

AFTER RECORDATION PLEASE RETURN TO:

Butler Snow LLP
1801 California Street, Suite 5100
Denver, Colorado 80202
Attention: Kimberley K. 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 [_____] , 2017

BETWEEN

[_____] ,

**SOLELY IN ITS CAPACITY AS TRUSTEE UNDER THE INDENTURE IDENTIFIED HEREIN,
AS LESSOR**

AND

**CITY OF COMMERCE CITY, 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 [_____], 2017 (this “Lease”), is by and between [_____], 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 City of Commerce City, Colorado, a home rule city (the “City”), as lessee.

PREFACE

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

RECITALS

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

2. Pursuant to the Charter, the City is authorized to enter into long term installment purchase contracts and rental or leasehold agreements in order to provide necessary land, buildings, equipment and other property for governmental or proprietary purposes.

3. Pursuant to the Charter, the City is also authorized to sell and dispose of real and personal property.

4. The City Council of the City (the “Council”) has heretofore determined that the best interests of the City and the inhabitants thereof require the financing of the cost of the acquisition of 4A Equivalent Residential Units from South Adams County Water and Sanitation District (the “Project”).

5. The Council has determined that it is in the best interests of the City and its inhabitants to execute this Lease and the Site Lease to provide funds to effect the Project.

6. The City owns, in fee title, the Site and the premises, buildings and improvements located thereon, as more particularly described in **Exhibit A** attached hereto (the “Leased Property”). 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 City pursuant to a Site Lease (the “Site Lease”) and will lease the Leased Property back to the City pursuant to this Lease.

7. The payment by the City of Base Rentals and Additional Rentals hereunder in any future Fiscal Year is subject to specific Appropriations and the renewal by the Council of this Lease for such future Fiscal Year. The Base Rentals and Additional Rentals payable by the City under this Lease shall constitute current expenditures of the City.

8. Neither this Lease nor the payment by the City of Base Rentals or Additional Rentals hereunder shall be deemed or construed as creating an indebtedness of the City 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 City, and shall not constitute a multiple fiscal year direct or indirect debt or other financial obligation of the City within the meaning of Article X, Section 20(4) of the Colorado constitution or a mandatory charge or requirement against the City in any ensuing Fiscal Year beyond the then current Fiscal Year. The obligation of the City to pay Base Rentals and Additional Rentals hereunder shall be from year to year only, shall constitute currently budgeted expenditures of the City, shall not constitute a mandatory charge or requirement in any ensuing budget year, 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. In the event that this Lease is not renewed, the sole security available to the Trustee, as lessor hereunder, shall be the Leased Property.

9. Contemporaneously with the execution and delivery of the Site Lease and this Lease, the Trustee will execute and deliver an Indenture of Trust (the "Indenture") pursuant to which there will be executed and delivered certain certificates of participation (the "Certificates") dated as of their date of delivery that shall evidence proportionate interests in the right to receive certain Revenues (as defined in this Lease), shall be payable solely from the sources therein provided and shall not directly or indirectly obligate the City to make any payments beyond those appropriated for any fiscal year during which this Lease shall be in effect.

10. The net proceeds of the Certificates, together with other available money of the City, will be applied to finance the Project and the costs of issuance related thereto.

11. The Council has determined that it is in the best interests of the City and its inhabitants to execute and deliver the Site Lease and this Lease to finance the Project and to pay the costs of issuance in connection therewith.

12. 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.

13. The Trustee and the City intend that this Lease set forth their entire understanding and agreement regarding the terms and conditions upon which the City 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 City 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 City to make rebate calculations under the provisions of Section 3.05 of the Indenture and the expenses of the Trustee in respect of any policy of insurance or surety bond 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 reasonably deemed necessary to protect the Trustee from any liability under this Lease, and approved by the City 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 City Representative;

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

(c) all other charges and costs (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 Rentals under this Lease.

Additional Rentals shall 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.

“Base Rate” means the greatest of (i) the Wells Fargo Bank, N.A. prime rate plus 1.00%, (ii) the Federal Funds Rate as determined by the Federal Reserve plus 2.00%, or (iii) 7.00%;

provided, however, that the rate of interest paid under this Lease shall never exceed the Maximum Rate.

“Base Rentals” means the rental payments payable by the City during the Lease Term, which constitute payments payable by the City 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” or “Certificates” means the Certificate of Participation, Series 2017B, Evidencing Proportionate Interests in the Base Rentals and other Revenues under an annually renewable Lease Purchase Agreement dated as of [_____], 2017, between [_____], solely in its capacity as trustee under the Indenture, as lessor, and the City, as lessee, which Certificates shall be dated as of their date of delivery.

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

“City” means the City of Commerce City, Colorado.

“City Representative” means the Mayor, the City Manager, the Director of Finance or such other person at the time designated to act on behalf of the City 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 City by the Mayor or Mayor Pro Tem.

“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.

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

“CRS” means Colorado Revised Statutes.

“Director of Finance” means the Finance Director of the City or his or her successor in functions, if any.

“Default Rate” means the Base Rate plus 3.00% per annum; provided, however, that in no event shall the Default Rate exceed the Maximum Rate.

“Event(s) of Lease Default” means any event as defined in Section 13.1 of this Lease.

“Event of Nonappropriation” means the termination and non-renewal of this Lease by the City, resulting from 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 City’s intention to not renew and therefore terminate this Lease or an event described in this Lease relating to the exercise by the City of its right to not appropriate amounts due as Additional Rentals in excess of the amounts for which an Appropriation has been previously effected.

“Event of Taxability” means the occurrence of an event which causes the interest payable on the Certificates to become includable in gross income for federal income tax purposes. Such a determination shall be based on a final judgment or order of a court of competent jurisdiction, or a final ruling or decision of the Internal Revenue Service, in any such case to the effect that the interest payable on the Certificates is includable in the gross income for federal income tax purposes of the Owners of the Certificates pursuant to Section 103(b) of the Internal Revenue Code and the rules and regulations promulgated thereunder. A judgment or order of a court of competent jurisdiction or a ruling or decision of the Internal Revenue Service shall be considered final only if no appeal or action for judicial review has been filed (and is pending) and the time for filing such appeal or action has expired.

“Fiscal Year” means the City’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 City or other appropriate authority hereafter may establish as the City’s fiscal year.

“Fixed Rate” means the initial fixed rate borne by the Certificates from the date of delivery through and including December 31, 2022, such rate being [___] %.

“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 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 [_____], 2017, executed and delivered by the Trustee, as the same may be amended or supplemented.

“Initial Purchaser” means Wells Fargo Municipal Capital Strategies, LLC, a wholly owned subsidiary of Wells Fargo Bank, N.A., Wells Fargo Bank, N.A., or any other wholly owned subsidiary of Wells Fargo Bank, N.A., and its successors and assigns, as the initial purchaser and Owner of the Certificates.

“Initial Term” means the period which commences on the date of delivery of this Lease and terminates on December 31, 2017.

“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.

“Interest Portion Rate” means the per annum rate or rates of interest used to calculate the interest component of Base Rentals on the basis of twelve 30 day months and a 360 day year. The Interest Portion Rate shall be fixed at [___]% through December 31, 2022, and from January 1, 2023 and thereafter, the rate determined by the City and the Initial Purchaser not later than 120 days prior to December 31, 2022, provided, however, that the Interest Portion Rate, as adjusted, shall not exceed the Maximum Rate.

“Lease” means this Lease Purchase Agreement, dated as of [_____], 2017, between the Trustee, as lessor, and the City, 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 City 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 City 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, and any New Facility.

“Margin Rate Factor” means the greater of (i) 1.0, and (ii) the product of 1.0 minus the Maximum Federal Corporate Tax Rate multiplied by 1.53846; but in no event shall the Margin Rate Factor be less than 1.0.

“Maximum Interest Rate” means the per annum interest rate of 18%.

“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 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 City and the Trustee.

“New Facility” means any real property, buildings or equipment leased by the City to the Trustee pursuant to a future amendment to the Site Lease and leased back by the City 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.

“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 City 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; and (d) 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 do not interfere in any material way with the Leased Property.

“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 the acquisition of 4A Equivalent Residential Units from South Adams County Water and Sanitation District.

“Purchase Option Price” means the amount payable on any date, at the option of the City, 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.

“Revenues” means (a) all amounts payable by or on behalf of the City 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 Base Rentals 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 City and leased by the City to the Trustee under the Site Lease and subleased by the Trustee to the City under this Lease, the legal description of which is set forth in **Exhibit A** to this Lease, or an amendment or supplement thereto.

“Site Lease” means the Site Lease Agreement, dated as of [_____], 2017, between the City, 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 City shall have the right to select Special Counsel.

“Tax Certificate” means the Tax Certificate entered into by the City with respect to this Lease and the Certificates.

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

“Taxable Rate” means a per-annum interest rate equal to the then-current Interest Portion Rate multiplied by [1.55]. In no event shall the Taxable Rate exceed the Maximum Rate.

“Trustee” means [_____], acting solely in the capacity of trustee pursuant to the Indenture, and any successor thereto appointed under the Indenture.

“Yield Maintenance Premium” means

ARTICLE 2
REPRESENTATIONS AND COVENANTS

Section 2.1 Representations and Covenants of the City. The City 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 City 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 City 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 City 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 City 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 City, are necessary, convenient and in furtherance of the City's governmental purposes and are in the best interests of the citizens and inhabitants of the City. The City 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 or the Site Lease, nor the fulfillment of or compliance with the terms and conditions of this Lease or 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 City is now a party or by which the City or its property is bound, or violates any statute, regulation, rule, order of any court having jurisdiction, judgment or administrative order applicable to the City, 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 City, except for Permitted Encumbrances.

(e) The City agrees that, except for non-renewal and nonappropriation as set forth in Article 6 hereof, if the City fails to perform any act which the City 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 City (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 City affecting the right of the City to execute this Lease or the Site Lease, or the ability of the City 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 City or materially impair the right or ability of the City 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 City 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 City results in contamination of the Leased Property, or if contamination of the Leased Property by any Hazardous Substance otherwise occurs for which the City is legally liable for damage resulting therefrom, then the City 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 City) 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 City 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 City results in any contamination of the Leased Property, the City 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 City covenants and agrees to comply with any applicable covenants and requirements of the City set forth in the Tax Certificate.

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

(a) The Trustee is a national banking association duly organized and existing under the laws of the United States of America. The Trustee is authorized to enter into the Site Lease, this Lease, and to execute and deliver the Indenture, and to carry out its obligations hereunder and thereunder.

(b) 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.

(c) To the Trustee's knowledge, 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.

(d) 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 City on or prior to the date the Indenture is executed and delivered.

Section 2.3 Nature of Lease. The City and the Trustee acknowledge and agree that the Base Rentals and Additional Rentals 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 (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 City 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 City 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 City to make any payments beyond those duly budgeted and appropriated for the City's then current Fiscal Year. The City shall be under no obligation whatsoever to exercise its option to purchase the Trustee's 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 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 (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 City, the sole security available to the Trustee, as lessor hereunder, shall be the Leased Property.

Section 2.4 City Acknowledgment of Certain Matters. The City acknowledges the Indenture and the execution and delivery by the Trustee of the Certificates pursuant to the Indenture. The City 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 City and Trustee. The relationship of the City and the Trustee under this Lease is, and shall at all times remain, solely that of lessee and lessor; and the

City 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 assumes any responsibility or duty to the City or to any third party with respect to the City's obligations relating to the Leased Property. Notwithstanding any other provisions of this Lease: (a) the City 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 City and the Trustee do not intend to ever assume such status; and (b) the City 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 City and the City 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 City and the Trustee acknowledge that the City owns the Leased Property and the City has leased the Leased Property to the Trustee pursuant to the Site Lease; and the City and the Trustee intend that there be no merger of the City's interests as sublessee under this Lease and the City'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, 2017. This Lease may be renewed, solely at the option of the City, for 19 Renewal Terms, provided, however, that the Lease Term shall terminate no later than December 31, 2037, except that the Renewal Term beginning on January 1, 2037 shall terminate upon the City's payment of the final Base Rental payment as set forth in **Exhibit A**. The City hereby finds that the maximum Lease Term hereunder does not exceed the weighted average useful life of the Leased Property. The City further determines and declares that the period during which the City 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 Director of Finance or other officer of the City at any time charged with the responsibility of formulating budget proposals for the City 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 City may determine to not renew and terminate this Lease. Notwithstanding this directive regarding the formulation of budget proposals, it is the intention of the City 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 City, as further provided in the following paragraph. During the Lease Term, the City 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.

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

(a) the City 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 City 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 City from electing not to renew this Lease, nor result in any liability on the part of the City. The City'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 11 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 City upon payment of the Purchase Option Price or all Base Rentals and Additional Rentals, for which an Appropriation has been effected by the City for such purpose, as provided in Section 11.2(a) or (b) of this Lease; or

(d) an uncured Event of Lease Default and termination of this Lease under Article 13 of this Lease by the Trustee.

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

Termination of the Lease Term shall terminate all unaccrued obligations of the City under this Lease, and shall terminate the City's rights of possession under this Lease (except to the extent of the holdover provisions of Sections 6.5 and 13.2(c)(i) hereof, and except for any conveyance pursuant to Article 11 of this Lease). All obligations of the City accrued prior to such termination shall be continuing until the Trustee gives written notice to the City 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 City.

The City 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 City 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 City during the Lease Term so long as no Event of Lease Default shall have occurred. The Trustee shall, at the request of the City and at the cost of the City, join and cooperate fully in any legal action in which the City 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 City 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 City's books and records with respect thereto as provided in Section 10.8 hereof.

Section 5.2 City's Need for the Leased Property; Determinations as to Fair Value and Fair Purchase Price. The City has determined and hereby determines that it has a current need for the Leased Property. It is the present intention and expectation of the City 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 City pursuant to this Lease; but this declaration shall not be construed as contractually obligating or otherwise binding the City. The City 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 City has determined and hereby determines that the Base Rentals do not exceed a reasonable amount so as to place the City 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 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 by the City, the benefit to the citizens and inhabitants of the City by reason of the use and occupancy of the Leased Property pursuant to the terms and provisions of this Lease, the City'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 City. The City hereby determines and declares that the period during which the City 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 CITY

Section 6.1 Payments to Constitute Currently Budgeted Expenditures of the City. The City and the Trustee acknowledge and agree that the Base Rentals, Additional Rentals and any other obligations hereunder shall constitute currently budgeted expenditures of the City, if an Appropriation has been effected for such purpose. The City'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 City, 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 City or a general obligation or other indebtedness of the City 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 City 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 City to make any payments beyond those for which an Appropriation has been effected by the City for the City's then current Fiscal Year. The City 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 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 (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 City shall pay Base Rentals for which an Appropriation has been effected by the City, 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 City 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 City 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** (Base Rental Schedule) 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.

(b) The City 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 11 of this Lease and subject to the prepayment provisions set forth in the Indenture. Subject to the Approval of Special Counsel, the City may also, subject to the provisions hereof and the prepayment provisions set forth in the Indenture, (1) prepay a 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 City Representative and delivered to the Trustee and the Initial Purchaser if the Initial Purchaser is at such time the Owner 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. The City 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 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 City 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 City 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 City on a timely basis directly to the person or entity to which such Additional Rentals are owed. All of the payments required by this paragraph are subject to Appropriation by the City; provided, however, a failure by the City to budget and appropriate moneys for any of the payments required by this paragraph shall constitute an Event of Nonappropriation.

If the City'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 City 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 City, and, if paid, the Purchase Option Price, shall be paid or prepaid by the City 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 to the Trustee at its corporate trust office.

The obligation of the City 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 City 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 City 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 City's obligation hereunder as set forth in Section 6.1 hereof, and further subject to the City's rights under Section 8.3 hereof. Notwithstanding any dispute between the City and the Trustee, the City 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 City, pending final resolution of such dispute (except to the extent permitted by Sections 7.2 and 8.3 hereof with respect to certain Additional Rentals), nor shall the City 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 City's obligation to pay all Base Rentals and Additional Rentals, for which a specific Appropriation has been effected by the City for such purpose, in such Fiscal Years subject to this Article (except to the extent provided by Sections 7.2 and 8.3 hereof with respect to certain Additional Rentals).

Section 6.4 Nonappropriation. In the event that the City gives notice that it intends to not renew this Lease as provided by Section 4.1 hereof or the City 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 City is proceeding under the provisions of Section 9.3(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 City 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 City that this Lease will not be renewed. In order to declare an Event of Nonappropriation, the Trustee shall send written notice thereof to the City.

(b) The Trustee shall waive any Event of Nonappropriation which is cured by the City, within 30 days of the receipt by the City 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 City 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 City to such effect (subject to waiver by the Trustee as hereinbefore provided).

If an Event of Nonappropriation occurs, the City 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 13.3 hereof, the City shall continue to be liable for Base Rentals and Additional Rentals allocable to any period during which the City shall continue to occupy, use or retain possession of the Leased Property.

Subject to Section 6.5 hereof, the City 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 with respect to which an Event of Nonappropriation has occurred, the Trustee may proceed to exercise all or any Lease Remedies.

The City 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) 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.

Notwithstanding anything herein to the contrary, so long as the Initial Purchaser is the sole Owner of the Outstanding Certificates, upon the occurrence of an Event of Nonappropriation or an Event of Default described herein or in the Indenture, the Trustee shall provide written notice thereof to the Initial Purchaser and shall proceed in accordance with any written instructions received by the Initial Purchaser. Before taking any action as directed by the Initial Purchaser, the Trustee shall be entitled to the indemnification provided in the Indenture.

Section 6.5 Holdover Tenant. If the City 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 13.2(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 City without the written permission of the Trustee shall be at sufferance. The amount of rent to be paid monthly during any period when the City 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 City 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 City's ability to meet its obligation to pay Base Rentals and duly budgeted and appropriated Additional Rentals hereunder.

ARTICLE 7
TITLE TO LEASED PROPERTY;
LIMITATIONS ON ENCUMBRANCES

Section 7.1 Title to the Leased Property; Title Insurance. Title to the Leased Property shall remain in the City, subject to the Site Lease, this Lease, the Indenture and any other Permitted Encumbrances. Except personal property purchased by the City at its own expense pursuant to Section 8.2 hereof, title to the Trustee's leasehold interest in the Leased Property and any and all additions and modifications thereto and replacements thereof shall be held in the name of the Trustee, subject to this Lease, the Site Lease and the Indenture, until liquidated, conveyed or otherwise disposed of as provided in Section 7.02 of the Indenture or Article 11 hereof, or until termination of the Site Lease, notwithstanding (i) a termination hereof by the City by reason of an Event of Nonappropriation as provided in Section 6.4 hereof; (ii) the occurrence of one or more Events of Lease Default as defined in Section 13.1 hereof; (iii) the occurrence of any event of damage, destruction, condemnation, or construction defect, breach of warranty or title defect, as provided in Article 9 hereof; or (iv) the violation by the Trustee of any provision hereof.

Concurrently with the execution and delivery of this Lease, the Trustee shall be provided with one or more commitments for one or more standard Leasehold Owner's title insurance policies issued to the Trustee, insuring the Trustee's leasehold interest in the Leased Property, subject only to Permitted Encumbrances, in an aggregate amount not less than the aggregate principal amount of the Certificates concurrently with the issuance of the Certificates, if any, or such lesser amount as shall be the maximum insurable value of the Leased Property.

The City shall have no right, title or interest in the Leased Property or any additions and modifications thereto or replacements thereof, except as expressly set forth in this Lease. The Trustee shall not, in any way, be construed as the owner of the Leased Property.

Section 7.2 No Encumbrance, Mortgage or Pledge of the Leased Property. Except as may be permitted by this Lease, the City shall not permit any mechanic's or other lien to be established or remain against the Leased Property; provided that, if the City shall first notify both the Trustee of the intention of the City to do so, the City 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 City 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 City 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 City 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 City 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 8
MAINTENANCE; TAXES; INSURANCE AND OTHER CHARGES

Section 8.1 Maintenance of the Leased Property by the City. Subject to its right to not appropriate and as otherwise provided in Section 9.3 hereof, the City agrees that at all times during the Lease Term, the City 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 8.2 Modification of the Leased Property; Installation of Furnishings and Machinery of the City. The City shall have the privilege of making substitutions (with the prior written consent of the Initial Purchaser), 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 City, 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 City (except to the extent of subleasing permitted under Section 12.2 hereof) or cause the City to violate its tax covenant in Section 10.5 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 City 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 City 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. The City shall have the right to make substitutions to the Leased Property upon compliance with the provisions set forth in Section 10.4 hereof.

Section 8.3 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 City 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 City 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 City 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 City 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 City 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 City 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 8.4 Provisions for Liability and Property 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 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 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 casualty and 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 City Representative shall annually furnish to the Trustee a certification of the adequacy of the City's reserves. The Trustee shall be named as additional insured party and loss payee on any property insurance.

In addition and 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 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 City Representative shall annually furnish to the Trustee a certification of the adequacy of the City's reserves. The Trustee 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 under such insurance policy with a value equal to or less than the then current deductible payable to the City. Property damage payments under such insurance policy in excess of the then current deductible will designate the Trustee as loss payee. All certificates evidencing such policies shall be deposited with the Trustee. No agent or employee of the City shall have the power to adjust or settle any loss with respect to the Leased Property in

excess of the deductible amount, whether or not covered by insurance, without the prior written consent of the Trustee.

Upon the initial execution and delivery of this Lease, the City shall provide certificates of insurance or other appropriate evidence of self-insurance, with appropriate endorsements attached demonstrating that the Trustee has been named as an additional insured on liability coverage, or loss payee on property coverage. 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 Trustee.

Section 8.5 Advances. If the City 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 City agrees to reimburse the Trustee to the extent permitted by law and subject to Appropriation as provided under Article 6 hereof.

Section 8.6 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 City,

(a) consent to the grant of 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) consent to the release of 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 City 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.

ARTICLE 9
DAMAGE, DESTRUCTION AND CONDEMNATION;
USE OF NET PROCEEDS

Section 9.1 **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 City 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 City shall be obligated to continue to pay Base Rentals and Additional Rentals (subject to Article 6 hereof).

Section 9.2 **Obligation to Repair and Replace the Leased Property.** The City 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, to be deposited in a separate trust fund held by the Trustee. 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 signed by the City 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 City 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. The Trustee 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 disbursed in accordance with the written direction of the City, to:

- (a) add to, modify or alter the Leased Property or add new components thereto, or
- (b) subject to the provisions of the Indenture, 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 City, subject to the Site Lease, this Lease and the Indenture and shall be included as part of the Leased Property under this Lease.

Section 9.3 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 9.2 of 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 Rentals, to the extent amounts for Additional Rentals 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 Trustee, nor shall the City be entitled to any diminution of the Base Rentals and Additional Rentals, for which a specific Appropriation has been effected by the City 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 11 of 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 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 City); 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 City in the same manner as set forth in Section 9.2 hereof; 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 Trustee may pursue remedies available to it following an Event of Nonappropriation.

The above referenced election shall be made by the City within 90 days of the occurrence of an event specified in Section 9.1 of this Lease. It is hereby declared to be the City's present intention that, if an event described in Section 9.1 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 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.

Section 9.4 Cooperation of the Trustee. The Trustee shall cooperate fully with the City, at the expense of the City, in filing any proof of loss with respect to any insurance policy or performance bond covering the events described in Section 9.1 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 City.

ARTICLE 10
DISCLAIMER OF WARRANTIES; OTHER COVENANTS

Section 10.1 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 CITY HEREBY ACKNOWLEDGES AND DECLARES THAT THE CITY IS SOLELY RESPONSIBLE FOR THE OPERATION OF THE LEASED PROPERTY, AND THAT THE TRUSTEE HAS NO RESPONSIBILITY THEREFOR. For the purpose of enabling the City to discharge such responsibility, the Trustee constitutes and appoints the City as its attorney in fact for the purpose of asserting and enforcing, at the sole cost and expense of the City, 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 or consequential damage in connection with or arising out of this Lease or the existence, furnishing, functioning or use by the City 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 or resulting from the negligence, bad faith or intentional misconduct of the Trustee or its employees.

Section 10.2 Further Assurances and Corrective Instruments. The Trustee and the City 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 10.3 Compliance with Requirements. During the Lease Term, the City 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 City 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 10.4 Release and Substitution of Leased Property. So long as no Lease Event of Default or Event of Nonappropriation shall have occurred and is continuing the Trustee, with the prior written consent of the Initial Purchaser, shall release any portion of the Leased Property, and shall execute all documents necessary or appropriate to convey or reconvey the same to the City, free of all restrictions and encumbrances imposed or created by any Site Lease, this Lease or the Indenture, upon receipt by the Trustee of the following: (a) a written request of the City Representative for such release, describing the portion of the Leased Property to be released; (b) a certificate of the City Representative certifying (i) 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 City to operate the Leased Property or to fulfill its obligations under this Lease, (ii) that any real property to be substituted for the portion of the Leased Property to be released will be useful in the operation of the Leased Property, and (iii) that the fair value of any real property to be substituted for the portion of the Leased Property to be released, as determined by the Council in a duly adopted resolution, together with remaining Leased Property and cash to be paid by the City to the Trustee, if any, is at least equal to the aggregate principal amount of the Certificates then Outstanding; (c) a certified copy of the resolution referred to in clauses (b)(iii); and (d) supplements and amendments to this Lease, the Indenture and any other documents necessary to subject to the lien of the Indenture any real property to be substituted for the portion of the Leased Property to be released. The City agrees that any cash paid to the Trustee pursuant to the provisions of this Section shall be deposited into the Principal Account or the Interest Account of the Base Rentals Fund, or both such accounts, as directed by the City.

Section 10.5 Tax Covenants. The City 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 City.

The City 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 City or any facilities financed or refinanced with the proceeds of the Certificates (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 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, except to the extent such interest is required to be included in adjusted current earnings adjustment applicable to corporations under Section 56 of the Tax Code in calculating corporate alternative minimum taxable income, 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 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 or defeasance of the Certificates, until the date on which all obligations of the City in fulfilling the above covenant under the Tax Code and Colorado law have been met.

In addition, the City 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 City 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 City moneys pursuant to the foregoing sentence shall be Additional Rentals for all purposes of this Lease.

The City 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 City's tax covenants herein.

Upon the occurrence of an Event of Taxability, the Certificates shall bear interest at a per annum rate equal to the Taxable Rate until such time, if at all, as the interest on the Certificates is again excludable from federal income taxation, as evidenced by an opinion of Special Counsel to such effect. The City shall also pay other expenses incurred by the Owner of the Certificates as a result of the Event of Taxability. An Event of Taxability does not include changes to the Initial Purchaser's marginal corporate tax rate.

Section 10.6 Covenant to Provide Financial Statements and Annual Financial Information. Each year during the term of this Lease, the City hereby agrees to deliver to the Initial Purchaser a copy of: (i) annual audited financial statements within two hundred ten (210) days of the City's fiscal year-end; (ii) the annual budget for such Fiscal Year, as approved by the City's governing body, within ten (10) days of such approval, but in any case prior to the commencement of each Fiscal Year; and (iii) any other financial information the Initial Purchaser requests from time to time, within a reasonable period of time after such request.

Section 10.7 Covenant to Reimburse Legal Expenses. To the extent permitted by law, the City shall defend and hold harmless the Trustee against claims arising from the alleged negligent acts or omissions of the City's public employees, which occurred or are alleged to have occurred during the performance of their duties and within the scope of their employment. 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 City shall include as Additional Rentals, the reimbursement of reasonable and necessary 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 City, or from any condition of the Leased Property caused by the City. This duty to reimburse the Trustee's legal expenses is not an indemnification and it is expressly understood that the City 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 10.8 Access to the Leased Property; Rights to Inspect Books. The City 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 City for security purposes) and all of the City's books and records with respect thereto, but the Trustee has no duty to inspect the Leased Property books or records. The City 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 City to perform its obligations under this Lease. The Indenture allows the City 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 City 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 11 PURCHASE OPTION

Section 11.1 Purchase Option. The City 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 City may exercise its option on any date by complying with one of the conditions set forth in Section 11.2.

The City 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.

If the City 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 City shall continue to pay Base Rentals, which have been specifically appropriated by the City for such purpose, as if no such notice had been given.

Section 11.2 Conditions for Purchase Option. The Trustee shall transfer and release the Trustee's leasehold interests in the Leased Property to the City in the manner provided for in Section 11.3 of this Lease; provided, however, that prior to such transfer and release, either:

(a) the City 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 City 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 City'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 11.3 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 11.2 of this Lease, the Trustee shall release and terminate the Site Lease, this Lease and the Indenture and execute and deliver to the City 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 City;
and

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

ARTICLE 12
ASSIGNMENT AND SUBLEASING

Section 12.1 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 City which consent shall not be unreasonably withheld. The Trustee will notify the City 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 13.2, without the prior written direction of the City.

Section 12.2 Assignment and Subleasing by the City. This Lease may not be assigned by the City 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 City, with the consent of the Initial Purchaser but without the necessity of obtaining the consent of the Trustee or any subsequent 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;

(b) This Lease, and the obligations of the City hereunder, shall, at all times during the Lease Term remain obligations of the City, and the City shall maintain its direct relationships with the Trustee, notwithstanding any sublease;

(c) The City shall furnish or cause to be furnished to the Trustee a copy of any sublease agreement; and

(d) No sublease by the City shall cause the Leased Property to be used for any purpose which would cause the City to violate its tax covenant in Section 10.5 hereof.

(e) Any sublease of the Leased Property shall provide that it shall automatically terminate upon a termination of this Lease.

ARTICLE 13
EVENTS OF LEASE DEFAULT AND REMEDIES

Section 13.1 Events of Lease Default Defined. Any one of the following shall be Events of Lease Default under this Lease:

- (a) failure by the City to pay any Base Rentals or Additional Rentals, which have been specifically appropriated by the City 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 City 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 City 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), for a period of 30 days after written notice, specifying such failure and requesting that it be remedied shall be received by the City 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 City within the applicable period and diligently pursued until the default is corrected; or
- (d) failure by the City to comply with the terms of the Site Lease.

The foregoing provisions of this Section 13.1 are subject to the following limitations:

- (i) the City shall be obligated to pay the Base Rentals and Additional Rentals, which have been specifically appropriated by the City 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 City 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 City's agreement to pay the Base Rentals and Additional Rentals due hereunder, the City or the Trustee shall not be deemed in default during the continuance of such inability. The City and the Trustee each agree, however, to remedy, as promptly as legally and reasonably possible, the cause or causes preventing the City 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 City.

Section 13.2 Remedies on Default. Whenever any Event of Lease Default shall have occurred and be continuing beyond any applicable cure period, the Trustee (subject to its rights and protections under the Indenture) 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 City to vacate and surrender possession of the Leased Property, which vacation and surrender the City agrees to complete within sixty (60) days from the date of such notice; provided, in the event the City 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 City:
 - (i) the portion of Base Rentals and Additional Rentals, for which a specific Appropriation has been effected by the City for such purpose, which would otherwise have been payable hereunder, during any period in which the City 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 City for such purpose, which would otherwise have been payable by the City hereunder during the remainder, after the City vacates and surrenders possession of the Leased Property, of the Fiscal Year in which such Event of Lease Default occurs.
- (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 City the amounts set forth in Section 13.2(c)(i) hereof if the City 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).

Notwithstanding the foregoing provisions or any other provisions in this Lease or the Indenture, so long as the Initial Purchaser is the sole Owner of the Certificates, the Trustee shall not take any remedial action under this Lease or the Indenture, including without limitation this Section 13.2, without the prior written consent and direction of the Initial Purchaser. Before taking any such action as directed by the Initial Purchaser, the Trustee shall be entitled to the indemnification provided in Section 8.02(m) of the Indenture.

Section 13.3 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 City by reason of an Event of Lease Default only as to the City's liabilities described in paragraph (c) of Section 13.2 hereof. A judgment requiring a payment of money may be entered against the City by reason of an Event of Nonappropriation only to the extent that the City 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 13.2 hereof. The remedy described in paragraph (c)(ii) of Section 13.2 of this Lease is not available for an Event of Lease Default consisting of failure by the City to vacate and surrender possession of the Leased Property by March 1 following an Event of Nonappropriation.

Section 13.4 No Remedy Exclusive. Subject to Section 13.3 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 13, it shall not be necessary to give any notice, other than such notice as may be required in this Article 13.

Section 13.5 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 City shall not constitute a waiver of any breach or default by the Trustee hereunder.

Section 13.6 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 City hereunder shall constitute Additional Rentals for all purposes of this Lease and shall be subject to Appropriation.

Section 13.7 Waiver of Appraisal, 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 Trustee nor the City nor any one claiming through or under either of them shall or will set up, claim or seek to take advantage of any appraisal, valuation, stay, extension or redemption laws now or hereafter in force in order to prevent or hinder the enforcement of the Indenture; and the Trustee and the City, for

themselves and all who may at any time claim through or under either of them, each hereby waives, to the full extent that it may lawfully do so, the benefit of all such laws. Notwithstanding the foregoing, it is expressly understood that the City 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 14
MISCELLANEOUS**

Section 14.1 Sovereign Powers of City. Nothing in this Lease shall be construed as diminishing, delegating, or otherwise restricting any of the sovereign powers or immunities of the City. Nothing in this Lease shall be construed to require the City to occupy and operate the Leased Property other than as lessee, or to require the City to exercise its right to purchase the Leased Property as provided in Article 11 hereof.

Section 14.2 Notices. All notices, certificates or other communications to be given hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by certified or registered mail, postage prepaid, addressed as follows:

if to the Trustee,

[_____]
[_____]
Denver, Colorado 80202
Attention: Corporate Trust and Escrow Services

if to the City,

City of Commerce City, Colorado
7887 E. 60th Avenue
Commerce City, CO 80022
Attention: Director of Finance

If to the Initial Purchaser,

Wells Fargo Bank, N.A.
1700 Lincoln Street, Suite 21
Denver, CO 80203
Attn: [_____]

The City and the Trustee may, by written notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 14.3 Binding Effect. This Lease shall inure to the benefit of and shall be binding upon the Trustee and the City and their respective successors and assigns, subject, however, to the limitations contained in Article 12 of this Lease.

Section 14.4 Amendments. This Lease may only be amended, changed, modified or altered as provided in the Indenture.

Section 14.5 Amounts Remaining in Funds. It is agreed by the parties hereto that any amounts remaining in the Base Rentals Fund, the Costs of Execution and Delivery Fund, or any other fund or account created under the Indenture (except the Rebate Fund or any other 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 reasonable fees and expenses of the Trustee in

accordance with this Lease and the Indenture, shall belong to and be paid to the City by the Trustee, as an overpayment of Base Rentals.

Section 14.6 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 City 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 City under this Lease, for which a specific Appropriation has been effected by the City 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 14.7 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 14.8 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 14.9 Severability. Except for the requirement of the City to pay Base Rentals for which a specific Appropriation has been effected by the City 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 City under the conditions set forth in Article 11 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 14.10 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. 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.

Section 14.11 Applicable Law. This Lease shall be governed by and construed in accordance with the law of the State of Colorado.

Section 14.12 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 14.13 Recitals. The Recitals set forth in this Lease are hereby incorporated by this reference and made a part of this Lease.

Section 14.14 Captions. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Lease.

Section 14.15 Trustee's Disclaimer. It is expressly understood and agreed that (a) the Lease is executed by [_____] solely in its capacity as Trustee under the Indenture, and (b) nothing herein shall be construed as creating any liability on [_____] 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 14.16 Electronic Storage. The parties hereto agree that the transaction 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.

Section 14.17 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 City, 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 City and the Trustee that any person other than the City, the Trustee or the Owners of the Certificates receiving services or benefits under this Lease shall be deemed to be an incidental beneficiary only.

Any provision in this Lease requiring the specific consent of or notice to the Initial Purchaser, or giving the Initial Purchaser and directive right hereunder, shall be applicable so long as the Certificates are Outstanding. Any consent required of the Initial Purchaser shall not be unreasonably withheld, unless specifically provided otherwise herein. This paragraph shall not be construed to deprive the Initial Purchaser of any notice or right to consent or a directive as one of the Owners of the Certificates where the consent of, notice to or directive of the Owners of the Certificates in general is required herein.

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

CITY OF COMMERCE CITY, COLORADO, [_____] , solely in its capacity of Trustee
as Lessee under the Indenture, as Lessor

By: _____
Mayor

By: _____
Senior Vice President

Attest:

By: _____
City Clerk

[CITY SEAL]

STATE OF COLORADO)
) ss.
CITY OF COMMERCE CITY)
)
COUNTY OF ADAMS)

The foregoing instrument was acknowledged before me this ____ day of [____], 2017, by Sean Ford and Laura J. Bauer, as Mayor and City Clerk, respectively, of the City of Commerce City, Colorado.

WITNESS my hand and official seal.

(SEAL)

Notary Public

My commission expires:

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

The foregoing instrument was acknowledged before me this ____ day of [____], 2017, by [____], as Senior Vice President of [____], as Trustee.

WITNESS my hand and official seal.

(SEAL)

Notary Public

My commission expires:

EXHIBIT A

DESCRIPTION OF LEASED PROPERTY

The Leased Property consists of the Site and the premises, buildings and improvements located thereon (with the exceptions noted below) as set forth below, as amended from time to time.

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

Base Rental payments are due on the 15th day of each month 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: [____], as Trustee
Attention: Corporate Trust and Escrow Services

The undersigned is the City Representative of the City of Commerce City, Colorado (the “City”). The City is the lessee under that certain Lease Purchase Agreement, dated as of [____], 2017 (the “Lease”), between the City and [____], 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 City 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 City has determined not to renew the Lease for the ensuing Fiscal Year.

Initial

CITY OF COMMERCE CITY, COLORADO

By: _____
City Representative