

LEASE PURCHASE AGREEMENT

LEASE PURCHASE AGREEMENT (this "Lease"), made as of [CLOSING DATE] (the "Dated Date") between COLLEGIATE PEAKS BANK, DIVISION OF GLACIER BANK, having an office and place of business at 540 W. Highway 50, P.O. Box 1226, Salida, Colorado 81201 (the "Lender"), as sublessor, and CITY OF SALIDA, COLORADO, as sublessee hereunder, having its main office and place of business at 448 E. First Street, Suite 112, Salida, Colorado 81201 (the "City").

RECITALS:

- A. The City is a political subdivision of the State of Colorado (the "State"), duly organized and existing as a statutory city under the laws of the State.
- B. The City is authorized by Section 31-15-101(1)(d), Colorado Revised Statutes ("C.R.S."), to acquire, hold, lease, and dispose of property, both real and personal.
- C. The City is authorized by Section 31-15-713(1)(c), C.R.S., to lease any real estate, together with any facilities thereon, owned by the City when deemed by the governing body to be in the best interest of the City.
- D. The City is authorized by Section 31-15-801, C.R.S., to enter into rental or leasehold agreements in order to provide necessary land, buildings, equipment and other property for governmental or proprietary purposes.
- E. The City Council of the City (the "City Council") has determined that for the functions or operations of the City, it is necessary that the City provide funds for the purpose of financing the acquisition of property for a police facility extension for use in the City's governmental operations and other capital improvements authorized by law (the "Project").
- F. In order to facilitate the financing of the costs of the Project, the City has entered into that certain Site Lease Agreement, dated the date hereof (the "Site Lease") between the City, as lessor, and the Lender, as lessee, whereby the Lender has acquired a leasehold interest in certain real property of the City (the "Land") and the premises, buildings and improvements situated or to be situated on the Land as described in Exhibit B attached hereto (collectively, the "Leased Property").
- G. The City owns, in fee title, the Leased Property.
- H. The City desires to sublease the Leased Property from the Lender pursuant to this Lease.
- I. In consideration for the sublease of the Leased Property under this Lease, the City agrees to pay the Lender certain annually appropriated rental payments ("Rent"), subject to annual City Council review and appropriation, at such times and in such amounts set forth herein and otherwise in accordance with the terms hereof, and Rent shall be comprised of principal and/or interest components as set forth herein.

J. It is the intention of the parties to this Lease that the obligation of the City hereunder to pay Rent shall apply only to the current fiscal year in which such Rent is due and payable hereunder; shall constitute currently budgeted expenditures of the City; shall not constitute a mandatory charge or requirement in any ensuing fiscal year; and shall constitute neither a general obligation, nor a direct or indirect multiple-fiscal year financial obligation or other indebtedness of the City within the meaning of any constitutional or statutory limitation or requirement concerning the creation of indebtedness, nor a mandatory payment obligation of the City in any ensuing fiscal year beyond any fiscal year during which this Lease shall be in effect, and should the City fail, for any reason, to appropriate funds to pay Rent or any other obligations arising hereunder for any ensuing fiscal year, such event of non-appropriation shall not result in the imposition of any obligations whatsoever on the City hereunder.

K. It is the further intention of the parties to this Lease that neither this Lease nor the Site Lease shall directly or indirectly obligate the City to make any payments beyond those appropriated for any fiscal year during which this Lease and the Site Lease shall be in effect.

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

ARTICLE I

DEFINITIONS

Section 1.01 Defined Terms Generally. In addition to the words and terms elsewhere defined in this Lease, including the Recitals hereto, the following words and terms as used in this Lease shall have the following meanings unless the context or use indicates another or different meaning or intent and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

“Additional Rent” means the cost of all taxes, assessments, insurance premiums, utility charges, maintenance, upkeep, repairs, and replacements with respect to the Leased Property and all other charges (together with all interest and penalties that may accrue thereon in the event that the City shall fail to pay the same, as specifically set forth in this Lease) which the City agrees to assume or pay as Additional Rent under this Lease.

“After Payment Termination Value” has the meaning given that term in Section 4.05 hereto.

“Applicable Rate” means the rate per annum set forth in Exhibit A hereto, representing the embedded rate per annum used to determine the interest portion of Rent.

“Authorized City Representative” means (i) the Mayor, (ii) the Finance Director, or (iii) such other person duly authorized to act on behalf of the City, who shall be designated by written certification of the Mayor furnished to the Lender and containing the specimen signature of such other person.

“Business Day” means any day other than a Saturday, a Sunday, a day on which banking institutions or governmental offices are authorized by law to close for general banking purposes in Denver, Colorado or a day on which the principal office of the Lender or the City is unable to open or be open for reasons not related to its financial condition.

“City” means City of Salida, Colorado.

“City Administrator” means the City Administrator of the City, or his or her successor in function.

“City Clerk” means the City Clerk of the City, or his or her successor in function.

“City Council” means the City Council of the City.

“Certification” or “Certificate” means a written certification required or permitted by the provisions of this Lease or the Site Lease, signed and delivered to the Lender or other proper person or persons.

“Dated Date” means the date set forth in Exhibit A hereto.

“Default” means default by the City in the performance or observance of any of the covenants, agreements or conditions on its part contained in this Lease or the Site Lease, exclusive of any notice or period of grace required to constitute a default an “Event of Default” as described in Section 10.01 of this Lease.

“Event of Default” means an Event of Default described in Section 10.01 of this Lease, which has not been cured or waived in accordance with the terms hereof.

“Event of Nonappropriation” has the meaning given that term in Section 4.06 hereof.

“Exhibit A” means Exhibit A attached to this Lease, which is incorporated in and made a part of this Lease and given the same force and effect as if the same were fully set forth herein.

“Exhibit B” means Exhibit B attached to this Lease, which is incorporated in and made a part of this Lease and given the same force and effect as if the same were fully set forth herein.

“Exhibit C” means Exhibit C attached to this Lease, which is incorporated in and made a part of this Lease and given the same force and effect as if the same were fully set forth herein.

“Federal Securities” means only direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States and which are not callable prior to their scheduled maturities by the issuer thereof (or an ownership interest in any of the foregoing).

“Finance Director” means the Finance Director of the City, or his or her successor in function.

“Fiscal Year” means the City’s fiscal year, and shall initially mean the 12-month period commencing on the first day of January in each year and ending on the thirty-first day of December of the calendar 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; or any other cause or event not within the control of the City or the Lender.

“Hazardous Materials” means, without limitation, any substance, material or waste, including radon gas, asbestos, petroleum and petroleum products (including crude oil), that is or becomes designated, classified or regulated as “toxic” or “hazardous” or a “pollutant,” or that is or becomes similarly designated, classified or regulated, under any federal, state or local law, regulation or resolution, but does not include any such substance that is a customary and ordinary cleaning or office product used on the Leased Property by the City or an agent of the City, or any customary or ordinary product for use by the City in the ordinary course in the exercise of its powers and in furtherance of its purposes under applicable laws.

“Independent Counsel” means any attorney who (i) is duly admitted to practice law before the highest court of the State of Colorado, (ii) is not an officer or an employee of the Lender or the City, (iii) is engaged by the City at its sole expense and (iv) is acceptable to the Lender.

“Independent Engineer” means a person who is not an employee, or a firm comprised of persons who are not employees, of the City, engaged by the City at the sole expense of the City and satisfactory to the Lender, and qualified to provide engineering advice concerning the construction, use and operations of structures and improvements of similar kind and nature to the Leased Property.

“Initial Term” has the meaning given to such term in Section 3.02 hereof.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as amended from time to time and the rules and regulations from time to time promulgated thereunder.

“Land” has the meaning given to such term in the Recitals hereto. A legal description of the Land is set forth in Exhibit B.

“Lease” means this Lease Purchase Agreement, as the same may be amended from time to time pursuant to Section 12.06 hereof.

“Lease Term” means, together, the Initial Term and each Renewal Term, comprising the period during which this Lease is in effect, as specified in Section 3.02 hereof.

“Leased Property” means the Leased Property described in Exhibit B hereto.

“Lender” means Collegiate Peaks Bank, Division of Glacier Bank, and its successors and assigns.

“Mayor” means the Mayor of the City, or his or her successor in function.

“Net Proceeds,” when used with respect to any insurance or condemnation award, means the gross proceeds from the insurance or condemnation award with respect to which that term is used remaining after payment of all reasonable expenses (including attorney’s fees and any extraordinary expenses of the City or the Lender) incurred in the collection of such gross proceeds.

“Notice Address” means, with respect to the Lender, the Lender’s address set forth in Section 12.04 hereof and, with respect to the City, the City’s address set forth in Exhibit A hereto, and, in either case, such further or different address as an authorized officer or representative of the Lender may designate to the City or an Authorized City Representative may designate to the Lender, as the case may be.

“Opinion of Counsel” means a written opinion of counsel (who need not be Independent Counsel unless so specified) appointed by the City or the Lender.

“Ordinance” means the ordinance duly adopted by the City Council authorizing the execution and delivery of the Site Lease and this Lease, as the same may be amended, modified or supplemented by any amendments or modifications thereof.

“Payment Date” means each June 1 and December 1 during the Lease Term, commencing [_____].

“Permitted Encumbrances” means, as of any particular time, (i) the Site Lease, this Lease, and the liens and encumbrances relating to the Leased Property on the Dated Date, set forth in Exhibit C hereto, (ii) any utility, access and other easements and rights-of-way, mineral rights, restrictions and exceptions to the leasehold interest demised herein, arising after the Dated Date, that will not materially interfere with or impair the use of or operations being conducted on the Leased Property, (iii) such minor defects, irregularities, encumbrances, easements, rights-of-way and clouds on the leasehold interest demised herein, arising after the Dated Date, as normally exist with respect to properties similar in character to the Leased Property and as do not in the aggregate materially impair the property affected thereby for the purposes for which it was acquired or is held by the City and (iv) any other encumbrances or defects to the leasehold interest demised herein approved in writing by the Lender at its sole discretion.

“Project” means the provision of funds to be used for the purpose of financing the acquisition of property for a policy facility extension for use in the City’s governmental operations and other capital improvements authorized by law.

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

“Renewal Term” has the meaning given to such term in Section 3.02 hereof.

“Rent” has the meaning given to such term in the Recitals hereto.

“Schedule I” means Schedule I attached to this Lease, which is incorporated in and made a part of this Lease and given the same force and effect as if the same were fully set forth herein.

“Servicer” means the Lender, and its successors or assigns as Servicer hereunder.

“Site Lease” has the meaning given to that term in the Recitals to this Lease, as the same may be amended from time to time in accordance with its terms.

“State” means the State of Colorado.

“Tax Certificate” means the Tax Certificate, dated as of the Dated Date and executed by the City, as the same may be amended from time to time in accordance with its terms.

Section 1.02 Additional Provisions as to Interpretation.

The words “herein” and “hereof” and words of similar import, without reference to any particular section or subdivision, refer to this Lease as a whole rather than to any particular section or subdivision hereof.

References herein to any particular section or subdivision hereof are to the section or subdivision of this instrument as originally executed.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01 Representations and Warranties by the City. The City makes the following representations and warranties:

(a) The City is a political subdivision of the State, duly organized and existing as a statutory city under the laws of the State. The City is authorized by statute and otherwise to enter into the transactions contemplated by this Lease and to carry out the obligations of the City hereunder. The execution, delivery and performance of this Lease have been duly authorized and approved.

(b) The City has fee simple title to the Land.

(c) The City has the full right, power and authority (i) to adopt the Ordinance, (ii) to execute and deliver, and to perform any obligations under, and to accept the benefits conferred to the City under this Lease, (iii) to undertake and complete the Project and to use and operate the Leased Property, and (iv) to carry out and consummate all other transactions contemplated by the Ordinance, the Site Lease and this Lease, and the City has complied and is in compliance with all provisions of applicable law in all matters relating to such transactions.

(d) The City (i) has duly adopted the Ordinance, and the Ordinance remains in full force and effect and has not been amended, modified, waived, rescinded, cancelled, revoked, terminated

or determined to be invalid in whole or in part, and (ii) has duly executed and delivered the Site Lease and this Lease.

(e) The Ordinance, the Site Lease, and this Lease constitute valid and binding obligations, under applicable law, of the City, and, assuming due authorization, execution and delivery of the Site Lease and the Lease by the Lender, are enforceable against the City in accordance with their respective terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally.

(f) No event of default has occurred and is continuing, and there has not occurred nor is there continuing any event or condition which with the passage of time or giving of notice or both would constitute an event of default under, any indenture, mortgage, note, lease agreement or other agreement or instrument to which the City is a party or by which it is bound, and the City has not committed any violation that is continuing, and the City has not taken any action or allowed any action or inaction or is aware of any condition affecting the City which in any of such instances with the passage of time or giving of notice or both would constitute a violation of, any provision of the Colorado Constitution or any existing law, rule, regulation, resolution, judgment, order or decree to which the City is subject.

(g) Neither the adoption of the Ordinance nor the execution and delivery of, or performance by the City of its obligations under, or acceptance by the City of the benefits conferred by, the Site Lease or this Lease or the consummation of the transactions contemplated herein or therein or the compliance with the provisions hereof or thereof conflicts with, or constitutes on the part of the City a violation of, or a breach of or default under (i) any indenture, mortgage, note, lease agreement or other agreement or instrument to which the City is a party or by which it is bound, (ii) any provision of the Colorado Constitution or (iii) any existing law, rule, regulation, resolution, judgment, order or decree to which the City is subject.

(h) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, which has been served on the City or, to the best knowledge of the City, threatened, which in any way questions the existence of the City or the powers of the City referred to in paragraph (b) above, or the validity of the Ordinance or any other proceeding taken by the City in connection with the execution and delivery of the Site Lease or this Lease, or wherein an unfavorable decision, ruling or finding could materially adversely affect the transactions contemplated hereby or thereby, or which, in any way, could adversely affect the validity or enforceability of the Ordinance, the Site Lease or this Lease, or, to the best knowledge of the City, which in any way questions the excludability from gross income of the recipients thereof of the interest portion of the Rent for federal income tax purposes.

(i) The Leased Property and the Project will not be used in a manner that causes that portion of the Lease payments or any interest thereon designated as tax-exempt to be a “private activity bond” within the meaning of Section 141 of the Internal Revenue Code.

(j) The City is not relying on any warranty of the Lender, either express or implied, as to the title or condition of the Leased Property or that it will be suitable to the City’s needs and

recognizes that the Lender is not obligated to operate or maintain the Leased Property or to expend any funds thereon, except as provided in the Site Lease.

(k) To the best of the City's knowledge, no bankruptcy proceedings, liquidation proceedings or dissolution proceedings are pending or threatened against the City; and no such proceedings have been commenced or are expected to be commenced by the City.

Section 2.02 Representations and Warranties by the Lender. The Lender makes the following representations and warranties:

(a) The Lender is a national banking association, duly organized and validly existing under the laws of the United States.

(b) The Lender is an "accredited investor," as defined in Rule 501(A)(1), (2), (3) or (7) of Regulation D promulgated under the Securities Act of 1933, as amended (an "Institutional Accredited Investor") or (b) a "qualified institutional buyer," as defined in Rule 144A promulgated under the Securities Act of 1933, as amended (a "Qualified Institutional Buyer").

(c) Neither the execution and delivery of the Site Lease or this Lease, nor the covenants, agreements or obligations of the Lender under the Site Lease or this Lease constitute a material default (or an event which, with notice or the lapse of time, or both, would constitute a material default) under any contract, agreement or other instrument or document to which the Lender is a party or by which the Lender or its property is bound.

(d) The Lender possesses all requisite authority, power, licenses, permits and franchises to conduct all business contemplated in the Site Lease or this Lease to be conducted by it, to execute and deliver the Site Lease or this Lease and to observe and perform its covenants, agreements and obligations under the Site Lease and this Lease.

(e) The execution and delivery of the Site Lease and this Lease by the Lender and the observance and performance by the Lender of its covenants, agreements and obligations under the Site Lease and this Lease do not require the consent or approval of any governmental authority which has not been obtained.

(f) The Lender has duly authorized by proper action its execution, delivery, observance and performance of the Site Lease and this Lease.

(g) Assuming the due authorization, execution and delivery thereof by the City, this Lease and all instruments and documents contemplated in this Lease, including without limitation, the Site Lease, which are executed and delivered by the Lender constitute and will constitute legal, valid, binding and enforceable obligations or representations, as the case may be, of the Lender, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally.

(h) Neither the Site Lease or this Lease, nor the covenants, agreements or obligations of the Lender under the Site Lease or this Lease contravene the Lender's charter documents, or violate in any material respect any statute, rule, regulation or other law, or any court or administrative order, applicable to the Lender.

(i) The Lender acknowledges and recognizes that this Lease will be terminated in the event that funds are not specifically budgeted and appropriated by the City Council to continue paying Rent during the next occurring Fiscal Year, and any succeeding Fiscal Years during the term of this Lease; and that the acts of budgeting and appropriating funds are legislative acts and, as such, are solely within the discretion of the City Council.

ARTICLE III

LEASE OF THE LEASED PROPERTY

Section 3.01 Demise of the Leased Property. The Lender hereby demises and leases to the City, and the City hereby accepts and leases from the Lender, the Leased Property, according to the provisions of this Lease, subject only to Permitted Encumbrances, to have and to hold for the Lease Term. The Lender and the City acknowledge that (i) the City owns fee title to the Leased Property, subject only to Permitted Encumbrances, (ii) the City has leased the Leased Property to the Lender under the Site Lease, and (iii) this Lease constitutes a sublease of the Leased Property from the Lender, as sublessor, to the City, as sublessee.

Section 3.02 Term. The Lease Term shall commence on the Dated Date. The initial Lease Term shall be terminated on December 31, 2024 (the “Initial Term”). The Lease Term may be extended at the option of the City, for additional one-year terms commencing on the day immediately following the end of the Initial Term; *provided, however*, the Lease Term may be continued, solely at the option of the City, for no more than [___] additional terms, each ending on and not later than the next December 31 following the end of the Initial Term or the then-current Renewal Term, as the case may be, but not later than the final expiration date set forth in Exhibit A hereto (each additional one-year term after the Initial Term being referred to herein as a “Renewal Term”). The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Initial Term. Any appropriation of amounts due hereunder shall be deemed a determination by the City to exercise its option to renew the Lease for the next ensuing Renewal Term. Notwithstanding the foregoing, this Lease will terminate upon the occurrence of the earliest of the following events:

- (a) Termination hereof by the City because of an Event of Nonappropriation pursuant to Section 4.06 hereof.
- (b) The exercise by the City of its option to prepay this Lease in whole pursuant to Article XI hereof.
- (c) The occurrence of an Event of Default and termination of this Lease by the Lender pursuant to Article X hereof.
- (d) The payment by the City of all Rent and other amounts required to be paid by the City hereunder.

ARTICLE IV

RENT, PREPAYMENT; NONAPPROPRIATION

Section 4.01 Rent. During the Lease Term, in consideration for the use and occupancy of the Leased Property, the City agrees to pay and shall pay as Rent, except as provided in Section 4.06 hereof and except to the extent the Rent may be prepaid under Sections 4.05 and 11.01 hereof, on the following terms:

(a) The City shall pay to the Servicer in immediately available funds the amounts set forth as the Rental Schedule in Schedule I hereto on the respective Payment Dates therein set forth, said amounts to represent payment of principal and interest thereon as designated in said Schedule I; and

(b) The City shall pay such amounts, if any, as and when the same may become payable under Sections 6.02 or 6.03 hereof, subject to appropriation by the City Council; and

(c) The City shall pay into any fund designated by the Servicer or to the United States (with respect to any rebate obligations) moneys in the amount determined by the Servicer to be necessary to comply with the City's obligations under Section 7.10(b) hereof.

Section 4.02 Place of Payment of Rent. The parties acknowledge and agree that the Rent provided for in Section 4.01 hereof shall be paid to the Servicer, at its principal corporate office located at 540 W. Highway 50, P.O. Box 1226, Salida, Colorado 81201, or in accordance with written instructions for wire transfer of funds to the Servicer for the account of the Lender, for deposit in the accounts held by the Servicer for the benefit of the Lender.

Section 4.03 Net Lease. This is a net lease, and the Lender shall not be required to make any expenditures whatsoever in connection with this Lease or the Leased Property. The obligations of the City to make the payments of Rent required in Section 4.01 hereof and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional, except as provided in Section 4.06 hereof; and the City (i) will not, subject to the provisions of Sections 4.05 and 4.06 hereof, suspend or discontinue any payments of Rent provided for in Section 4.01 hereof, and shall not withhold any payment of Rent or other payment required hereunder pending resolution of any dispute or assert any right of set-off or counterclaim against its obligation to make such payment of Rent or other payments required under this Lease; (ii) will perform and observe all of its other agreements contained in this Lease; and (iii) except as provided in Sections 4.06 and 11.01 hereof or under Article III herein, will not terminate the Lease Term for any cause including, without limiting the generality of each of the foregoing, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Leased Property, frustration of purpose, any change in the tax or other laws or administrative rulings of or administrative actions by the United States of America or the State or any political subdivision of either, or any failure of the Lender to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Lease. Nothing contained in this Section shall be construed to release the Lender from the performance of any of

the agreements on its part contained in this Lease; and in the event the Lender should fail to perform any such agreement on its part, the City may institute such action against the Lender as the City may deem necessary to compel the performance of such agreement or to recover damages therefor, so long as no judgment or court order sought or obtained in such action shall result in the termination hereof or interfere with the prompt and full payment of the Rent as contemplated hereby.

Section 4.04 Interest on Unpaid Rent. In the event the City shall fail to make any payment of Rent required to be paid under Section 4.01 and an Event of Default under Section 10.01(a) hereof results, the item or installment so in Default shall continue as an obligation of the City until the amount in Default shall have been paid to the extent of funds appropriated therefor, and the City agrees to pay interest on any Rent in Default at the rate borne by the Lease to the extent of funds appropriated therefor.

Section 4.05 Prepayment of Rent. The City may prepay Rent under this Lease, in whole or in part, at any time upon payment of the principal amount so prepaid plus accrued interest to the prepayment date.

The City shall provide written notice of any such prepayment to the Lender not less than 30 days prior to the prepayment date.

Whenever in this Lease reference is made to prepayment of all Rent or payment of an amount sufficient to prepay all Rent to become due, the amount required to effect such prepayment shall be deemed to be the After Payment Termination Value set forth in Schedule I hereto.

Upon the City exercising its option to prepay the Rent in whole under this Lease, the provisions of Article XI hereof shall apply.

Section 4.06 Renewal of Lease; Nonappropriation. This Lease shall terminate at the end of the Initial Term, subject to the City's right to renew this Lease for Renewal Terms as set forth in Section 3.02 hereof. In the event that the City Council fails to appropriate money sufficient for the continued performance of this Lease by the City in respect of any next succeeding Fiscal Year (an "Event of Nonappropriation"), and the City shall not cure the Event of Nonappropriation by the last day of the then-current Renewal Term, this Lease shall automatically terminate and the City shall give the Lender written notice of an Event of Nonappropriation and pay to the Lender any Rent and other amounts which are due and have not been paid at or before the end of the then current Renewal Term. In the event of non-renewal of this Lease as provided in this Section, the City shall deliver possession of the Leased Property to the Lender within forty-five days after the end of the then current Renewal Term.

Upon termination of this Lease as provided in this Section, the City shall not be responsible for the payment of any Rent coming due with respect to succeeding Fiscal Years, but if the City has not delivered possession of the Leased Property to the Lender upon the termination of this Lease, the termination shall nevertheless be effective, but the City shall be responsible for the payment of damages in an amount equal to the amount of the Rent thereafter coming due during the current Fiscal Year under Section 4.01 hereof which is attributable to the number of days during

which the City fails to surrender possession of the Leased Property, subject to appropriation by the City Council.

Section 4.07 Payments to Constitute Currently Budgeted Expenditures; Certain Findings. The City and the Lender acknowledge and agree that the Rent due hereunder shall constitute currently budgeted and appropriated expenditures of the City and may be paid from any legally available funds. The City's obligations under this Lease shall be subject to the City's annual right to terminate this Lease, 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 City within the meaning of any constitutional 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 City within the meaning of Sections 1 or 2 of article XI of the Constitution of the State. Neither this Lease nor the Site Lease shall directly or indirectly obligate the City to make any payments beyond those duly budgeted and appropriated for the City's then current Fiscal Year. No provision of this Lease shall be construed to pledge or to create a lien on any class or source of City moneys, nor shall any provision of this Lease restrict the future issuance of any City bonds or obligations payable from any class or source of City moneys.

The City hereby determines that the Rent due hereunder during the Lease Term represents the fair value of the use of the Leased Property. The City hereby determines that the Rent does not exceed a reasonable amount so as to place the City under an economic compulsion to renew this Lease. In making such determinations, the City has given consideration to the estimated current value of the Leased Property, the uses and purposes for which the Leased Property will be employed, the benefit to the citizens and inhabitants of the City, and the use and occupancy of the Leased Property pursuant to the terms and provisions of this Lease and the Site Lease.

ARTICLE V

USE, MAINTENANCE, CHARGES AND INSURANCE

Section 5.01 Use of Leased Property. The City covenants that throughout the term hereof, it will use and operate the Leased Property as public property in furtherance of its essential governmental functions, as further provided herein, and in compliance with all laws, regulations applicable thereto.

Section 5.02 Quiet Enjoyment. The City acknowledges that it is now in possession of the Leased Property. The Lender agrees that the City upon paying the Rent and performing the covenants herein agreed by it to be performed and any subtenant claiming under the City shall and may peaceably and quietly have, hold, and enjoy the said Leased Property for the term specified. The Lender or its agents shall have the right at all reasonable times during the Lease Term to enter the Leased Property, subject to compliance with all security requirements, for the purpose of examining or inspecting the Leased Property, and upon two days prior notice by electronic means. Nothing in this Section shall imply any duty upon the part of the Lender to examine the Leased Property or to do or pay for any work which under any provision of this Lease the City is required

to perform, and the performance thereof by the Lender shall not constitute a waiver of the City's default in failing to perform the same.

Section 5.03 Maintenance of Leased Property by City. The City agrees that during the Lease Term it will keep the Leased Property, including all appurtenances thereto, in good repair and good operating condition at its own cost.

Section 5.04 Alterations. The City shall have the privilege of remodeling or making alterations, additions, modifications and improvements to the Leased Property from time to time as the City, in its discretion, may deem to be desirable for its uses and purposes, provided that such alterations, additions, modifications and improvements shall not in any way damage the Leased Property or materially adversely affect the value of the Leased Property. The cost of such alterations, additions, modifications and improvements shall be paid by the City, and the same shall be the property of the City and be included under the terms of this Lease as and shall become part of the Leased Property.

Section 5.05 Liens. The City will not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, charge, lien, encumbrance or claim, except the respective rights of the Lender and the City as herein provided and Permitted Encumbrances, to be established or remain on or against the Leased Property, including any mechanics' liens for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements; provided, however, that if the City shall first notify the Lender of its intention so to do, the City may in good faith contest any mechanics' or other liens 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 if the City delivers to the Lender an opinion of Independent Counsel stating that by nonpayment of any such items the rights or interest of the Lender will not be materially endangered and the Leased Property or any part thereof will not be subject to loss or forfeiture, otherwise the City shall promptly pay and cause to be satisfied and discharged all such unpaid items. The Lender will cooperate promptly and fully with the City in any such contest. Except as expressly provided in this Section, the City will promptly, at its own expense, take such action as may be necessary duly to discharge or remove any such mortgage, pledge, charge, lien, encumbrance or claim if the same shall arise at any time and shall reimburse the Lender for any expense incurred by the Lender in order to discharge or remove any such mortgage, pledge, charge, lien, encumbrances or claim. Nothing herein shall be deemed to require City to deal with statutory claims other than in the manner prescribed by statute.

Section 5.06 Certification as to Alterations. The City agrees that it will file with the Lender, from time to time upon written request of the Lender, a Certification of the Authorized City Representative setting forth a description of any additions, remodeling, modifications or improvements which have become a part of the Leased Property, which have been made during the Fiscal Year next preceding the filing of such Certification.

Section 5.07 Taxes, Other Governmental Charges and Other Charges. The City is tax-exempt and does not expect that any taxes, special assessments or governmental charges will be levied against the Leased Property. However, the City agrees that it will pay, as the same respectively become due, all taxes, special assessments, and governmental charges of any kind

whatsoever that may at any time be lawfully assessed or levied against or with respect to the Leased Property or any furnishings, equipment or other property installed or brought by the City therein or thereon, including sales, use and other excise taxes, and all claims for rent, royalties, labor, materials, supplies, utilities and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Leased Property.

The City may, at its expense and in its own name and behalf or in the name and behalf of the Lender, in good faith contest any such taxes, payments in lieu of taxes, assessments and other charges and, in the event of any such contest, may permit the taxes, payments in lieu of taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom if the City delivers to the Lender an opinion of Independent Counsel stating that by nonpayment of any such items the rights or interest of the Lender in the Leased Property will not be materially endangered and the Leased Property or any part thereof will not be subject to loss or forfeiture, otherwise such taxes, payments in lieu of taxes, assessments or charges shall be paid promptly. The Lender will cooperate with the City in permitting the City to conduct any such contest.

Section 5.08 Insurance.

(a) Property and Liability Insurance. Upon the execution and delivery of this Lease, the City 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 greater of the Outstanding amount of the Rent obligations under this Lease or 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 City Council. The City 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 City shall insure against similar risks by self-insurance, the City may, at its election provide for property damage insurance with respect to the Leased Property, partially or wholly by means of a self-insurance fund. If the City shall elect to self-insure, the Authorized City Representative shall annually furnish to the Lender a certification of the adequacy of the City's reserves. The Lender shall be named additional insured and loss payee on any property insurance with respect to the Leased Property.

Upon the execution and delivery of this Lease, the City 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 City 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, Colorado Revised Statutes, as heretofore or hereafter amended). Such insurance may contain deductibles and exclusions deemed reasonable by the City Council. The public liability insurance required by this Section may be by blanket insurance policy or policies. If the City shall insure against similar risks by self-insurance, the City, 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 City shall elect to self-insure, the Authorized City Representative shall annually furnish to the Lender a certification of the adequacy of the City's reserves. The Lender shall be named as additional insured on any public liability insurance.

Any property damage insurance policy required by this Section shall be so written or endorsed as to make payments over \$20,000 under such insurance policy payable to the City and the Lender. Claims under that amount shall be payable directly to the City. 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 City and the Lender at least 30 days in advance of such cancellation.

The City shall provide certificates of insurance or other appropriate evidence of self-insurance to the Lender, with appropriate endorsements attached demonstrating that the Lender has been named as an additional insured or loss payee and that the 30-day required notice of cancellation provision is in effect. A certificate of insurance from the City or the City's insurance agent will be acceptable evidence of insurance. Certificates evidencing all insurance policies issued pursuant to this Section shall be deposited with the Lender.

(b) Additional Provisions Respecting Insurance. Any insurance policy issued pursuant to Article V hereof shall be so written or endorsed as to make losses, if any, payable to the City and the Lender as their respective interests may appear. All such policies shall be obtained from companies authorized to conduct insurance business in the State of Colorado. Each insurance policy procured in accordance with this Section 5.08 shall contain a provision to the effect that the insurance company shall not cancel the same without first giving written notice thereof to the Lender at least thirty days in advance of such cancellation, and the City shall deliver to the Lender duplicate copies of certificates of insurance pertaining to each such policy of insurance procured by the City and agrees to keep such duplicate copies of certificates up to date.

Should the Leased Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, the City agrees to obtain and maintain Federal Flood Insurance, if available, for the full unpaid principal balance of the Lease, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by the Lender, and to maintain such insurance for the term of the Lease.

(c) Indemnity. The City shall, to the extent permitted by applicable law, indemnify the Lender for, from and against any loss, damage or expense incurred, paid or suffered by the Lender as a result of a suit or claim of a nature covered by the insurance required herein.

Section 5.09 Title Insurance. In connection with the execution and delivery of this Lease, the Lender shall receive a standard leasehold title insurance policy, issued to the Lender, insuring the Lender's leasehold interest in the Leased Property pursuant to the Site Lease, subject only to Permitted Encumbrances, in an aggregate amount not less than \$[_____]. Such commitment for such policy shall be delivered to the Lender concurrently with delivery of this Lease and the policy shall be delivered to the Lender as soon as practicable thereafter.

ARTICLE VI

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 6.01 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 City or the Lender 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 City shall be obligated to continue to pay Rent and Additional Rent (subject to nonappropriation provisions hereof).

Section 6.02 Obligation to Repair and Replace the Leased Property. The City and the Lender, to the extent Net Proceeds are within their respective control, shall cause such Net Proceeds of any insurance policies, performance bonds or condemnation awards, to be deposited 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 City, upon receipt of requisitions and written approval for payment by the Lender, each such requisition 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 City and the Lender shall agree to cooperate and use their best reasonable efforts to enforce claims which may arise in connection with material defects in the construction, manufacture or design of the Leased Property or otherwise. The Lender may rely conclusively upon any such requisition received and shall have no obligation to make an independent investigation in connection therewith. 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 City, to:

(a) add to, modify or alter the Leased Property or add new components thereto,
or

(b) prepay the Rent with a corresponding adjustment in the amount payable under **Schedule I** 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 City, subject to the Site Lease and this Lease and shall be included as part of the Leased Property under this Lease.

Section 6.03 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 this Lease, the City 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 Rent, to the extent amounts for Additional Rent which have been specifically appropriated by the City 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 City agrees that, if by reason of any such insufficiency of the Net Proceeds allocable to the Leased Property, the City shall make any payments pursuant to the provisions of this paragraph, the City shall not be entitled to any reimbursement therefor from the Lender, nor shall the City be entitled to any diminution of the Rent, for which a specific appropriation has been effected by the City for such purpose; or

(b) apply the Net Proceeds allocable to the Leased Property to the payment of the Purchase Option Price in accordance with this Lease, or an appropriate portion thereof. In the event of an insufficiency of the Net Proceeds for such purpose, the City shall, subject to the limitations of Article IV 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 Lender by the City); and in the event the Net Proceeds shall exceed such portion of the Purchase Option Price; or

(c) if the City 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 City's right to cure, the Lender may pursue remedies available to it following an Event of Nonappropriation.

The above referenced election shall be made by the City within 30 days of the occurrence of an event specified above. It is hereby declared to be the City's present intention that, if an event described above 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 City would use its best efforts to proceed under either paragraph (a) or paragraph (b) above; but it is also acknowledged that the City 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 City.

ARTICLE VII

SPECIAL COVENANTS

Section 7.01 No Warranty of Condition or Suitability; Indemnification. The Lender has not made and does not make any representation or warranty whatsoever, either express or implied, as to the merchantability, condition, fitness, design, operation, workmanship, performance, capability or capacity of the Leased Property; as to the suitability for operation of the Leased Property; or as to the condition of the Leased Property or that it will be suitable for the City's purposes or needs. The City assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Leased Property, for any repair, maintenance or operating costs of any part of the Leased Property and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of the City or to third parties, and whether such property damage be to the City's property or the property of others, which is proximately caused by the negligent conduct of the City, its officers, employees, agents and sublessees of the City. The Lender and its officers, employees and agents shall have no liability for any claims or damages arising out of or as the result of (a) the entering into of the Site Lease or this Lease, (b) any injury, actual or claimed, of whatsoever kind or character, to property or persons, occurring or allegedly occurring in, on or about the Leased Property during the Lease Term or otherwise arising during the Lease Term, (c) the breach of any covenant by the City herein or any material misrepresentation by the City contained herein and/or (d) any negligence or willful misconduct of the City, its officers, employees and agents.

Section 7.02 City to Maintain its Existence or Assure Assumption of Obligations. The City agrees that during the Lease Term it will maintain its existence or assure the assumption of its obligations under this Lease by any public body succeeding to its powers.

Section 7.03 Granting Easements. If the City is not then in default, the Lender at the request of the City from time to time shall grant easements, licenses, rights-of-way (including the dedication of public highways) and other rights or privileges in the nature of easements with respect to the Land, or may release existing easements, licenses, rights-of-way and other rights or privileges with or without consideration, and the Lender agrees that it shall execute and deliver any instrument necessary or appropriate to grant or release any such easement, licenses, right-of-way or other right or privilege upon receipt of: (a) a copy of the instrument of grant or release; and (b) a written application signed by the Authorized City Representative requesting such instrument, and certifying that (i) such grant or release is not detrimental to the proper use or operation of the Leased Property, and (ii) such grant or release will not impair the character or productive capacity, or fair market value of the Leased Property. The Lender will not grant or release any easements, licenses, rights-of-way or other rights or privileges in the nature of easements with respect to the Leased Property, without the prior written consent of the City. No release or grant effected under the provisions of this Section shall entitle the City to any abatement of the Rent payable under Section 4.01 hereof, except that any moneys payable to the Lender pursuant to this Section shall be paid to the Servicer and credited against subsequent Rent due or to become due hereunder. Neither the City nor the Lender will grant any easement without the prior written consent of the other party.

Section 7.04 Reports. The City agrees to obtain and to furnish to the Lender such reports concerning the repair, maintenance and condition of the Leased Property as the Lender may from time to time reasonably request, including, but not limited to (1) annual budgets within 30 days of approval by the City Council; and (2) audited financial statements prepared in accordance with generally accepted accounting principles consistently applied, in reasonable detail and audited by a firm of independent certified public accountants, within 270 days of the end of the Fiscal Year.

Section 7.05 City to Maintain Machinery and Movable Equipment. The City agrees that during the Lease Term it will provide and maintain all machinery, personal property and movable equipment necessary in the judgment of the City to permit the full use, operation and occupancy of the Leased Property, and the Lender shall be under no obligation to provide or maintain any such equipment. The City may from time to time, for that purpose and at its own expense, install additional movable personal property, equipment and machinery on the Leased Property which shall remain the sole property of the City and not be subject to this Lease. Nothing contained in the preceding provisions of this Section shall prevent the City from purchasing, after delivery hereof, movable personal property, equipment, furniture or fixtures, notwithstanding that such movable personal property may be subject to a purchase money security interest, as security for the unpaid portion of the purchase price thereof.

Section 7.06 Compliance with Laws and Regulations. The City will comply with all applicable laws, regulations, and orders of the United States of America, the State and agencies and political subdivisions thereof and each department or agency thereof, applicable to this Lease and the Leased Property. The City shall have the right to contest by appropriate procedures the adoption, validity or applicability of any laws, regulations, and orders referred to in this Section and to delay compliance therewith, without violating the provisions of this Section, if (a) the Lender shall consent to such delay in writing, or (b) a court of competent jurisdiction shall so order or determine, or (c) in the opinion of Independent Counsel furnished to the Lender, the procedures taken by the City to contest the validity or applicability of any such law, regulation, or order are appropriate and have the effect of staying the finality and enforceability thereof against the City.

Section 7.07 Further Assurances. The City will execute or cause to be executed any and all further instruments that may reasonably be requested by the Lender and be authorized by law to evidence the transaction contemplated by this Lease and the Site Lease, and the Lender's rights provided or intended to be provided hereby or thereby, or to vest in the Lender or any participant with or assignee of the Lender or any agent of either the right to receive and apply the payments of Rent required hereunder, and will cause this Lease (or short form lease) and the Site Lease and any supplemental instruments to be filed, registered or recorded in the real estate records of the City in which the Land is located, and shall pay or cause to be paid all expenses incidental to the preparation, execution, acknowledgment, filing, registering and recording of this Lease and the Site Lease.

Section 7.08 Participations. The City hereby acknowledges the right of the Lender to create and sell participations or other interests in this Lease, and to assign its rights hereunder to any purchasers of such participations or other interests; *provided, however*, that no assignment of rights or sale of participations herein by the Lender may occur without prior written notice to the City that discloses the name and address of the assignee, and any such assignment of rights or sale of participations may only be made to: (i) an affiliate of the Lender, (ii) a "Bank" as defined in

Section 3(a)(2) of the Securities Act of 1933 as amended (the “Securities Act”); (iii) an “Accredited Investor” as defined in Regulation D under the Securities Act; or (iv) a “Qualified Institutional Buyer” as defined in Rule 144A under the Securities Act. The City agrees to cooperate with the Lender in the creation and sale of any such participations or other interests herein and to execute such instruments and documents as are reasonably requested by the Lender to accomplish such creation and sale or to evidence the succession of any servicer to the rights of the Lender hereunder.

Section 7.09 Notices as to Hazardous Materials. The City agrees promptly:

- (i) to transmit to the Lender copies of any governmental citations, orders or notices received with respect to Hazardous Materials which may result in a penalty, liability, or cost greater than \$1,000;
- (ii) to observe and comply with any and all applicable laws, ordinances, rules, regulations, licensing requirements or conditions relating to the use, maintenance or disposal of Hazardous Materials and all orders or directives from any official, court, or governmental agency of competent jurisdiction relating to the use or maintenance or requiring the removal, treatment, containment, or other disposal of such Hazardous Material; and
- (iii) to pay or otherwise dispose of any lawfully due and owing fine, charge, or imposition relating thereto which, if unpaid, would constitute a lien upon Leased Property or any part thereof.

Section 7.10 Tax Covenants. It is the intention of the parties hereto that all or a portion of the interest component of the Rent payable under Section 4.01(a) and designated in Schedule I hereof will be excludable from gross income of the recipients thereof for federal income tax purposes.

(a) The City covenants that it will not take any action or omit to take any action with respect to this Lease, the proceeds of the Site Lease or this Lease, any other funds of the City or any facilities financed or refinanced with the proceeds of the Site Lease or this Lease (except for the possible exercise of the City’s right to terminate this Lease as provided herein) if such action or omission (i) would cause the designated interest component of the Rent to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code, or (ii) would cause the designated interest component of the Rent to become a specific item of tax preference for purposes of the federal alternative minimum tax, however, such interest is taken into account in determining the annual adjusted financial statement income of applicable corporations (as defined in Section 59(k) of the Internal Revenue Code) for the purpose of computing the alternative minimum tax imposed on corporations, or (iii) would cause the designated interest component of the Rent 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 City’s right to terminate this Lease as provided herein, the foregoing covenant shall remain in full force and effect, notwithstanding the payment in full of the Lease, until the date on which all obligations of the City in fulfilling the above covenant under the Internal Revenue Code and Colorado law have been met

(b) The City hereby acknowledges and confirms its obligations under Section 148(f) of the Internal Revenue Code. Specifically, the City agrees to comply with the rebate requirements imposed under said Section 148(f) and regulations thereunder, including (if applicable) the requirement to make or cause to be made annual calculations of the amount subject to rebate thereunder (at least once every year and upon termination of this Lease), and to maintain or cause to be maintained records of such determinations until six years after the termination hereof, and the requirement to make all required rebates to the United States of America not later than 30 days after the end of the fifth year and no later than each fifth anniversary thereof, to and until the date which is 30 days after the termination hereof. In construing the City's obligations hereunder, all terms used in this paragraph shall have the meanings provided in said Section 148(f) and regulations thereunder. Notwithstanding any other provision of this paragraph, no requirement shall be imposed hereunder if an Opinion of Counsel is rendered, by nationally recognized bond counsel engaged by the City subject to the prior written consent of the Lender or engaged by the Lender, at the expense of the City, and acceptable to the Lender and the City, to the effect that the failure to impose such requirement will not adversely affect the excludability of such designated interest component from gross income for federal income tax purposes. The City agrees to make all required rebate payments to the United States, as and when required, and such payments shall constitute Additional Rent under Section 4.01 hereof.

(c) The City shall comply with the Tax Certificate.

(d) [The City hereby determines that neither the City nor any entity subordinate thereto reasonably anticipates issuing more than \$10,000,000 face amount of tax-exempt governmental bonds (including bonds issued on behalf of a 501(c)(3) organization, but not other private activity bonds) or any other similar obligations during the calendar year 2024, which obligations are taken into account in determining if the City can designate the Lease as a qualified tax-exempt obligation as provided in the following sentence. The City hereby designates this Lease as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3)(B) of the Internal Revenue Code.]

(e) The City shall be the registrar for this Lease. The Lender shall be the initial "Registered Owner" of the rights to receive Rent hereunder. If the Lender assigns and transfers its rights to receive the Rent hereunder, it shall so notify the City of such assignment or transfer and the City shall note on the registration records for this Lease the name and address of the assignee or transferee.

ARTICLE VIII

ASSIGNMENT, SUBLEASING AND SELLING

Section 8.01 Assignment and Subleasing by City. This Lease may be assigned in whole or in part, and the Leased Property may be subleased as a whole or in part, by the City, upon prior written consent of the Lender, only upon the conditions that:

(a) No assignment (other than pursuant to this section hereof) or subletting shall relieve the City from primary liability for any of its obligations hereunder, and in the event of any such assignment or subletting the City shall continue to remain primarily liable for the payment of the Rent specified in Section 4.01 hereof and for performance and

observance of the other agreements on its part herein provided to be performed and observed by it; and

(b) Any assignment or sublease from the City must retain for the City such rights and interests as will permit it to perform its obligations under this Lease, and any assignee from the City shall assume the obligations of the City hereunder to the extent of the interest assigned; and

(c) In the opinion of nationally recognized bond counsel engaged by the City or engaged by the Lender, at the expense of the City, and in either case acceptable to the Lender and the City, such assignment or sublease shall not adversely affect the excludability of the interest component of the Rent payable under Section 4.01(a) from gross income for federal income tax purposes.

Section 8.02 Assignment by the Lender. The Lender may only assign its rights and interest in, and pledge any moneys receivable under or pursuant to this Lease to: (i) an affiliate of the Lender, (ii) a “Bank” as defined in Section 3(a)(2) of the Securities Act of 1933 as amended (the “Securities Act”); (iii) an “Accredited Investor” as defined in Regulation D under the Securities Act; or (iv) a “Qualified Institutional Buyer” as defined in Rule 144A under the Securities Act. No assignment or pledge of any moneys receivable under or pursuant to this Lease shall be effective unless and until prior written notice that discloses the name and address of the assignee has been delivered to the City.

Section 8.03 Restrictions on Transfer and Encumbrances of Leased Property by the City. The City agrees that, except as otherwise provided in this Lease, it will not sell, assign, transfer, convey or otherwise dispose of the Leased Property or any portion thereof during the Lease Term without the prior written consent of the Lender, which consent shall not be unreasonably withheld, and which consent may be reasonably conditioned upon receipt by the Lender of an opinion of nationally recognized bond counsel engaged by the City or engaged by the Lender, at the expense of the City, and in either case acceptable to the Lender and the City, that such sale shall not adversely affect the validity and enforceability of this Lease or adversely affect the excludability of the interest portion of Rent designated in Schedule I from gross income for federal tax purposes. The City further agrees that it will not, to the extent permitted by law, create or suffer to be created any debt, lien or charge thereon, or make any pledge or assignment of or create any lien or encumbrance upon the rents, revenues and receipts derived from the sale, lease or other disposition of the Leased Property other than the Permitted Encumbrances and other than as provided in Section 8.01 hereof.

ARTICLE IX

ACQUISITION OF THE PROJECT

Section 9.01 Agreement to Undertake the Project. The City shall cause the Project to be undertaken as provided in this Article IX. Title to any upgrades or improvements which constitute part of the Project shall be held by the City and will not be subject to the Site Lease or this Lease.

Title to the Leased Property shall also be held by the City, but shall be subject to the Site Lease and this Lease.

Section 9.02 Deposit of Moneys to Effect the Project. On the Dated Date, moneys which are to be used to finance the Project shall be deposited by the Lender with the City.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

Section 10.01 Events of Default. The following shall be “Events of Default” under this Lease and the term “Event of Default” shall mean, whenever used in this Lease, any one or more of the following events:

- (a) If the City fails to pay the Rent required to be paid under Section 4.01 hereof when due; or
- (b) Failure by the City to materially comply with the terms of the Site Lease; or
- (c) If the City shall default in the due and punctual performance of any of the other covenants, conditions, agreements and provisions contained in this Lease or in any instrument supplemental hereto on the part of the City to be performed, and such Default shall have continued for a period of thirty days after written notice, specifying such Default and requiring the same to be remedied, shall have been given to the City by the Servicer or the Lender; or
- (d) The filing by the City of a voluntary petition in bankruptcy, or failure by the City to promptly lift any execution, garnishment or attachment of such consequence as would impair the ability of the City to carry on its essential functions, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of any applicable federal bankruptcy law.

The provisions of paragraph (c) of this Section are subject to the following limitations: If by reason of force majeure the City is unable in whole or in part to carry out its agreements on its part contained herein, the City shall not be deemed in default during the continuance of such disability. The term “force majeure” as used herein includes the following: acts of God; strikes, lockouts or other employee disturbances; acts of public enemies; orders of any kind of the government of the United States of America or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes, storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions, breakage or accident to machinery, transmission pipes or canals; partial or entire failure of utilities; fuel shortage; unavailability of materials; or any other cause or event not reasonably within the control of the City. The provisions of paragraph (c) of this Section are subject to the further limitation that if the Default can be remedied but not within a period of 30 days after notice and if the City has taken

all action reasonably possible to remedy such default within such 30 day period, the default shall not become an Event of Default for so long as the City shall diligently proceed to remedy such Default and in accordance with any directions or limitations of time made by the Lender. The City agrees, however, to use good faith and reasonable efforts to remedy with all reasonable dispatch any cause or causes preventing the City from carrying out its agreements.

Section 10.02 Remedies on Default. Whenever any Event of Default referred to in Section 10.01 hereof shall have happened and be continuing, the Lender or a receiver may (i) enter the Leased Property and take possession of the Leased Property without terminating this Lease, holding the City liable for the difference in the net income derived from such possession and the rents and other amounts payable by the City hereunder during the then-current Renewal Term, or (ii) terminate the Lease Term and give notice to the City to vacate the Leased Property within 45 days from the date of such notice, and proceed to use its best efforts to again lease the Leased Property or sell the Lender's leasehold interest in the Leased Property in accordance with applicable law, but holding the City liable for all Rent and other payments otherwise due under this Lease during the then-current Renewal Term, or (iii) take whatever action at law or in equity may appear necessary or desirable to collect the Rent then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the City under this Lease. Notwithstanding the foregoing or any other provision of this Lease, the maximum amount of contractual payments or damages that the Lender may recover from the City under this Lease is limited to the amount duly budgeted and appropriated by the City for the payment of Rent in the Fiscal Year in which the Event of Default occurs.

Any amounts collected pursuant to action taken under this Section shall be applied first to advances and expenses as provided in Section 10.05 hereof, and next to the payment or prepayment of Rent (principal and interest), and any excess to the City.

Whenever any Event of Default shall occur, the Lender may take any action at law or in equity which may appear necessary or desirable to collect the payments then due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the City under this Lease.

Upon termination of this Lease as provided in this Section, the City shall not be responsible for the payment of any Rent coming due with respect to succeeding Fiscal Years, except that if the City has not delivered possession of the Leased Property to the Lender by December 31 in the year in which an Event of Nonappropriation has occurred, the Lender shall be entitled to recover from the City, to the extent permitted by applicable law, an amount equal to the amount of the Rent thereafter coming due during the current Fiscal Year under Section 4.01 hereof which is attributable to the number of days after December 31 during which the City fails to surrender possession of the Leased Property, which amount is hereby determined and stipulated to be just compensation for the occupancy or use of the Leased Property for any such period.

The provisions of this Section 10.02 and the exercise of any remedy by the Lender or a receiver pursuant to this Section 10.02 are expressly subject to the provisions of Sections 4.06 and 11.03 hereof.

Section 10.03 Remedies Cumulative, Delay Not to Constitute Waiver. No remedy conferred upon or reserved to the Lender or a receiver by this Lease is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, and any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Lender or a receiver to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. In the event any agreement contained in this Lease should be breached by either party and thereafter waived by the other party, such waiver shall be limited to a particular breach so waived and shall not be deemed to waive any other breach hereunder. In case the Lender shall have proceeded to enforce any right under this Lease and such proceedings shall have been determined adversely to the Lender, the Lender shall be restored to its former position and rights hereunder and all rights, remedies and powers of the Lender shall continue as if no such proceedings had been taken.

Section 10.04 Agreement to Pay Attorney's Fees and Expenses. In the event of default by either party under any of the provisions of this Lease and should either party employ attorneys or incur other expenses for the collection of Rent or the enforcement of performance or observance of any obligation or agreement contained in this Lease, both the Lender and the City agree that, unless a court of competent jurisdiction orders otherwise, the prevailing party will be entitled to the award of attorney fees. Notwithstanding the foregoing, the obligation of the City to pay attorneys fees and expenses is subject to appropriation by the City Council.

Section 10.05 Advances. In the event the City shall fail to maintain or repair, rebuild or restore any of the Leased Property, or shall fail to maintain any insurance as required by the provisions of this Lease, or to do any other thing or make any other payment required to be done or made by any other provision of this Lease, the Lender, in its sole discretion, may do or cause to be done any such thing or make or cause to be made any such payment at the expense or as an advance for the account of the City, and the City shall pay to the Lender, upon demand, and subject to appropriation by the City Council, all costs and expenses so incurred and advances so made, with interest at a rate equal to the rate borne by the Lease.

Section 10.06 Waiver of Appraisal, Valuation, Etc. In the event the City should default under any of the provisions of this Lease, the City agrees and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Lender, but will suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE XI

OPTION TO PREPAY; DEFEASANCE; RELEASE AND SUBSTITUTION OF LEASED PROPERTY

Section 11.01 Option to Prepay Lease; Defeasance. This Lease may be prepaid, in whole or in part at any time, as provided in Section 4.05.

This Lease shall be considered to be paid in full within the meaning and with the effect expressed in the preceding paragraph if there shall have been deposited in trust or with the Lender either moneys in an amount which shall be sufficient, or Federal Securities the principal of and the interest on which when due, and without any reinvestment thereof, will provide moneys which, together with the moneys, if any, concurrently deposited in trust or with the Lender, shall be sufficient to pay the amount set forth in the second paragraph of Section 4.05 hereof.

In the event of the exercise of the option to prepay in whole granted in this Section or in the event that this Lease shall be deemed to have been paid in full any Net Proceeds of insurance or condemnation shall be paid to the City, notwithstanding any provision of Sections 6.01 and 6.02 hereof, and the Lender will deliver to the City the documents referred to in Section 11.02 hereof.

The mutual agreements contained in this Section 11.01 are independent of, and constitute an agreement separate and distinct from, any and all provisions of this Lease and shall be unaffected by any fact or circumstance which might impair or be alleged to impair the validity of any other provisions.

Section 11.02 Release of Leased Property. Upon any prepayment in whole of this Lease, or if the Lease is deemed to be paid in full in accordance with the provisions of Section 11.01 hereof, or upon the expiration of all Renewal Terms available hereunder and if full payment or prepayment of all Rent has been made or provided for in accordance with the provisions hereof and any other conditions precedent to the termination of the Lease Term have been fulfilled and all payments other than Rent payable hereunder shall have been paid, the Site Lease and this Lease shall terminate and the Leased Property shall be released from the provisions thereof. Thereupon, the Lender shall deliver or cause to be delivered to the City such documents as the City may reasonably require releasing the Leased Property from the provisions of the Site Lease and this Lease, subject to the following: (i) Permitted Encumbrances, other than this Lease or the Site Lease; (ii) those liens and encumbrances created by the City or to the creation or suffering of which the City consented; and (iii) those liens and encumbrances resulting from the failure of the City to perform or observe any of the agreements on its part contained in this Lease.

Section 11.03. Substitution of Leased Property. So long as no Event of Default or Event of Nonappropriation shall have occurred and be continuing, the City may, upon prior written consent of the Lender, substitute any improved or unimproved real estate (collectively, the "Replacement Property"), for any Leased Property then subject to the Site Lease and this Lease, upon receipt by the Lender of a written request of the Authorized City Representative requesting such release and substitution, provided that:

- (a) the City shall provide evidence satisfactory to the Lender that such Replacement Property shall have an equal or greater value and utility (but not necessarily the same function) to the City as the Leased Property proposed to be released;
- (b) the City shall provide evidence satisfactory to the Lender that the fair market value of the Replacement Property shall be not less than the fair market value of the Leased Property proposed to be released from this Lease or, in the alternative, the fair market value of the Leased Property remaining after the proposed release shall be at least equal to the aggregate principal amount of the due and owing under this Lease;
- (c) the execution and delivery of such supplements and amendments to the Site Lease, as applicable and this Lease and any other documents necessary to subject any Replacement Property to be substituted for the portion of the Leased Property to be released to the lien of the Indenture; and
- (d) an opinion of nationally recognized bond counsel that such substitution shall not impact the tax-exempt status of the Lease.

The Lender shall cooperate with the City in implementing the City's rights to release and substitute property pursuant to this Section 11.03 and shall execute any and all conveyances, releases or other documents necessary or appropriate in connection therewith.

ARTICLE XII

MISCELLANEOUS

Section 12.01 Surrender of Leased Property. In the event the City should default under this Lease and the Lease Term is terminated or in the event of a termination of this Lease pursuant to Section 4.06 hereof, the City agrees to surrender possession of the Leased Property peaceably and promptly to the Lender in as good condition as prevailed at the time it was put in full possession thereof; loss by fire or other casualty covered by insurance, ordinary wear and tear, obsolescence and acts of God excepted.

Section 12.02 Amounts Remaining. It is agreed by the parties hereto that any amounts remaining on deposit with the Lender or the Servicer for the account of the City hereunder upon termination of the Lease Term, as provided in this Lease, after payment in full of all Rent and all other amounts required to be paid hereunder, shall belong to and be paid to the City as overpayment of rents.

Section 12.03 Doctrine of Merger. The Doctrine of Merger shall not apply.

Section 12.04 Notices. All notices, certificates, requests or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered mail, return receipt requested, postage prepaid, addressed as follows:

- A. To the Lender - Collegiate Peaks Bank, Division of Glacier Bank
540 W. Highway 50
P.O. Box 1226

Salida, Colorado 81201
Attention: _____
Email: _____

B. To the City - City of Salida, Colorado
448 E. First Street
Suite 112
Salida, Colorado 81201
Attention: Finance Director

The City or the Lender may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 12.05 Binding Effect. This Lease shall inure to the benefit of and shall be binding upon the Lender, the City and their respective successors and assigns, subject, however, to the limitations contained in Sections 7.02, 8.01, 8.02 and 8.03 hereof.

Section 12.06 Amendments, Changes and Modifications. Except as otherwise provided in this Lease, this Lease may not be effectively amended, changed, modified, altered or terminated without the prior written consent of the City and the Lender.

Section 12.07 Governing Law. This Lease shall be interpreted and enforced in accordance with and governed by the laws of the State of Colorado.

Section 12.08 Counterparts. This Lease may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same Lease.

Section 12.09 Severability. In case any section or provision of this Lease, or in case any covenant, stipulation, obligation, agreement, act, or action, or part thereof, made, assumed, entered into, or taken under the Lease, or any application thereof, is for any reason held to be illegal or invalid, or is at any time inoperable by reason of any law, or actions thereunder, such illegality or invalidity or inoperability shall not affect the remainder thereof or any other section or provision of this Lease or any other covenant, stipulation, obligation, agreement, act, or action, or part thereof, made, assumed, entered into, or taken under this Lease, which shall at the time be construed and enforced as if such illegal or invalid or inoperable portion were not contained therein, nor shall such illegality or invalidity or inoperability or any application thereof affect any legal and valid and operable application therefor from time to time, and each such section, provision, covenant, stipulation, obligation, agreement, act, or action, or part thereof, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent from time to time permitted by law.

Section 12.10 Captions. The captions or headings in this Lease 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 12.11 Electronic Transactions. The parties agree that in the event that any individual or individuals who are authorized to execute this Lease on behalf of the City, or the Lender are not able to be physically present to manually sign this Lease, that such individual or individuals are hereby authorized to execute this Lease electronically via facsimile or email signature. This agreement by the parties to use electronic signatures is made pursuant to Article 71.3 of Title 24, C.R.S., also known as the Uniform Electronic Transactions Act. Any electronic signature so affixed to this Lease shall carry the fully legal force and effect of any original, handwritten signature.

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 productions 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.

IN WITNESS WHEREOF, the Lender and the City have caused this Lease to be executed in their respective names and attested by duly authorized officers all as of the date first above written.

COLLEGIATE PEAKS BANK, DIVISION OF
GLACIER BANK,
as Sublessor

By: _____
[_____]

CITY OF SALIDA, COLORADO,
as Sublessee

By: _____
Mayor

(SEAL)

ATTEST:

By: _____
City Clerk

STATE OF COLORADO)
) ss.
CITY OF SALIDA)
)
COUNTY OF CHAFFEE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by _____, as _____ of Collegiate Peaks Bank, Division of Glacier Bank.

WITNESS my hand and official seal.

(SEAL)

Notary Public, State of Colorado

STATE OF COLORADO)
) ss.
CITY OF SALIDA)
)
COUNTY OF CHAFFEE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by Dan Shore and Kristi Jefferson, as Mayor and City Clerk, respectively, of the City of Salida, Colorado.

WITNESS my hand and official seal.

(SEAL)

Notary Public

SCHEDULE I

Rental Schedule

EXHIBIT A

GENERAL TERMS

1. Name of Sublessee: City of Salida, Colorado
2. Notice Address of City: 448 E. First Street
Suite 112
Salida, Colorado
3. Dated Date of this Lease: [CLOSING DATE]
4. Final Expiration Date: [_____]
5. Payment Dates: semi-annually on June 1 and December 1, commencing [_____].
6. Applicable Rate: [_____]%. Interest is calculated based on a 30/360 calculation.

EXHIBIT B

DESCRIPTION OF THE LEASED PROPERTY

The Land that is subject to the Lease is as set forth in the following legal description (the "Land"):

LEGAL DESCRIPTION:

325 W. Highway 50, Salida, Colorado 81201

**DESCRIPTION OF PREMISES, BUILDINGS AND IMPROVEMENTS CONSTITUTING
THE LEASED PROPERTY:**

EXHIBIT C

PERMITTED ENCUMBRANCES ON THE DATED DATE

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.