security and benefits hereof to the same extent as the Certificates surrendered. As to any Certificate, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of the principal of, premium, if any, and interest on the Certificate shall be made only to or upon the written order of the registered owner thereof or his or her legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge such Certificate to the extent of the sum or sums paid.

The Trustee shall require the payment, by any Certificate Owner requesting transfer or exchange of Certificates, of any tax, Trustee's fee, fee or other governmental charge required to be paid with respect to such transfer or exchange.

**Section 2.09. Cancellation of Certificates.** Whenever any Outstanding Certificate shall be delivered to the Trustee for cancellation pursuant to this Indenture, upon payment thereof or for or after replacement pursuant to Section 2.07 or 2.08 of this Indenture, such Certificate shall be promptly canceled and cremated or otherwise destroyed by the Trustee, in accordance with the customary practices of the Trustee and applicable retention laws.

**Section 2.10. Execution and Delivery of Additional Certificates.** So long as the Lease Term shall remain in effect and no Event of Nonappropriation or Event of Default shall have occurred, one or more issues of Additional Certificates (the "Additional Certificates") may be executed and delivered upon the terms and conditions provided herein.

Additional Certificates may be executed and delivered to provide funds for any one or more of the following: (i) refunding all or any portion of the Outstanding Certificates and/or Additional Certificates; (ii) at any time or from time to time, making such modifications and improvements in, on or to the Leased Property as the Town may deem necessary or desirable;

and (iii) paying costs incurred in connection with the execution and delivery of the Additional Certificates, any deposit to a reserve fund that is required and capitalized interest, if any.

Additional Certificates may be issued only upon there being filed with the Trustee:

(a) Originally executed counterparts of a Supplemental Indenture and an amendment to the Lease adopted in accordance with the requirements of Article VIII hereof, including requirements regarding approval of the Certificate Owners, if applicable, expressly providing that, for all the purposes hereof, the Leased Property shall, in the case of (ii) above, include any property, buildings or equipment being financed by the Additional Certificates and further providing for an increase in the Base Rentals required to be paid to the Trustee under Appendix B to the Lease in such amount as shall be necessary to pay (assuming that no Event of Nonappropriation or Event of Default shall occur), the principal of and interest on the Certificates and any Additional Certificates theretofore executed and delivered and Outstanding as well as the Additional Certificates proposed to be executed and delivered.

(b) A written opinion or opinions of Bond Counsel, mutually acceptable to the Town and the Trustee, to the effect that the amendment to the Lease and the execution and delivery of the Additional Certificates have been duly authorized, that the amendment to the Lease is valid and enforceable against the Town, that the exclusion from federal income taxation of the interest on the Certificates and any Additional Certificates theretofore executed and delivered with the expectation that the interest thereon will not be includible in federal income taxation will not be adversely affected by the execution and delivery of the Additional Certificates proposed to be executed and delivered, and that the execution and delivery of the Additional Certificates will not constitute a default under the Lease or this Indenture nor cause any violation of the covenants, agreements or representations in the Lease or this Indenture.

(c) Evidence that the amount of the title insurance policy or policies required by Section 8.05 of the Lease has been increased, if necessary, to reflect the amount of the Certificates and Additional Certificates theretofore executed and delivered plus the Additional Certificates, (or such lesser amount as shall be the maximum insurable value of the Leased Property that is to be insured by such policy or policies).

(d) A written order to the Trustee by the Town to deliver the Additional Certificates to the purchaser or purchasers therein identified upon payment to the Trustee of a specified sum, plus accrued interest, if any.

Additional Certificates shall, in all cases, bear interest at fixed interest rates and, except for Additional Certificates that are executed and delivered for the purpose of refunding all of the Outstanding Certificates and Additional Certificates and for paying the costs, establishing a reserve fund and funding capitalized interest, if any, in connection with such refunding, shall mature, including mandatory sinking fund redemption dates, if any, on December 1 of each year, shall pay interest on June 1 and December 1 of each year and shall not be subject to redemption earlier than the Certificates. Each of the Additional Certificates executed and delivered pursuant to this Section 2.10 shall evidence an assignment of a proportionate interest in rights to receive

Revenues under the Lease, as amended, proportionately and ratably secured with the Certificates originally executed and delivered and all other issues of Additional Certificates, if any, executed and delivered pursuant to this Section 2.10, without preference, priority or distinction of any Certificates or Additional Certificates over any other.

No Additional Certificates may be executed and delivered without the prior written consent of the Certificate Owners of a majority in aggregate principal amount of the Outstanding Certificates and Additional Certificates, if any, previously executed and delivered, except for a refunding of all of the Outstanding Certificates and Additional Certificates previously executed and delivered.

### ARTICLE III

#### FUNDS AND ACCOUNTS

##### **Section 3.01. Certificate Fund.**

(a) *Creation of the Certificate Fund.* A special fund is hereby created and established by the Trustee to be designated the Certificates of Participation Fund (the "Certificate Fund"), which shall be used to pay the principal of, premium, if any, and interest on the Certificates. Within the Certificate Fund there are hereby created and established an Interest Account and a Principal Account which shall be used as set forth in subsection (d) of this Section.

(b) *Payments into the Interest Account of the Certificate Fund.* There shall be deposited into the Interest Account of the Certificate Fund (i) all accrued interest received at the time of the execution and delivery of the Certificates; (ii) that portion of each payment of Base Rentals made by the Town which is designated and paid as the interest component thereof under Appendix B to the Lease; (iii) any moneys transferred to the Interest Account of the Certificate Fund from the Project Account pursuant to Section 3.03(d) hereof; and (iv) all other moneys received by the Trustee under this Indenture accompanied by directions that such moneys are to be deposited into the Interest Account of the Certificate Fund.

(c) *Payments into the Principal Account of the Certificate Fund.* There shall be deposited into the Principal Account of the Certificate Fund (i) that portion of each payment of Base Rentals made by the Town which is designated and paid as the principal component thereof under Appendix B to the Lease; (ii) any moneys transferred to the Principal Account of the Certificate Fund from the Project Account pursuant to Section 3.03(d) hereof; and (iii) all other moneys received by the Trustee under this Indenture accompanied by directions that such moneys are to be deposited into the Principal Account of the Certificate Fund.

(d) *Use of Moneys in the Certificate Fund.* Moneys in the Interest Account of the Certificate Fund shall be used solely for the payment of interest on the Certificates and moneys in the Principal Account of the Certificate Fund shall be used solely for the payment of the principal of and premium, if any due on the Certificates; provided that

(i) in the event that there are any remaining moneys upon payment of the interest due on the Certificates, such moneys may be used for the payment of principal of and premium, if any, due on the Certificates; (ii) moneys representing accrued interest received at the time of the execution and delivery of the Certificates shall be used solely to pay the first interest due on the Certificates; (iii) the Purchase Option Price and any other moneys transferred to the Certificate Fund with specific instructions that such moneys be used to pay the redemption price of Certificates shall be used solely to pay the redemption price of Certificates; and (iv) moneys transferred from the Project Account following the Completion Date of the Project shall be used to pay the principal of the Certificates; provided, further, that all moneys in the Certificate Fund shall be available to pay the redemption price of Certificates in connection with a redemption of all the Certificates and to pay the principal of, premium, if any, and interest on the Certificates following an Event of Default or Event of Nonappropriation.

**Section 3.02. Reserved.**

**Section 3.03. Acquisition Fund.**

(a) ***Creation of the Acquisition Fund.*** A special fund is hereby created and established by the Trustee to be designated the Acquisition Fund (the “Acquisition Fund”), and, within such fund, the Costs of Issuance Account and the Project Account. The Trustee may establish such additional accounts within the Acquisition Fund or such subaccounts within any of the existing or any future accounts of the Acquisition Fund as may be necessary or desirable.

(b) ***Deposits into the Acquisition Fund.*** There shall be deposited into the Costs of Issuance Account proceeds of the sale of Certificates or other legally available moneys in the amount of \$\_\_\_\_\_ in connection with the execution and delivery of the Certificates.

(c) ***Use of Moneys in the Costs of Issuance Account.*** Moneys held in the Costs of Issuance Account shall be used to pay Costs of Issuance as directed by the Town. The Trustee shall transfer to the Project Account any amounts held in the Costs of Issuance Account that are not required to pay Costs of Issuance.

(d) ***Use of Moneys in the Project Account.*** Moneys held in the Project Account shall be disbursed to the Town (i) upon the execution and delivery by the Town of the Site Lease and the Lease for the lump-sum payment of the rent due to the Town by the Trustee for a leasehold interest in the Leased Property pursuant to the terms of the Site Lease and shall be used by the Town to pay Costs of the Project, and (ii) at any later date prior to the Completion Date, upon direction of the Town, in the event moneys are transferred to the Project Account pursuant to subparagraph (c) of this Section; provided, however, that no such disbursement shall be made unless and until a title insurance policy in respect of such property, or a binding commitment therefor, is provided to the Trustee as set forth in Section 8.05 of the Lease. If an Event of Default or Event of Nonappropriation shall have occurred, the Trustee, as it deems appropriate in the best interests of the Owners, shall either disburse moneys held in the Project Account as

provided in the preceding sentence or apply such moneys as provided in Article VII hereof. After the Completion Date, any moneys remaining in the Project Account and any earnings thereon, minus any amount estimated by an Authorized Officer of the Town to be necessary to pay Costs of the Project, shall be transferred by the Trustee (i) to the Principal Account of the Certificate Fund or (ii) with the consent of the Town to make improvements or additions to the Leased Property or for the acquisition of additional property that will be leased to the Town, or any combination thereof, as the Town may determine and direct.

#### **Section 3.04. Rebate Fund.**

(a) *Creation of the Rebate Fund.* A special fund is hereby created and established by the Trustee to be designated the Rebate Fund (the “Rebate Fund”).

(b) *Deposits into the Rebate Fund.* There shall be deposited into the Rebate Fund (i) all amounts paid by the Town pursuant to subsection (e) of this Section; and (ii) all other moneys delivered to the Trustee that are accompanied by instructions to deposit the same into the Rebate Fund.

(c) *Use of Moneys in the Rebate Fund.* Not later than 60 days after December 1, 2017, and every five years thereafter, the Trustee shall pay to the United States of America 90% of the amount required to be on deposit in the Rebate Fund as of such payment date. No later than 60 days after the final retirement of the Certificates, the Trustee shall pay to the United States of America 100% of the amount required to be on deposit in the Rebate Fund which shall remain in effect for such period of time as is necessary for such final payment to be made. Each payment required to be paid to the United States of America pursuant to this Section shall be filed with the Internal Revenue Service Center, Ogden Submission Processing Center, Ogden, Utah 84201. Each payment shall be accompanied by a copy of the Internal Revenue Form 8038-T and a statement summarizing the determination of the amount to be paid to the United States of America. The Trustee reserves the right, in all events, to pursue such remedies and procedures as are available to it in order to assert any claim of overpayment of any rebated amounts.

(d) *Administration of Rebate Fund.* The Trustee shall make or cause to be made all requisite rebate calculations so as to provide the information required to transfer moneys to the Rebate Fund pursuant to subsection (b) of this Section. The Trustee shall make deposits to and disbursements from the Rebate Fund in accordance with the Investment Instructions (the “Investment Instructions”) and the Tax Compliance Certificate (the “Tax Compliance Certificate”) executed by the Town in connection with the execution and delivery of the Certificates or any similar certificate or instrument delivered by the Town in connection with the execution and delivery of any Additional Certificates. The Trustee shall invest the Rebate Fund pursuant to said Investment Instructions and shall deposit income from said investments immediately upon receipt thereof in the Rebate Fund, all as set forth in the Investment Instructions. The Investment Instructions may be superseded or amended by new Investment Instructions drafted by, and accompanied by an opinion of, Bond Counsel addressed to the Trustee to the effect



that the use of said new Investment Instructions will not cause the interest on the Certificates to be includible in the gross income of the recipients thereof for purposes of federal income taxation. The Trustee may employ, at its expense, a designated agent to calculate the amount of deposits to and disbursements from the Rebate Fund. If a withdrawal from the Rebate Fund is permitted as a result of the computation described in the Investment Instructions, the amount withdrawn shall be deposited in the Certificate Fund. Record of the determinations required by this Section and the Investment Instructions must be retained by the Trustee until six years after the final retirement of the Certificates.

(e) ***Payments by the Town.*** The Town has agreed in Section 6.02 of the Lease that, if, for any reason, the amount on deposit in the Rebate Fund is less than the amount required to be paid to the United States of America on any date, the Town will pay to the Trustee the amount required to make such payment on such date.

**Section 3.05. Nonpresentment of Certificates.** In the event any Certificate shall not be presented for payment when due, if funds sufficient to pay such Certificate shall have been made available to the Trustee for the benefit of the Owner thereof, it shall be the duty of the Trustee to hold such funds for the period of five years without liability for interest thereon, for the benefit of the Owner of such Certificate, who shall be restricted exclusively to such funds for any claim of whatever nature on his part under this Indenture or on or with respect to such Certificate.

Funds so deposited with the Trustee which remain unclaimed five years after the date payment thereof becomes due, whether at maturity or upon redemption, shall, if, to the knowledge of the Trustee, there has been no Event of Nonappropriation or Event of Default, be paid to the Town, and the registered Owners of the Certificates for which the deposit was made shall thereafter be limited to a claim against the Town.

**Section 3.06. Reports to Town.** Not less than once each calendar year, the Trustee shall provide the Town with an accounting for all receipts to and disbursements from the Funds or Accounts created hereunder.

**Section 3.07. Moneys to be Held in Trust.** The Certificate Fund, the Acquisition Fund, and, except for the Rebate Fund, any other fund or account created hereunder shall be held by the Trustee, for the benefit of the Owners as specified in the Indenture, subject to the terms of this Indenture, the Lease and the Site Lease. The Rebate Fund shall be held by the Trustee for the purpose of making payments to the United States of America pursuant to Section 3.04(c) hereof. Any escrow account established pursuant to Section 9.01 hereof shall be held for the benefit of the Owners of the Certificates to be paid therefrom as provided in the applicable escrow agreement.

**Section 3.08. Repayment to the Town from the Trustee.** After payment in full of the principal of, premium, if any, and interest on the Certificates, all rebate payments due to the United States of America, the fees and expenses of the Trustee and all other amounts required to be paid hereunder, any remaining amounts held by the Trustee pursuant hereto shall be paid to the Town.

## ARTICLE IV

### REDEMPTION OF CERTIFICATES

**Section 4.01. Redemption Dates and Prices.** The Certificates are subject to redemption as set forth below:

(a) The Certificates shall be callable for redemption prior to maturity, at the option of the Town, in whole or in part, and if in part by lot in such manner as the Trustee shall determine, on December 1, 2020 and on any date thereafter, at the redemption price (expressed as a percentage of principal amount) of 100%, plus accrued interest to the redemption date.

(b) The Certificates shall be called for redemption, in whole, at a redemption price (expressed as a percentage of principal amount) of 100%, plus accrued interest to the redemption date, on any Interest Payment Date in the event of the exercise by the Town of its option to purchase the Leased Property, as provided in the Lease, upon payment of the then-applicable Purchase Option Price from moneys of the Town not borrowed by the Town or derived from any installment purchase or lease purchase financing by the Town.

(c) The Certificates shall also be called for redemption as set forth in Section 4.02 of this Indenture.

**Section 4.02. Redemption Upon Termination of the Lease Term by Reason of Certain Events.** The Certificates are callable for redemption, in whole, at any time upon the occurrence of an Event of Nonappropriation or an Event of Default, upon the direction of a majority in aggregate principal amount of the Owners of the Certificates then Outstanding. If the Certificates are to be redeemed by reason of any such event, the Owners shall have no right to payment from the Town or the Trustee, in redemption of their Certificates or otherwise, except as expressly set forth in this Section 4.02.

Upon the occurrence of an Event of Nonappropriation or an Event of Default, the Trustee shall immediately give notice of such occurrence to the Owners and shall exercise all available remedies, subject to the provisions of Article VII of this Indenture, to obtain payment of the Certificates.

If the Lease is terminated by reason of the occurrence of an Event of Nonappropriation or an Event of Default, the Trustee shall immediately notify the Owners of the Certificates of such termination and whether moneys available under this Indenture are sufficient to provide for the payment in full of all Outstanding Certificates and the interest thereon when due. If moneys on hand, including any Net Proceeds and other moneys then available under the Indenture, are insufficient to provide for the payment in full of all Outstanding Certificates and the interest thereon when due, the Trustee shall notify the registered owners of the Certificates of the availability of redemption under this Section 4.02 and, upon direction of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding, and upon indemnification as to costs and expenses as provided in this Indenture, shall, without any further

demand or notice, exercise all or any combination of Lease Remedies as provided in the Lease, and the Outstanding Certificates shall be redeemed by the Trustee from the Net Proceeds resulting from the exercise of such Lease Remedies and all other moneys, if any, then on hand and being held by the Trustee for the Owners of the Outstanding Certificates. If the Net Proceeds resulting from the exercise of such Lease Remedies and other moneys, including moneys then available under the Indenture, shall be insufficient to redeem the Outstanding Certificates at a redemption price (expressed as a percentage of principal amount) of 100% plus interest accrued to the redemption date, then, on the redemption date, such Net Proceeds resulting from the exercise of such Lease Remedies and other moneys, including moneys then available under the Indenture, shall be allocated proportionately among the Certificates, according to the principal amount thereof Outstanding. In the event that such Net Proceeds resulting from the exercise of such Lease Remedies and other moneys are in excess of the amount required to redeem the Outstanding Certificates at a redemption price (expressed as a percentage of principal amount) of 100% plus interest accrued to the redemption date, then such excess moneys shall be paid to the Town. Prior to any distribution of the Net Proceeds resulting from the exercise of any of such remedies in redemption of the Certificates pursuant to this Section 4.02, the Trustee shall be entitled to payment of its reasonable and customary fees for all services rendered in connection with such disposition, as well as reimbursement for all reasonable costs and expenses, including attorneys' fees, incurred thereby, from proceeds resulting from the exercise of such Lease Remedies and other moneys. If the Outstanding Certificates are to be redeemed for an amount less than the aggregate principal amount thereof plus interest accrued to the redemption date, such partial payment shall be deemed to constitute a redemption in full of the Outstanding Certificates, and upon such a partial payment no Owner of such Outstanding Certificates shall have any further claim for payment against the Trustee or the Town.

**Section 4.03. Mandatory Sinking Fund Redemption.** The Certificates are subject to mandatory sinking fund redemption, prior to maturity, in part, by lot in such manner as the Trustee shall determine, at a price (expressed as a percentage of principal amount) of 100%, plus accrued interest to the date of redemption, on the following dates and in the following amounts:

<b>Sinking Fund Redemption Date (December 1)</b>	<b>Principal Amount</b>
2014	\$370,000
2015	380,000
2016	390,000
2017	395,000
2018	405,000
2019	415,000
2020	425,000
2021	435,000
2022	450,000
2023	460,000
2024	470,000
2025	480,000
2026	495,000
2027 *	505,000

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\* Final Maturity

On or before the 45th day prior to each such mandatory sinking fund redemption date, the Trustee shall proceed to select the Certificates for redemption from such sinking fund on the next December 1, and thereafter give notice of such call. At its option, to be exercised on or before the 60th day next preceding any such mandatory sinking fund redemption date, the Town may (A) deliver to the Trustee for cancellation Certificates in any aggregate principal amount desired, that are subject to mandatory sinking fund redemption on the next mandatory sinking fund redemption date, and (B) receive a credit in respect of its mandatory sinking fund redemption obligation for any such Certificates so delivered and which, prior to said delivery, have been redeemed (otherwise than through the operation of the sinking fund) and cancelled by the Trustee and not theretofore applied as a credit against any mandatory sinking fund redemption obligation. Each Certificate, so delivered shall be credited by the Trustee at the principal amount thereof on the obligation of the Town on the next occurring mandatory sinking fund redemption date, and, to the extent of any excess, to the next annual mandatory sinking fund redemption date or dates, and the principal amount of Certificates to be redeemed by operation of such sinking fund on such date or dates shall be accordingly reduced.

In the event that the Certificates are called for optional redemption in part, the principal amount so redeemed shall be immediately credited against the obligation to call the Certificates for mandatory sinking fund redemption in the same proportion (rounding to the nearest \$5,000) as the principal amount of Certificates that are required to be called for mandatory sinking fund redemption on each mandatory sinking fund redemption date bears to the principal amount of Certificates that are Outstanding prior to such optional redemption.

#### **Section 4.04. Notice of Redemption.**

(a) Notice of the call for any redemption, identifying the Certificates or portions thereof to be redeemed and specifying the terms of such redemption, shall be given by the Trustee, upon being satisfactorily indemnified as to expenses, by mailing a copy of the redemption notice by United States registered or certified mail, at least 30 days and not more than 60 days prior to the date fixed for redemption, to the Owner of each Certificate to be redeemed at the address shown on the registration books; provided, however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of any proceedings of any Certificates as to which no such failure has occurred.

(b) Any notice mailed as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives the notice.

(c) If at the time of mailing of notice of redemption there shall not have been deposited with the Trustee moneys sufficient to redeem all the Certificates called for redemption, which moneys are or will be available for redemption of such Certificates, such notice will state that it is conditional upon the deposit of the redemption moneys with the Trustee not later than the opening of business on the redemption date, and such notice shall be of no effect unless such moneys are so deposited.

#### **Section 4.05. Redemption Payments.**

(a) On or prior to the date fixed for redemption, the Trustee shall apply funds to the payment of the Certificates called for redemption, together with accrued interest thereon to the redemption date, and any required premium. Upon the giving of notice and the deposit of such funds as may be available for redemption pursuant to this Indenture (which, in the case of redemption pursuant to Section 4.02 hereof, may be less than the full principal amount of the Outstanding Certificates and accrued interest thereon to the redemption date), interest on the Certificates or portions thereof thus called for redemption shall no longer accrue after the date fixed for redemption.

(b) The Trustee shall pay to the Owners of Certificates so redeemed, the amounts due on their respective Certificates, at the Operations Center of the Trustee upon presentation and surrender of the Certificates.

**Section 4.06. Cancellation.** All Certificates which have been redeemed shall not be reissued but shall be canceled by the Trustee in accordance with Section 2.09 hereof.

**Section 4.07. Delivery of New Certificates Upon Partial Redemption of Certificates.** Upon surrender and cancellation of a Certificate for redemption in part only, a new Certificate or Certificates of the same maturity and of authorized denomination in an aggregate principal amount equal to the unredeemed portion thereof, shall be executed on behalf of and delivered by the Trustee. The expenses of such execution, delivery and exchange shall be paid by the Town as Additional Rentals under the Lease.

## ARTICLE V

### INVESTMENTS

**Section 5.01. Investment of Moneys.** All moneys held as part of the Certificate Fund, the Acquisition Fund or any other Fund, Account or Subaccount created hereunder shall, subject to Sections 5.02 and 6.04 hereof, be deposited or invested and reinvested by the Trustee, at the written direction of the Town, in Permitted Investments; provided, however, that the Trustee shall make no deposits or investments of any moneys in any Fund or Account created hereunder which shall interfere with or prevent withdrawals for payment of Costs of the Project or for payment of the Certificates. All investments and reinvestment of any amounts pursuant to this Indenture or the Lease shall be made in accordance with the provisions of this Indenture; and all investments and reinvestment of any amounts deemed to be, for purposes of the Code, proceeds of the Certificates, shall be in accordance with the requirements of the Tax Compliance Certificate executed by the Town in connection with the execution and delivery of such Certificates, unless the Trustee shall receive an opinion of Bond Counsel to the effect that an alternate investment or reinvestment shall not adversely affect the excludability from federal income taxation of interest on the Certificates, in which case such investment or reinvestment may be made in accordance with such opinion. Any and all such deposits or investments shall be held by or under the control of the Trustee. If the Trustee is not provided written direction concerning investment of moneys held by it, the Trustee may invest such moneys in a money market mutual fund available to the Trustee, provided such investment matures or is subject to redemption prior to the date such moneys will be needed.

The Trustee may make any and all such deposits or investments through its own investment department or the investment department of any Trustee or trust company under common control with the Trustee. Income from deposits or investments of moneys held in the Rebate Fund shall be deposited as provided in Section 3.04 hereof and income from deposits or investments of moneys held in any escrow account established pursuant to Article IX hereof shall be deposited as provided in the escrow agreement governing such escrow account. Otherwise, except as otherwise provided by Article III hereof, deposits or investments shall at all times be a part of the Fund, Account or Subaccount from which the moneys used to acquire such deposits or investments shall have come, and all income and profits on such deposits or investments shall be credited to, and losses thereon shall be charged against, such Fund, Account or Subaccount. The Trustee shall sell and reduce to cash a sufficient amount of such deposits or investments in the respective funds whenever the cash balance in any Fund or Account created hereunder is insufficient to satisfy the purposes of such Fund or Account. In computing the amount in any Fund or Account created hereunder for any purpose hereunder, investments shall be marked to market on a semiannual basis no fewer than 15 days prior to each Interest Payment Date at the fair market value thereof, exclusive of accrued interest. Where market prices for obligations held hereunder are not readily available, the market price for such obligations may be determined in such manner as the Trustee deems reasonable.

**Section 5.02. Tax Certification.** The Trustee certifies and covenants to and for the benefit of the Owners that so long as any of the Certificates remain Outstanding, moneys in any Fund or Account held by the Trustee under this Indenture, whether or not such moneys were

derived from the proceeds of the sale of the Certificates or from any other source, will not be knowingly deposited or invested in a manner which will a violation of Section 6.04 hereof.

## ARTICLE VI

### CONCERNING THE TRUSTEE

**Section 6.01. Representations, Covenants and Warranties Regarding Execution, Delivery and Performance of Indenture.** The Trustee represents, covenants and warrants that:

(a) the Trustee (i) is a national banking association that is duly organized, validly existing and in good standing under the laws of the United States of America and authorized to exercise trust powers of the character herein set forth, (ii) is duly qualified to do business in the State, (iii) is the lessee of the Leased Property pursuant to the Site Lease and (iv) is authorized, under its articles of association, action of its board of directors and applicable law, to lease the Leased Property from the Town, to sublease the Leased Property to the Town, to place in trust the Trust Estate and to execute, deliver and perform its obligations under this Indenture;

(b) the Trustee, as sublessor, and the Town, as sublessee, have entered into the Lease pursuant to which the Trustee has subleased the Leased Property to the Town and the Town has agreed to pay Base Rentals and Additional Rentals, subject, in each case, to the terms of the Lease;

(c) the Trustee may in the future enter into other leases or agreements similar or dissimilar to the Lease under which the Trustee will be entitled to receive revenues;

(d) in order to pay the Costs of the Project the Trustee will execute and deliver the Certificates pursuant to this Indenture;

(e) the Certificates shall evidence undivided interests in the right to receive Revenues, shall be payable solely from the Trust Estate and no provision of the Certificates, this Indenture, the Lease or the Site Lease shall be construed or interpreted (i) to directly or indirectly obligate the Town to make any payment in any Fiscal Year in excess of amounts appropriated for such Fiscal Year; (ii) as creating a debt or multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the Town within the meaning of Article XI, Section 6 or Article X, Section 20 of the Colorado Constitution or any other constitutional or statutory limitation or provision; (iii) as a delegation of governmental powers by the Town; (iv) as a loan or pledge of the credit or faith of the Town or as creating any responsibility by the Town for any debt or liability of any person, company or corporation within the meaning of Article XI, Section 1 of the Colorado Constitution; or (v) as a donation or grant by the Town to, or in aid of, any person, company or corporation within the meaning of Article XI, Section 2 of the Colorado Constitution.;

(f) the execution and performance of this Indenture by the Trustee has been duly authorized by the Trustee and, upon the execution of this Indenture by the Trustee, this Indenture will be enforceable against the Trustee in accordance with its terms,

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;

(g) the Trustee has entered into this Indenture for and on behalf of the Owners and will, except as otherwise specifically provided herein, hold its rights hereunder, including its rights with respect to the Trust Estate, for the equal and proportionate benefit of the Owners, and will disburse moneys received by it in accordance with this Indenture; and

(h) all things necessary to make the Certificates, when executed and delivered by the Trustee as in this Indenture provided, legal, valid and binding obligations of the Trustee enforceable against the Trustee in accordance with terms thereof, and to constitute this Indenture a legal, valid and binding obligation of the Trustee, enforceable against the Trustee in accordance with their terms, have been done and performed.

**Section 6.02. Duties of the Trustee.** The Trustee hereby accepts the trusts imposed upon it by this Indenture and agrees to perform said trusts, but only upon and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Indenture against the Trustee:

(a) The Trustee, prior to the occurrence of an Event of Default or Event of Nonappropriation and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically assigned to it in the Lease and this Indenture. In case an Event of Default or Event of Nonappropriation has occurred (which has not been cured or waived), the Trustee shall exercise such of the rights and powers vested in it by the Lease and this Indenture, and use the same degree of care and skill in their exercise as a reasonable and prudent person would exercise or use under the circumstances in the conduct of the affairs of another.

(b) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees but shall be answerable for the conduct of the same in accordance with the standard specified above, and shall be entitled to act upon an Opinion of Counsel concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. The Trustee may act upon an Opinion of Counsel and shall not be responsible for any loss or damage resulting from any action or nonaction taken by or omitted to be taken in good faith in reliance upon such Opinion of Counsel.

(c) The Trustee shall not be responsible for any recital herein or in the Certificates (except in respect of the execution of the Certificates by the Trustee), for the sufficiency of the security for the Certificates issued hereunder or intended to be secured hereby, or for the value of or title to the Leased Property.



(d) The Trustee shall not be accountable for the use of any Certificates delivered to the Initial Purchaser hereunder. The Trustee may become the Owner of Certificates with the same rights which it would have if not Trustee.

(e) The Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document reasonably believed by it to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the Owner of any Certificate shall be conclusive and binding upon any Certificates issued in place thereof.

(f) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or willful misconduct.

(g) The Trustee shall not be required to take notice or be deemed to have notice of any Event of Default or Event of Nonappropriation except failure by the Town to cause to be made any of the payments to the Trustee required to be made thereunder, unless (i) an officer in the Trustee's trust department has actual knowledge of such Event of Default or Event of Nonappropriation or (ii) the Trustee has been notified in writing of such Event of Default or Event of Nonappropriation by the Town or by the Owners of at least 10% in aggregate principal amount of Certificates then Outstanding.

(h) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust in the manner and for the purposes for which they were received but need not be segregated from other funds except to the extent required by this Indenture or law.

(i) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(j) Notwithstanding anything in this Indenture to the contrary, the Trustee shall have the right, but shall not be required, to demand in respect of the delivery of any Certificates, the withdrawal of any cash, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee.

(k) The Trustee shall be entitled to indemnification from available amounts in the Trust Estate or from the Owners for its costs and expenses prior to taking any action following the occurrence of an Event of Default or Event of Nonappropriation, which indemnification shall be funded prior to the payment of principal of and interest on the Certificates.

(l) The Trustee shall not be required to advance any of its own funds in the performance of its obligations hereunder unless it has received assurances satisfactory to it that it will be repaid.

**Section 6.03. Maintenance of Existence; Performance of Obligations.**

(a) The Trustee shall at all times maintain its existence and will use its best efforts to maintain, preserve and renew all the rights and powers provided to it under its articles of association and bylaws, action of its board of directors and applicable law; provided, however, that this covenant shall not prevent the assumption, by operation of law or otherwise, by any Person of the rights and obligations of the Trustee hereunder, but only if and to the extent such assumption does not materially impair the rights of the Owners of any Outstanding Certificates or the Town.

(b) The Trustee shall do and perform or cause to be done and performed all acts and things required to be done or performed in its capacity as Trustee under the provisions of this Indenture, the Lease, any other instrument or other arrangement to which it is a party that benefits the Owners of any Outstanding Certificates and that complies with any Requirement of Law.

**Section 6.04. Tax Covenant.** The Trustee shall not take any action or omit to take any action with respect to the Certificates, the proceeds of the Certificates, the Trust Estate or any other funds or property and it will not permit any other Person to take any action or omit to take any action with respect thereto if such action or omission would cause interest on any of the Certificates 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 earnings” for the purpose of computing the alternative minimum tax imposed on such corporations). In furtherance of this covenant, the Trustee agrees to comply with the procedures set forth in the Tax Compliance Certificate delivered by the Town in connection with the issuance of the Certificates and the provisions of any similar certificate or instrument delivered by the Town in connection with the execution and delivery of any Additional Certificates. The covenants set forth in this Section shall remain in full force and effect notwithstanding the payment in full or defeasance of the Certificates until the date on which all obligations of the Trustee in fulfilling such covenants have been met. The covenants set forth in this Section shall not, however, apply to any series of Certificates if, at the time of execution and delivery, the interest on such series of Certificates is intended to be subject to federal income tax.

**Section 6.05. Sale or Encumbrance of Leased Property.** As long as there are any Outstanding Certificates, and except as otherwise permitted by this Indenture and except as the Lease otherwise specifically requires, the Trustee shall not sell or otherwise dispose of any of the Leased Property unless it determines that such sale or other disposal will not materially adversely affect the rights of the Owners of the Certificate.

**Section 6.06. Rights of Trustee under Lease and Site Lease.** The Trustee hereby covenants for the benefit of the Owners that the Trustee will observe and comply with its obligations under the Lease, including but not limited to the provisions of Article IX of the Lease regarding the conveyance of the Leased Property, and that all the representations made by the Trustee in the Lease and the Site Lease are true. Wherever in the Lease or the Site Lease it is stated that the Trustee shall be notified or wherever the Lease or the Site Lease gives the Trustee

some right or privilege, such part of the Lease or the Site Lease shall be as if it were set forth in full in this Indenture.

**Section 6.07. Defense of Trust Estate.** The Trustee shall at all times, to the extent permitted by law, defend, preserve and protect its interest in the Leased Property and the other property or property rights included in the Trust Estate and all the rights of the Owners under this Indenture against all claims and demands of all Persons whomsoever.

**Section 6.08. Compensation of Trustee.** During the Lease Term, the Trustee shall be entitled to compensation in accordance with Section 10.06 of the Lease. In no event shall the Trustee be obligated to advance its own funds in order to take any action in its capacity as Trustee hereunder. The rights of the Trustee to payments pursuant to this Section shall be superior to the rights of the Owners with respect to the Trust Estate.

**Section 6.09. Resignation or Replacement of Trustee.**

(a) The present or any future Trustee may resign by giving written notice to the Owners of a majority in principal amount of the Certificates and the Town not less than 60 days before such resignation is to take effect. Such resignation shall take effect only upon the appointment of a successor qualified as provided in subsection (d) of this Section; provided, however, that if no successor is appointed within 60 days following the date designated in the notice for the Trustee's resignation to take effect, the resigning Trustee may petition a court of competent jurisdiction for the appointment of a successor.

(b) The present or any future Trustee may be removed at any time (i) by the Owners of a majority in aggregate principal amount of the Certificates Outstanding for any reason upon delivery to the Trustee of an instrument or concurrent instruments signed by such Owners or their attorneys in fact duly appointed; (ii) by the Town for any reason upon delivery to the Trustee of an instrument signed by an Authorized Officer of the Town and accompanied by a resolution of the Board seeking such removal, provided that the Town shall not be entitled to remove the Trustee pursuant to this clause if an Event of Default has occurred or is continuing or if any Event of Nonappropriation has occurred; or (iii) by any Owner, upon delivery to the Trustee of an instrument signed by such Owner or his or her attorney in fact duly appointed following a determination by a court of competent jurisdiction that the Trustee is not duly performing its obligations hereunder or that such removal is in the best interests of the Owners.

(c) In case the present or any future Trustee shall at any time resign or be removed or otherwise become incapable of acting, a successor may be appointed by the Owners of a majority in aggregate principal amount of the Certificates Outstanding by an instrument or concurrent instruments signed by such Owners, or their attorneys in fact duly appointed; provided that the Town, by an instrument signed by an Authorized Officer of the Town, may appoint a successor until a new successor shall be appointed by the Owners as herein authorized. The Town, upon making such appointment, shall forthwith give notice thereof to each Owner, which notice may be given concurrently with the notice of resignation given by any resigning Trustee. Any successor so appointed by the Town shall immediately and without further act be superseded by a

successor appointed in the manner above provided by the Owners of a majority in aggregate principal amount of the Certificates Outstanding.

(d) Every successor shall be a commercial bank with trust powers in good standing, located in or incorporated under the laws of the State, duly authorized to exercise trust powers and subject to examination by federal or state authority, qualified to act hereunder, having a capital and surplus of not less than \$50,000,000. Any successor trustee shall execute, acknowledge and deliver to the present or then trustee an instrument accepting appointment as successor trustee hereunder and as successor to the then current trustee in its capacity as lessee under the Site Lease and sublessor under the Lease, and thereupon such successor shall, without any further act, deed or conveyance, (i) become vested with all the previous rights, title and interest in and to, and shall become responsible for the previous obligations with respect to, the Leased Property and the Trust Estate and (ii) become vested with the previous rights, title and interest in, to and under, and shall become responsible for the trustee's obligations under this Indenture, the Lease and the Site Lease, with like effect as if originally named as Trustee herein and therein. The previous trustee shall execute and deliver to the successor trustee (A) such transfer documents as are necessary to transfer the Trustee's interest in the Leased Property to the successor trustee, (B) an instrument in which the previous trustee resigns as trustee hereunder, as lessee under the Site Lease and as sublessor under the Lease and (C) at the request of the successor trustee, one or more instruments conveying and transferring to such successor, upon the trusts herein expressed, all the estates, properties, rights, powers and trusts of the previous trustee in the Leased Property, the Trust Estate, this Indenture, the Lease and the Site Lease in a manner sufficient, in the reasonable judgment of the successor trustee, to duly assign, transfer and deliver to the successor all properties and moneys held by the previous trustee in accordance with the laws of the State. Should any other instrument in writing from the previous trustee be required by any successor for more fully and certainly vesting in and confirming to it the rights, title and interest to be transferred pursuant to this Section, the previous trustee shall, at the reasonable discretion and at the request of the successor trustee, make, execute, acknowledge and deliver the same to or at the direction of the successor trustee.

(e) The instruments evidencing the resignation or removal of the Trustee and the appointment of a successor hereunder, together with all other instruments provided for in this Section shall be filed and/or recorded by the successor trustee in each recording office, if any, where this Indenture, the Lease and the Site Lease shall have been filed and/or recorded.

**Section 6.10. Conversion, Consolidation or Merger of Trustee.** Any commercial bank with trust powers into which the Trustee or its successor may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business as a whole shall be the successor of the Trustee under this Indenture with the same rights, powers, duties and obligations and subject to the same restrictions, limitations and liabilities as its predecessor, all without the execution or filing of any papers or any further act on the part of any of the parties hereto or thereto, anything herein or therein to the contrary notwithstanding. In case any of the Certificates to be executed and delivered hereunder shall have been executed, but not delivered, any successor Trustee may adopt the signature of any predecessor Trustee, and

deliver the same as executed; and, in case any of such Certificates shall not have been executed, any successor Trustee may execute such Certificates in the name of such successor Trustee.

**Section 6.11. Intervention by Trustee.** In any judicial proceeding to which the Town is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of the Owners, the Trustee may intervene on behalf of Owners and shall do so if requested in writing by the Owners of at least 10% in aggregate principal amount of Certificates Outstanding.

## ARTICLE VII

### DEFAULTS AND REMEDIES

**Section 7.01. Remedies of Trustee Upon the Occurrence of an Event of Default or Event of Nonappropriation.** Upon the occurrence of an Event of Default or Event of Nonappropriation:

(a) the Trustee shall be entitled to apply any moneys in any of the Funds or Accounts created hereunder (except the Rebate Fund and any escrow accounts established pursuant to Article IX hereof) to the payment of the principal of, premium, if any, and interest on the Certificates when due;

(b) the Trustee may, and at the request of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding shall, without any further demand or notice, exercise any of the remedies available to it under the Lease; and

(c) take any other action at law or in equity that may appear necessary or desirable to enforce the rights of such Owners.

**Section 7.02. Remedies of Trustee Upon Event of Default by the Town under the Site Lease.** Upon an event of default by the Town under the Site Lease, the Trustee may, and at the request of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding shall, without further demand or notice, take any action at law or in equity that may appear necessary or desirable to enforce the rights of the Trustee and the Owners.

**Section 7.03. Failure to Perform by Trustee.** Any of the following shall constitute a Failure to Perform:

(a) default in the payment of the principal of, premium, if any, and interest on any Certificate when due to the extent such failure is not directly caused by an Event of Default or an Event of Nonappropriation;

(b) failure of the Trustee to enforce and diligently pursue any remedy available under Section 7.01 or 7.02 hereof; and

(c) failure by the Trustee to comply with any other provision of this Indenture within 30 days after receiving notice of noncompliance.

**Section 7.04. Remedies of Owners Upon a Failure to Perform.** Subject to the other provisions of this Article, upon the occurrence of any Failure to Perform, the Owner of any Certificate may:

- (a) commence proceedings in any court of competent jurisdiction to enforce the provisions of this Indenture against the Trustee;
- (b) subject to Section 6.10 hereof, cause the Trustee to be removed and replaced by a successor trustee; and
- (c) take any other action at law or in equity that may appear necessary or desirable to enforce the rights of such Owner.

**Section 7.05. Limitations Upon Rights and Remedies of Owners.** No Owner shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of the Lease or the Site Lease, unless an Event of Default or Event of Nonappropriation, event of default by the Town under the Site Lease has occurred of which the Trustee has been notified as provided in Section 6.02(g) hereof, or of which by Section 6.02(g) hereof it is deemed to have notice, and the Owners of not less than a majority in aggregate principal amount of Certificates then Outstanding shall have made written request to the Trustee and shall have offered reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceedings in its own name, such Owners shall have offered to the Trustee indemnity as provided in Section 6.02(k) hereof, and the Trustee shall thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name. No one or more Owners shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by any action or to enforce any right hereunder except in the manner herein provided and all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Owners of all Certificates then Outstanding. Except as provided in Section 4.02 hereof, nothing contained in this Indenture shall, however, affect or impair the right of any Owner to enforce the payment of the principal of, premium, if any, and interest on any Certificate at and after the maturity thereof.

**Section 7.06. Majority of Owners May Control Proceedings.** Anything in this Indenture to the contrary notwithstanding, the Owners of a majority in aggregate principal amount of the Certificates then Outstanding shall have the right, at any time, to the extent permitted by law, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of the Lease, the Site Lease or this Indenture, or for the appointment of a receiver, and any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions hereof.

**Section 7.07. Trustee to File Proofs of Claim in Receivership, Etc.** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceedings affecting the Town or the Leased Property, the Trustee shall, to the extent permitted by law, be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have claims of the Trustee and of the Owners allowed in such

proceedings for the entire amount due and payable on the Certificates under this Indenture, at the date of the institution of such proceedings and for any additional amounts which may become due and payable by it after such date, without prejudice, however, to the right of any Owner to file a claim in its own behalf.

**Section 7.08. Trustee May Enforce Remedies Without Certificates.** The Trustee may enforce its rights and remedies under the Lease, the Site Lease and this Indenture without the possession of any of the Certificates or the production thereof in any trial or proceedings relative thereto; and any suit or proceeding instituted by the Trustee shall be brought in its name as Trustee, without the necessity of joining as plaintiffs or defendants any Owners of the Certificates, and any recovery of judgment shall be for the ratable benefit of the Owners, subject to the provisions hereof.

**Section 7.09. No Remedy Exclusive.** No right or remedy available under this Article or otherwise is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

**Section 7.10. Waivers.** The Trustee may in its discretion waive any Event of Default, Event of Nonappropriation or event of default by the Town under the Site Lease and its consequences, and notwithstanding anything else to the contrary contained in this Indenture shall do so upon the written request of the Owners of a majority in aggregate principal amount of all the Certificates then Outstanding; provided, however, that an Event of Nonappropriation shall not be waived without the consent of the Owners of 100% of the Certificates then Outstanding as to which the Event of Nonappropriation exists, unless prior to such waiver or rescission, all arrears of interest and all arrears of payments of principal and premium, if any, then due, as the case may be (including interest on all overdue installments at the highest rate due on the Certificates), and all expenses of the Trustee in connection with such Event of Nonappropriation shall have been paid or provided for. In case of any such waiver, or in case any proceedings taken by the Trustee on account of any such Event of Default, Event of Nonappropriation or event of default by the Town under the Site Lease shall have been discontinued or abandoned or determined adversely to the Trustee, then and in every such case the Trustee, the Owners and the Town shall be restored to their former positions and rights hereunder respectively, but no such waiver or rescission shall extend to any subsequent or other Event of Default, Event of Nonappropriation or event of default by the Town under the Site Lease or impair any right consequent thereon.

**Section 7.11. Delay or Omission No Waiver.** No delay or omission of the Trustee or of any Owner to exercise any right or power accruing upon any Event of Default, Event or Nonappropriation, event of default by the Town under the Site Lease or Failure to Perform shall exhaust or impair any such right or power or shall be construed to be a waiver of any such Event of Default, Event of Nonappropriation, event of default by the Town under the Site Lease or Failure to Perform, or acquiescence therein; and every power and remedy given by this Indenture may be exercised from time to time and as often as may be deemed expedient.

**Section 7.12. No Waiver of Default to Affect Another.** No waiver of any Event of Default, Event of Nonappropriation, event of default by the Town under the Site Lease or Failure

to Perform by the Trustee or the Owners shall extend to or affect any subsequent or any other then existing Event of Default, Event of Nonappropriation, event of default by the Town under the Site Lease or Failure to Perform or shall impair any rights or remedies consequent thereon.

**Section 7.13. Position of Parties Restored Upon Discontinuance of Proceedings.** In case the Trustee or the Owners shall have proceeded to enforce any right under the Lease, the Site Lease or this Indenture and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Person or Persons enforcing the same, then and in every such case the Town, the Trustee and the Owners shall be restored to their former positions and rights hereunder with respect to the Trust Estate, and all rights, remedies and powers of the Trustee and the Owners shall continue as if no such proceedings had been taken.

**Section 7.14. Purchase of Leased Property by Owners; Application of Certificates Toward Purchase Price.** Upon the occurrence of an Event of Default or Event of Nonappropriation and the sale or lease of its interest in the Leased Property by the Trustee pursuant to the Lease, any Owners may bid for and purchase such interest in or lease the Leased Property; and, upon compliance with the terms of sale or lease, may hold, retain and possess and dispose of such property in his, her, its or their own absolute right without further accountability; and any purchaser or lessee at any such sale may, if permitted by law, after allowing for payment of the costs and expenses of the sale, compensation and other charges, in paying purchase or rent money, turn in Certificates then Outstanding in lieu of cash. Upon the happening of any such sale or lease, the Trustee may take any further lawful action with respect to the Leased Property which it shall deem to be in the best interest of the Owners, including but not limited to the enforcement of all rights and remedies set forth in the Lease, the Site Lease and this Indenture and the taking of all other courses of action permitted herein or therein.

## ARTICLE VIII

### SUPPLEMENTAL INDENTURES

**Section 8.01. Supplemental Indentures Not Requiring Consent of Owners.** The Trustee may, without the consent of, or notice to, the Owners, execute and deliver a Supplemental Indenture for any one or more or all of the following purposes:

- (a) to add to the covenants and agreements of the Trustee contained in this Indenture other covenants and agreements to be thereafter observed by the Trustee;
- (b) to cure any ambiguity, or to cure, correct or supplement any defect or omission or inconsistent provision contained in this Indenture, or to make any provisions with respect to matters arising under this Indenture or for any other purpose if such provisions are necessary or desirable and do not materially adversely affect the interests of the Owners;
- (c) to subject to this Indenture additional revenues, properties or collateral (including release and substitution of property permitted under the Lease);



(d) to set forth the terms and conditions and other matters in connection with the execution and delivery of Additional Certificates to refund all of the Outstanding Certificates and Additional Certificates previously executed and delivered, pursuant to Section 2.10 hereof;

(e) to effect any change in connection with the preservation of the excludability from gross income for federal income tax purposes interest on the Certificates; or

(f) to effect any other changes in this Indenture which, in the opinion of Bond Counsel, do not materially adversely affect the rights of the Owners.

### **Section 8.02. Supplemental Indentures Requiring Consent of Owners.**

(a) Exclusive of Supplemental Indentures under Section 8.01 hereof, the written consent of the Owners of not less than a majority in aggregate principal amount of the Certificates Outstanding shall be required for the execution and delivery by the Trustee of any Supplemental Indenture; provided, however, that without the consent of the Owners of all the Certificates Outstanding nothing herein contained shall permit, or be construed as permitting:

(i) a change in the terms of redemption or maturity of the principal amount of or the interest on any Outstanding Certificate, or a reduction in the principal amount of or premium payable upon any redemption of any Outstanding Certificate or the rate of interest thereon, without the consent of the Owner of such Certificate;

(ii) the deprivation as to the Owner of any Certificate Outstanding of the lien created by this Indenture (other than as originally permitted hereby);

(iii) a privilege or priority of any Certificate or Certificates over any other Certificate or Certificates, except as permitted herein; or

(iv) a reduction in the percentage of the aggregate principal amount of the Certificates required for consent to any Supplemental Indenture.

(b) If at any time the Trustee shall propose to execute and deliver any Supplemental Indenture for any of the purposes of this Section, the Trustee shall cause notice of the proposed execution and delivery of such Supplemental Indenture to be mailed to the Owners of the Certificates at the addresses last shown on the registration records of the Trustee. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the Operations Center of the Trustee for inspection by all Owners. If, within 60 days or such longer period as shall be prescribed by the Trustee following the mailing of such notice, the Owners of not less than a majority, or, with respect to the matters specified in paragraphs (i) through (iv) of subsection (a) of this Section, 100%, in aggregate principal amount of the Certificates Outstanding at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as herein provided,

no Owner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or to enjoin or restrain the Trustee from executing the same or from taking any action pursuant to the provisions thereof.

**Section 8.03. Execution of Supplemental Indenture.** Any Supplemental Indenture executed and delivered in accordance with the provisions of this Article shall thereafter form a part of this Indenture; and all the terms and conditions contained in any such Supplemental Indenture shall be deemed to be part of this Indenture for any and all purposes. In case of the execution and delivery of any Supplemental Indenture, express reference may be made thereto in the text of the Certificates issued thereafter, if any, if deemed necessary or desirable by the Trustee.

**Section 8.04. Amendments, etc. of the Lease or Site Lease Not Requiring Consent of Owners.** The Trustee may, without the consent of or notice to the Owners, amend, change or modify the Lease or the Site Lease as may be required:

- (a) by the provisions of the Lease, the Site Lease or this Indenture;
- (b) for the purpose of curing any ambiguity or formal defect or omission in the Lease or the Site Lease;
- (c) in order more precisely to identify the Leased Property or to add additional or substituted improvements or properties acquired in accordance with the Lease;
- (d) in order to provide for the acquisition, construction or installation of additional property under the Lease;
- (e) in connection with the execution and delivery of Additional Certificates to refund all of the Outstanding Certificates and Additional Certificates previously executed and delivered;
- (f) in connection with any Supplemental Indenture permitted by this Article;
- (g) to effect any change in connection with the preservation of the excludability from gross income for federal income tax purposes of interest on the Certificates;
- (h) to effect any change that (i) does not reduce the revenues available to the Trustee from the Lease below the amount required to make all the payments and transfers required by Article III hereof, (ii) does not reduce the value of the Leased Property and (iii) does not adversely affect the excludability from gross income for federal income tax purposes of interest on the Certificates;
- (i) to effect any change to the Leased Property permitted by, and in accordance with the terms of, the Lease; or
- (j) to effect any other change in the Lease or the Site Lease which, in the opinion of Bond Counsel, does not materially adversely affect the rights of the Owners.

**Section 8.05. Amendments, etc., of the Lease or the Site Lease Requiring Consent of Owners.** Except for the amendments, changes or modifications permitted by Section 8.04 hereof, the Trustee shall not consent to any other amendment, change or modification of the Lease or the Site Lease without notice to and the written approval or consent of the Owners of not less than a majority in aggregate principal amount of the Certificates Outstanding given and procured as provided in Section 8.02 hereof. If at any time the Town shall request the consent of the Trustee to any such proposed amendment, change or modification of the Lease or the Site Lease, the Trustee shall, upon receipt of amounts necessary to pay expenses, cause notice of such proposed amendment, change or modification to be given in the same manner as provided in Section 8.02 hereof. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the Operations Center of the Trustee for inspection by all Owners.

## **ARTICLE IX**

### **DISCHARGE OF INDENTURE.**

(a) If, when the Certificates secured hereby shall become due and payable in accordance with their terms or otherwise as provided in this Indenture, the whole amount of the principal of, premium, if any, and interest due and payable upon all of the Certificates shall be paid (or, in the case of redemption of the Certificates pursuant to Section 4.02 of this Indenture, if full or partial payment of the Certificates and interest thereon is made), or provision shall have been made for the payment of the same, together with all rebate payments due to the United States of America, the fees and expenses of the Trustee and all other amounts payable hereunder shall have been paid in full, then the right, title and interest of the Trustee in and to the Trust Estate and all covenants, agreements and other obligations of the Trustee to the Owners shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Trustee shall transfer and convey to (or to the order of) the Town all property then held in trust by the Trustee pursuant to this Indenture, and the Trustee shall execute such documents as may be reasonably required by the Town and shall turn over to (or to the order of) the Town any surplus in any fund, account or subaccount created under this Indenture, except the Rebate Fund and any escrow accounts theretofore established pursuant to this Section.

(b) All of the Outstanding Certificates shall prior to the maturity or redemption date thereof be deemed to have been paid (“defeased”) within the meaning and with the effect expressed in subsection (a) of this Section if (i) in case such Certificates are to be redeemed on any date prior to their maturity, the Town shall have given to the Trustee in form satisfactory to the Trustee irrevocable instructions to give on a date in accordance with the provisions of Section 4.04 hereof or the Trustee shall have given notice of redemption of such Certificates on said redemption date, such notice to be given on a date and otherwise in accordance with the provisions of Section 4.04 hereof, and (ii) there shall have been deposited in trust either moneys in an amount which shall be sufficient, or Defeasance Securities which shall not contain provisions permitting the redemption thereof at the option of the issuer, the principal of and the interest on which when due, and without any reinvestment thereof, will provide moneys which, together

with the moneys, if any, deposited with or held in trust at the same time, shall be sufficient to pay when due the principal of, premium, if any, and interest due and to become due on said Certificates on and prior to the redemption date or maturity date thereof, as the case may be. Neither the Defeasance Securities nor moneys deposited in trust pursuant to this Section or principal or interest payments on any such Defeasance Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, premium, if any, and interest on said Certificates; provided any cash received from such principal or interest payments on such Defeasance Securities deposited in trust, if not then needed for such purpose, shall, to the extent practicable, be reinvested in Defeasance Securities of the type described in clause (ii) of this subsection maturing at the times and in amounts sufficient to pay when due the principal of, premium, if any, and interest to become due on said Certificates on or prior to such redemption date or maturity date thereof, as the case may be. At such time as any Certificates shall be deemed paid as aforesaid, such Certificates shall no longer be secured by or entitled to the benefits of this Indenture, except for the purpose of exchange and transfer and any payment from such moneys or Defeasance Securities deposited in trust.

(c) In the event that there is a defeasance of only part of the Certificates of any maturity, the Trustee may institute a system to preserve the identity of the individual Certificates or portions thereof so defeased, regardless of changes in Certificate numbers attributable to transfers and exchanges of Certificates.

## ARTICLE X

### MISCELLANEOUS

**Section 10.01. Further Assurances and Corrective Instruments.** So long as this Indenture is in full force and effect, the Trustee shall have full power to carry out the acts and agreements provided herein and 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 Trust Estate, or for otherwise carrying out the intention of or facilitating the performance of this Indenture.

**Section 10.02. Financial Obligations of Trustee Limited to Trust Estate.** Notwithstanding any other provision hereof, all financial obligations of the Trustee under this Indenture, except those resulting from its negligence or willful misconduct, are limited to the Trust Estate.

**Section 10.03. Evidence of Signature of Owners and Ownership of Certificates.**

(a) Any request, consent or other instrument which this Indenture may require or permit to be signed and executed by the Owners may be in one or more instruments of similar tenor, and shall be signed or executed by such Owners in person or by their attorneys appointed in writing, proof of the execution of any such instrument or of an instrument appointing any such attorney, or the ownership of Certificates shall be

sufficient (except as otherwise herein expressly provided) if made in the following manner, but the Trustee may, nevertheless, in its discretion require further or other proof in cases where it deems the same desirable:

(i) the fact and date of the execution by any Owner or his attorney of such instrument may be proved by the certificate of any officer authorized to take acknowledgments in the jurisdiction in which he purports to act that the person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before a notary public; and

(ii) the fact of the ownership by any person of Certificates and the amounts and numbers of such Certificates, and the date of the ownership of the same, may be proved by the registration records of the Trustee.

(b) Any request or consent of the Owner of any Certificate shall bind all transferees of such Certificate in respect of anything done or suffered to be done by the Trustee or the Trustee in accordance therewith.

**Section 10.04. Parties Interested Herein.** Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person other than the Trustee, the Owners of the Certificates, and the Town, any right, remedy or claim under or by reason of this Indenture or any covenant, condition or stipulation hereof; and all the covenants, stipulations, promises and agreements in this Indenture contained by and on behalf of the Trustee shall be for the sole and exclusive benefit of the Owners, the Town and their respective successors and assigns.

**Section 10.05. Trustee Representative.** Whenever under the provisions hereof the approval of the Trustee is required or the Trustee is required to take some action at the request of the Town or the Owners, unless otherwise provided, such approval or such request shall be given for the Trustee by an Authorized Officer of the Trustee, and the Town and the Owners shall be authorized to act on any such approval or request.

**Section 10.06. Titles, Headings, Etc.** The titles and headings of the articles, sections and subdivisions of this Indenture have been inserted for convenience of reference only and shall in no way modify or restrict any of the terms or provisions hereof.

**Section 10.07. Manner of Giving Notices.** All notices, certificates or other communications hereunder shall be in writing and shall be deemed given when mailed by certified or registered mail, postage prepaid, addressed as follows: if to the Town, to Town of Estes Park, 170 MacGregor Avenue, P.O. Box 1200, Estes Park, Colorado 80517, Attention: Town Administrator; if to the Trustee, to UMB Bank, n.a., 1670 Broadway, Denver, Colorado 80202, Attention: Trust Department. The Town and the Trustee may, by written notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**Section 10.08. No Individual Liability.** All covenants, stipulations, promises, agreements and obligations of the Trustee, as the case may be, contained herein shall be deemed

to be the covenants, stipulations, promises, agreements and obligations of the Trustee and not of any member, director, officer, employee, servant or other agent of the Trustee in his or her individual capacity, and no recourse shall be had on account of any such covenant, stipulation, promise, agreement or obligation, or for any claim based thereon or hereunder, against any member, director, officer, employee, servant or other agent of the Trustee or any natural person executing this Indenture or any related document or instrument.

**Section 10.09. Events Occurring on Days that are not Business Days.** If the date for making any payment or the last day for performance of any act or the exercising of any right under this Indenture is a day that is not a Business Day, such payment may be made, such act may be performed or such right may be exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Indenture.

**Section 10.10. Severability.** In the event that any provision of this Indenture, other than the placing of the Trust Estate in trust, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 10.11. Captions.** The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Indenture.

**Section 10.12. Applicable Law.** The laws of the State shall be applied in the interpretation, execution and enforcement of this Indenture, without regard to conflict of laws principles.

[Remainder of This Page Left Intentionally Blank]

IN WITNESS WHEREOF, the Trustee has executed this Indenture as of the date first above written.

UMB BANK, n.a., as Trustee

By \_\_\_\_\_  
Authorized Signatory

[Signature Page to Indenture of Trust]

STATE OF COLORADO                    )  
  ) ss.  
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of May, 2013, by  
\_\_\_\_\_ as an authorized signatory of UMB Bank, n.a.

WITNESS MY HAND AND OFFICIAL SEAL, the day and year above written.

[SEAL]

\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_



**APPENDIX A**

**FORM OF CERTIFICATE**

**THIS CERTIFICATE IS SUBJECT TO CERTAIN RESTRICTIONS REGARDING TRANSFER AND ASSIGNMENT AS PROVIDED IN THE HEREINAFTER DEFINED INDENTURE. A TRANSFEREE IS REQUIRED TO EXECUTE AN INVESTMENT LETTER, THE FORM OF WHICH MAY BE OBTAINED FROM THE TRUSTEE, AND TRANSFER OF THIS CERTIFICATE MAY NOT BE MADE UNLESS THE TRANSFEREE COMPLIES WITH THE PROVISIONS OF THE INDENTURE REQUIRING SUCH TRANSFEREE TO EXECUTE AN INVESTMENT LETTER SUBSTANTIALLY IN THE FORM ATTACHED AS APPENDIX C TO THE INDENTURE.**

**THE STATED PRINCIPAL AMOUNT OF THIS CERTIFICATE MAY HAVE BEEN REDUCED PURSUANT TO MANDATORY SINKING FUND REDEMPTIONS AS PROVIDED IN THE HEREINAFTER DEFINED INDENTURE. CONSEQUENTLY, THE OUTSTANDING PRINCIPAL AMOUNT OF THIS CERTIFICATE AT ANY TIME MAY BE LESS THAN THE PRINCIPAL AMOUNT SHOWN ON THE FACE HEREOF. THE OUTSTANDING PRINCIPAL AMOUNT OF THIS CERTIFICATE MAY BE ASCERTAINED BY CONTACTING THE TRUSTEE.**

**CERTIFICATE OF PARTICIPATION  
SERIES 2013**

**Evidencing a Proportionate Interest in rights to  
receive certain Revenues pursuant to the  
Lease Purchase Agreement between  
UMB BANK, n.a., as trustee and sublessor, and  
the TOWN OF ESTES PARK, COLORADO as sublessee**

No. R-\_\_\_\_ \$\_\_\_\_\_

<b>Interest Rate</b>	<b>Maturity Date</b>	<b>Original Issue Date</b>
2.43%	December 1, 2027	May __, 2013

REGISTERED OWNER: \_\_\_\_\_.

PRINCIPAL AMOUNT: DOLLARS

THIS CERTIFIES THAT the Registered Owner (named above) or registered assigns, has a proportionate undivided interest in rights to receive certain revenues, as described below, pursuant to an annually renewable Lease Purchase Agreement dated May \_\_, 2013 (as amended or supplemented from time to time, the "Lease") between UMB Bank, n.a. (which Bank, together with any successors thereto appointed under the Indenture, defined below, is referred to as the "Trustee"), as sublessor, and the Town of Estes Park, Colorado (the "Town") as sublessee. The proportionate interest of the Registered Owner of this Certificate is secured as provided in

the Indenture of Trust dated May \_\_, 2013 (as amended or supplemented from time to time, the “Indenture”) by the Trustee, pursuant to which certain rights of the Trustee as sublessor under the Lease and certain rights of the Trustee in the property subleased to the Town pursuant to the Lease (as described in the Lease, the “Leased Property”) have been placed in trust for the benefit of the registered owners (the “Owners”) of the Certificates of Participation, Series 2013, executed and delivered in the original aggregate principal amount of \$6,\_\_\_\_\_ (the “Certificates”), evidencing proportionate undivided interests in the right to receive revenues under the Lease, and any Additional Certificates (as defined in the Indenture) hereafter issued under the Indenture. Capitalized terms used but not defined herein have the meaning assigned to them in the Lease and the Indenture.

The Owner of this Certificate is entitled to receive, solely out of and to the extent available from the sources hereinafter identified, the Principal Amount (stated above) on the Maturity Date (stated above) (or earlier as hereinafter provided) and interest thereon at the Interest Rate (stated above), payable on June 1 and December 1 in each year, commencing on December 1, 2013. Principal of (other than principal due on each mandatory sinking fund redemption date prior to maturity) and the final installment of interest on this Certificate are payable to the Owner hereof in lawful money of the United States of America upon maturity or prior redemption (except mandatory sinking fund redemption) hereof and upon presentation and surrender hereof at the Operations Center of the Trustee in \_\_\_\_\_. Interest on this Certificate (except the final installment of such interest) and principal due on any mandatory sinking fund redemption date (other than on final maturity) is payable by check or draft of the Trustee to be mailed on each interest payment date (or, if such payment date is not a Business Day, on the next succeeding Business Day without additional interest) to the person in whose name this Certificate is registered in the registration records of the Trustee, and at the address appearing thereon, all in the manner provided in the Indenture. Alternative means of payment of interest may be used if mutually agreed to in writing between the Owner of this Certificate and the Trustee, as provided in the Indenture.

No provision of the Certificates, the Indenture, the Lease, the Site Lease dated May \_\_, 2013 between the Town, as lessor, and the Trustee, as lessee, shall be construed or interpreted (a) to directly or indirectly obligate the Town to make any payment in any Fiscal Year in excess of amounts appropriated for such Fiscal Year; (b) as creating a debt or multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the Town within the meaning of Article XI, Section 6 or Article X, Section 20 of the Colorado Constitution or any other constitutional or statutory limitation or provision; (c) as a delegation of governmental powers by the Town; (d) as a loan or pledge of the credit or faith of the Town or as creating any responsibility by the Town for any debt or liability of any person, company or corporation within the meaning of Article XI, Section 1 of the Colorado Constitution; or (e) as a donation or grant by the Town to, or in aid of, any person, company or corporation within the meaning of Article XI, Section 2 of the Colorado Constitution.

Under the Lease, the Leased Property has been subleased by the Trustee to the Town; and the Town has agreed, subject to the terms of the Lease, to pay directly to the Trustee rental payments (the “Base Rentals”) in consideration for its right to use the Leased Property, which Base Rentals are required by the Indenture to be used by the Trustee to pay the Certificates and interest thereon. In addition to the Base Rentals, the Town has agreed, subject to the terms of the

Lease, to make certain other payments (the “Additional Rentals”), including the costs of all taxes; insurance premiums; reasonable expenses and fees of the Trustee; utility charges; costs of maintenance, upkeep, repair, restoration, modification, improvement and replacement; payments to the Rebate Fund; and all other charges and costs expressly required to be paid by the Town under the Lease with respect to the Leased Property, the Certificates, the Lease, the Site Lease, the Indenture or any matter related thereto.

The Lease is subject to annual renewal at the option of the Town as provided in the Lease. The obligation of the Town to pay Base Rentals and Additional Rentals under the Lease will terminate in the event that the Town fails, for any reason, to appropriate by December 31 of each Fiscal Year sufficient amounts authorized and directed to be used to pay all Base Rentals scheduled to be paid in the next ensuing Fiscal Year and all Additional Rentals estimated to be payable in the next ensuing Fiscal Year (as provided in the Lease), and will also terminate upon the occurrence of certain other events as described in the Lease (any such event is referred to herein as an “Event of Nonappropriation”). If the Lease is terminated by the Town by reason of an Event of Nonappropriation or is terminated by reason of an Event of Default, the principal amount of this Certificate and interest hereon will be payable from such moneys, if any, as may be available for such purpose, including any moneys received by the Trustee from the subleasing of or a liquidation of the Trustee’s interest in the Leased Property. The Trustee may waive an Event of Nonappropriation or an Event of Default under certain circumstances as provided in the Lease and the Indenture.

Under certain circumstances, this Certificate and the interest hereon may also be payable from the Net Proceeds (as defined in the Lease) of title or casualty insurance policies or condemnation awards. The Lease may also be terminated in the event that the Town shall exercise its option to purchase the Leased Property by making payment of the Purchase Option Price (as defined in the Lease). In the event that the Town shall pay the Purchase Option Price, the proceeds thereof are required to be used to pay the Certificates and interest thereon.

The Certificates are subject to redemption as follows:

(a) The Certificates shall be callable for redemption prior to maturity, at the option of the Town, in whole or in part, and if in part by lot in such manner as the Trustee shall determine, on December 1, 2020 and on any date thereafter at the redemption price (expressed as a percentage of principal amount) of 100%, plus accrued interest to the redemption date.

(b) The Certificates shall be called for redemption, in whole, at a redemption price (expressed as a percentage of principal amount) of 100%, plus accrued interest to the redemption date, on any interest payment date in the event of the exercise by the Town of its option to purchase the Leased Property, as provided in the Lease, upon payment of the then applicable Purchase Option Price from moneys of the Town not borrowed by the Town or derived from any installment purchase or lease purchase financing by the Town.

(c) The Certificates shall also be called for redemption at any time as set forth below upon the occurrence of an Event of Nonappropriation or an Event of Default.

If the Lease is terminated by reason of the occurrence of an Event of Nonappropriation of an Event of Default, the Trustee is required under the Indenture to immediately notify the registered owners of the Certificates of such termination and whether moneys available under the Indenture are sufficient to provide for the payment in full of all Outstanding Certificates and the interest thereon when due. If moneys on hand, including any Net Proceeds (as defined under the Indenture) and other moneys then available under the Indenture, are insufficient to provide for the payment in full of all Outstanding Certificates and the interest thereon when due, the Trustee shall notify the registered owners of the Certificates of the availability of redemption under Section 4.02 of the Indenture and, upon direction of the registered owners of a majority in aggregate principal amount of the Certificates then Outstanding, and upon indemnification as to costs and expenses as provided in the Indenture, is required to, without any further demand or notice, exercise all or any combination of Lease Remedies as provided in the Lease, and the Outstanding Certificates are to be redeemed by the Trustee from the Net Proceeds resulting from the exercise of such Lease Remedies and all other moneys, if any, then on hand and being held by the Trustee for the registered owners of the Outstanding Certificates. If the Net Proceeds resulting from the exercise of such Lease Remedies and other moneys then available under the Indenture are insufficient to redeem the Outstanding Certificates at the redemption price (expressed as a percentage of principal amount) of 100% plus interest accrued to the redemption date, then, on the redemption date, such Net Proceeds resulting from the exercise of such Lease Remedies and other moneys, including moneys then available under the Indenture, are to be allocated proportionately among the Certificates, according to the principal amount thereof Outstanding. In the event that such Net Proceeds resulting from the exercise of such Lease Remedies and other moneys are in excess of the amount required to redeem the Outstanding Certificates at the redemption price (expressed as a percentage of principal amount) of 100% plus interest accrued to the redemption date, then such excess moneys are to be paid to the Town. Prior to any distribution of the Net Proceeds resulting from the exercise of any of such remedies, the Trustee is entitled to payment of its reasonable and customary fees for all services rendered in connection with such disposition, as well as reimbursement for all reasonable costs and expenses, including attorneys' fees, incurred thereby, from proceeds resulting from the exercise of such Lease Remedies and other moneys. IF THE OUTSTANDING CERTIFICATES ARE REDEEMED FOR AN AMOUNT LESS THAN THE AGGREGATE PRINCIPAL AMOUNT THEREOF PLUS INTEREST ACCRUED TO THE REDEMPTION DATE, SUCH PARTIAL PAYMENT SHALL BE DEEMED TO CONSTITUTE A REDEMPTION IN FULL OF THE OUTSTANDING CERTIFICATES, AND UPON SUCH A PARTIAL PAYMENT NO REGISTERED OWNER OF SUCH OUTSTANDING CERTIFICATES SHALL HAVE ANY FURTHER CLAIM FOR PAYMENT AGAINST THE TRUSTEE OR THE TOWN.

***Mandatory Sinking Fund Redemption.*** The Certificates are subject to mandatory sinking fund redemption, prior to maturity, in part, by lot in such manner as the Trustee shall determine, at a price (expressed as a percentage of principal amount) of 100%, plus accrued interest to the date of redemption, on the following dates and in the following amounts:

<b>Sinking Fund Redemption Date (December 1)</b>	<b>Principal Amount</b>
2014	\$370,000
2015	380,000
2016	390,000
2017	395,000
2018	405,000
2019	415,000
2020	425,000
2021	435,000
2022	450,000
2023	460,000
2024	470,000
2025	480,000
2026	495,000
2027 *	505,000

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\* Final Maturity

On or before the 45th day prior to each such mandatory sinking fund redemption date, the Trustee shall proceed to select the Certificates for redemption from such sinking fund on the next December 1, and thereafter give notice of such call. At its option, to be exercised on or before the 60th day next preceding any such mandatory sinking fund redemption date, the Town may (A) deliver to the Trustee for cancellation Certificates in any aggregate principal amount desired, that are subject to mandatory sinking fund redemption on the next mandatory sinking fund redemption date, and (B) receive a credit in respect of its mandatory sinking fund redemption obligation for any such Certificates so delivered and which, prior to said delivery, have been redeemed (otherwise than through the operation of the sinking fund) and cancelled by the Trustee and not theretofore applied as a credit against any mandatory sinking fund redemption obligation. Each Certificate, so delivered shall be credited by the Trustee at the principal amount thereof on the obligation of the Town on the next occurring mandatory sinking fund redemption date, and, to the extent of any excess, to the next annual mandatory sinking fund redemption date or dates, and the principal amount of Certificates to be redeemed by operation of such sinking fund on such date or dates shall be accordingly reduced.

In the event that the Certificates are called for optional redemption in part, the principal amount so redeemed shall be immediately credited against the obligation to call the Certificates for mandatory sinking fund redemption in the same proportion (rounding to the nearest \$5,000) as the principal amount of Certificates that are required to be called for mandatory sinking fund redemption on each mandatory sinking fund redemption date bears to the principal amount of Certificates that are Outstanding prior to such optional redemption.

Notice of the call for any redemption, identifying the Certificates or portions thereof to be redeemed and specifying the terms of such redemption, shall be given by the Trustee by mailing a copy of the redemption notice by United States registered or certified mail, at least 30 days and not more than 60 days prior to the date fixed for redemption, and to the Owner of each Certificate to be redeemed at the address shown on the registration books; provided, however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of any proceedings of any Certificates as to which no such failure has occurred.

Any notice mailed as provided in the immediately preceding paragraph shall be conclusively presumed to have been duly given, whether or not the Owner receives the notice.

If at the time of mailing of notice of redemption there shall not have been deposited with the Trustee moneys sufficient to redeem all the Certificates called for redemption, which moneys are or will be available for redemption of Certificates, such notice will state that it is conditional upon the deposit of the redemption moneys with the Trustee not later than the opening of business on the redemption date, and such notice shall be of no effect unless such moneys are so deposited.

The Trustee shall pay to the Owners of Certificates so redeemed, the amounts due on their respective Certificates, at the Operations Center of the Trustee upon presentation and surrender of the Certificates.

The Certificates are issuable only as fully registered Certificates in denominations of \$25,000 and in integral multiples of \$5,000 if in excess of \$25,000. Certificates may be exchanged for an equal aggregate principal amount of fully registered Certificates of the same maturity of other authorized denominations, but only in the manner, subject to the limitations and conditions, and upon payment of the charges provided in the Indenture.

This Certificate is transferable by the Owner hereof in person or by his attorney duly authorized in writing on the registration records kept at the Operations Center of the Trustee upon surrender of this Certificate together with a duly executed written instrument of transfer satisfactory to the Trustee and upon receipt by the Trustee, from the proposed transferee, of an Investment Letter substantially in the form of Appendix C to the Indenture. Upon such transfer, a new fully registered Certificate or Certificates of the same maturity, of authorized denomination or denominations, for the same aggregate principal amount, will be issued to the transferee in exchange herefor, all upon payment of any reasonable charges and any taxes, transfer fees or other governmental charges required to be paid with respect to such exchange or transfer, and subject to the terms and conditions set forth in the Indenture. The Trustee may deem and treat the person in whose name this Certificate is registered as the absolute owner hereof, for the purpose of receiving payment and for all other purposes.

The Trustee will not be required to transfer or exchange the Certificates during the period beginning on a Record Date (as defined in the Indenture) and ending on the next Interest Payment Date of the Certificates nor to transfer or exchange any Certificate after the mailing of notice calling such Certificate or any portion thereof for redemption has been given, nor during the period of 15 days next preceding the giving of such notice of redemption.

The Indenture permits amendments thereto and to the Lease, upon the agreement of the Town and the Trustee and with the approval of the Owners of not less than a majority or, in certain instances, 100% in aggregate principal amount of the Certificates at the time Outstanding, as defined in the Indenture. The Indenture also contains provisions permitting the Town and the Trustee to enter into amendments to the Indenture and the Lease without the consent of the Owners of the Certificates for certain purposes, including, without limitation, the issuance of Additional Certificates to refund all of the Outstanding Certificates and Additional Certificates previously executed and delivered. The Indenture requires the written consent of the Trustee to any amendment of the Indenture or the Lease which modifies the rights, duties or immunities of the Trustee.

The Indenture permits the execution and delivery of Additional Certificates from time to time under certain terms and conditions, and if issued, such Additional Certificates will be proportionately and ratably secured under and entitled to the protection given by the Indenture with the Certificates. Reference is hereby made to the Indenture for a description of the rights, duties and obligations of the Town, the Trustee and the Owners, the terms upon which Additional Certificates may be executed and delivered, the terms upon which the Certificates and any Additional Certificates are secured, the terms and conditions upon which the Certificates will be deemed to be paid at or prior to maturity or redemption of the Certificates upon the making of provision for the full or partial payment thereof, and the rights of the Owners upon the occurrence of an Event of Default or an Event of Nonappropriation. THE INDENTURE CONSTITUTES THE CONTRACT BETWEEN THE REGISTERED OWNER OF THIS CERTIFICATE AND THE TRUSTEE. THIS CERTIFICATE IS ONLY EVIDENCE OF SUCH CONTRACT AND, AS SUCH, IS SUBJECT IN ALL RESPECTS TO THE TERMS OF THE INDENTURE, WHICH SUPERSEDES ANY INCONSISTENT STATEMENT IN THIS CERTIFICATE.

This Certificate is issued with the intent that the laws of the State of Colorado shall govern its legality, validity, enforceability and construction.

This Certificate shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Lease or the Indenture, unless it shall have been manually signed on behalf of the Trustee.

IN WITNESS WHEREOF, this Certificate has been executed with the manual signature of an authorized signatory of the Trustee as of the date specified above.

UMB BANK, n.a., as Trustee

By \_\_\_\_\_  
Authorized Signatory

**ASSIGNMENT**

(The Trustee may require the payment, by the Owner of any Certificate requesting transfer, of any reasonable charges, as well as any taxes, transfer fees or other governmental charges required to be paid with respect to such transfer.)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Certificate on the records kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_

Address of transferee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Social Security or other tax  
identification number of transferee:

\_\_\_\_\_

NOTE: The signature to this Assignment must correspond with the name as written on the face of the within Certificate in every particular, without alteration or enlargement or any change whatsoever.

[End of Form of Certificate]



## **APPENDIX B**

### **DESCRIPTION OF THE LEASED PROPERTY**

#### **Description of Site:**

#### **Description of Building:**

The Town Hall, a steel-framed, two story office building containing approximately 30,500 square feet, located at 170 MacGregor Avenue, Estes Park, Colorado.

#### **Description of Equipment:**

All fixtures and machinery located in the Building, including but not limited to all lighting, heating, plumbing, ventilating and air conditioning fixtures, inside telephone wiring and connecting blocks/jacks, plants, built-in mirrors, floor coverings, intercom systems, built-in kitchen appliances, sprinkler systems and controls and smoke/fire detectors.

## APPENDIX C

### FORM OF INVESTMENT LETTER

Town of Estes Park  
170 MacGregor Avenue  
P.O. Box 1200  
Estes Park, Colorado 80517

UMB Bank, n.a.  
1670 Broadway  
Denver, Colorado 80202

BLX Group  
1400 16<sup>th</sup> Street, Suite 400  
Denver, Colorado 80202

Certificates of Participation, Series 2013  
evidencing proportionate interests in rights to  
receive certain Revenues pursuant to the  
Lease Purchase Agreement between  
UMB Bank, n.a., as trustee and sublessor, and  
the Town of Estes Park, Colorado, as sublessee

Ladies and Gentlemen:

In connection with the purchase by the undersigned \_\_\_\_\_ (the “Purchaser”) of \$\_\_\_\_\_ aggregate principal amount of the above-captioned Certificates of Participation (the “Certificates”), the Purchaser hereby makes the following representations, acknowledgments and agreements:

1. The Purchaser certifies that it is either a “qualified institutional investor” within the meaning of Rule 144A promulgated by the Securities and Exchange Commission under the Securities Act of 1933, as amended, or a bank, registered investment company or other “accredited investor,” as such term is defined in Regulation D promulgated by the Securities and Exchange Commission under the Securities Act of 1933, as amended, and is duly and validly authorized to purchase the Certificates and the Certificates are a lawful investment for the Purchaser.

2. The Purchaser acknowledges that the Certificates have not been, and are not intended to be, registered under the Securities Act of 1933, as amended (the “Act”), or registered or otherwise qualified under the securities laws of any state or other jurisdiction, and that no credit rating has been sought or obtained with respect to the Certificates.

3. In connection with the purchase of the Certificates, the Purchaser has been furnished with all financial and other information that it has deemed necessary to enable it to make an informed decision concerning an investment in the Certificates. Without limiting the generality of the foregoing, the Purchaser acknowledges that the Certificates do not constitute a general obligation or a multiple-fiscal year direct or indirect debt or other financial obligation of the Town of Estes Park, Colorado (the “Town”) within the meaning of any constitutional or statutory debt limitation, that the Certificates are payable solely from base rentals to be paid by the Town under the Lease Purchase Agreement dated May \_\_, 2013 (the “Lease”), between the

Town, as sublessee, and UMB Bank, n.a., as trustee and sublessor (the “Trustee”), that all payment obligations of the Town under the Lease, including, without limitation, the obligation of the Town to pay base rentals, are from year to year only and do not constitute a mandatory payment obligation of the Town in any fiscal year beyond a fiscal year in which the Lease shall be in effect, that the Lease is subject to annual renewal at the option of the Town and will be terminated upon the occurrence of an Event of Nonappropriation or Event of Default (as defined in the Lease), that in such event, all payments from the Town under the Lease will terminate and the Certificates and the interest thereon will be payable from moneys, if any, held by the Trustee under the Indenture of Trust dated May \_\_, 2013 (the “Indenture”), executed by the Trustee, and any amounts made available by actions of the Trustee regarding the Leased Property (as defined in the Indenture), and that the Trustee has no obligation to make any payments on the Certificates.

4. The Purchaser acknowledges that it assumes responsibility for making such investigation as the Purchaser deems necessary in connection with its decision to purchase the Certificates, that it has had an opportunity to make inquiry, or to seek information, from the Town with respect to the Certificates and that its inquiries or requests for information have been addressed to its satisfaction.

5. The Purchaser is sufficiently knowledgeable and experienced in financial and business matters including, but not limited to, the purchase and ownership of tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by the purchase of the Certificates and is able to bear the economic risk of investment in the Certificates.

6. The Purchaser is purchasing the Certificates solely for its own account and not on behalf of others, and solely for investment and not with a view to reselling or otherwise distributing all or any part of the Certificates; provided, however, that the Purchaser reserves the right to dispose of the Certificates in its sole discretion, subject to the terms of the Indenture and the Certificates. The Purchaser understands that it may not sell, transfer or otherwise dispose of the Certificates, other than to its affiliates, without registration or qualification under the Act or without qualifying for an exemption therefrom. Should the Purchaser ever elect to sell the Certificates or any portion thereof, other than to its affiliates, it will take full responsibility for any registration, qualification, and disclosure with respect to the Certificates.

7. The Purchaser acknowledges that the Trustee and BLX Group do not, and will not in the future, have the obligation to monitor the financial condition of the Town or monitor payment of the Certificates or compliance with the various documents relating to the Certificates.

8. All representations of the Purchaser contained herein shall survive the sale and delivery of the Certificates to the Purchaser.

[PURCHASER]

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

