

AFTER RECORDATION PLEASE RETURN TO:

Butler Snow LLP
1801 California Street, Suite 5100
Denver, Colorado 80202
Attention: Kimberley Crawford, Esq.

Pursuant to Section 39-13-104(1)(j), Colorado Revised Statutes, this Lease Purchase Agreement is exempt from the documentary fee.

LEASE PURCHASE AGREEMENT

DATED AS OF [CLOSING DATE]

BETWEEN

**UMB BANK, N.A.,
SOLELY IN ITS CAPACITY AS TRUSTEE UNDER THE INDENTURE,
AS LESSOR**

AND

**TOWN OF FRISCO, COLORADO,
AS LESSEE**

This Table of Contents is not a part of this Lease and is only for convenience of reference.

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This LEASE PURCHASE AGREEMENT, dated as of [CLOSING DATE] (this “Lease”), is by and between **UMB BANK, N.A.**, Denver, Colorado, a national banking association duly organized and validly existing under the laws of the United States of America, solely in its capacity as trustee under the Indenture (the “Trustee”), as lessor, and the **TOWN OF FRISCO, COLORADO**, a Colorado home rule municipality duly organized and existing under the Constitution and laws of the State of Colorado (the “Town”), as lessee.

PREFACE

All capitalized terms used herein will have the meanings ascribed to them in Article 1 of this Lease.

RECITALS

1. The Town is a duly organized and existing home rule municipality of the State of Colorado, created and operating pursuant to Article XX of the Constitution of the State of Colorado and the home rule charter of the Town (the “Charter”).

2. Pursuant to Section 10-10 of the Charter, the Town Council of the Town (the “Council”) is authorized to enter into lease-purchase and installment-purchase agreements as a means of acquiring any real or personal property for public purposes.

3. The Town and the Colorado Department of Transportation pursuant to the provisions of the Intergovernmental Agreement, with an effective date of June 8, 2022, intend to jointly develop a workforce housing project on property owned by the Town at 619 Granite Street described in Exhibit A attached hereto (the “Leased Property”).

4. Because the demand for workforce housing in the Town exceeds the supply, the Council has determined that it is in the public interest and is a public purpose for the Town to finance the acquisition, construction, installation, equipping of for rent workforce housing on the Leased Property including any legally permitted costs and expenditures in connection therewith, all for public purposes, and as authorized by law (the “Project”).

5. To accomplish the Project, the Trustee, solely in its capacity of Trustee under the Indenture, will acquire a leasehold interest in the Leased Property by leasing the Leased Property from the Town pursuant to the Site Lease (as defined herein) and the Trustee will lease the Leased Property back to the Town pursuant to this Lease.

6. The payment by the Town of Base Rentals (as defined herein) and Additional Rentals (as defined herein) hereunder in any future Fiscal Year (as defined herein) is subject to specific Appropriation (as defined herein) and renewal by the Council of this Lease for such future Fiscal Year. The Base Rentals and Additional Rentals payable by the Town under this Lease constitute current expenditures of the Town.

7. Neither this Lease nor the payment by the Town of Base Rentals or Additional Rentals hereunder shall be deemed or construed as creating an indebtedness of the Town within the meaning of any provision of the Colorado Constitution, the Charter or the laws of the State of Colorado, concerning or limiting the creation of indebtedness by the Town, and shall not constitute a multiple fiscal year direct or indirect debt or other financial obligation of the Town within the meaning of Article X, Section 20(4) of the Colorado Constitution or a mandatory charge or requirement against the Town in any ensuing Fiscal Year beyond the then current Fiscal Year. The obligation of the Town to pay Base Rentals and Additional Rentals 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, 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. In the event that this Lease is not renewed, the sole security available to the Trustee, as lessor hereunder, shall be the Leased Property.

8. The Trustee is executing this Lease solely in its capacity as trustee under the Indenture, and subject to the terms, conditions and protections provided for therein.

9. The Trustee and the Town intend that this Lease sets forth their entire understanding and agreement regarding the terms and conditions upon which the Town is leasing the Leased Property from the Trustee.

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

ARTICLE 1 DEFINITIONS

Section 1.1 Certain Funds and Accounts. All references herein to any funds and accounts shall mean the funds and accounts so designated which are established under the Indenture.

Section 1.2 Definitions. All capitalized terms used herein and not otherwise defined shall have the meanings given to them in the Indenture, unless the context otherwise requires. Capitalized terms used herein shall have the following meanings under this Lease:

“Additional Certificates” means Additional Certificates which may be executed and delivered pursuant to the Indenture.

“Additional Rentals” means the payment or cost of all:

(a) (i) reasonable expenses and fees of the Trustee related to the performance or discharge of its responsibilities under the provisions of this Lease, the Site Lease or the Indenture, including the reasonable fees and expenses of any person or firm employed by the Town to make rebate calculations under the provisions of Section 3.04 of the Indenture and the expenses of the Trustee in respect of any policy of insurance obtained in respect of the Certificates executed and delivered with respect to this Lease, (ii) the cost of insurance premiums and insurance deductible amounts under any insurance policy to protect the Trustee from any liability under this Lease, approved by the Town Representative, which approval shall not be unreasonably withheld, (iii) reasonable legal fees and expenses incurred by the Trustee to defend the Trust Estate or the Trustee from and against any legal claims, and (iv) reasonable expenses and fees of the Trustee incurred at the request of the Town Representative;

(b) taxes, assessments, insurance premiums, utility charges, maintenance, upkeep, repair and replacement with respect to the Leased Property and as otherwise required under this Lease;

(c) payments into the Rebate Fund for rebate payments as provided in this Lease; and

(d) 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 in this Lease) which the Town agrees to assume or pay as Additional Rentals under this Lease.

Additional Rentals do not include Base Rentals.

“Appropriation” means the action of the Council in annually making moneys available for all payments due under this Lease, including the payment of Base Rentals and Additional Rentals.

“Approval of Special Counsel” means an opinion of Special Counsel to the effect that the matter proposed will not adversely affect the excludability from gross income for federal income tax purposes of the Interest Portion of the Base Rentals paid by the Town under this Lease.

“Base Rentals” means the rental payments payable by the Town during the Lease Term, which constitute payments payable by the Town for and in consideration of the right to possess and use the Leased Property as set forth in **Exhibit C** (Base Rentals Schedule) hereto. Base Rentals does not include Additional Rentals.

“Base Rentals Payment Dates” means the Base Rentals Payment Dates set forth in **Exhibit C** (Base Rentals Schedule) hereto.

“*Business Day*” means any day, other than a Saturday, Sunday or legal holiday or a day (a) on which banks located in Denver, Colorado, are required or authorized by law or executive order to close or (b) on which the Federal Reserve System is closed.

“*Certificate of Completion*” means the Certificate of Completion in substantially the form attached hereto as **Exhibit F** to be delivered by the Town Representative to the Trustee pursuant to Section 7.3 hereof.

“*Certificates*” means the “Certificates of Participation, Series 2023, evidencing Proportionate Interests in the Base Rentals and other Revenues under an annually renewable Lease Purchase Agreement dated as of [CLOSING DATE], between UMB Bank, n.a., solely in its capacity as trustee under the Indenture, as lessor, and the Town of Frisco, Colorado, as lessee” dated as of their date of delivery, executed and delivered pursuant to the Indenture.

“*Charter*” means the home rule charter of the Town, and any amendments or supplements thereto.

“*Completion Date*” means the earlier of (a) [CLOSING DATE], or such later date established by the Town with the Approval of Special Counsel, or (b) any date on which the Certificate of Completion is delivered by the Town Representative to the Trustee pursuant to Section 7.3 of this Lease.

“*Construction Fund*” means the Construction Fund created under the Indenture.

“*Continuing Disclosure Certificate*” means the certificate executed by the Town of even date herewith which constitutes an undertaking pursuant to Rule 15c2-12 promulgated by the Securities and Exchange Commission.

“*Costs of Execution and Delivery*” means all items of expense directly or indirectly payable by the Trustee related to the authorization, execution and delivery of the Site Lease and this Lease and related to the authorization, sale, execution and delivery of the Certificates, as further defined in the Indenture.

“*Costs of the Project*” means all costs and expenses incurred in connection with the Project, including without limitation:

- (a) any costs paid or incurred for the acquisition of any real estate acquired as part of the Leased Property;
- (b) obligations paid, incurred or assumed for labor, materials and equipment in connection with the construction, acquisition, installation, equipping and improvement of the Project;
- (c) the cost of performance and payment bonds and of insurance of all kinds (including, without limitation, title 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, soils tests, surveys, environmental review, estimates and plans and specifications;
- (e) administrative costs incurred in connection with the leasing of the Leased Property and the construction of the Project incurred prior to the Completion Date, including supervision of the construction, acquisition, installation and equipping as well as the performance of all of the other duties required by or consequent upon the construction, acquisition, installation and equipping of the Project, including, without limitation, costs of preparing and securing all Project Documents, architectural, engineering and other professional and technical fees, building permit

fees, water tap fees, sanitary sewer and wastewater fees, legal fees and expenses, appraisal fees, independent inspection fees, auditing fees and advertising expenses in connection with the Project;

(f) costs incurred in connection with the Certificates, including the initial compensation and expenses of the Trustee, legal fees and expenses, costs incurred in obtaining ratings from rating agencies, the premium for a qualified surety bond, if any, and accounting fees;

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

(h) any costs associated with the leasing of the Site pursuant to the Site Lease;

(i) costs related to the preparation of the Site for construction of the Project, including, but not limited to, the costs of demolition and cleanup of any existing improvements on the Site and costs associated with the provision of sewer, water, gas, electricity and other infrastructure improvements and services to the Site;

(j) payments to a reserve fund to the extent necessary to establish or maintain a reserve requirement, if any;

(k) all other costs which are considered to be a part of the costs of the Project in accordance with generally accepted accounting principles and which will not adversely affect the exclusion from gross income for federal income tax purposes of the Interest Portion of Base Rentals due under this Lease and attributable to the Certificates, as evidenced by delivery of an Approval of Special Counsel; and

(l) any and all other costs necessary to effect the Trustee's leasing of the Site and the implementation and completion of the Project to the extent the same are permitted by the laws of the State of Colorado and will not adversely affect the excludability from gross income for federal income tax purposes of the Interest Portion of Base Rentals due under this Lease and attributable to the Certificates, as evidenced by delivery of an Approval of Special Counsel.

"County" means Summit County, Colorado.

"Council" means the Town Council of the Town or any successor to its functions.

"Counsel" means an attorney at law or law firm (who may be counsel for the Trustee) who is satisfactory to the Town.

"C.R.S." means Colorado Revised Statutes.

"Event(s) of Lease Default" means any event as defined in Section 14.1 of this Lease.

"Event of Nonappropriation" means the termination and non-renewal of this Lease by the Town, determined by the Council's failure, for any reason, to appropriate by the last day of each Fiscal Year, (a) sufficient amounts to be used to pay Base Rentals due in the next Fiscal Year and (b) sufficient amounts to pay such Additional Rentals as are estimated to become due in the next Fiscal Year, as provided in Section 6.4 of this Lease. An Event of Nonappropriation may also occur under certain circumstances described in Section 9.3(c) of this Lease. The term also means a notice under this Lease of the Town's intention to not renew and therefore terminate this Lease or an event described in this Lease relating to the exercise by the Town of its right to not appropriate amounts due as Additional Rentals in excess of the amounts for which an Appropriation has been previously effected.

"Finance Director" means the Finance Director of the Town or his or her successor in functions, if any.

“*Fiscal Year*” means the Town’s fiscal year, which begins on January 1 of each calendar year and ends on December 31 of the same calendar year, or any other twelve month period which the Town or other appropriate authority hereafter may establish as the Town’s fiscal year.

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

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

“*Indenture*” means the Indenture of Trust, dated as of [CLOSING DATE], entered into by the Trustee, as the same may be amended or supplemented.

“*Initial Term*” means the period which commences on the date of delivery of this Lease and terminates on December 31, 2023.

“*Interest Portion*” means the portion of each Base Rentals payment that represents the payment of interest set forth in **Exhibit C** (Base Rentals Schedule) hereto.

“*Lease*” means this Lease Purchase Agreement, dated as of [CLOSING DATE], between the Trustee, as lessor, and the Town, as lessee, as the same may hereafter be amended.

“*Lease Remedy*” or “*Lease Remedies*” means any or all remedial steps provided in this Lease whenever an Event of Lease Default or an Event of Nonappropriation has happened and is continuing, which may be exercised by the Trustee as provided in this Lease and in the Indenture.

“*Lease Term*” means the Initial Term and any Renewal Terms as to which the Town may exercise its option to renew this Lease by effecting an Appropriation of funds for the payment of Base Rentals and Additional Rentals hereunder, as provided in and subject to the provisions of this Lease. “Lease Term” refers to the time during which the Town is the lessee of the Leased Property under this Lease.

“*Leased Property*” means the Site and the premises, buildings and improvements situated thereon, including all fixtures attached thereto, as more particularly described in **Exhibit A** to this Lease, together with any and all additions and modifications thereto and replacements thereof, including, without limitation, the easements, rights of way, covenants and other rights set forth in the documents listed on **Exhibit B** attached hereto, and any New Facility.

“*Net Proceeds*” means the proceeds of any performance or payment bond, or proceeds of insurance, including self-insurance, required by this Lease or proceeds from any condemnation award, or any proceeds resulting from default or breaches of warranty under any Project Contract, or proceeds derived from the

exercise of any Lease Remedy or otherwise following termination of this Lease by reason of an Event of Nonappropriation or an Event of Lease Default, allocable to the Leased Property, less (a) all related expenses (including, without limitation, attorney's fees and costs) incurred in the collection of such proceeds or award; and (b) all other related fees, expenses and payments due to the Town and the Trustee.

"New Facility" means any real property, buildings or equipment leased by the Town to the Trustee pursuant to a future amendment to the Site Lease and leased back by the Town from the Trustee pursuant to a future amendment to this Lease in connection with the execution and delivery of Additional Certificates.

"Owners" means the registered owners of any Certificates and Beneficial Owners.

"Permitted Encumbrances" with respect to the Leased Property, means, as of any particular time: (a) liens for taxes and assessments not then delinquent, or liens which may remain unpaid pending contest pursuant to the provisions of this Lease; (b) the Site Lease, this Lease, the Indenture and any related fixture filing and any liens arising or granted pursuant to the Site Lease, this Lease or the Indenture; (c) utility, access and other easements and rights of way, licenses, permits, party wall and other agreements, restrictions and exceptions which the Town Representative certifies will not materially interfere with or materially impair the Leased Property, including rights or privileges in the nature of easements, licenses, permits and agreements as provided in this Lease or other Project Contracts; (d) any sublease of the Leased Property that are permitted pursuant to the terms and provisions of Section 13.2 hereof; and (e) the easements, covenants, restrictions, liens and encumbrances (if any) to which title to the Leased Property was subject when leased to the Trustee pursuant to the Site Lease, as shown on **Exhibit B** hereto and which the Town Representative certifies do not and will not interfere in any material way with the intended use of the Leased Property.

"Prepayment" means any amount paid by the Town pursuant to the provisions of this Lease as a prepayment of the Base Rentals due hereunder.

"Principal Portion" means the portion of each Base Rentals payment that represents the payment of principal set forth in **Exhibit C** (Base Rentals Schedule) hereto.

"Project" means, to the extent financed with the proceeds of the Certificates, the construction and equipping of for rent workforce housing on the Site.

"Project Contract" means any contract entered into before the Completion Date by the Town regarding the design, acquisition, construction, improvement or installation of any portion of the Project, including, without limitation, the design contracts between the Town and the design consultants, the construction contracts between the Town and the contractors, and any other contracts between the Town and anyone performing work or providing services in connection with the implementation and completion of the Project.

"Project Documents" means the following: (a) plans, drawings and specifications for the Project, when and as they are approved by the Town, including change orders, if any; (b) any necessary permits for the Project, including any building permits and certificates of occupancy; (c) the Project Contracts; (d) policies of title insurance, insurance policies required under the Project Contracts, including general liability, property damage and automobile, worker's compensation and builders' risk insurance policies in respect of the general contractor for construction of the Project and, on and after the Completion Date of the Project, insurance policies required under Article 9 of this Lease, including commercial general liability and public liability, property and worker's compensation insurance policies, or certificates of insurance for any of such policies thereof, as required by this Lease; (e) contractor's performance and payment bonds with respect to the Project; and (f) any and all other documents executed by or furnished to the Town or the Trustee in connection with the Project.

“Purchase Option Price” means the amount payable on any date, at the option of the Town, to prepay Base Rentals, terminate the Lease Term and purchase the Trustee’s leasehold interest in the Leased Property, as provided herein.

“Renewal Term” means any portion of the Lease Term commencing on January 1 of any calendar year and terminating on or before December 31 of such calendar year as provided in Article 4 of this Lease.

“Requisition” means the process by which the Town Representative will request the reimbursement to the Town or the payment to others of qualifying Costs of the Project, such Requisition to be initiated by the submission to the Trustee of a form substantially as set forth in **Exhibit E** hereto.

“Revenues” means (a) all amounts payable by or on behalf of the Town or with respect to the Leased Property pursuant to this Lease including, but not limited to, all Base Rentals, Prepayments, the Purchase Option Price and Net Proceeds, but not including Additional Rentals; (b) any portion of the proceeds of the Certificates deposited into the Base Rentals Fund or the Construction Fund created under the Indenture; (c) any moneys which may be derived from any insurance in respect of the Certificates; and (d) any moneys and securities, including investment income, held by the Trustee in the Funds and Accounts established under the Indenture (except for moneys and securities held in the Rebate Fund or any defeasance escrow account).

“Site” means the real property owned by the Town and leased by the Town to the Trustee under the Site Lease and subleased by the Trustee to the Town under this Lease, the legal description of which is set forth in **Exhibit A** hereto, or an amendment or supplement hereto.

“Site Lease” means the Site Lease, dated as of [CLOSING DATE], between the Town, as lessor, and the Trustee, as lessee, as the same may hereafter be amended.

“Special Counsel” means any counsel experienced in matters of municipal law and listed in the list of municipal bond attorneys, as published semiannually by The Bond Buyer, or any successor publication. So long as the Lease Term is in effect, the Town shall have the right to select Special Counsel.

“Tax Certificate” means the Tax Certificate entered into by the Town with respect to this Lease.

“Tax Code” means the Internal Revenue Code of 1986, as amended, and all regulations and rulings promulgated thereunder.

“Town” means the Town of Frisco, Colorado.

“Town Manager” means the Town Manager of the Town or his or her successor in function.

“Town Representative” means the Mayor, the Town Manager or the Finance Director or such other person at the time designated to act on behalf of the Town for the purpose of performing any act under this Lease, the Site Lease or the Indenture by a written certificate furnished to the Trustee containing the specimen signature of such person or persons and signed on behalf of the Town by the Mayor.

“Trustee” means UMB Bank, n.a., acting solely in the capacity of trustee pursuant to the Indenture, and any successor thereto appointed under the Indenture.

ARTICLE 2 REPRESENTATIONS AND COVENANTS

Section 2.1 Representations and Covenants of the Town. The Town represents and covenants to the Trustee, to the extent allowed by law and subject to renewal of this Lease and Appropriation as set forth in Article 6 hereof as follows:

(a) The Town is a home rule municipal corporation duly organized and existing within the State under the Constitution and laws of the State and its Charter. The Town is authorized to enter into this Lease and the Site Lease and to carry out its obligations under this Lease and the Site Lease. The Town has duly authorized and approved the execution and delivery of this Lease, the Site Lease and all other documents related to the execution and delivery of this Lease and the Site Lease.

(b) The Town owns the Leased Property and the Trustee has a leasehold interest in the Leased Property pursuant to the Site Lease.

(c) The leasing of the Leased Property to the Trustee pursuant to the Site Lease and the leasing or subleasing of the Leased Property from the Trustee, under the terms and conditions provided for in this Lease, and the implementation of the Project by the Town, are necessary, convenient and in furtherance of the Town's public purposes and are in the best interests of the citizens and inhabitants of the Town. The Town will apply the net proceeds derived from the proceeds of the Certificates to effectuate the Project.

(d) Neither the execution and delivery of this Lease and the Site Lease, nor the fulfillment of or compliance with the terms and conditions of this Lease and the Site Lease, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results 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 or its property is bound, or violates any statute, regulation, rule, order of any court having jurisdiction, judgment or administrative order applicable to the Town, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien or encumbrance whatsoever upon any of the property or assets of the Town, except for Permitted Encumbrances.

(e) The Town agrees that, except for non-renewal and nonappropriation as set forth in Article 6 hereof, if the Town fails to perform any act which the Town is required to perform under this Lease, the Trustee may, but shall not be obligated to, perform or cause to be performed such act, and any reasonable expense incurred by the Trustee in connection therewith shall be an obligation owing by the Town (from moneys for which an Appropriation has been effected) to the Trustee shall be a part of Additional Rentals, and the Trustee shall be subrogated to all of the rights of the party receiving such payment.

(f) There is no litigation or proceeding pending against the Town affecting the right of the Town to execute this Lease or the Site Lease or the ability of the Town to make the payments required hereunder or to otherwise comply with the obligations contained herein, or which, if adversely determined, would, in the aggregate or in any case, materially adversely affect the property, assets, financial condition or business of the Town or materially impair the right or ability of the Town to carry on its operations substantially as now conducted or anticipated to be conducted in the future.

(g) Except for customary materials necessary for construction, operation, cleaning and maintenance of the Leased Property, the Town shall not cause or permit any Hazardous Substance to be brought upon, generated at, stored or kept or used in or about the Leased Property without

prior written notice to the Trustee, and all Hazardous Substances, including, customary materials necessary for construction, operation, cleaning and maintenance of the Leased Property, will be used, kept and stored in a manner that complies with all laws regulating any such Hazardous Substance so brought upon or used or kept in or about the Leased Property. If the presence of any Hazardous Substance on the Leased Property caused or permitted by the Town results in contamination of the Leased Property, or if contamination of the Leased Property by any Hazardous Substance otherwise occurs for which the Town is legally liable for damage resulting therefrom, then the Town shall include as an Additional Rental any amount necessary to reimburse the Trustee for legal expenses incurred to defend (to the extent that an Appropriation for the necessary moneys has been effected by the Town) the Trustee from claims for damages, penalties, fines, costs, liabilities or losses. The reimbursement of the Trustee's legal expenses is not an indemnification. It is expressly understood that the Town is not indemnifying the Trustee and expenses of such defense shall constitute Additional Rentals. Without limiting the foregoing, if the presence of any Hazardous Substance on the Leased Property caused or permitted by the Town results in any contamination of the Leased Property, the Town shall provide prior written notice to the Trustee and promptly take all actions at its sole expense (which expenses shall constitute Additional Rentals) as are necessary to effect remediation of the contamination in accordance with legal requirements.

(h) The Town covenants and agrees to comply with any applicable covenants and requirements of the Town set forth in the Tax Certificate.

Section 2.2 Representations and Covenants of the Trustee. The Trustee represents and covenants as follows:

(a) So long as no Event of Indenture Default has occurred and is then continuing or existing, except as specifically provided in the Site Lease or this Lease or as necessary to transfer the Trust Estate to a successor Trustee, the Trustee shall not pledge or assign the Trustee's right, title and interest in and to (i) this Lease or the Site Lease, (ii) the Base Rentals, other Revenues and collateral, security interests and attendant rights and obligations which may be derived under this Lease or the Site Lease and/or (iii) the Leased Property and any reversion therein or any of its or the Trustee's other rights under this Lease or the Site Lease or assign, pledge, mortgage, encumber or grant a security interest in its or the Trustee's right, title and interest in, to and under this Lease or the Site Lease or the Leased Property except for Permitted Encumbrances.

(b) Neither the execution and delivery of this Lease and the Site Lease or the Indenture by the Trustee, nor the fulfillment of or compliance with the terms and conditions thereof and hereof, nor the consummation of the transactions contemplated thereby or hereby conflicts with or results in a breach of the terms, conditions and provisions of any restriction or any agreement or instrument to which the Trustee is now a party or by which the Trustee is bound, or constitutes a default under any of the foregoing.

(c) To the Trustee's knowledge, there is no litigation or proceeding pending against the Trustee affecting the right of the Trustee to execute this Lease and the Site Lease or to execute the Indenture, and perform its obligations thereunder or hereunder, except such litigation or proceeding as has been disclosed in writing to the Town on or prior to the date the Indenture is executed and delivered.

Section 2.3 Nature of Lease. The Town and the Trustee acknowledge and agree that the Base Rentals and Additional Rentals hereunder shall constitute currently budgeted and appropriated expenditures of the Town and may be paid from any legally available funds. The Town's obligations under this Lease shall be subject to the Town's annual right to terminate this Lease (as further provided herein), and shall not constitute a mandatory charge or requirement in any ensuing Fiscal Year beyond the then current Fiscal

Year. No provision of this Lease shall be construed or interpreted as creating a general obligation, multiple fiscal year financial obligation, or other indebtedness of the Town within the meaning of any constitutional, Charter or statutory debt limitation. No provision of this Lease shall be construed or interpreted as creating an unlawful delegation of governmental powers nor as a donation by or a lending of the credit of the Town within the meaning of Article XI, Sections 1 or 2 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 beyond those duly budgeted and appropriated for the Town's then current Fiscal Year. The Town shall be under no obligation whatsoever to exercise its option to purchase the Trustee's leasehold interest in 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 Town bonds or obligations payable from any class or source of Town moneys (provided, however, certain restrictions in the Indenture shall apply to the issuance of Additional Certificates). In the event that this Lease is not renewed by the Town, the sole security available to the Trustee, as lessor hereunder, shall be the Leased Property.

Section 2.4 Town Acknowledgement of Certain Matters. The Town acknowledges the Indenture and the execution and delivery by the Trustee of the Certificates pursuant to the Indenture. The Town also acknowledges the Trustee's authority to act on behalf of the Owners of the Certificates with respect to all rights, title and interests of the Trustee in, to and under this Lease, the Site Lease and the Leased Property.

Section 2.5 Relationship of Town and Trustee. The relationship of the Town and the Trustee under this Lease is, and shall at all times remain, solely that of lessee and lessor; and the Town neither undertakes nor assumes any responsibility or duty to the Trustee or to any third party with respect to the Trustee's obligations relating to the Leased Property; and the Trustee does not undertake or assume any responsibility or duty to the Town or to any third party with respect to the Town's obligations relating to the Leased Property. Notwithstanding any other provisions of this Lease: (a) the Town and the Trustee are not, and do not intend to be construed to be, partners, joint ventures, members, alter egos, managers, controlling persons or other business associates or participants of any kind of either of the other, and the Town and the Trustee do not intend to ever assume such status; and (b) the Town and the Trustee shall not be deemed responsible for, or a participant in, any acts, omissions or decisions of either of the other.

ARTICLE 3
LEASE OF THE LEASED PROPERTY

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 provisions of this Lease, subject only to Permitted Encumbrances, to have and to hold for the Lease Term.

The Town and the Trustee acknowledge that the Town owns the Leased Property and the Town has leased the Leased Property to the Trustee pursuant to the Site Lease; and the Town and the Trustee intend that there be no merger of the Town's interests as sublessee under this Lease and the Town's ownership interest in the Leased Property so as to cause the cancellation of the Site Lease or this Lease, or an impairment of the leasehold and subleasehold interest intended to be created by the Site Lease and this Lease.

ARTICLE 4 LEASE TERM

Section 4.1 Duration of Lease Term. The Lease Term shall commence as of the date hereof. The Initial Term shall terminate on December 31, 2023. This Lease may be renewed, solely at the option of the Town, for [] Renewal Terms, provided, however, that the Lease Term shall terminate no later than December 1, 20[]. The Town hereby finds that the maximum Lease Term hereunder does not exceed the weighted average useful life of the Leased Property. The Town further determines and declares that the period during which the Town has an option to purchase the Trustee's leasehold interest in the Leased Property (i.e., the entire maximum Lease Term) does not exceed the useful life of the Leased Property.

The Town Manager or other officer of the Town at any time charged with the responsibility of formulating budget proposals for the Town is hereby directed to include in the annual budget proposals submitted to the Council, in any year in which this Lease shall be in effect, items for all payments required for the ensuing Renewal Term under this Lease until such time, if any, as the Town may determine to not renew and terminate this Lease. Notwithstanding this directive regarding the formulation of budget proposals, it is the intention of the Town that any decision to effect an Appropriation for the Base Rentals and Additional Rentals shall be made solely by the Council in its absolute discretion and not by any other official of the Town, as further provided in the following paragraph. During the Lease Term, the Town shall in any event, whether or not the Lease is to be renewed, furnish the Trustee with copies of its annual budget promptly after the budget is adopted. The Trustee shall have no duty to examine the Town's annual budget.

Not later than December 15 of the then current Initial Term or any Renewal Term the Town Representative shall give written notice (in substantially the form set forth in **Exhibit D** attached hereto) to the Trustee that either:

- (a) the Town has effected or intends to effect on a timely basis an Appropriation for the ensuing Fiscal Year which includes (1) sufficient amounts authorized and directed to be used to pay all of the Base Rentals and (2) sufficient amounts to pay such Additional Rentals as are estimated to become due, all as further provided in Sections 6.2, 6.3 and 6.4 of this Lease, whereupon, this Lease shall be renewed for the ensuing Fiscal Year; or
- (b) the Town has determined, for any reason, not to renew this Lease for the ensuing Fiscal Year.

Subject to the provisions of Section 6.4(a) hereof, the failure to give such notice shall not constitute an Event of Lease Default, nor prevent the Town from electing not to renew this Lease, nor result in any liability on the part of the Town. The Town's option to renew or not to renew this Lease shall be conclusively determined by whether or not the applicable Appropriation has been made on or before December 31 of each Fiscal Year, all as further provided in Article 6 of this Lease.

The terms and conditions hereof during any Renewal Term shall be the same as the terms and conditions hereof during the Initial Term, except that the Purchase Option Price and the Base Rentals shall be as provided in Article 12 and **Exhibit C** (Base Rentals Schedule) hereof.

Section 4.2 Termination of Lease Term. The Lease Term shall terminate upon the earliest of any of the following events:

- (a) the expiration of the Initial Term or any Renewal Term during which there occurs an Event of Nonappropriation pursuant to Section 4.1 and Article 6 of this Lease (provided that the Lease Term will not be deemed to have been terminated if the Event of Nonappropriation is cured as provided in Section 6.4 hereof);

(b) the occurrence of an Event of Nonappropriation under this Lease (provided that the Lease Term will not be deemed to have been terminated if the Event of Nonappropriation is cured as provided in Section 6.4 hereof);

(c) the conveyance of the Trustee's leasehold interest in the Leased Property under this Lease to the Town upon payment of the Purchase Option Price or all Base Rentals and Additional Rentals, for which an Appropriation has been effected by the Town for such purpose, as provided in Section 12.2(a) or (b) of this Lease; or

(d) an uncured Event of Lease Default and termination of this Lease under Article 14 of this Lease by the Trustee.

Except for an event described in subparagraph (c) above, upon termination of this Lease, the Town agrees to peacefully deliver possession of the Leased Property to the Trustee.

Termination of 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 (except to the extent of the holdover provisions of Sections 6.5 and 14.2(c)(i) hereof, and except for any conveyance pursuant to Article 12 of this Lease). All obligations of the Town accrued prior to such termination shall be continuing until the Trustee gives written notice to the Town that such accrued obligations have been satisfied.

Upon termination of the Lease Term any moneys received by the Trustee in excess of the amounts necessary to terminate and discharge the Indenture, shall be paid to the Town.

The Town shall not have the right to terminate this Lease due to a default by the Trustee under this Lease.

ARTICLE 5
ENJOYMENT OF THE LEASED PROPERTY

Section 5.1 Trustee's Covenant of Quiet Enjoyment. The Trustee hereby covenants that the Town shall, during the Lease Term, peaceably and quietly have, hold and enjoy the Leased Property without suit, trouble or hindrance from the Trustee. The Trustee shall not interfere with the quiet use and enjoyment of the Leased Property by the Town during the Lease Term so long as no Event of Lease Default shall have occurred. The Trustee shall, at the request of the Town and at the cost of the Town, cooperate fully in any legal action in which the Town asserts against third parties 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 5 shall be subject to the Trustee's right to inspect the Leased Property and the Town's books and records with respect thereto as provided in Section 11.8 hereof.

Section 5.2 Town's Need for the Leased Property; Determinations as to Fair Value and Fair Purchase Price. The Town has determined and hereby determines that it has a current need for the Leased Property. It is the present intention and expectation of the Town that this Lease will be renewed annually until the Trustee's interests in the Site Lease are released and unencumbered title to the Leased Property is acquired by the Town pursuant to this Lease; but this declaration shall not be construed as contractually obligating or otherwise binding the Town. The Town has determined and hereby determines that the Base Rentals under this Lease during the Lease Term for the Leased Property represent the fair value of the use of the Leased Property and that the Purchase Option Price for the Leased Property will represent the fair purchase price of the Trustee's leasehold interest in the Leased Property at the time of the exercise of the option. The Town has determined and hereby determines that the Base Rentals do not exceed a reasonable amount so as to place the Town under an economic compulsion to renew this Lease or to exercise its option to purchase the Trustee's leasehold interest in the Leased Property hereunder. In making such determinations, the Town has given consideration to the estimated current value of the Leased Property, the uses and purposes for which the Leased Property will be employed by the Town, the benefit to the citizens and inhabitants of the Town by reason of the use and occupancy of the Leased Property pursuant to the terms and provisions of this Lease, the Town's option to purchase the Trustee's leasehold interest in the Leased Property and the expected eventual vesting of unencumbered title to the Leased Property in the Town. The Town hereby determines and declares that the period during which the Town has an option to purchase the Trustee's leasehold interest in the Leased Property (i.e., the entire maximum Lease Term for the Leased Property) does not exceed the weighted average useful life of the Leased Property.

ARTICLE 6 PAYMENTS BY THE TOWN

Section 6.1 Payments to Constitute Currently Budgeted Expenditures of the Town. The Town and the Trustee acknowledge and agree that the Base Rentals, Additional Rentals and any other obligations hereunder shall constitute currently budgeted expenditures of the Town, if an Appropriation has been effected for such purpose. The Town's obligations to pay Base Rentals, Additional Rentals and any other obligations under this Lease shall be from year to year only (as further provided in Article 4 and Sections 6.2 and 6.4 hereof), shall extend only to moneys for which an Appropriation has been effected by the Town, 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 a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the Town or a general obligation or other indebtedness of the Town within the meaning of any constitutional, Charter provision or statutory debt limitation, including without limitation Article X, Section 20 of the Colorado constitution. No provision of this Lease shall be construed or interpreted as creating an unlawful delegation of governmental powers nor as a donation by or a lending of the credit of the Town within the meaning of Sections 1 or 2 of Article XI of the Constitution of the State. Neither this Lease nor the Certificates shall directly or indirectly obligate the Town to make any payments beyond those for which an Appropriation has been effected by the Town for the Town's then current Fiscal Year. The Town shall be under no obligation whatsoever to exercise its option to purchase the Trustee's leasehold interest in 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 Town bonds or obligations payable from any class or source of Town moneys (provided, however, that certain restrictions in the Indenture shall apply to the issuance of Additional Certificates).

Section 6.2 Base Rentals, Purchase Option Price and Additional Rentals.

(a) The Town shall pay Base Rentals for which an Appropriation has been effected by the Town, directly to the Trustee during the Initial Term and any Renewal Term, on the Base Rentals Payment Dates and in the "Total Base Rentals" amounts set forth in **Exhibit C** (Base Rentals Schedule) attached hereto and made a part hereof. For federal and State income tax purposes, a portion of each payment of Base Rentals for the Certificates is designated and will be paid as interest, and **Exhibit C** (Base Rentals Schedule) hereto sets forth the Interest Portion of each payment of Base Rentals for the Certificates. The Town shall receive credit against its obligation to pay Base Rentals to the extent moneys are held by the Trustee on deposit in the Base Rentals Fund created under the Indenture and are available to pay Base Rentals. The Town acknowledges that upon receipt by the Trustee of each payment of Base Rentals, the Trustee, pursuant to the terms of the Indenture, is to deposit the amount of such Base Rentals in the Base Rentals Fund.

The Base Rentals set forth in **Exhibit C** shall be recalculated in the event of the execution and delivery of Additional Certificates as provided in the Indenture and shall also be recalculated in the event of a partial redemption of the Certificates. The Trustee may conclusively rely upon such revised Exhibit C (Base Rentals Schedule) and has no duty to make an independent investigation in connection therewith.

(b) The Town may, on any date, pay the then applicable Purchase Option Price for the purpose of terminating this Lease and the Site Lease in whole and purchasing the Trustee's leasehold interest in the Leased Property as further provided in Article 12 of this Lease. Subject to the Approval of Special Counsel, the Town may also, at any time during the Lease Term, (1) prepay any portion of the Base Rentals due under this Lease and (2) in connection with such prepayment, recalculate the Base Rentals set forth in **Exhibit C** (Base Rentals Schedule). Any such revised

Exhibit C (Base Rentals Schedule) shall be prepared by the Town Representative and delivered to the Trustee. The Trustee may conclusively rely upon such revised **Exhibit C** (Base Rentals Schedule) and has no duty to make an independent investigation in connection therewith. The Town shall give the Trustee notice of its intention to exercise either of such options not less than forty-five (45) days in advance of the date of exercise and shall deposit with the Trustee by not later than the Business Day preceding the date of exercise an amount equal to the Purchase Option Price due on the date of exercise or the applicable amount of Base Rentals to be prepaid. If the Town shall have given notice to the Trustee of its intention to prepay Base Rentals 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 which have been specifically appropriated by the Council for such purpose as if no such notice had been given. The Trustee may waive the right to receive forty-five (45) days advance notice and may agree to a shorter notice period in the sole determination of the Trustee.

(c) All Additional Rentals shall be paid by the Town on a timely basis directly to the person or entity to which such Additional Rentals are owed. Additional Rentals shall include, without limitation, the reasonable fees and expenses of the Trustee, reasonable expenses of the Trustee in connection with the Leased Property and for the cost of taxes, insurance premiums, utility charges, maintenance and repair costs and all other expenses expressly required to be paid hereunder, and any other amounts due to the insurer of any of the Certificates, and any Rebate Fund payments required pursuant to this Lease and the Indenture. All of the payments required by this paragraph are subject to Appropriation by the Town; provided, however, a failure by the Town to budget and appropriate moneys for any of the payments required by this paragraph shall constitute an Event of Nonappropriation.

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 4.1 of this Lease, the Town shall furnish an itemization of such estimated Additional Rentals to the Trustee on or before the 15th day preceding such Fiscal Year.

Section 6.3 Manner of Payment. The Base Rentals, for which an Appropriation has been effected by the Town, and, if paid, the Purchase Option Price, shall be paid or prepaid by the Town to the Trustee at its corporate trust office by wire transfer of federal funds, certified funds or other method of payment acceptable to the Trustee in lawful money of the United States of America.

The obligation of the Town to pay the Base Rentals and Additional Rentals as required under this Article 6 and other sections hereof in any Fiscal Year for which an Appropriation has been effected by the Town for the payment thereof shall be absolute and unconditional and payment of the Base Rentals and Additional Rentals in such Fiscal Years 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 expressed 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 annually renewable nature of the Town's obligation hereunder as set forth in Section 6.1 hereof, and further subject to the Town's rights under Section 10.3 hereof. Notwithstanding any dispute between the Town and the Trustee, the Town shall, during the Lease Term, make all payments of Base Rentals and Additional Rentals in such Fiscal Years and shall not withhold any Base Rentals or Additional Rentals, for which an Appropriation has been effected by the Town, pending final resolution of such dispute (except to the extent permitted by Sections 8.2 and 9.3 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, for which a specific

Appropriation has been effected by the Town for such purpose, in such Fiscal Years subject to this Article (except to the extent provided by Sections 8.2 and 9.3 hereof with respect to certain Additional Rentals).

Section 6.4 Nonappropriation. In the event that the Town gives notice that it intends to not renew this Lease as provided by Section 4.1 hereof or the Town shall not effect an Appropriation, on or before December 31 of each Fiscal Year, of moneys to pay all Base Rentals and reasonably estimated Additional Rentals coming due for the next ensuing Renewal Term as provided in Section 4.1 hereof and this Article, or in the event that the Town is proceeding under the provisions of Section 10.3(c) hereof (when applicable), an Event of Nonappropriation shall be deemed to have occurred; subject, however, to each of the following provisions:

(a) In the event the Trustee does not receive the written notice provided for by Section 4.1 hereof or evidence that an Appropriation has been effected by the Town on or before December 31 of a Fiscal Year, then the Trustee shall declare an Event of Nonappropriation on the first Business Day of the February following such Fiscal Year or such declaration shall be made on any earlier date on which the Trustee receives official, specific written notice from the Town that this Lease will not be renewed; provided that the Trustee's failure to declare an Event of Nonappropriation on such date shall not be construed as a waiver of the event of Nonappropriation or the consequences of an Event of Nonappropriation under this Lease. In order to declare an Event of Nonappropriation, the Trustee shall send written notice thereof to the Town.

(b) The Trustee shall waive any Event of Nonappropriation which is cured by the Town, within 30 days of the receipt by the Town of notice from the Trustee as provided in (a) above, by a duly effected Appropriation to pay all Base Rentals and sufficient amounts to pay reasonably estimated Additional Rentals coming due for such Renewal Term.

(c) Pursuant to the terms of the Indenture, the Trustee may waive any Event of Nonappropriation which is cured by the Town within a reasonable time with the procedure described in (b) above.

In the event that during the Initial Term or any Renewal Term, any Additional Rentals shall become due which were not included in a duly effected Appropriation and moneys are not specifically budgeted and appropriated or otherwise made available to pay such Additional Rentals within 60 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).

If an Event of Nonappropriation occurs, the Town shall not be obligated to make payment of the Base Rentals or Additional Rentals or any other payments provided for herein which accrue after the last day of the Initial Term or any Renewal Term during which such Event of Nonappropriation occurs; provided, however, that, subject to the limitations of Sections 6.1 and 14.3 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.

Subject to Section 6.5 hereof, the Town shall in all events vacate or surrender possession of the Leased Property by March 1 of the Renewal Term in respect of which an Event of Nonappropriation has occurred.

After March 1 of the Renewal Term in respect of which an Event of Nonappropriation has occurred, the Trustee may proceed to exercise all or any Lease Remedies.

The Town acknowledges that, upon the occurrence of an Event of Nonappropriation (a) the Trustee shall be entitled to all moneys then being held in all funds created under the Indenture (except the Rebate Fund, and any defeasance escrow accounts) to be used as described therein and (b) all property, funds and

rights then held or acquired by the Trustee upon the termination of this Lease by reason of an Event of Nonappropriation are to be held by the Trustee in accordance with the terms of the Indenture.

Section 6.5 Holdover Tenant. If the Town fails to vacate the Leased Property after termination of this Lease, whether as a result of the occurrence of an Event of Nonappropriation or an Event of Lease Default as provided in Section 14.2(a) hereof, with the written permission of the Trustee it will be deemed to be a holdover tenant on a month-to-month basis, and will be bound by all of the other terms, covenants and agreements of this Lease. Any holding over by the Town without the written permission of the Trustee shall be at sufferance. The amount of rent to be paid monthly during any period when the Town is deemed to be a holdover tenant will be equal to (a) one-sixth of the Interest Portion of the Base Rentals coming due on the next succeeding Base Rentals Payment Date plus one-twelfth of the Principal Portion of the Base Rentals coming due on the next succeeding Base Rentals Payment Date on which a Principal Portion of the Base Rentals would have been payable with appropriate adjustments to ensure the full payment of such amounts on the due dates thereof in the event termination occurs during a Renewal Term plus (b) Additional Rentals as the same shall become due.

Section 6.6 Prohibition of Adverse Budget or Appropriation Modifications. To the extent permitted by law, the Town shall not, during any Fiscal Year of the Lease Term, make any budgetary transfers or other modifications to its then existing budget and appropriation measures relating to the Leased Property or this Lease which would adversely affect the Town's ability to meet its obligation to pay Base Rentals and duly budgeted and appropriated Additional Rentals hereunder.

ARTICLE 7
LEASING OF THE SITE; DESIGN, ACQUISITION, CONSTRUCTION
AND IMPROVEMENT OF THE PROJECT

Section 7.1 Leasing of the Site; Design, Acquisition, Construction and Improvement of the Project. As further provided in Section 8.1 hereof, fee simple title to the Site is held by the Town. Pursuant to the Site Lease, the Town leases the Site to the Trustee and pursuant to this Lease, the Town leases the Leased Property back from the Trustee.

The Town hereby agrees that it will make all contracts, orders, receipts, writings and instructions, including all Project Contracts, with any other persons, firms or corporations and in general do all things that may be necessary, requisite or proper for the acquisition, construction, installation and completion of the Project. The Town agrees to comply with all applicable federal, State of Colorado and local law in connection with the making of contracts for the Project. The administration of the Project is to comply with all policies and procedures and all standard contractual and procedural documents required by the Town, except that pursuant to Section 7.5 upon termination of this Lease due to the occurrence of an Event of Nonappropriation or an Event of Lease Default, all Project Contracts shall be fully and freely assignable to the Trustee. Notwithstanding anything to the contrary contained in this Lease or the Indenture, all Project Documents shall be made and approved by the Town. The Town hereby further agrees:

- (a) The Town shall cause the Project to be completed as herein provided; and
- (b) The Town agrees to complete the Project with all reasonable dispatch, and to use its best efforts to have all of the Project completed by the Completion Date or as soon thereafter as may be practicable.

So long as this Lease is in full force and effect and no Event of Nonappropriation or Event of Lease Default shall have occurred, the Town shall have full power to carry out the acts and agreements provided in this Section 7.1, and such power shall not be terminated or restricted by act of the Trustee, except as provided in this Section 7.1.

The Town agrees to implement and complete the Project pursuant to this Article 7, through the application of moneys to be disbursed by the Trustee from the Construction Fund (created under the Indenture) pursuant to the Indenture. If, for any reason, the Project is not completed by the Completion Date, there shall be no resulting liability on the part of the Town or the Trustee or an Event of Lease Default hereunder, and there shall be no diminution in or postponement of the Base Rentals and Additional Rentals required to be paid by the Town and for which an Appropriation has been effected by the Town during the Lease Term. However, in the event that the Trustee does not receive a Certificate of Completion in respect of the Project, as required in Section 7.3 of this Lease, by the Completion Date, and unless the Town opts to complete the Project and submits a reasonable schedule of completion to the Trustee, the Trustee shall, upon thirty (30) days written notice to the Town, be authorized, but not required, to complete the remainder of the Project from any moneys remaining in the Construction Fund for the Project.

Section 7.2 Disbursements for Costs of the Project. So long as no Event of Nonappropriation or Event of Lease Default has occurred, the Trustee shall disburse the moneys in the Construction Fund created under the Indenture to pay the Costs of the Project. Such disbursements from the Construction Fund shall be made upon receipt by the Trustee of a Requisition signed by the Town Representative, in substantially the form set forth in **Exhibit E** hereto, specifying in reasonable detail the nature of the obligation. The Trustee shall have no duty to review or examine the accompanying bill, invoice or statement of account, but may conclusively rely on the properly executed disbursement request.

If an Event of Nonappropriation or an Event of Lease Default shall occur after the execution and delivery of this Lease, but prior to the Completion Date, any moneys held in funds and accounts created

under the Indenture (other than moneys on deposit in the Rebate Fund and any defeasance escrow funds) may be utilized by the Trustee to complete, repair or modify the Project, or may be disbursed for the payment of Certificates executed and delivered pursuant to the Indenture or other charges as the Trustee may deem appropriate in accordance with the standards concerning the Trustee contained in the Indenture, subject to Section 11.5 hereof.

Under the Indenture, the Trustee is authorized and directed to issue its checks or drafts or transmit wire payments for each disbursement to pay Costs of the Project provided for herein. The Town hereby consents to such disbursements by the Trustee. The Trustee shall keep and maintain adequate records pertaining to the Construction Fund established under the Indenture and all disbursements therefrom in accordance with the Requisitions. After the Project has been completed and the Certificate of Completion has been filed with the Trustee as provided in Section 7.3 of this Lease, and after any amounts remaining on deposit in the Construction Fund have been applied in accordance with Section 7.3 hereof, the Trustee shall provide account statements to the Town.

Section 7.3 Completion of Construction. Upon the substantial completion of the Project, the Town Representative shall execute and deliver to the Trustee a Certificate of Completion in substantially the form of Exhibit F hereto.

In the event that, after the delivery of the Certificate of Completion, there remains in the Construction Fund created under the Indenture any unreserved balance, such balance shall be used by the Trustee, as directed in writing by the Town, to:

- (a) add to, modify or alter the Project or add new components thereto provided that such addition, modification or alteration shall be consistent with, and shall not violate the covenants contained in, the Tax Certificate or in Section 11.5 hereof, or
- (b) direct the Trustee in writing to transfer the remaining balance to the Base Rentals Fund created under the Indenture in amounts consistent with, and not in violation of the covenants contained in, the Tax Certificate, for a credit against the Base Rentals as the same shall become due, or
- (c) effect a combination of the foregoing.

Section 7.4 Title Insurance. The Trustee shall be provided with an owner's title insurance policy insuring the Trustee's leasehold interest in the Site pursuant to the Site Lease, subject only to Permitted Encumbrances, in an amount not less than the aggregate principal amount of the Certificates or such lesser amount as shall be the maximum insurable value of the Leased Property. Such policy, or a binding commitment therefor, shall be provided to the Trustee concurrently with the issuance of each series of Certificates.

Section 7.5 Project Contracts. The Town represents that, in the opinion of the Town, based upon an examination of property, estimated design, construction, acquisition and installation costs and the configuration of the Project, the Project can, to the best of the Town's present knowledge, be constructed, acquired and installed for a total cost within the amount of funds to be available in the Construction Fund created under the Indenture, including anticipated investment income. In the event of cost overruns resulting in the Costs of the Project exceeding the amount available in the Construction Fund created under the Indenture, all in connection with the leasing of the Site and the implementation and completion of the Project, upon written consent of the Town, either (a) the Town shall make such modifications to the plans and specifications for the Project as will permit the Project to be provided from the amounts available therefor under the Indenture or (b) upon the Approval of Special Counsel, the Town shall deposit additional funds received from appropriations by the Town, or the Trustee may deposit additional funds received from the proceeds of Additional Certificates in the Construction Fund created under the Indenture, sufficient to

complete the Project. If the Town pays any portion of the Costs of the Project pursuant to this Section, it shall not be entitled to any reimbursement therefor from the Trustee or any owner of Certificates, nor shall it be entitled to any diminution in or postponement of the Base Rentals and the Additional Rentals payable under this Lease.

Upon the occurrence of an Event of Nonappropriation or an Event of Lease Default, the Trustee as lessee of the Leased Property under the Site Lease, may complete the Project, utilizing any moneys available therefor (except for any moneys on deposit in the Rebate Fund and any defeasance escrow funds). All Project Contracts shall provide that, upon a termination of the Lease Term by reason of the occurrence of an Event of Nonappropriation or an Event of Lease Default or upon the Trustee's assuming control over completion of the Project as provided in Section 7.1 of this Lease, and upon written notice by the Trustee to the party or parties to the Project Contracts that any of such events has occurred: (a) such contracts shall be fully and freely assignable to the Trustee, without the consent of any other person and the Trustee may choose to assume or not assume such contracts; and (b) if the Trustee does so assume such contracts, the other party or parties thereto shall perform the agreements contained therein for the Trustee. All Project Contracts shall also provide that, upon an Event of Nonappropriation or an Event of Lease Default and upon written notice from the Trustee, the Trustee may, in its sole discretion, terminate some or all of such Project Contracts; and the other party or parties thereto shall then be entitled to payment only from amounts available therefor under the Indenture and only for work done prior to such termination. Upon the occurrence of an Event of Nonappropriation or an Event of Lease Default or upon the Trustee's assuming control over the implementation and completion of the Project as provided in Section 7.1 hereof, and upon receipt of a written request from the Trustee, the Town shall assign all of its right, title and interest in and to any or all Project Contracts to the Trustee and shall deliver all such Project Documents held by it to the Trustee.

Section 7.6 Project Documents. The Town Representative shall furnish to the Trustee upon request (though the Trustee shall have no duty to review) copies of the Project Documents, as soon after the commencement of the Lease Term as such Project Documents shall become available to the Town and from time to time thereafter. Neither the Project Documents nor any change or amendment thereto shall (a) cause the Project to be used for any purpose prohibited hereby or by the constitution or laws of the State; (b) result in a material reduction in the value of the Project (except as provided in Section 7.5 hereof); (c) adversely affect the ability of the Town to meet its obligations hereunder; or (d) cause the Town to violate its tax covenant in Section 11.5 hereof.

Section 7.7 Defaults Under Project Contracts. In the event of any material default by a design consultant or construction contractor under any of the Project Contracts, or in the event of a material breach of warranty with respect to any materials, workmanship or performance, the Town shall promptly proceed, either separately or in conjunction with others, to pursue diligently its remedies against such design consultant or contractor and/or against each surety of any bond securing the performance of such Project Contracts. The Net Proceeds of any amounts recovered by way of damages, liquidated damages, refunds, adjustments, or otherwise in connection with the foregoing, remaining after deduction of expenses incurred in such recovery (including without limitation, attorneys' fees and costs) shall be paid to the Trustee for deposit to the Construction Fund created under the Indenture if prior to the Completion Date, or if after the Completion Date, to the Trustee for deposit in a separate trust fund in accordance with Section 10.2 of this Lease.

Section 7.8 Performance and Payment Bonds. Each contractor entering into a Project Contract for the construction of the Project shall be required to furnish a performance and payment bond in a form acceptable to the Town, copies of which shall be provided to the Town and the Trustee upon its request. Such bonds shall be made payable to the Town and the Trustee as co-obligees, subject to the provisions of the Indenture, shall be executed by a corporate surety licensed to transact business in the State and acceptable to the Town, and shall be in an amount equal to the contract price for such contractor's Project Contract. If, at any time during the construction of the Project, the surety on such bond shall be

disqualified from doing business within the State, or shall otherwise become incapable of performing its obligations under such bond, an alternate surety acceptable to the Town shall be selected. In the event of any change order resulting in the performance of additional work in connection with the Project, the amounts of such bonds pertaining thereto shall be increased to include the cost of such additional work or materials or fixtures to be incorporated in the Project.

Section 7.9 Professional Errors and Omissions Liability Insurance. The Town shall require in its contracts with the design consultants for the Project that they obtain and maintain professional liability insurance for damages for claims by reasons of any negligent act, error or omission committed or alleged to have been committed by them or anyone for whom they are liable, in an amount of not less than \$2,000,000 per claim and \$2,000,000 aggregate. Professional liability insurance coverage may be structured to provide coverage on a “claims-made” basis; provided, however, the professional liability insurance coverage shall remain in effect for the period set out in C.R.S. §13-80-104. Deductibles for such insurance shall be paid by the design consultants. The limits of this insurance shall not be reduced unless approved by the Town and the Trustee in writing.

Section 7.10 Contractor’s Commercial General Liability Insurance. Each contractor entering into a Project Contract for the construction of any portion of the Project shall be required to procure and maintain Commercial General Liability Insurance during the duration of such contractor’s Project Contract in the amount of at least \$2,000,000 each occurrence and \$4,000,000 general aggregate. The policies shall be applicable to all premises and operations. Such policies shall include the Town and the Trustee as additional named insureds and shall include a provision prohibiting cancellation or termination without thirty (30) days prior written notice to the Town and the Trustee. A certificate of insurance in a form acceptable to the Town shall be provided to the Town and the Trustee with respect to each contractor. Such insurance shall provide protection from all claims for bodily injury, including death, property damage, contractual liability and completed operations.

Section 7.11 Design Consultant’s General Liability Insurance. Each design consultant entering into a Project Contract for the design of any portion of the Project shall be required to procure and maintain Commercial General Liability Insurance during the duration of such design consultant’s Project Contract in the amount of at least \$1,000,000 each occurrence, and \$2,000,000 general aggregate. The policies shall be applicable to all premises and operations. Such policies shall include the Town and the Trustee as additional named insureds and shall include a provision prohibiting cancellation or termination without thirty (30) days prior written notice to the Town and the Trustee. A certificate of insurance in a form acceptable to the Town shall be provided to the Town and Trustee with respect to each design consultant. Such insurance shall provide protection from all claims for bodily injury, including death, property damage, contractual liability and completed operations.

Section 7.12 Contractor’s Automobile Liability Insurance. Each contractor entering into a Project Contract for the construction of any portion of the Project shall be required to procure and maintain automobile liability insurance with minimum combined single limits for bodily injury and property damage of not less than \$1,000,000 for any one occurrence as well as a \$10,000,000 umbrella policy with respect to each of the contractor’s owned, hired or non-owned vehicles assigned to or used in performance of its work.

Section 7.13 Builder’s Risk Insurance. Each contractor entering into a Project Contract for the construction of any portion of the Project shall be required to provide Builder’s Risk Insurance with minimum limits of \$30,000,000. A certificate of insurance shall be provided to the Trustee and the Town within seven Business Days of the effective date of the policies. The policies shall be written on an “all risk” basis and shall name the Town and the Trustee as insureds. The policies shall contain a waiver of subrogation by the issuer of such policies with respect to the Town and the Trustee, and their respective officers, agents and employees while acting within the scope of their employment.

Section 7.14 Design Consultant's and Contractor's Worker's Compensation Insurance.

Each design consultant and contractor entering into a Project Contract shall be required to procure and maintain, at its own cost and expense, worker's compensation insurance during the term of its Project Contract covering its employees working thereunder. Such insurance, if issued by a private carrier, shall contain a provision that such coverage shall not be canceled without thirty (30) days' prior written notice to the Town and the Trustee. A certificate issued by the state compensation insurance fund evidencing such coverage shall be provided to the Town or, if such insurance is provided by a private carrier, a completed certificate of insurance, in a form acceptable to the Town, shall be provided to the Town with respect to each design consultant and contractor. Minimum limits of Worker's Compensation Insurance shall be \$500,000 each accident; \$500,000 disease policy and \$500,000 disease each employee.

Section 7.15 Proceeds of Certain Insurance Policies and Performance Bonds. The Net Proceeds of any performance or payment bond or insurance policy required by Sections 7.8 through 7.13 and any Net Proceeds received as a consequence of default under a Project Contract as provided by Section 7.7 of this Lease, shall be deposited into the Construction Fund if received prior to the Completion Date and, if received after the Completion Date, remitted to the Trustee for deposit in a separate trust fund in accordance with Section 10.2 of this Lease.

ARTICLE 8
TITLE TO LEASED PROPERTY;
LIMITATIONS ON ENCUMBRANCES

Section 8.1 Title to the Leased Property. At all times during the Lease Term, title to the Site will remain in the Town, subject to the Site Lease, this Lease, the Indenture and any other Permitted Encumbrances. Except personal property purchased by the Town at its own expense pursuant to Section 9.2 of this Lease, the Project, and any and all additions and modifications to or replacements of any portion of the Project shall be held in the name of the Trustee, subject to this Lease and Permitted Encumbrances, until foreclosed on or conveyed as provided in Section 7.02 of the Indenture or Article 7 of this Lease, or until the termination of the Site Lease, notwithstanding (i) the occurrence of an Event of Nonappropriation as provided in Section 6.4 of this Lease or one or more Events of Default as defined in Section 14.1 of this Lease; (ii) the occurrence of any event of damage, destruction, condemnation or construction defect, breach of warranty or title defect, as provided in Article 10 of this Lease; (iii) termination of the right of the Town to direct the acquisition, construction and equipping of the Project pursuant to the last sentence of Section 7.1 of this Lease; or (iv) the violation by the Trustee (or by the Trustee as assignee of the Lessor pursuant to the Indenture) of any provision of this Lease.

The Town shall have no right, title or interest in the Project, or any additions and modifications to or replacements of any portion thereto, except as expressly set forth in this Lease.

Section 8.2 No Encumbrance, Mortgage or Pledge of the Leased Property. Except as may be permitted by this Lease, the Town shall not permit any mechanic's or other lien to be established or remain against the Leased Property; provided that, 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 mechanic's or other lien filed or established against the Leased Property, and in such event may permit the items 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 Counsel, by nonpayment of any such items the Trustee's leasehold interest in the Leased Property will be materially endangered, or the Leased Property or any part thereof will be subject to loss or forfeiture, in which event the Town shall promptly pay and cause to be satisfied and discharged all such unpaid items (provided, however, that such payment shall not constitute a waiver of the right to continue to contest such items). The Trustee will cooperate in any such contest. Except as may be permitted by this Lease, the Town shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Property, except Permitted Encumbrances. The Town shall promptly, at its expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance or claim not excepted above.

**ARTICLE 9
MAINTENANCE; TAXES; INSURANCE
AND OTHER CHARGES**

Section 9.1 Maintenance of the Leased Property by the Town. Subject to its right to not appropriate and as otherwise provided in Section 9.3 hereof, the Town agrees that at all times during the Lease Term, the Town will 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, and from time to time make or cause to be made all necessary and proper repairs, including replacements, if necessary. The Trustee shall have no responsibility in any of these matters or for the making of any additions, modifications or replacements to the Leased Property.

Section 9.2 Modification of the Leased Property; Installation of Furnishings and Machinery of the Town. The Town shall have the privilege of making substitutions, additions, modifications and improvements to the Leased Property, at its own cost and expense, as appropriate and any such substitutions, additions, modifications and improvements to the Leased Property shall be the property of the Town, subject to the Site Lease, this Lease and the Indenture and shall be included under the terms of the Site Lease, this Lease and the Indenture; provided, however, that such substitutions, additions, modifications and improvements shall not in any way damage the Leased Property or cause the Leased Property to be used for purposes other than lawful governmental functions of the Town (except to the extent of subleasing permitted under Section 13.2 hereof) or cause the Town to violate its tax covenant in Section 11.5 hereof; and provided that the Leased Property, as improved or altered, upon completion of such substitutions, additions, modifications and improvements, shall be of a value not less than the value of the Leased Property immediately prior to such making of substitutions, additions, modifications and improvements.

The Town may also, from time to time in its sole discretion and at its own expense, install machinery, equipment and other tangible property in or on the Leased Property. All such machinery, equipment and other tangible property shall remain the sole property of the Town in which the Trustee shall have no interests; provided, however, that title to any such machinery, equipment and other tangible property which becomes permanently affixed to the Leased Property shall be included under the terms of the Site Lease, this Lease and the Indenture, in the event that such Leased Property would be damaged or impaired by the removal of such machinery, equipment or other tangible property.

The Town shall have the right to make substitutions to the Leased Property upon compliance with the provisions set forth in Section 11.4 hereof.

Section 9.3 Taxes, Other Governmental Charges and Utility Charges. In the event that the Leased Property shall, for any reason, be deemed subject to taxation, assessments or charges lawfully made by any governmental body, the Town shall pay the amount of all such taxes, assessments and governmental charges then due, as Additional Rentals. With respect to special assessments or other governmental charges which may be lawfully paid in installments over a period of years, the Town shall be obligated to provide for Additional Rentals only for such installments as are required to be paid during the upcoming Fiscal Year. Except for Permitted Encumbrances, the Town shall not allow any liens for taxes, assessments or governmental charges to exist with respect to the Leased Property (including, without limitation, any taxes levied upon the Leased Property which, if not paid, will become a charge on the rentals and receipts from the Leased Property, or any interest therein, including the leasehold interests of the Trustee), or the rentals and revenues derived therefrom or hereunder. The Town shall also pay as Additional Rentals, as the same respectively become due, all utility and other charges and fees and other expenses incurred in the operation, maintenance and upkeep of the Leased Property.

The Town may, at its expense, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments, utility or other charges 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 Counsel, by nonpayment of any such items the value of the Leased Property will be materially endangered or the Leased Property will be subject to loss or forfeiture, or the Trustee will be subject to liability, in which event such taxes, assessments, utility or other charges shall be paid forthwith (provided, however, that such payment shall not constitute a waiver of the right to continue to contest such taxes, assessments, utility or other charges).

Section 9.4 Provisions for Liability and Property Insurance. Upon completion of the Project, the Town shall, at its own expense, cause casualty and property insurance to be carried and maintained with respect to the Leased Property in an amount equal to the estimated replacement cost of the Leased Property. Such insurance policy or policies may have a deductible clause in an amount deemed reasonable by the Council. The Town may, in its discretion, insure the Leased Property under blanket insurance policies which insure not only the Leased Property, but other buildings as well, as long as such blanket insurance policies comply with the requirements hereof. If the Town shall insure against similar risks by self-insurance, the Town may, at its election provide for casualty and property damage insurance with respect to the Leased Property, partially or wholly by means of a self-insurance fund. If the Town shall elect to self-insure, the Town Representative shall annually furnish to the Trustee a certification of the adequacy of the Town's reserves. The Trustee shall be named additional insured and loss payee on any casualty and property insurance.

The Town shall, at its own expense, cause public liability insurance to be carried and maintained with respect to the activities to be undertaken by and on behalf of the Town in connection with the use of the Leased Property, in an amount not less than the limitations provided in the Colorado Governmental Immunity Act (Article 10, Title 24, C.R.S., as heretofore or hereafter amended). Such insurance may contain deductibles and exclusions deemed reasonable by the Council. The public liability insurance required by this Section may be by blanket insurance policy or policies. If the Town shall insure against similar risks by self-insurance, the Town, at its election may provide for public liability insurance with respect to the Leased Property, partially or wholly by means of a self-insurance fund. If the Town shall elect to self-insure, the Town Representative shall annually furnish to the Trustee a certification of the adequacy of the Town's reserves. The Trustee shall be named as additional insured and loss payee on any public liability insurance.

Any casualty and property damage insurance policy required by this Section shall be so written or endorsed as to make payments under such insurance policy payable to the Town and the Trustee. Each insurance policy provided for in this Section shall contain a provision to the effect that the insurance company shall not cancel the policy without first giving written notice thereof to the Town at least 30 days in advance of such cancellation. All insurance policies issued pursuant to this Section, or certificates evidencing such policies, shall be deposited with the Trustee. No agent or employee of the Town shall have the power to adjust or settle any loss with respect to the Leased Property in excess of \$25,000, whether or not covered by insurance, without the prior written consent of the Trustee.

Upon completion of the Project, the Town shall provide the Trustee with evidence that the insurance required pursuant to this Section 9.4 is in effect. A certification by the Town Representative that such insurance is in effect shall be sufficient evidence of insurance. A certificate of insurance from the Town or the Town's insurance agent will also be acceptable evidence of insurance. On or about October 1 in each year the Town shall provide annual certification that the insurance required pursuant to this Section 9.4 is in effect.

Section 9.5 Advances. If the Town fails to pay any Additional Rentals during the Lease Term as such Additional Rentals become due, the Trustee may (but shall not be obligated to) pay such Additional Rentals and the Town agrees to reimburse the Trustee to the extent permitted by law and subject to Appropriation as provided under Article 6 hereof.

Section 9.6 Granting of Easements. As long as no Event of Nonappropriation or Event of Lease Default shall have happened and be continuing, the Trustee, shall upon the request of the Town, (a) grant or enter into easements, permits, licenses, party wall and other agreements, rights-of-way (including the dedication of public roads) and other rights or privileges in the nature of easements, permits, licenses, party wall and other agreements and rights of way with respect to any property or rights included in this Lease (whether such rights are in the nature of surface rights, sub-surface rights or air space rights), free from this Lease and any security interest or other encumbrance created hereunder or thereunder; (b) release existing easements, permits, licenses, party wall and other agreements, rights-of-way, and other rights and privileges with respect to such property or rights, with or without consideration; and (c) execute and deliver any instrument necessary or appropriate to grant, enter into or release any such easement, permit, license, party wall or other agreement, right-of-way or other grant or privilege upon receipt of: (i) a copy of the instrument of grant, agreement or release and (ii) a written application signed by the Town Representative requesting such grant, agreement or release and stating that such grant, agreement or release will not materially impair the effective use or materially interfere with the operation of the Leased Property, and will not materially adversely affect the security intended to be given by or under the Indenture, the Site Lease or this Lease.

ARTICLE 10
DAMAGE, DESTRUCTION AND CONDEMNATION;
USE OF NET PROCEEDS

Section 10.1 Damage, Destruction and Condemnation. If, during the Lease Term,

- (a) the Leased Property shall be destroyed (in whole or in part), or damaged by fire or other casualty; or
- (b) title to, or the temporary or permanent use of, the Leased Property or the estate of the Town or the Trustee in the Leased Property is taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or entity acting under governmental authority; or
- (c) a breach of warranty or a material defect in the construction, manufacture or design of the Leased Property becomes apparent; or
- (d) title to or the use of all or a portion of the Leased Property is lost by reason of a defect in title thereto,

then, the Town shall be obligated to continue to pay Base Rentals and Additional Rentals (subject to Article 6 hereof).

Section 10.2 Obligation to Repair and Replace the Leased Property. The Town and the Trustee, to the extent Net Proceeds are within their respective control, shall cause such Net Proceeds of any insurance policies, performance bonds or condemnation awards received prior to the Completion Date to be deposited to the Construction Fund and after the Completion Date in a separate trust fund. All Net Proceeds so deposited shall be applied to the prompt repair, restoration, modification, improvement or replacement of the Leased Property by the Town, upon receipt of requisitions by the Trustee signed by the Town Representative stating with respect to each payment to be made:

- (a) the requisition number;
- (b) the name and address of the person, firm or entity to whom payment is due;
- (c) the amount to be paid; and
- (d) that each obligation mentioned therein has been properly incurred, is a proper charge against the separate trust fund and has not been the basis of any previous withdrawal and specifying in reasonable detail the nature of the obligation, accompanied by a bill or a statement of account for such obligation.

The Trustee shall have no duty to review or examine the accompanying bill, invoice or statement of account, but may conclusively rely on the properly executed disbursement request. The Town and the Trustee shall agree to cooperate and use their best reasonable efforts subject to the terms of the Indenture to enforce claims which may arise in connection with material defects in the construction, manufacture or design of the Leased Property or otherwise. If there is a balance of any Net Proceeds allocable to the Leased Property remaining after such repair, restoration, modification, improvement or replacement has been completed, this balance shall be used by the Town, to:

- (a) add to, modify or alter the Leased Property or add new components thereto, or
- (b) prepay the Base Rentals with a corresponding adjustment in the amount of Base Rentals payable under **Exhibit C** (Base Rentals Schedule) to this Lease, or

- (c) accomplish a combination of (a) and (b).

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

Section 10.3 Insufficiency of Net Proceeds. If the Net Proceeds (plus any amounts withheld from such Net Proceeds by reason of any deductible clause) are insufficient to pay in full the cost of any repair, restoration, modification, improvement or replacement of the Leased Property required under Section 10.2 of this Lease, the Town may elect to:

- (a) complete the work or replace such Leased Property (or portion thereof) with similar property of a value equal to or in excess of such portion of the Leased Property and pay as Additional Rentals, to the extent amounts for Additional Rentals which have been specifically appropriated by the Town are available for payment of such cost, any cost in excess of the amount of the Net Proceeds allocable to the Leased Property, and the Town agrees that, if by reason of any such insufficiency of the Net Proceeds allocable to the Leased Property, the Town shall make any payments pursuant to the provisions of this paragraph, the Town shall not be entitled to any reimbursement therefor from the Trustee, nor shall the Town be entitled to any diminution of the Base Rentals and Additional Rentals, for which a specific Appropriation has been effected by the Town for such purpose, payable under Article 6 of this Lease; or

- (b) apply the Net Proceeds allocable to the Leased Property to the payment of the Purchase Option Price in accordance with Article 12 of this Lease, or an appropriate portion thereof. In the event of an insufficiency of the Net Proceeds for such purpose, the Town shall, subject to the limitations of Section 6.1 hereof, pay such amounts as may be necessary to equal that portion of the Purchase Option Price which is attributable to the Leased Property for which Net Proceeds have been received (as certified to the Trustee by the Town); and in the event the Net Proceeds shall exceed such portion of the Purchase Option Price, such excess shall be used as directed by the Town in the same manner as set forth in Section 10.2 hereof; or

- (c) if the Town does not timely budget and appropriate sufficient funds to proceed under either (a) or (b) above, an Event of Nonappropriation will 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.

The above referenced election shall be made by the Town within 90 days of the occurrence of an event specified in Section 10.1 of this Lease. It is hereby declared to be the Town's present intention that, if an event described in Section 10.1 hereof should occur and if the Net Proceeds shall be insufficient to pay in full the cost of repair, restoration, modification, improvement or replacement of the Leased Property, the Town would use its best efforts to proceed under either paragraph (a) or paragraph (b) above; but it is also acknowledged that the Town must operate within budgetary and other economic constraints applicable to it at the time, which cannot be predicted with certainty; and accordingly the foregoing declaration shall not be construed to contractually obligate or otherwise bind the Town.

Section 10.4 Cooperation of the Trustee. The Trustee shall cooperate fully with the Town in filing any proof of loss with respect to any insurance policy or performance bond covering the events described in Section 10.1 of this Lease and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Leased Property and the enforcement of all warranties relating to the Leased Property. So long as no Event of Lease Default or Event of Nonappropriation has occurred and is then existing, the Trustee 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 with respect to the Leased Property without the written consent of the Town.

ARTICLE 11
DISCLAIMER OF WARRANTIES; OTHER COVENANTS

Section 11.1 Disclaimer of Warranties. THE TRUSTEE HAS NOT MADE AND WILL NOT MAKE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR USE OF THE LEASED PROPERTY OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LEASED PROPERTY. THE TOWN HEREBY ACKNOWLEDGES AND DECLARES THAT THE TOWN IS SOLELY RESPONSIBLE FOR THE MAINTENANCE AND OPERATION OF THE LEASED PROPERTY, AND THAT THE TRUSTEE HAS NO RESPONSIBILITY THEREFOR. For the purpose of enabling the Town to discharge such responsibility, the Trustee constitutes and appoints the Town as its attorney in fact for the purpose of asserting and enforcing, at the sole cost and expense of the Town, all manufacturer's warranties and guaranties, express or implied, with respect to the Leased Property, as well as any claims or rights the Trustee may have in respect of the Leased Property against any manufacturer, supplier, contractor or other person. Except as otherwise provided in this Lease, the Trustee shall not be liable for any direct or indirect, incidental, special, punitive 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 except that nothing shall relieve the Trustee's liability for any claims, damages, liability or court awards, including costs, expenses and attorney fees, relating to or arising from the Trustee's actions or omissions that result from the negligence, bad faith or willful misconduct of the Trustee or its employees.

Section 11.2 Further Assurances and Corrective Instruments. The Trustee and the Town agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such amendments hereof or supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Property.

Section 11.3 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, provided that the Town and 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.

Section 11.4 Release and Substitution of Leased Property. So long as no Event of Lease Default or Event of Nonappropriation shall have occurred and be continuing, the Town shall prepare and the Trustee shall release all or any portion of the Leased Property, and shall execute all documents necessary or appropriate to reconvey or release such portion of the Leased Property to the Town, free of all restrictions and encumbrances imposed or created by the Site Lease, this Lease or the Indenture, upon receipt by the Trustee of the following: (a) a written request of the Town Representative for such release, describing the portion of the Leased Property to be released; (b) a certificate of the Town Representative certifying (i) the fair market value of the portion of the Leased Property to be released and of any real property to be substituted for the portion of the Leased Property to be released; (ii) that the disposition of the portion of the Leased Property to be released and the substitution therefor of the real property to be substituted for the portion of the Leased Property to be released (if any) will not materially adversely affect the ability of the Town to operate the Leased Property or to fulfill its obligations under this Lease; (iii) that any real property to be substituted for a portion of the Leased Property to be released is necessary or useful to the operation of the Leased Property; and (iv) that the fair market value of any real property to be substituted for the portion of the Leased Property to be released, together with cash to be paid by the Town to the Trustee, if any, is at least equal to the fair market value of the portion of the Leased Property to be released; (c) appraisals of the fair market value of the portion of the Leased Property to be released and any real property to be substituted for the portion of the Leased Property to be released, respectively, by a member of the American Institute of Real Estate Appraisers (MAI); and (d) supplements and amendments to the

Site Lease, this Lease and the Indenture and any other documents necessary to effect the substitution for any portion of the Leased Property to be released. The Town agrees that any cash paid to the Trustee pursuant to the provisions of this Section 11.4 shall be used to redeem or defease Outstanding Certificates.

On or after the delivery of the Certificate of Completion, the Town may provide written direction to the Trustee to release eleven (11) condominium units from this Lease and the Site Lease without complying with the preceding paragraph. The Town's written direction shall contain the legal description of the condominium units to be released. Upon receipt of direction from the Town, the Trustee is directed to take all actions necessary to effect the release of the designated condominium units from this Lease and the Site Lease.

Section 11.5 Tax Covenants. The Town acknowledges that the moneys in all funds and accounts expected to be created under the Indenture are to be invested or deposited by the Trustee, at the written direction of the Town.

The Town covenants for the benefit of the Owners of the Certificates that it will not take any action or omit to take any action with respect to the Certificates, the proceeds thereof, any other funds of the Town or any facilities financed or refinanced with the proceeds of the Certificates (except for the possible exercise of the Town's right to terminate this Lease as provided herein) if such action or omission (i) would cause the interest on the Certificates to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Tax Code, or (ii) would cause interest on the Certificates to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code, or (iii) would cause interest on the Certificates to lose its exclusion from Colorado taxable income or to lose its exclusion from Colorado alternative minimum taxable income under present Colorado law. Subject to the Town's right to terminate this Lease as provided herein, the foregoing covenant 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 Town in fulfilling the above covenant under the Tax Code and Colorado law have been met.

In addition, the Town covenants that its direction of investments pursuant to Article 5 of the Indenture shall be in compliance with the procedures established by the Tax Certificate to the extent required to comply with its covenants contained in the foregoing provisions of this Section. The Town hereby agrees that, to the extent necessary, it will, during the Lease Term, pay to the Trustee such sums as are required for the Trustee to pay the amounts due and owing to the United States Treasury as rebate payments. Any such payment shall be accompanied by directions to the Trustee to pay such amounts to the United States Treasury. Any payment of Town moneys pursuant to the foregoing sentence shall be Additional Rentals for all purposes of this Lease.

The Town is to execute the Tax Certificate in connection with the execution and delivery of this Lease, which Tax Certificate shall provide further details in respect of the Town's tax covenants herein.

Section 11.6 Undertaking to Provide Ongoing Disclosure. The Town covenants for the benefit of the Owners of the Certificates to comply with the terms of the Continuing Disclosure Certificate, provided that a failure of the Town to do so shall not constitute an Event of Lease Default. The Trustee shall have no power or duty to enforce this Section. Unless otherwise required by law, no Certificate owner shall be entitled to damages for the Town's non-compliance with its obligations under this Section; however, the Certificate Owners may enforce specific performance of the obligations contained in this Section by any judicial proceedings available.

Section 11.7 Covenant to Reimburse Legal Expenses. To the extent permitted by law, the Town shall defend and hold harmless the Trustee against claims arising from the alleged negligent acts or omissions of the Town's public employees, which occurred or are alleged to have occurred during the performance of their duties and within the scope of their employment, unless such acts or omissions are, or are alleged to be, willful and wanton. Such claims shall be subject to the limitations of the Colorado

Governmental Immunity Act, C.R.S. 24-10-101 to 24-10-120. The Town shall include as Additional Rentals, the reimbursement of reasonable and necessary fees and expenses incurred by the Trustee to defend the Trustee from and against all claims, by or on behalf of any person, firm, corporation or other legal entity arising from the conduct or management of the Leased Property or from any work or thing done on the Leased Property during the Lease Term requested by the Town, or from any condition of the Leased Property caused by the Town. This duty to reimburse the Trustee's legal expenses is not an indemnification and it is expressly understood that the Town is not indemnifying the Trustee and, as previously stated, is limited to Net Proceeds and moneys, if any, in excess of such Net Proceeds, for which an Appropriation has been effected.

Section 11.8 Access to the Leased Property; Rights to Inspect Books. The Town agrees that the Trustee shall have the right at all reasonable times to examine and inspect the Leased Property (subject to such regulations as may be imposed by the Town for security purposes) and all of the Town's books and records with respect thereto, but the Trustee has no duty to inspect the Leased Property books or records. The Town further agrees that the Trustee 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. The Indenture allows the Town to have the right at all reasonable times to examine and inspect all of the Trustee's books and records with respect to the Leased Property and all funds and accounts held under the Indenture.

The Town and its representatives shall have the right to examine and inspect the books and records of the Trustee relating to the Leased Property at all reasonable times from the date of this Lease and until three years after the termination date of this Lease.

ARTICLE 12

PURCHASE OPTION

Section 12.1 Purchase Option. The Town shall have the option to purchase the Trustee's leasehold interest in the Leased Property, but only if an Event of Lease Default or an Event of Nonappropriation has not occurred and is then continuing. The Town may exercise its option on any date by complying with one of the conditions set forth in Section 12.2.

The Town shall give the Trustee notice of its intention to exercise its option not less than forty-five (45) days in advance of the date of exercise and shall deposit the required moneys with the Trustee on or before the date selected to pay the Purchase Option Price. The Trustee may waive such notice or may agree to a shorter notice period in the sole determination of the Trustee.

If the Town shall have given notice to the Trustee of its intention to purchase the Trustee's leasehold interest in the Leased Property or prepay Base Rentals, 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, which have been specifically appropriated by the Town for such purpose, as if no such notice had been given.

Section 12.2 Conditions for Purchase Option. The Trustee shall transfer and release the Trustee's leasehold interests in the Leased Property to the Town in the manner provided for in Section 12.3 of this Lease; provided, however, that prior to such transfer and release, either:

(a) the Town shall have paid the then applicable Purchase Option Price which shall equal the sum of the amount necessary to defease and discharge the Indenture as provided therein (i.e., provision for payment of all principal and interest portions of any and all Certificates which may have been executed and delivered pursuant to the Indenture shall have been made in accordance with the terms of the Indenture) plus any fees and expenses then owing to the Trustee; or

(b) the Town shall have paid all Base Rentals set forth in **Exhibit C** (Base Rentals Schedule) hereto, for the entire maximum Lease Term, and all then current Additional Rentals required to be paid hereunder.

At the Town's option, amounts then on deposit in any fund held under the Indenture (except the Rebate Fund and excluding any defeasance escrow funds) may be credited toward the Purchase Option Price.

Section 12.3 Manner of Conveyance. At the closing of the purchase or other conveyance of all of the Trustee's leasehold interest in the Leased Property pursuant to Section 12.2 of this Lease, the Trustee shall release and terminate the Site Lease, this Lease and the Indenture and execute and deliver to the Town any necessary documents releasing, assigning, transferring and conveying the Trustee's leasehold interest in the Leased Property, as they then exist, subject only to the following:

(a) Permitted Encumbrances, other than the Site Lease, this Lease and the Indenture;

(b) all liens, encumbrances and restrictions created or suffered to exist by the Trustee as required or permitted by the Site Lease, this Lease or the Indenture or arising as a result of any action taken or omitted to be taken by the Trustee as required or permitted by the Site Lease, this Lease or the Indenture;

(c) any lien or encumbrance created or suffered to exist by action of the Town; and

(d) those liens and encumbrances (if any) to which title to the Leased Property was subject when leased to the Trustee.

ARTICLE 13

ASSIGNMENT AND SUBLEASING

Section 13.1 Assignment by the Trustee; Replacement of the Trustee. Except as otherwise provided in this Lease and the Indenture, this Lease may not be assigned by the Trustee for any reason other than to a successor by operation of law or to a successor trustee under the Indenture or with the prior written consent of the Town which consent shall not be unreasonably withheld. The Trustee will notify the Town of any assignment to a successor by operation of law.

If an Event of Lease Default or Event of Nonappropriation has occurred and is continuing, the Trustee may act as herein provided, including exercising the remedies set forth in Section 14.2, without the prior written direction of the Town.

Section 13.2 Assignment and Subleasing by the Town. This Lease may not be assigned by the Town for any reason other than to a successor by operation of law. However, the Leased Property may be subleased, as a whole or in part, by the Town, without the necessity of obtaining the consent of the Trustee or any owner of the Certificates subject to each of the following conditions:

- (a) The Leased Property may be subleased, in whole or in part, only to an agency or department of, or a political subdivision of, the State, or to another entity or entities with Approval of Special Counsel, or to persons who will occupy a portion of the Leased Property as their residence;
- (b) The Town shall furnish or cause to be furnished to the Trustee a copy of any sublease agreement;
- (c) Except for subleases to persons who will occupy a portion of the Leased Property as their residence, any sublease of the Leased Property shall provide that it shall automatically terminate upon a termination of this Lease;
- (d) This Lease, and the obligations of the Town hereunder, shall, at all times during the Lease Term remain obligations of the Town, and the Town shall maintain its direct relationships with the Trustee, notwithstanding any sublease; and
- (e) No sublease by the Town shall cause the Leased Property to be used for any purpose which would cause the Town to violate its tax covenant in Section 11.5 hereof.

All subleases shall provide that, upon a termination of the Lease Term by reason of the occurrence of an Event of Nonappropriation or an Event of Lease Default, and upon written notice by the Trustee to the party or parties to the subleases that any of such events has occurred such contracts shall be fully and freely assignable to the Trustee, without the consent of any other. Upon the occurrence of an Event of Nonappropriation or an Event of Lease Default, and upon receipt of a written request from the Trustee, the Town shall cooperate with the Trustee to effectuate the assignment of all of its right, title and interest in and to all subleases to the Trustee.

ARTICLE 14
EVENTS OF LEASE DEFAULT AND REMEDIES

Section 14.1 Events of Lease Default Defined. Any one of the following shall be Events of Lease Default under this Lease:

- (a) failure by the Town to pay any Base Rentals or Additional Rentals, which have been specifically appropriated by the Town for such purpose, during the Initial Term or any Renewal Term, within five (5) Business Days of the date on which they are due; or
- (b) subject to the provisions of Section 6.5 hereof, failure by the Town to vacate or surrender possession of the Leased Property by March 1 of any Renewal Term in respect of which an Event of Nonappropriation has occurred; or
- (c) failure by the Town to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, other than as referred to in (a) or (b), (and other than a failure to comply with Section 11.6 hereof) for a period of 30 days after written notice, specifying such failure and requesting that it be remedied shall be received by the Town from the Trustee, unless the Trustee shall agree in writing to an extension of such time prior to its expiration; provided 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 can be instituted by the Town within the applicable period and diligently pursued until the default is corrected; or
- (d) failure by the Town to comply with the terms of the Site Lease.

The foregoing provisions of this Section 14.1 are subject to the following limitations:

- (i) the Town shall be obligated to pay the Base Rentals and Additional Rentals, which have been specifically appropriated by the Town for such purpose, only during the then current Lease Term, except as otherwise expressly provided in this Lease; and
- (ii) if, by reason of Force Majeure, the Town or the Trustee shall be unable in whole or in part to carry out any agreement on their respective parts herein contained other than the Town's agreement to pay the Base Rentals and Additional Rentals due hereunder, the Town or the Trustee shall not be deemed in default during the continuance of such inability. The Town and the Trustee each agree, however, to remedy, as promptly as legally and reasonably possible, the cause or causes preventing the Town or the Trustee from carrying out their respective agreements; provided that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the Town.

Section 14.2 Remedies on Default. Whenever any Event of Lease Default shall have happened and be continuing beyond any applicable cure period, the Trustee may, or shall at the request 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 the Indenture, without any further demand or notice, take one or any combination of the following remedial steps:

- (a) terminate the Lease Term and give notice to the Town to vacate and surrender possession of the Leased Property, which vacation and surrender the Town agrees to complete within sixty (60) days from the date of such notice; provided, in the event the Town does not vacate and surrender possession on the termination date, the provisions of Section 6.5 hereof shall apply;

(b) lease or sublease the Leased Property or sell or assign any interest the Trustee has in the Leased Property, including the Trustee's leasehold interest in the Leased Property;

(c) recover from the Town:

(i) the portion of Base Rentals and Additional Rentals, for which a specific Appropriation has been effected by the Town for such purpose, which would otherwise have been payable hereunder, during any period in which the Town continues to occupy, use or possess the Leased Property; and

(ii) Base Rentals and Additional Rentals, for which a specific Appropriation has been effected by the Town for such purpose, which would otherwise have been payable by the Town hereunder during the remainder, after the Town vacates and surrenders possession of the Leased Property, of the Fiscal Year in which such Event of Lease Default occurs; or

(d) take whatever action at law or in equity may appear necessary or desirable to enforce its rights in and to the Leased Property under the Site Lease, this Lease and the Indenture.

Upon the occurrence of an Event of Nonappropriation, the Trustee shall be entitled to recover from the Town the amounts set forth in Section 14.2(c)(i) hereof if the Town continues to occupy the Leased Property after December 31 of the Fiscal Year in which such Event of Nonappropriation occurs.

The Trustee shall also be entitled, upon any Event of Lease Default, to any moneys in any funds or accounts created under the Indenture (except the Rebate Fund or any defeasance escrow accounts).

Section 14.3 Limitations on Remedies. The remedies in connection with an Event of Lease Default shall be limited as set forth in this Section. A judgment requiring a payment of money may be entered against the Town by reason of an Event of Lease Default only as to the Town's liabilities described in paragraph (c) of Section 14.2 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 6.4 of this Lease, and only as to the liabilities described in paragraph (c)(i) of Section 14.2 hereof. The remedy described in paragraph (c)(ii) of Section 14.2 of this Lease is not available for an Event of Lease Default consisting of failure by the Town to vacate and surrender possession of the Leased Property by March 1 following an Event of Nonappropriation.

Section 14.4 No Remedy Exclusive. Subject to Section 14.3 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 14, it shall not be necessary to give any notice, other than such notice as may be required in this Article 14.

Section 14.5 Waivers. The Trustee may waive any Event of Lease Default under this Lease and its consequences. In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. Payment of Base Rentals or Additional Rentals by the Town shall not constitute a waiver of any breach or default by the Trustee hereunder.

Section 14.6 Agreement to Pay Attorneys' Fees and Expenses. 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 or 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, to the extent permitted by law, the reasonable fees of such attorneys and such other reasonable expenses so incurred by the nondefaulting party. Notwithstanding the foregoing, any such fees and expenses owed by the Town hereunder shall constitute Additional Rentals for all purposes of this Lease and shall be subject to Appropriation.

Section 14.7 Waiver of Appraisalment, Valuation, Stay, Extension and Redemption Laws.

To the extent permitted by law, in the case of an Event of Nonappropriation or an Event of Lease Default neither the Town nor any one claiming through or under the Town shall or will set up, claim or seek to take advantage of any appraisalment, 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 it, hereby waives, to the full extent that it may lawfully do so, the benefit of all such laws. Notwithstanding the foregoing, it is expressly understood that the Town cannot and does not hereby waive its right to set up, claim or seek to take advantage of its police powers or its Colorado constitutional or statutory right of eminent domain.

ARTICLE 15 MISCELLANEOUS

Section 15.1 Sovereign Powers of Town. Nothing in this Lease shall be construed as diminishing, delegating, or otherwise restricting any of the sovereign powers or immunities of the Town. Nothing in this Lease shall be construed to require the Town to occupy and operate the Leased Property other than as lessee, or to require the Town to exercise its right to purchase the Leased Property as provided in Article 12 hereof.

Section 15.2 Notices. All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by any party to the other parties shall be in writing and shall be sufficiently given and served upon the other parties if (i) delivered personally or (ii) if mailed by certified or registered mail, postage prepaid, or (iii) by private courier service which provides evidence of delivery, or (iv) sent by electronic transmission which produces evidence of transmission, and in each case will be deemed to have been given on the date evidenced by the postal or courier receipt or other written evidence of delivery or electronic transmission. All such communications will be addressed as follows:

If to the Trustee:

UMB Bank, n.a.
1670 Broadway
Denver, Colorado 80202
Attention: Corporate Trust and Escrow Services
Email: John.Wahl@umb.com
Phone: (303) 839-2258

If to the Town:

Town of Frisco, Colorado
1 Main Street
P. O. Box 4100
Frisco, Colorado 80443
Attention: Finance Director
Email: lesliee@townoffrisco.com
Phone: (970) 668-9138

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 15.3 Third Party Beneficiaries. It is expressly understood and agreed that the Owners of the outstanding Certificates are third party beneficiaries to this Lease and enforcement of the terms and conditions of this Lease, and all rights of action relating to such enforcement, shall be strictly reserved to the Town, as lessee and the Trustee, as lessor, and their respective successors and assigns, and to the Owners of the Certificates. Except as hereinafter provided, nothing contained in this Lease shall give or allow any such claim or right of action by any other or third person on this Lease. It is the express intention of the Town and the Trustee that any person other than the Town, the Trustee, or the Owners of the Certificates receiving services or benefits under this Lease shall be deemed to be an incidental beneficiary only.

Section 15.4 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 contained in Article 13 of this Lease.

Section 15.5 Amendments. This Lease may only be amended, changed, modified or altered as provided in the Indenture.

Section 15.6 Amounts Remaining in Funds. It is agreed by the parties hereto that any amounts remaining in the Base Rentals Fund, the Construction Fund, the Costs of Execution and Delivery Fund, or any other fund or account created under the Indenture (except the Rebate Fund or any defeasance escrow account), 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 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 15.7 Triple Net Lease. This Lease shall be deemed and construed to be a “triple net lease” and, subject to the prior Appropriation requirements hereof, the Town shall pay absolutely net during the Lease Term, the Base Rentals, the Additional Rentals and all expenses of, or other payments in respect of, the Leased Property as required to be paid by the Town under this Lease, for which a specific Appropriation has been effected by the Town for such purpose, free of any deductions, and without abatement, deduction or setoff (other than credits against Base Rentals expressly provided for in this Lease).

Section 15.8 Computation of Time. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is not a Business Day, the period is extended to include the next day which is a Business Day. If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month. Notwithstanding the foregoing, Base Rentals shall be recalculated in the event of any Prepayment of Base Rentals as provided in Section 6.2(b) hereof.

Section 15.9 Payments Due on Holidays. If the date for making any payment or the last day for performance of any act or the exercising of any right, as provided in this Lease, shall be a day other than a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Lease.

Section 15.10 Severability. Except for the requirement of the Town to pay Base Rentals for which a specific Appropriation has been effected by the Town for such purpose and the requirement of the Trustee to provide quiet enjoyment of the Leased Property and to convey the Trustee’s leasehold interest in the Leased Property to the Town under the conditions set forth in Article 12 of this Lease (which, if held invalid or unenforceable by any court of competent jurisdiction, may have the effect of invalidating or rendering unenforceable the other provisions of this Lease), in the event that any other provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 15.11 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 15.12 Applicable Law. This Lease shall be governed by and construed in accordance with the law of the State of Colorado without regard to choice of law analysis.

Section 15.13 The Trustee is Independent of the Town. Neither the Trustee nor any agent or employee of the Trustee shall be or shall be deemed to be an agent or employee of the Town. The Trustee acknowledges that the Trustee and its employees are not entitled to unemployment insurance benefits of the Town unless the Trustee or a third party otherwise provides such coverage and that the Town does not

pay for or otherwise provide such coverage. The Trustee shall have no authorization, express or implied, to bind the Town to any agreements, liability or understanding except as expressly set forth herein.

Section 15.14 Governmental Immunity. Notwithstanding any other provisions of this Lease to the contrary, no term or condition of this Lease shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions of the Colorado Governmental Immunity Act, Section 24-10-101, et. seq., C.R.S., as now or hereafter amended.

Section 15.15 Recitals. The Recitals set forth in this Lease are hereby incorporated by this reference and made a part of this Lease.

Section 15.16 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 15.17 Trustee's Disclaimer. It is expressly understood and agreed that (a) the Lease is executed by UMB Bank, n.a., solely in its capacity as Trustee under the Indenture, and (b) nothing herein shall be construed as creating any liability on UMB Bank, n.a., other than in its capacity as Trustee under the Indenture. All financial obligations of the Trustee under this Lease, except those resulting from its willful misconduct or negligence, are limited to the Trust Estate.

Section 15.18 Electronic Transactions. The parties hereto agree that the transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

[Remainder of Page Intentionally Left Blank]

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

TOWN OF FRISCO, COLORADO,
as Lessee

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

By: _____
Hunter Mortensen, Mayor

By: _____
John M. Wahl, Senior Vice President

(SEAL)

Attest:

By: _____
Deborah Wohlmuth, CMC, Town Clerk

[Signature Page of Lease Purchase Agreement]

STATE OF COLORADO)
)
COUNTY OF SUMMIT) ss.
)
TOWN OF FRISCO)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by Hunter Mortensen and Deborah Wohlmuth, CMC, as Mayor and Town Clerk, respectively, of the Town of Frisco, Colorado.

WITNESS my hand and official seal.

Notary Public

(SEAL)

* * * * *

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

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by John M. Wahl, as Senior Vice President of UMB Bank, n.a., as Trustee.

WITNESS my hand and official seal.

Notary Public

(SEAL)

[Notary Page of Lease Purchase Agreement]

EXHIBIT A

DESCRIPTION OF LEASED PROPERTY

The Leased Property consists of the real property and the buildings and improvements located thereon as set forth below, as amended from time to time.

LOTS 18, 19, 20, 21, 22. 23 AND 24, TOWN OF FRISCO, COUNTY OF SUMMIT, STATE OF COLORADO.

EXHIBIT B

PERMITTED ENCUMBRANCES

“Permitted Encumbrances” as defined in Section 1.2 of this Lease and the following:

- 1) Liens for ad valorem taxes and special assessments not then delinquent, if applicable.
- 2) The Site Lease.
- 3) This Lease.
- 4) All other encumbrances appearing of record on the date hereof.

EXHIBIT C

BASE RENTALS SCHEDULE⁽¹⁾

Base Rental payments are due on May 21 and November 20 of each year during the Lease Term. The Base Rentals have been calculated on the basis of a 360-day year of twelve 30-day months and any recalculation of Base Rentals under Section 6.2(b) hereof shall be done on the same basis. If Base Rentals are stated to be due on any date that is not a Business Day, such Base Rentals shall be due on the next day that is a Business Day without the accrual of interest on Base Rentals between such dates.

Statement Regarding the Leased Property

The duration of the Lease, throughout the maximum Lease Term, does not exceed the weighted average useful life of the Leased Property and, to the extent that the Leased Property constitutes items of personal property, such items are considered paid from the first Base Rentals described above.

EXHIBIT D

FORM OF NOTICE OF LEASE RENEWAL

To: UMB Bank, n.a., as Trustee
 Attention: Corporate Trust and Escrow Services

The undersigned is the Town Representative of the Town of Frisco, Colorado (the “Town”). The Town is the lessee under that certain Lease Purchase Agreement, dated as of [CLOSING DATE] (the “Lease”), between the Town and UMB Bank, n.a., solely in its capacity of Trustee under the Indenture, as the lessor thereunder. I am familiar with the facts herein certified and am authorized and qualified to certify the same. The undersigned hereby states and certifies:

(a) the Town has effected or intends to effect on a timely basis an Appropriation for the ensuing Fiscal Year which includes (1) sufficient amounts authorized and directed to be used to pay all the Base Rentals and (2) sufficient amounts to pay such Additional Rentals as are estimated to become due, all as further provided in Sections 6.2, 6.3 and 6.4 of the Lease, whereupon, the Lease shall be renewed for the ensuing Fiscal Year;

Initial

or

(b) the Town has determined not to renew the Lease for the ensuing Fiscal Year.

Initial

TOWN OF FRISCO, COLORADO

By: _____
 Town Representative

Date: _____

EXHIBIT E

FORM OF REQUISITION

REQUISITION NO. _____

To: UMB Bank, n.a., as Trustee
Attention: Corporate Trust and Escrow Services

The undersigned Town Representative (the "Town Representative") of and for the Town of Frisco, Colorado (the "Town"), as the lessee's representative under the Lease Purchase Agreement, dated as of [CLOSING DATE] (the "Lease"), between UMB Bank, n.a., as trustee, as lessor, and the Town, as lessee, hereby requisitions the following sum from the Construction Fund established under the Indenture of Trust, dated as of [CLOSING DATE] (the "Indenture"), entered into by UMB Bank, n.a., as Trustee, and in connection with such request, certifies as follows:

Amount: \$ _____

Name and Address of Payee:

The Town has attached hereto a copy of each Payee's Form W-9 or Form W-8, as applicable (unless previously provided). The Town further acknowledges the Trustee cannot process such requisition until the Trustee is in receipt of a valid Form W-9 or W-8, as applicable, in accordance with the Internal Revenue Service regulations and the Foreign Account Tax Compliance Act.

Describe Nature of Obligation:

The Town Representative further certifies that:

(a) the obligation described above has been properly incurred, is a proper charge against the applicable Construction Account of the Construction Fund and has not been the basis of any previous withdrawal or requisition;

(b) all conditions required by the Lease and the Indenture to be met prior to the disbursement of the above amount have been satisfied;

(c) the disbursement requested is due and payable and will be used for the "Costs of the Project" permitted under the Lease and the Indenture;

(d) the Town is not in breach of any of the agreements contained in the Lease;

(e) no Event of Default or Event of Nonappropriation has occurred and is continuing;
and

(f) with respect to the disbursement of funds by the Trustee from the Construction Fund pursuant to this Construction Fund Requisition, on behalf of the Town, the undersigned Town Representative hereby: (a) certifies that the Town has reviewed the wire instructions set forth in this Construction Fund Requisition, and confirms that, to the best of the Town's knowledge, such wire instructions are accurate; (b) agrees that, to the extent permitted by law, the Town will indemnify and hold harmless the Trustee from and against any and all claims, demands, losses, liabilities, and expenses sustained, including, without limitation, attorney fees, arising directly or

indirectly from the Trustee's disbursement of funds from the Construction Fund in accordance with this Construction Fund Requisition and the wiring instructions provided herein; and (iii) agrees that the Town will not seek recourse from the Trustee as a result of losses incurred by the Town arising from the Trustee's disbursement of funds in accordance with this Construction Fund Requisition.

TOWN OF FRISCO, COLORADO

By: _____
Town Representative

EXHIBIT F

CERTIFICATE OF COMPLETION

To: UMB Bank, n.a., as Trustee
Attention: Corporate Trust and Escrow Services

The undersigned hereby states and certifies that:

1. I am the Town Representative (the "Town Representative") of and for the Town of Frisco, Colorado (the "Town"), acting as the lessee's representative under the Lease Purchase Agreement, dated as of [CLOSING DATE] (the "Lease"), between UMB Bank, n.a., as trustee, as lessor, and the Town, as lessee. I am familiar with the facts herein certified and am authorized and qualified to certify the same.

2. The Project described in the Lease is substantially complete and all Costs of the Project as described therein have been paid except for the following amounts to be set aside by the Trustee to pay remaining Costs of the Project: \$_____. This Certificate shall constitute the Certificate of Completion for the purposes of the Lease and the definition of "Certificate of Completion" therein.

3. Notwithstanding the foregoing, this Certificate shall not prejudice any rights against third parties which exist at the date hereof or which may subsequently come into being.

4. In accordance with Section 7.3 of the Lease and Section 3.06 of the Indenture, the Town hereby directs the Trustee to apply any balance remaining in the Construction Fund as follows: _____

_____.

TOWN OF FRISCO, COLORADO

By: _____
Town Representative