



**CITY COUNCIL AGENDA  
CITY HALL AUDITORIUM, 250 NORTH 5<sup>TH</sup> STREET  
MONDAY, AUGUST 30, 2010, 7:00 P.M.**

**Call to Order**

Pledge of Allegiance

Invocation – Associate Pastor J. P. Mertens, Canyon View Vineyard Church

[The invocation is offered for the use and benefit of the City Council. The invocation is intended to solemnize the occasion of the meeting, express confidence in the future and encourage recognition of what is worthy of appreciation in our society. During the invocation you may choose to sit, stand or leave the room.]

**Certificate of Appointment**

To the Riverfront Commission

**Council Comments**

**Citizen Comments**

**\*\*\* CONSENT CALENDAR \*\*\*®**

1. **Minutes of Previous Meetings**

[Attach 1](#)

*Action: Approve the Minutes of the August 16, 2010 and the August 18, 2010 Regular Meetings*

2. **Setting a Hearing on the Issuance of Certificates of Participation through the Grand Junction Public Finance Corporation to Finance Certain Improvements to Soplizio Field**

[Attach 2](#)

A first and second reading and public hearing on an ordinance will be held to consider the proposed execution and delivery of one or more series of Certificates

of Participation (COP's) in an aggregate principal amount not to exceed \$7,800,000.

The COP's represent assignments of the right to receive certain revenues pursuant to a Lease Purchase Agreement between the Grand Junction Public Finance Corporation, a Colorado non-profit corporation, as lessor and the City as lessee. The proceeds will be used to finance the construction of certain improvements to Sam Soplizio Field. The improvements include, replacing the existing press boxes, adding concourse and concession areas and adding box seating.

Proposed Ordinance Authorizing the Execution and Delivery of a Ground and Improvement Lease Agreement, a Lease Purchase Agreement, a Continuing Disclosure Certificate, an Official Statement, and Related Documents by the City; Approving the Forms of Related Documents; and Providing for Other Matters Relating Thereto

*Action: Introduction of a Proposed Ordinance and Set a Hearing for September 13, 2010*

Staff presentation: Laurie Kadrich, City Manager  
Jay Valentine, Assistant Financial Operations Manager

3. **Setting a Hearing on the Issuance of Certificates of Participation through the Grand Junction Public Finance Corporation to Finance Certain Improvements to Construct Public Safety Buildings** [Attach 3](#)

This item introduces an ordinance on August 30 and if passed for publication sets a public hearing on September 13, 2010 to consider the proposed execution and delivery of one or more series of certificates of participation in an aggregate principal amount not to exceed \$36,300,000. These certificates represent assignments of the right to receive certain revenues pursuant to a Lease Purchase Agreement between the Zions First National Bank, as lessor, and the City, as lessee. The proceeds will be used by the City to finance the construction of a police station, emergency communication center and the possible remodel of the existing shops building to serve as Fire Station #1 and the Fire Administration building.

Proposed Ordinance Authorizing the Execution and Delivery of a Ground and Improvement Lease Agreement, a Lease Purchase Agreement, a Continuing Disclosure Certificate, an Official Statement, and Certain Related Documents by the City; Approving the Forms of Related Documents; and Providing for Other Matters Relating Thereto

*Action: Introduction of a Proposed Ordinance and Set a Hearing for September 13, 2010*

Staff presentation: Laurie Kadrich, City Manager  
Jay Valentine, Assistant Financial Operations Manager

4. **Setting a Hearing on the Annexation of the Cris-Mar Enclave, Located North and East of 29 Road and F Road** [File #ANX-2010-110] [Attach 4](#)

A request to annex 108.62 acres of enclaved property, located north and east of 29 Road and F Road. The Cris-Mar Enclave consists of 265 parcels, along with 21.94 acres of public right-of-way.

Under the 1998 Persigo Agreement with Mesa County, the City is required to annex all enclaved areas within five (5) years. The Cris-Mar Enclave has been enclaved since March 2, 2005.

**a. Notice of Intent to Annex and Exercising Land Use Control**

Resolution No. 35-10—A Resolution of the City of Grand Junction Giving Notice that a Tract of Land Known as Cris-Mar Enclave, Located North and East of 29 Road and F Road, Consisting of Approximately 108.62 Acres, will be Considered for Annexation to the City of Grand Junction, Colorado, and Exercising Land Use Control

*®Action: Adopt Resolution No. 35-10*

**b. Setting a Hearing on Proposed Ordinance**

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Cris-Mar Enclave Annexation, Located North and East of 29 Road and F Road Consisting of Approximately 108.62 Acres

*Action: Introduction of a Proposed Ordinance and Set a Hearing for October 18, 2010*

Staff presentation: Brian Rusche, Senior Planner

5. **Setting a Hearing on the St. Martin's Place Veteran's Housing Rezone, Located at 415 S. 3<sup>rd</sup> Street** [File #RZ-2010-073] [Attach 5](#)

Request to rezone 0.28 acres located at 415 S. 3<sup>rd</sup> Street from C-1, (Light Commercial) to B-2, (Downtown Business) zone district in anticipation of developing the properties for multi-family dwelling units for homeless veterans.

Proposed Ordinance Rezoning St. Martin's Place Veteran's Housing from C-1 (Light Commercial) to B-2 (Downtown Business), Located at 415 S. 3<sup>rd</sup> Street

*Action: Introduction of a Proposed Ordinance and Set a Hearing for September 13, 2010*

Staff presentation: Scott D. Peterson, Senior Planner

6. **CDBG Subrecipient Contracts for Funds and Projects with the Community Development Block Grant (CDBG) 2010 Program Year** [File #CDBG-2010-04; 2010-07; and 2010-09] [Attach 6](#)

The Subrecipient Contracts formalize the City's award of a total of \$96,725 to various non-profit organizations allocated from the City's 2010 CDBG Program as previously approved by Council.

*Action: Authorize the City Manager to Sign the Subrecipient Contracts with Mesa Youth Services, Inc. (Partners – Western Colorado Conservation Corps), Homeward Bound of the Grand Valley, and Grand Valley Catholic Outreach for the City's 2010 Program Year Funds*

Staff presentation: Kristen Ashbeck, Senior Planner/CDBG Administrator

7. **Assignment of the City's 2010 Private Activity Bond Allocation to the Colorado Housing and Finance Authority** [Attach 7](#)

Request approval to assign the City's 2010 Private Activity Bond (PAB) Allocation to the Colorado Housing and Finance Authority (CHFA) for the purpose of providing single-family mortgage loans to low and moderate income persons and families. The amount of this assignment would be "banked" towards a future partnership with CHFA for a multi-family rental housing project serving low and middle income families.

Resolution No. 36-10—A Resolution Authorizing Assignment to the Colorado Housing and Finance Authority of a Private Activity Bond Allocation of the City of Grand Junction Pursuant to the Colorado Private Activity Bond Ceiling Allocation Act

*®Action: Adopt Resolution No. 36-10 and Authorize the City Manager to Execute the Assignment*

Staff presentation: Jay Valentine, Assistant Financial Operations Manager

8. **Downtown Uplift 500 and 600 Block Breezeway Construction Contract** [Attach 8](#)

This contract consists of a complete reconstruction of the Main Street 500 and 600 block breezeways including installation of new electrical panels to feed electricity to Main Street, new pedestrian lighting, construction of new plant beds,

curb, gutter, and stucco wall surfacing. This is a prelude to the larger Downtown Uplift Main Street Phase II reconstruction project that is scheduled to continue in January 2011.

*Action: Authorize the City Purchasing Division to Sign a Construction Contract for the Downtown Uplift Main Street 500 and 600 Block Breezeway Project with Martinez Western in the Amount of \$184,336.80*

Staff presentation: Tim Moore, Public Works and Planning Director  
Jay Valentine, Assistant Financial Operations Manager

**\*\*\* END OF CONSENT CALENDAR \*\*\***

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**\*\*\* ITEMS NEEDING INDIVIDUAL CONSIDERATION \*\*\***

9. **Contract Award for the Outsourcing of Printing and Mailing Services for Utility Bills** [Attach 9](#)

In an effort to move toward a more cost effective and efficient method of distributing utility bills, Staff is requesting the printing and mailing of utility bills be outsourced. Outsourcing of utility bills will result in costs savings for the City. The Customer Service Division will provide an electronic file to the vendor who will print the information and mail invoices directly to individual customers.

*Action: Authorize the Purchasing Division to Award a Contract to the Master's Touch, LLC of Spokane, Washington in the Amount of \$167,565 for Printing and Mailing Services with the note that the Actual Contract Amount May Vary Depending on Discounted Postage Rates Available*

Staff presentation: Jim Finlayson, Information Technology Manager  
Jay Valentine, Assistant Financial Operations Manager

10. **Contract Revision for Compressed Natural Gas Fast-Fill Station** [Attach 10](#)

This contract revision will provide the design and infrastructure for a new Fast-Fill addition to the Compressed Natural Gas (CNG) Fueling Station approved by City Council on August 2, 2010. This Fast-Fill addition will provide a fueling point for public and private vehicles utilizing the CNG technology.

*Action: Authorize the City Purchasing Division to Sign a Contract Revision for the CNG Fast-Fill Station Project with Gas Energy Systems, Inc. in the Amount of \$223,115*

Staff presentation: Jay Valentine, Assistant Financial Operations Manager

11. **Non-Scheduled Citizens & Visitors**
12. **Other Business**
13. **Adjournment**

Attach 1

**Minutes of previous meetings**

**GRAND JUNCTION CITY COUNCIL  
MINUTES OF THE REGULAR MEETING**

**August 16, 2010**

The City Council of the City of Grand Junction convened into regular session on the 16<sup>th</sup> day of August 2010 at 7:03 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Bruce Hill, Tom Kenyon, Gregg Palmer, Bill Pitts, Sam Susuras, and Council President Teresa Coons. Also present were City Manager Laurie Kadrich, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Coons called the meeting to order. Councilmember Palmer led the Pledge of Allegiance followed by an invocation by Pastor Harry Butler with Certain Place of Seventh Day Handy Chapel.

**Proclamations**

Proclaiming August 24, 2010 as “Soka Gakkai International-USA Day” in the City of Grand Junction

Proclaiming August 25, 2010 as “Grand Junction Crime Stoppers Day” in the City of Grand Junction

**Presentations/Recognitions**

An Award to the City of Grand Junction for the “2010 American Planners Association Colorado Excellence Award” in the Category of Outstanding Planning Project for their Work on the Comprehensive Plan

Tim Moore, Public Works and Planning Director, explained this is the first time the City has been recognized for such efforts. He described the process that took place for the development of the Comprehensive Plan with the public and which included a three day week-end session with the City Council. The Mesa County Commissioners were also in on the process. He recognized that a major share of the work was lead by Planning Manager Lisa Cox and Principal Planner David Thornton.

Planning Manager Lisa Cox recognized all the work that the City Council put into the process and noted this award is like an “Academy Award” in the planning profession.

Dave Thornton, Principal Planner, added that the awards committee really liked the Blended Map which was developed over that three day week-end. He congratulated the City Council on their hard work.

Councilmember Palmer recalled the genesis of the Plan and at that time not knowing what that would entail. He too congratulated the Staff.

President of the Council Coons thanked them and said this Plan is very important. The "City of Grand Junction Municipal Watershed Team Award" to the City of Grand Junction and US Forest Service, Grand Valley Ranger District.

Utility, Streets, and Facilities Director Greg Trainor noted that the City has had a long term relationship with the Forest Service (for the last 95 years) working on the Grand Mesa and with that introduced Connie Clementson, District Ranger with the Grand Valley Ranger District Service.

Ms. Clementson said there has been a collaborative effort between the Forest Service and the City on projects in the Kannah Creek Watershed; more recently there have been more projects implemented for the protection and conservation of the Watershed. She said that on August 3, 2010, the Grand Junction Municipal Watershed Team was recognized by the Secretary of Agriculture, Tom Vilsack at the U.S. Department of Agriculture's Annual Honor Awards Ceremony in Washington D.C. It is a prestigious award and presented to a select group of 28 nationwide within the Department of Agriculture. The City was able to send Utility, Streets, and Facilities Deputy Director Terry Franklin as the representative for the City and said he was also instrumental in getting things done in the Grand Junction Municipal Watershed. Ms. Clementson stated the City was recognized for "Ensuring Our National Forests and Private Working Lands are conserved, restored, and made more resilient to climate change, while enhancing our water resources." The City and the Team are honored "For Outstanding Community Collaboration and Accomplishment of the Forest Health-related Activities Vital to the Protection of Municipal Watersheds". She thanked the City Council for the support and then presented the "City of Grand Junction Municipal Watershed Team Award." Ms. Clementson mentioned that Terry Franklin, Greg Trainor, Rick Brinkman, and Danny Vanover deserved special recognition.

Council President Coons lauded the professionals the City has to protect the watershed.

### **Certificates of Appointments**

Craig Richardson was present to receive his Certificate of Appointment to the Urban Trails Committee.

Katie Steele was present to receive her Certificate of Re-Appointment to the Riverfront Commission, and Leila Reilly and Mary Ann Cooper were present to receive their Certificates of Appointment to the Riverfront Commission.

### **Storm Event Update**

Greg Trainor, Director of Utilities, Street and Facilities, addressed the significant rain storms that day. There were several cells that came over the Grand Valley and each



released two inches of rain per hour. Last time this happened was in 2002. Substantial capital improvements were made as a result of those floods and there would have been more issues with this storm without those improvements. Crews worked until 7:00 p.m. and will return at 6:00 a.m. to continue to clean up. There were areas of minor flooding in intersections. The drains were working properly but the volume was more than they could handle. He listed several other areas where there was significant accumulations such as South 7<sup>th</sup>, 25 ½ Road and Bass Street, 11<sup>th</sup> and Gunnison, 24 ½ Road (by the Girl Scout Office), 15<sup>th</sup> and Patterson, and The Ridges. He invited the citizens to file any other issues or complaints and described the “FIX IT” form on the web that could be utilized for that reporting.

Council President Coons expressed her appreciation for the improvements that were made and for the crews at work.

Councilmember Kenyon saw manholes on Patterson coming up with water. Mr. Trainor said those are storm drains and improvements are planned to those areas when there are resources available.

Councilmember Beckstein asked about 28<sup>th</sup> Street and North Avenue.

Rick Brinkman, Water Services Manager, said his crews responded to a hole in the road at that location and the crews were there trying to determine the cause. It was not due to leaking water or sewer lines. The hole has been patched and paved.

Council President Coons applauded the effort of the crews to fix a water line break at 10<sup>th</sup> and Ouray a few weeks ago.

### **Council Comments**

Council President Coons reminded the public that the second public forum on whether medical marijuana centers should be allowed in the City limits will be on Wednesday, August 18<sup>th</sup> at 7:00 p.m. She invited citizens to come and express their views.

### **Citizen Comments**

There were none.

## **CONSENT CALENDAR**

Councilmember Susuras moved that Council approve Consent Calendar Items #1 through #3 and then read the Consent Calendar. Councilmember Hill seconded the motion. Motion carried by roll call vote.

### **1. Minutes of Previous Meetings**

*Action: Approve the Minutes of the August 2, 2010 and the August 4, 2010 Regular Meetings*

2. **Watershed Memorandum of Understanding with United States Forest Service**

The City of Grand Junction and the United States Department of Agriculture Forest Service, Grand Valley Ranger District (Forest Service) are renewing a Memorandum of Understanding (MOU) for five (5) years towards a partnership that will ensure protection of the quality and quantity of the City's municipal water supply.

*Action: Authorize the Mayor to Sign the Memorandum of Understanding with the United States Department of Agriculture Forest Service Grand Valley Ranger District*

3. **Agreement with Mesa County Elections for the November 2, 2010 Election**

In order to place the City's ballot question(s) regarding retail sales of medical marijuana on the November 2, 2010 ballot, an intergovernmental agreement setting forth the responsibilities of the City and the County in relation to the election is required. The agreement will be null and void if the City Council decides not to place a question(s) on the ballot.

*Action: Authorize the City Clerk to Enter into an Intergovernmental Agreement with Mesa County Elections for the Conduct of the City's Special Election to be Coordinated with the General Election to be held on November 2, 2010*

**ITEMS NEEDING INDIVIDUAL CONSIDERATION**

**Public Hearing—Heritage Villas Rezone, Located at 606 ½ 29 Road, from R-4 to R-8**  
[File #RZ-2010-062]

A request to rezone 1.6 acres, located at 606 ½ 29 Road, from R-4 (Residential – 4 units per acre) zone district to R-8 (Residential – 8 units per acre) zone district. The proposed project is to provide a retirement village consisting of 10 units and a single family residence for the owner of the property.

The public hearing was opened at 7:42 p.m.

Lori V. Bowers, Senior Planner, presented this item. She described the site, the location, and the request. The rezone will accommodate the proposed site plan which has an overall density of 7.5 dwelling units per acre. She asked that the Staff Report and attachments be entered into the record. The request meets the criteria for right-of-way vacations in the Grand Junction Municipal Code. The Planning Commission recommended approval on July 13, 2010. The applicant was present but did not need to make a presentation.

Councilmember Palmer said he visited the site and it seemed tight to fit all the units. Ms. Bowers responded with the size and style of housing, it will meet the required setbacks. Councilmember Palmer asked if the parcel to the north will be landlocked. Ms. Bowers stated that they will not allow landlocked parcels.

City Attorney John Shaver added any development approval will not allow a landlocked parcel and that access will come forward with the development application. This is only the zoning action at this time.

Councilmember Susuras asked if there were any objections at the neighborhood meeting for this project. Ms. Bowers said there were some comments that were not in favor of the density but they were also excited about possibly being able to get a rezone on their property.

The applicant did not wish to speak.

There were no public comments.

The public hearing was closed at 7:47 p.m.

Ordinance No. 4432—An Ordinance Rezoning Heritage Villas from R-4 (Residential 4 Units per Acre) to R-8 (Residential 8 Units per Acre) Located at 606 ½ 29 Road

Councilmember Susuras noted that the proposal allows for a greater mix of housing types which is a goal of the Comprehensive Plan so he is supportive of it.

Councilmember Palmer said that although it seemed like there could be a potential problem, his question has been answered and he is also supportive of it.

Councilmember Hill noted it also provides a buffer between the businesses and residential area. He supports the proposal.

Councilmember Palmer moved to adopt Ordinance No. 4432 and ordered it published. Councilmember Beckstein seconded the motion. Motion carried by roll call vote.

**Public Hearing—Lee/Bell Rezone, Located at 315 Ouray Avenue from R-O to B-2**  
[File #RZ-2010-066]

A request to rezone 0.14 acres, located at 315 Ouray Avenue, from R-O (Residential Office) zone district to B-2 (Downtown Business) zone district to allow retail sales in a gallery within the home.

The public hearing was opened at 7:49 p.m.

Lori V. Bowers, Senior Planner, presented this item. She described the site, the location, and the request. The rezone will allow the applicants to remain living in their home and provide a “mixed use” by providing retail sales in a gallery setting in their home. She asked that the Staff Report and attachments be entered into the record. The request meets the criteria for right-of-way vacations in the Grand Junction Municipal Code. The Planning Commission recommended approval on July 13, 2010. The applicant was present but did not wish to speak.

There were no public comments.

The public hearing was closed at 7:50 p.m.

Councilmember Palmer asked about it being a traditional residential neighborhood, was it contemplated in the Comprehensive Plan that this allow traditional retail, that is a destination location, or was it contemplating more service-oriented business? City Attorney Shaver responded if it allowed on the zone matrix, it is allowed.

Councilmember Palmer asked if this property is within the Downtown Development Authority boundaries. City Attorney Shaver answered it is not.

Councilmember Susuras supports the proposal as it meets the Comprehensive Plan Goal of promoting vitality to the downtown area, and the future land use map does identify this area for mixed use.

Ordinance No. 4433—An Ordinance Rezoning the Lee/Bell Property from R-O (Residential Office) to B-2 (Downtown Commercial), Located at 315 Ouray

Councilmember Beckstein moved to adopt Ordinance No. 4433 and ordered it published. Councilmember Hill seconded the motion.

Council President Coons noted this is a transitional area.

Motion carried by roll call vote with Councilmember Palmer voting NO.

### **Great Outdoors Colorado (GOCO) Grant Application for Stadium Re-development**

The Parks and Recreation Department is seeking approval to apply for grant funding through Great Outdoors Colorado (GOCO) for assistance with the re-development project at Suplizio Field and Stocker Stadium. A resolution from the governing entity must be approved and attached prior to grant submission. This grant application is due August 27<sup>th</sup> with awards scheduled to be announced in December 2010. During this upcoming grant cycle, GOCO is offering a ‘Special Opportunities Grant’ for park renovation projects. The maximum award for this grant is \$700,000.00.

Rob Schoeber, Director of Parks and Recreation, presented this item. He stated this proposal will allow the Department to apply for a grant to renovate a large portion of the

stadium which was constructed in the late 1970's and early 1980's. The complex serves as a regional facility for the entire valley. He described the timing of the grant. It is anticipated this will be a very competitive grant cycle due to the economy. The money can be used for parks and recreation projects only.

Councilmember Susuras asked about the matching funds. Mr. Schoeber said it is a 70-30 match but ten percent must be cash. The cash match has already been provided by the Parks Improvement Advisory Board.

Resolution No. 32-10—A Resolution Supporting the Grant Application for a Special Opportunity Local Parks and Outdoor Recreation Grant from the State Board of the Great Outdoors Colorado for the Suplizio Field/Stocker Stadium Re-Development Project

Councilmember Kenyon moved to adopt Resolution No. 32-10. Councilmember Palmer seconded the motion. Motion carried by roll call vote.

### **Amending Ambulance Transportation Fees**

The Fire Department is requesting Council adopt a resolution allowing the City to charge the most recently established Mesa County ambulance transport fees when providing ambulance transport services.

Ken Watkins, Fire Chief, presented this item. Chief Watkins said that with the adoption of this resolution it will help keep fees current and ensure consistency with the fees charged by all other ambulance transport providers in Mesa County. Currently the Mesa County resolution adjusts rates every March. The City has been adjusting their rates to match the County in the fall to take effect in January. This schedule causes the City to be about nine months behind the current fees. The resolution will allow those rates to be adjusted at the same time Mesa County makes the adjustment.

Councilmember Palmer, who sat on the EMS Council, wanted clarification that the City does not set the rates; the EMS Council makes a recommendation to the County. These rates apply to all of the agencies providing this service. Chief Watkins added the rates are adjusted based on the Consumer Price Index (CPI).

Council President Coons asked if the City is the last agency to adjust their rates. Chief Watkins said he cannot account for every entity but he can say that most of the agencies adjust their rates when the County sets the new rates.

City Manager Laurie Kadrich explained the time sequence that occurred last year. The budget was adopted with the old rates and then Mesa County increased the rates.

Chief Watkins said a request was made to the EMS Council to adjust their schedule to be in line with budgeting season but they responded they could not as they must wait for the CPI to come forward.

Councilmember Kenyon asked if the adjusted rates will come before Council or will it be an automatic increase.

City Attorney Shaver said it will be adjusted automatically and then Council will be updated during the budget discussions.

Councilmember Kenyon supported the proposal.

City Manager Kadrich noted that the City Council does have a representative on the EMS Council so real time information can be brought back to the City Council.

Resolution No. 33-10—A Resolution Amending Ambulance Fees in the City of Grand Junction, Colorado and Creating a Mechanism for Those Fees to Increase as Increases are Approved by Mesa County

Councilmember Palmer moved to adopt Resolution No. 33-10. Councilmember Susuras seconded the motion. Motion carried by roll call vote.

### **Ratification of a Contract for the Sale of Property at 635 Grand Avenue**

The City has entered into a contract with Salon Capelli LLC for the sale of the real property (vacant) located at 635 Grand Avenue. The City has owned the property since 1996 and is no longer using the property. Sale of the property will allow a commercial use of the property.

John Shaver, City Attorney, presented this item. He reviewed the history of the property and noted that the City Council had declared the property as surplus. Early in 2010 the City advertised that it would accept offers or proposals for the use or development of the property and at that time no offers were received. Recently the City was approached by an individual who is buying the old Studio 119 building for Salon Capelli and she asked to lease the property for parking. Upon further discussion, she extended an offer to purchase the property for \$65,000. The City purchased the property for \$45,000 and will not be paying realtor fees for the transaction. He added a correction to the contract, it is a liquidation damages contract instead of a specific performance contract.

Councilmember Susuras asked what the City policy is on obtaining an appraisal. City Attorney Shaver said the Property Committee determined an appraisal would not be necessary on this size property. The Property Committee did review the offer and recommended it be presented to City Council.

Councilmember Kenyon asked when will there be a contract. City Attorney Shaver said the City has a signed contract if the action is ratified by the City Council.

Resolution No. 34-10—A Resolution Authorizing the Sale by the City of Grand Junction, Colorado, of Certain Real Property; Ratifying Actions Heretofore Taken in Connection Therewith, Located at 635 Grand Avenue

Councilmember Kenyon moved to adopt Resolution No. 33-10. Councilmember Palmer seconded the motion. Motion carried by roll call vote.

**Non-Scheduled Citizens & Visitors**

There were none.

**Other Business**

Council President Coons reminded the public about the public forum on medical marijuana on Wednesday, August 18<sup>th</sup>.

**Adjournment**

The meeting adjourned at 8:11 p.m.

Stephanie Tuin, MMC  
City Clerk

**GRAND JUNCTION CITY COUNCIL  
MINUTES OF THE REGULAR MEETING**

**August 18, 2010**

The City Council of the City of Grand Junction convened into regular session on the 18<sup>th</sup> day of August 2010 at 7:00 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Bruce Hill, Tom Kenyon, Gregg Palmer, Bill Pitts, Sam Susuras, and Council President Teresa Coons. Also present were Acting City Manager Utilities, Streets and Facilities Director Greg Trainor, City Attorney John Shaver, and City Clerk Stephanie Tuin. City Manager Laurie Kadrich was absent.

Council President Coons called the meeting to order.

**Public Forum on Medical Marijuana**

Council President Coons welcomed the public and stressed the importance of citizens weighing in on the subject. She then explained the purpose and the format of the meeting. She explained how she will solicit comments. The first meeting went smoothly; people were very courteous and civil. As far as ground rules, there are sign in sheets; she will limit comments to three to five minutes so the Council can hear from as many people as possible. She will call three people at a time. There will be a short break every hour or so.

The City Council has three options: ban, to allow but regulate, or refer the issue to the ballot and ask the citizens. The Council will discuss whether to put this issue on the ballot at the end of the public forum. She asked that cell phones be silenced.

The public forum was opened at 7:04 p.m.

Michael Edwards, 227 White Ave, # 8, said he is a patient and there was a meet and greet Saturday for folks to come down and meet the patients and no one showed up. Eventually one Councilmember did show up. Mr. Edwards gave his history and how he worked his way up. In 1999, he was diagnosed with leukemia and he did what the doctors told him to do and it made him so he couldn't function for 9 ½ years. He was told to try marijuana which he refused for a long time. When he did finally try it, it gave him the ability to sleep for more than thirty minutes. Marijuana allows him to be a little bit active during the day. His dispensary gives him the personal touch and he described it as his safe zone. He contended that the bars have more police call outs than any dispensary has had.

Micah Rosen-Wolfe, 1035 Ute #2, agreed with the previous speaker and told his story on how he switched from narcotics to medicinal marijuana and how it has improved his life. When he was on narcotics, he was "alive" but felt mentally numb. He was unable to do anything. Since making the switch, there has been a big change. He still hurts but not as bad and he sleeps at night. He has a better handle on his depression.



Duane Salazar, 7840 BMX Road in Whitewater, had a stroke 2 ½ years ago and was on thirteen different medications, and has brain damage. Dusty Higgins, as his caregiver, came forward to help Duane with his story. Mr. Higgins said these are the people being affected. Mr. Salazar said it feels like he has an earache every night and marijuana helps with the pain. It is his belief banning dispensaries will allow the Mexican cartel to come back into the community.

Betty Beiderschies is a teacher representing children. Her views are the opposite of the previous speakers. She thanked the Council for allowing the public to speak. She encouraged solutions. She doesn't like the smell of marijuana. She is concerned about the use of marijuana; it is a big social issue. Marijuana is not a benign drug, it is an addiction and it interferes with brain function. She described a situation where a shopkeeper came out and offered her friends marijuana. It has intoxicating effects. In school, they see short attention spans with students using marijuana. Smoking marijuana deposits 50% more carcinogens than tobacco. She provided statistics of doctors providing referrals for cards and other information to the City Clerk.

Linda Gregory, 3057 ½ Gunnison, read a statement about our founding fathers. She feels medical marijuana is wrong; it is in direct conflict with federal law. It is her understanding that medical marijuana is being sold by people who are not medical doctors. She visited a website at 420Exam. On that website, there was a real medical doctor and the customer's medical records had to be available. The website listed the reasons for prescribing medical marijuana and the reasons not to prescribe.

Cathie Jorgensen, 954 24 Road, had presentation packets she distributed to the City Council. She felt the law opened the door; she disputed that it was the right thing to do. She said it is still on the controlled substances list of the federal government. She thought it was a mistake to allow it. She said there is a campaign to completely legalize marijuana. The dollars are not important when one considers the damage it can do to the youth. There are thousands of articles about the dangers.

Charlene Jilgee, 2910 North Avenue, has a loss of memory and her daughter was going to put in her a nursing home until they bought her some "medicals". She no longer needs to go to a nursing home. She does not smoke it, she just uses the "medicals". It has done her a world of good.

Sue Benjamin, 664 Canyon Creek Drive, said she has a concern about the proliferation of marijuana in the community. It is more available to children and it is much stronger and creates a longer and stronger high. She is not against those that have pain to get relief from medical marijuana. Several of her nurse friends say that the pills work just as well as smoking the drug. She believes many are faking pain to get marijuana for recreational use; it is worse than smoking cigarettes. She does not want marijuana to be part of the culture.

Craig Droskin, a dentist in Grand Junction, read a statement. Since there has been time to assess the impact of the dispensaries in the community, he suggested it should be held to the same standard as regular prescription medicine. If medical marijuana is to be legitimate, it should have legitimate doctors prescribing and seeing the patient in person. It should also be dispensed by a pharmacist, a controlled number of dispensaries run by a licensed pharmacist. He said the shops are encouraging illicit use with t-shirts and glass blown paraphernalia. He said other towns want to have the dispensaries in their town; he is ok if they go to other towns. He suggested that both dispensaries and caregivers should be shut down.

Dana Hicks, 515 Court Road, Apt. 201, has been a patient for six months, has back pain and cluster migraines. She has been given medicine at the hospital which makes her more nauseous and it doesn't work for her. Medical marijuana helped her be able to socialize and not stay in a dark room. The medicine given to her by the doctors makes her go to sleep and she is not able to help raise her son. Her doctor did see her personally and spent over three hours with her to determine if she needed the medical marijuana. Those that want to get marijuana; they will get it with or without dispensaries. She believes most are not faking it, it helps her, and it helps the pain to go away so she can function. Her mother was addicted to prescription pain medicine and overdosed many times. Since being on medical marijuana, she has not had those issues.

Chris Eklund, homeless, disabled civilian and veteran, described all the surgeries he has had and the reason he has long hair is he grows it and donates it to "Locks of Love". He also has cancer. He compared drunk drivers that kill people and no one smoking marijuana has done that. He agreed that there will be good and bad with the dispensaries but he encouraged the Council to allow the dispensaries.

Richard Paedovich, 640 Clearwater Court, stated he has 35 years of experience in law enforcement. He said marijuana leads to more serious drugs that destroy families. He has a condition and he survives with Advil and prayer and encouraged folks to use prayer.

Brian Mellon, 3222 D ½ Road, Apt. 905, said he does not take medical marijuana himself but he is not against it. He has experience of knowing people that use medical marijuana instead of a long list of medicines. He does not think the dispensaries that provide to just anyone should be in business. The legitimate ones that dispense to those that have seen a real doctor should be allowed to operate. To him, "Pandora's Box" is methamphetamine and it is rampant. Those that get marijuana off the street, they don't know what it is laced with, and that is a "gateway" drug. By allowing the centers, the Council will do something for someone who needs it. No one is making anyone use it who doesn't want to or need it. He encouraged they do something to help someone else.

Alan Dobbs, said he was told by his doctors that he could get a medical marijuana card. He was in the Marine Corps and also did rodeo in the past and his knees, shoulders,

and back are bad. Mr. Dobbs said he has a speech problem. He has gone to get a card because he is afraid they might be prohibited in the future. He has seen the affects of medical marijuana and it helps people to be normal for that day. His grandmother had cancer multiple times and was on a long list of pain killers and she was just a shell of a person. The last time she got cancer, she tried medical marijuana and it made a world of difference for her quality of life. This is another alternative to help people.

Penny Stine, 2644 Hickory Drive, said she wrote an article about marijuana two weeks ago in the Daily Sentinel. Since then she has been villified in cyberspace and has also received calls supporting her position. She said marijuana hurts people; it helps kids to think that is it a healthy choice and that it is a benign drug. She read from an article. The people most likely to abuse it are kids. She described her experience with her son using marijuana and how he changed and ultimately killed himself. With her research and speaking at Partners, she learned children think of marijuana as no worse than an aspirin. The kids at Partners told her it is easy to acquire and all of them knew someone with a medical marijuana card. One 17 year old even had their own card. They did not believe the statistics she gave. She said society is losing a generation of kids.

Council President Coons called a recess at 8:10 p.m. She called the meeting back to order at 8:24 p.m. and reminded everyone of the ground rules.

Dr. Larry Putz, 2121 Barberry, essentially agrees with the dentist who spoke previously; marijuana should be prescribed and regulated like any other drug. A caregiver has to do something more than just provide the drugs. They should have knowledge of the effects of drugs on behavior.

Teika Roach, 344 South Avenue, #4, said she is a mother of three and has worked varied jobs and was raised by two very strict parents. When she was a teenager she experimented with marijuana. After marijuana, she went from a zero to a four point grade average. She is a medical marijuana patient, who has suffered two concussions. She described her daughter's allergy to most prescription medicines. She agrees it should be regulated but it must be legalized before the FDA will regulate it. She would rather use natural remedies.

Linda, (did not give her address or last name), lives in Mesa County, said she knows that there are people that marijuana helps but believes it should be regulated. She used to think pot was pretty harmless until she saw the affect on her child and other children's lives. Her son was diagnosed as "addicted to cannabis." Most smokers also do other drugs. Many kids have medical marijuana cards and then they are selling marijuana to other teens. Prescriptions are not a lifetime script and have a doctor overseeing it as opposed to medical marijuana cards. As a result of the accessibility, it will result in more crime.

Andrew Maran, 1236 Bookcliff, D6, said he has 28 townhomes and 30 rental units and about 40 to 50% are occupied by student tenants. He and his wife live on site and have witnessed the affects of marijuana. Invariably when a tenant struggles, there are signs of marijuana use. Many of the tenants used to be athletes. They have stopped as a result of marijuana use. The football team at Mesa State with their athletes struggle with marijuana use. From the anecdotal evidence he believes this a real problem for not only the community but also on campus.

Scott Anderson, P.O. Box 1268, Colorado Springs, said he is a real outdoors man in Colorado. He signed himself out of a foster care program and hasn't seen a doctor in twenty years, after being forcibly medicated while he was growing up. Gateway drugs like methamphetamine are readily available. It is going to be on the streets one way or another. It is a good idea to regulate marijuana.

Ben Dowdy, a caregiver, said there is a lot of negativity toward the caregivers as an alternative to the dispensaries. Until about a month ago, dispensaries were supplied by the caregivers. A caregiver provides free medicine; the dispensaries charge a black market rate. He said the people voted in Amendment 20 and this should go to a vote of the people.

Dave Miller, 2713 B ½ Road, said that he was lucky in his military career. His father wasn't so lucky, and got an illness where the doctors said his legs had to be amputated. Thirty years later when his dad got cancer, he told his dad to use medical marijuana. He described two other products, ginger ale and arsenic, that were used as medicine in the past. He would like to see the dispensaries say what type of regulation they wanted to see for their industry and he hasn't heard that at all. It bothered him that some said it should not be put to a vote. He believes it should be a three position vote – should we ban it, allow it but don't regulate it, or allow it and regulate it. He thinks it should be regulated.

Natasha Simmons, 1136 Colorado Avenue, is a caregiver for five people in Mesa County and has never smoked marijuana. She does it as a service for her family and close friends. Some of her patients cannot get to a dispensary. She would like a legal way to dispose of her excess marijuana legally as she has been broken into and she doesn't do it for the money. She only wants to help people. In reference to children getting marijuana, this isn't the issue, it's already out there and they will continue to get it. The voters have already said it should be legal back in 2000; the door has already been opened. The patients have already been given a gift, don't take it away. To her knowledge there is no lifetime prescription. Her patients go back every year and see a licensed physician with their medical records, as she has gone with them as their caregiver. She asked the Council not to take it back.

Julie Hoggatt submitted written comments.

Joe Niehuser submitted written comments.

John Davis, 1023 24 Road, said he has heard a lot of heartfelt stories and wishes he could help each one of them. He has had cancer twice and had many chemo treatments, and has never needed marijuana. Mr. Davis believes this should be put to a vote of the people.

Edward Sonia stated he has a lot of concern on this and is a medical marijuana user. He is diagnosed with ADHD, bi-polar, and rage. This is from what he has been through growing up. He also has nerve damage from the beatings he received. Everything on the right side of his body can't be used. He has photophobia and because of marijuana he is able to play with and see his kids. He started smoking in January and is now dealing with his pain, slowly. Marijuana has helped him and others. He is currently going through a divorce because his wife doesn't want to see him in pain. He also had a letter from his wife which Council President Coons said to give to the City Clerk, which he did.

Neal Kaspar, 503 Riverview Drive, thanked Council for the opportunity to come before them and speak. This kind of a forum is a little bit curious; there has been a significant input of anecdotal information. His major concern is for the children as he has spoken with the City Council and City Attorney before when a center was proposed to go within 200 feet of their school, but by working with everyone, the center relocated. There is another kind of solution, unfortunately it is not for our City, and that would be working one on one. He believes our creator and redeemer has designed things in the world for a reason and a purpose and they don't always work out well. He has strong values and there is mixed messages being set in front of our children; it is difficult when it is right in front of them. He does not think it is a good thing for the community and that regulations need to be in place in order to have safe school zones. He encouraged the Council to take a step backward and have a hard look at this issue. He would like to see it taken to a vote to the people of the City.

Barbara Murdock, 273 Arlington Drive, a massage therapist in Grand Junction for twelve years, said she has had three major car accidents and is in pain everyday. She works with exercise and does not want marijuana compared with natural remedies. Homeopathic remedies have been compared to marijuana but homeopathic remedies can help the body, they do no harm. She went into a store that said Natural Healing. They offered her marijuana. The voters voted for medical marijuana, not for pot shops on every corner. She does agree it might be for someone in the last stages of their life, but that is between the patient and their doctor. The proliferation of the dispensaries is ridiculous and anyone going in, they are offering to try marijuana. It is a drug that needs to be regulated, in pharmacies and with real prescriptions. She said this is a great City and she has raised her kids here. It is the responsibility of the City Council to take care of this, if not, it will turn this City into what is happening on the street corners.

Jeannie Christensen, 178 ½ Glory View Drive, thinks there is a lot of abuse. She related some stories of people she knows with cards and she sees teenagers that are smoking marijuana with anger issues. There is a facility at 6<sup>th</sup> and North with the high school at 5<sup>th</sup> and North, why was this allowed? She believes that the 24 dispensaries in the valley is in excess; there should maybe three, four, or five for people that really need it. Her dad has

cancer and he does not use marijuana. She is sorry that some people in the valley have reasons to use it but also believes there is a lot of abuse.

Stacy Womack lives in Loma and is a mother. She wanted to complain about how the dispensaries market the products. She read a number of the names; it should not be marketed with cutesy names and enticing names. The advertising is directed at the kids. As a parent she has plenty to teach her kids without having dispensaries making the places look inviting and offering discounts. She is against this being approved.

Wendell Cole, who was born in Lake County, lives here in Grand Junction now. He has been a user of marijuana for over thirty years. While using, he has been a truck driver and works on machinery. He described his various ailments and injuries and marijuana helps him and he has never caused an accident. His dad and grandmother both died of cancer. He raised three kids by himself and went back to school all while on marijuana. It is his constitutional right to make these choices.

Mark Bonella, 973 27 ½ Road, is a local business owner. He feels sorry for those that have cancer but he is a father of three and does not want dispensaries near his home, school, or business. He does not want more opportunity for kids to get it; he feels it is already too easy to get the drugs. Listening to the caregivers, they do it for love, not the money. The dispensaries are all about the money, they are legalized drug dealers. The caregivers can still provide to the people who really need it.

James Thomas, 552 Gunnison, said prohibition was a failure and it was fixed. The war on drugs is a failure. It's his job as a parent of two kids to teach them to be safe, productive citizens. He does not want this Council, as elected officials, to send a hypocritical message. Marijuana is a more benign drug than all that is out there. It is ok for an adult to get high if they choose. He believes in making it legal as the whole prohibition thing is a failure.

Diane Cox, 3641 E ½ Road, Palisade, reminded Council that the constitutional right is only for caregivers. It was President Obama's statement that they will not prosecute on this law that changed things. Information she got was the average age of card holders is 25 years old, not representative of who really needs the drug. It is very addictive and sales are lucrative. The Legislature passed HB 1284 to allow local government to limit or ban the dispensaries. If it is a medicine, it belongs in pharmacies. She suggested the Town Council and County Commissioners offer this to the voters expressing it needs to be re-examined. If there was anything the founding fathers did believe in, it is representative government and letting the people have a voice.

Jim Linden, 3244 Front Street, Clifton, said he is a veteran, 67 years old, disabled, is in constant pain, has PTSD, and depression. The VA does very little except give him narcotics. Medical marijuana provides relief to him for the pain, the depression he has, and the PTSD. The VA is still against marijuana even though they have been told otherwise. The VA has told him, if caught using it, he will be kicked out. The gateway drugs to him were alcohol and cigarettes given out by the armed forces. There needs to

be more rules and regulations and the fees being charged are out of line. What they are doing is hurting the patients. The State government takes over six months to send out the licenses. He believes rather than trying to cut the number of dispensaries, just the opposite should be done. Increase and this will increase the competition as he is on a very limited income.

There were no others signed up to speak.

Council President Coons thanked everyone for coming and called a recess at 9:32 p.m. After which Council will come back and deliberate the matter.

The public forum was closed at 9:32 p.m.

Council President Coons reconvened the meeting at 9:41 p.m. Council President Coons explained the Council will be deliberating the rest of the evening.

Councilmember Beckstein asked about the time frame for the Council to make a decision. City Attorney Shaver advised that the wording for the ballot must be certified to the County by September 3, 2010.

Councilmember Palmer said he heard lots of views and perspectives. In talking strictly about the ballot is good as he needs time to digest what he has heard. He feels that the matter should not be sent to the ballot; they as a Council should not wait until November and spend up to \$100,000 for that decision. It is the Council's duty, and the voters voted them in to make decisions. It is his intention to move that they do not recommend this issue to go to ballot. The responsibility and obligation rests with this body.

Councilmember Susuras agreed, after much consideration, this is a representative form of government and most voters want them to make the decision whether to ban or regulate medical marijuana which will be at a later date. They have been given input and material and they have enough information to make a decision without going to the ballot. It could cost \$40,000 to \$111,000 and he would rather spend the money on something other than a ballot issue. He will vote against placing it on the ballot.

Councilmember Pitts said he is opposed to putting the issue on the ballot; he thinks Council should make the decision.

Councilmember Hill would like to clarify when Diane Cox spoke she was right on point; the Constitutional question was silent on dispensaries so opting out is a different issue. He is not deciding based on the money issue, but if it is the right thing to do. He was elected to make decisions for this community for the greater good and especially difficult decisions. He is against sending it to the ballot.

Councilmember Kenyon agreed and one of the reasons is, since the moratorium, the Council has spent a lot of time working with CML, the legislators, and the communities

and Council is well-prepared to deal with this issue. He was elected to make decisions so he will not be in support of putting it on the ballot.

Councilmember Beckstein agreed that it has been said well by other Councilmembers. As a Council they have received a lot of information and had two hearings. It is now the time to take the information and she doesn't feel the ballot title can be formulated efficiently by the September 3<sup>rd</sup> deadline, so she does not support it going to the ballot in November.

Council President Coons said this is a representative democracy and the Council has been elected to not vote their own personal beliefs but for the good of the community so it is their responsibility to make this decision. This can be done more timely without waiting until November.

Councilmember Palmer moved to submit a ballot question for the November election on medical marijuana. Councilmember Hill seconded. Motion failed unanimously.

### **Adjournment**

The meeting adjourned at 9:55 p.m.

Stephanie Tuin, MMC  
City Clerk





Date: 8/13/10  
 Author: Jay Valentine  
 Title/ Phone Ext: Asst. Fin. Ops  
 Mgr. x 1517  
 Proposed Schedule: August  
30, 2010  
 2nd Reading September 13, 2010

**Attach 2**  
**Setting a Hearing on the Issuance of Certificates**  
**for Suplizio Field**

**CITY COUNCIL AGENDA ITEM**

<b>Subject:</b> Issuance of Certificates of Participation through the Grand Junction Public Finance Corporation to Finance Certain Improvements to Suplizio Field
<b>File # (if applicable):</b>
<b>Presenters Name &amp; Title:</b> Laurie Kadrich, City Manager Jay Valentine, Assistant Financial Operations Manager

**Executive Summary:**

A first and second reading and public hearing on an ordinance will be held to consider the proposed execution and delivery of one or more series of Certificates of Participation (COP's) in an aggregate principal amount not to exceed \$7,800,000.

The COP's represent assignments of the right to receive certain revenues pursuant to a Lease Purchase Agreement between the Grand Junction Public Finance Corporation, a Colorado non-profit corporation, as lessor and the City as lessee. The proceeds will be used to finance the construction of certain improvements to Sam Suplizio Field. The improvements include, replacing the existing press boxes, adding concourse and concession areas and adding box seating.

**How this item relates to the Comprehensive Plan Goals and Policies:**

**Goal 10:** Develop a system of regional, neighborhood and community parks protecting open space corridors for recreation, transportation and environmental purposes.

Sam Suplizio Field and Ralph Stocker Stadium are in the core of Lincoln Park, which is one of the largest open space and recreation sites in Grand Junction. provide sports and special event facilities for the entire community. Refurbishing and improving this shared community asset

**Goal 12:** Being a regional provider of goods and services the City and County will sustain, develop and enhance a healthy, diverse economy.

Sam Suplizio Field and Ralph Stocker Stadium provide sports and special event facilities for the entire community as well as the region. Refurbishing and improving this shared community asset will ensure the continued use and attraction of these facilities.

**Action Requested/Recommendation:**

Introduction of a Proposed Ordinance and Set a Hearing for September 13, 2010

**Board or Committee Recommendation:**

The Grand Junction Parks Improvement Advisory Board has pledged support for this project through a donation of \$250,000 at their Board Meeting on June 22, 2010.

**Background, Analysis and Options:**

The proposed re-development of Suplizio Field and Stocker Stadium involves several elements including grandstand refurbishment and hospitality areas. The project will emphasize the improved safety and accessibility of all amenities including seating, restrooms, dugouts, and concession areas. A re-development project was first presented in 2008 at an estimated cost of \$16 million; however, due to a change in the scope of the project and construction cost savings, the project cost has been revised to \$8.3 million. If approved, the project will be led by Grand Junction Baseball Inc. and financed through the Grand Junction Public Finance Corporation.

Sam Suplizio Field and Ralph Stocker Stadium is a multi-use facility that is shared by many users in the valley including Mesa State College, School District 51 and the City. Because of this shared use it provides a great value to the citizens and taxpayers of the community. These facilities are home to many special events throughout the year, including the National Junior College World Series which has been hosted in Grand Junction for over 50 years. The improvements will keep the facilities as a premier multi-user venue for at least the next 25 years.

The project will be financed by the Grand Junction Public Finance Corporation pursuant to a Ground and Improvement Lease Agreement between the City as lessor and the Corporation as lessee. The City will lease back the improved facilities pursuant to the Lease.

The issuance of Certificates of Participation (COP) through the Grand Junction Public Finance Corporation (GJPFC) will enable the City and Grand Junction Baseball Inc. to obtain funding for these public capital improvements. Capital assets may be acquired in one of two ways: by entering into a rental agreement to obtain use, but not ownership, of the asset; or by purchasing the asset, either outright or through a financing arrangement, to obtain use and ownership. Tax-exempt leasing involving the sale of COPs uses both methods. The GJPFC will sell lease revenue to raise the

proceeds necessary to construct the capital improvements. When the facility is constructed and ready for use, the City will lease the facility from the GJPFC. Unlike bonded debt, these lease payments by the City to the GJPFC will be subject to annual appropriation. At the end of the lease, the City will own the improved facilities outright.

**Financial Impact/Budget:**

The stadium improvements are projected to cost \$8.3 million. Of this amount, donations and grant funding are expected to cover \$1 million of the project. The Grand Junction Parks Improvement Advisory Board has pledged a donation of \$250,000 towards the \$1 million and recently the City applied for a Great Outdoors Colorado (GOCO) grant in the amount of \$700,000 that if awarded would go towards the \$1 million as well. The remaining amount after grants and contributions would be financed. The repayment of the amount financed will be in the form of lease payments over a 25 year time period. The annual lease payments will not exceed \$550,000 per year. Grand Junction Baseball Inc. has committed to \$300,000 annually and the City intends to use Lottery funds, which are restricted to parks and open space projects only, to make the remainder of the lease payment.

**Legal issues:**

Neither the lease nor the COP's constitute a general obligation, or other indebtedness or multiple fiscal year obligation of the City within the Colorado Constitution, statutes or City Charter. The lease is subject to annual renewal.

**Previously presented or discussed:**

The Stadium Improvement Project has most recently been discussed by the City Council on May 17<sup>th</sup>, 2010 and July 7<sup>th</sup>, 2010. Prior to those discussions, improvements to the facilities have been a long identified need.

**Attachments:**

Ordinance  
Ground and Improvement Lease Agreement  
Lease Purchase Agreement  
Indenture of Trust  
Continuing Disclosure Certificate

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A GROUND AND IMPROVEMENT LEASE AGREEMENT, A LEASE PURCHASE AGREEMENT, A CONTINUING DISCLOSURE CERTIFICATE, AN OFFICIAL STATEMENT, AND RELATED DOCUMENTS BY THE CITY; APPROVING THE FORMS OF RELATED DOCUMENTS; AND PROVIDING FOR OTHER MATTERS RELATING THERETO.

RECITALS:

1. The City of Grand Junction, Colorado (the "City"), is a home rule city duly existing under the Constitution and laws of the State of Colorado and its City Charter (the "Charter").

2. The members of the City Council of the City (the "City Council") have been duly elected or appointed and qualified.

3. The City has the power, pursuant to Section 2(f) of the Charter and Sections 31-1-102 and 31-15-713(c), of the Colorado Revised Statutes, as amended, to lease any real estate owned by the City, together with any facilities thereon, when deemed by the City Council to be in the best interest of the City.

4. The City owns, in fee title, certain real estate commonly referred to as Lincoln Park, together with the buildings and other improvements located within Lincoln Park (collectively, and as more specifically described in the Ground Lease described herein, the "Site").

5. The City Council has determined, and now hereby determines, that it is in the best interest of the City and its inhabitants for the City to lease, as lessor, the Site and certain improvements to be constructed and installed thereon (collectively, the "Leased Property"), to Grand Junction Public Finance Corporation, a Colorado non-profit corporation (the "Corporation"), as lessee, pursuant to a Ground and Improvement Lease Agreement (the "Ground Lease"), and lease back the Corporation's leasehold interest in the Leased Property pursuant to the terms of a Lease Purchase Agreement (the "Lease") between the Corporation, as lessor, and the City, as lessee.

6. Pursuant to the Lease, and subject to the right of the City to terminate the Lease and other limitations as therein provided, the City will pay certain Base Rentals and Additional Rentals (as such terms are defined in the Lease) in consideration for the right of the City to use the Leased Property.

7. The City's obligation under the Lease to pay Base Rentals and Additional Rentals 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; and shall not

constitute a general obligation or other indebtedness or a multiple fiscal year financial obligation of the City within the meaning of any Charter, constitutional or statutory limitation or requirement concerning the creation of indebtedness or any multiple fiscal year financial obligation, nor a mandatory payment obligation of the City in any ensuing fiscal year beyond any fiscal year during which the Lease shall be in effect.

8. The Corporation and Zions First National Bank (the "Trustee") will enter into an Indenture of Trust (the "Indenture"), pursuant to which the Trustee will execute and deliver one or more series of certificates of participation in an aggregate principal amount not to exceed \$7,800,000 (the "2010 Certificates").

9. The net proceeds of the 2010 Certificates will be used to finance the construction, acquisition, installation, and equipping of certain improvements to the buildings and facilities located on the Site, including certain improvements to Sam Suplizio Field and Ralph Stocker Stadium (collectively, the "Project"), and the Project will constitute a portion of the Leased Property.

10. The 2010 Certificates represent assignments of the right to receive certain Revenues (as defined in the Lease) pursuant to the 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 the Lease shall be in effect.

11. There has been presented to the City Council and are on file at the City offices the proposed form of the following: (a) the Ground Lease; (b) the Lease; (c) the Continuing Disclosure Certificate (the "Disclosure Certificate") with respect to the 2010 Certificates; and (d) the Preliminary Official Statement (the "Preliminary Official Statement") with respect to the 2010 Certificates.

12. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Lease.

13. Section 11-57-204 of the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2 of the Colorado Revised Statutes, as amended (the "Supplemental Act"), provides that a public entity, including the City, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

Section 1. Ratification and Approval of Prior Actions. All action heretofore taken (not inconsistent with the provisions of this ordinance) by the City Council or the officers or agents of the City Council or the City relating to the Ground Lease, the Lease, or the construction or installation of the Project is hereby ratified, approved and confirmed. The designation of the Preliminary Official Statement by the Financial Operations Manager as a "nearly final Official

Statement” for purposes of Rule 15c2-12 of the U.S. Securities and Exchange Commission is hereby ratified, approved and confirmed.

Section 2. Finding of Best Interests. The City Council hereby finds and determines, pursuant to the Charter and the Constitution and laws of the State of Colorado, that the construction and installation of the Project and the financing of the costs thereof pursuant to the terms set forth in the Ground Lease and the Lease is necessary, convenient, and in furtherance of the City’s purposes and is in the best interests of the inhabitants of the City, and the City Council hereby authorizes and approves the same.

Section 3. Supplemental Act; Parameters. The City Council hereby elects to apply all of the Supplemental Act to the Ground Lease and the Lease and in connection therewith delegates to each of the President of the City Council (the “President”) and the Financial Operations Manager the authority to make any determination delegable pursuant to Section 11-57-205(1)(a-i) of the Colorado Revised Statutes, as amended, in relation to the Ground Lease and the Lease, and to execute a sale certificate (the “Sale Certificate”) setting forth such determinations, including, without limitation, the term of the Ground Lease, the rental amount to be paid by the City pursuant to the Lease, and the term of the Lease, subject to the following parameters and restrictions: (a) the term of the Ground Lease shall not extend beyond December 31, 2045; (b) the aggregate principal amount of the Base Rentals payable by the City pursuant to the Lease shall not exceed \$7,800,000; (c) the maximum amount of Base Rentals payable by the City in any fiscal year shall not exceed \$550,000; (d) the Lease Term shall not extend beyond December 31, 2035; and (e) the maximum net effective interest rate on the interest component of the Base Rentals relating to the 2010 Certificates shall not exceed 5.50%.

Pursuant to Section 11-57-205 of the Supplemental Act, the City Council hereby delegates to each of the President and the Financial Operations Manager the authority to sign a contract for the purchase of the 2010 Certificates or to accept a binding bid for the 2010 Certificates and to execute any agreement or agreements in connection therewith. In addition, each of the President or the Financial Operations Manager is hereby authorized to determine if obtaining an insurance policy for all or any portion of the 2010 Certificates is in the best interests of the City, and if so, to select an insurer to issue an insurance policy, execute a commitment relating to the same and execute any related documents or agreements required by such commitment. Each of the President or the Financial Operations Manager is hereby authorized to determine if obtaining a reserve fund insurance policy for the 2010 Certificates is in the best interests of the City, and if so, to select a surety provider to issue a reserve fund insurance policy and execute any related documents or agreements required by such commitment.

Section 4. Approval of Documents. The Ground Lease, the Lease and the Disclosure Certificate, in substantially the forms presented to the City Council and on file with the City, are in all respects approved, authorized and confirmed, and the President is hereby authorized and directed, for and on behalf of the City, to execute and deliver the Ground Lease, the Lease and the Disclosure Certificate in substantially the forms and with substantially the same contents as presented to the City Council, provided that such documents may be completed, corrected or revised as deemed necessary by the parties thereto in order to carry out the purposes of this ordinance.

Section 5. Approval of Official Statement. A final Official Statement, in substantially the form of the Preliminary Official Statement presented to the City Council and on file with the City, is in all respects approved and authorized. The President is hereby authorized and directed, for and on behalf of the City, to execute and deliver the final Official Statement in substantially the form and with substantially the same content as the Preliminary Official Statement on file with the City, with such changes as may be approved by the Financial Operations Manager. The distribution of the Preliminary Official Statement and the final Official Statement to all interested persons in connection with the sale of the 2010 Certificates is hereby ratified, approved and authorized.

Section 6. Authorization to Execute Collateral Documents. The City Clerk is hereby authorized and directed to attest all signatures and acts of any official of the City in connection with the matters authorized by this ordinance and to place the seal of the City on any document authorized and approved by this ordinance. The President and the Clerk and other appropriate officials or employees of the City are hereby authorized to execute and deliver, for and on behalf of the City, any and all additional certificates, documents, instruments and other papers, and to perform all other acts that they deem necessary or appropriate, in order to implement and carry out the transactions and other matters authorized by this ordinance. The approval hereby given to the various documents referred to above includes an approval of such additional details therein as may be necessary and appropriate for their completion, deletions therefrom and additions thereto as may be approved by bond counsel prior to the execution of the documents. The execution of any instrument by the aforementioned officers or members of the City Council shall be conclusive evidence of the approval by the City of such instrument in accordance with the terms hereof and thereof.

Section 7. No General Obligation Debt. No provision of this ordinance, the Ground Lease, the Lease, the Indenture, the 2010 Certificates, the Preliminary Official Statement, or the final Official Statement shall be construed as creating or constituting a general obligation or other indebtedness or multiple fiscal year financial obligation of the City within the meaning of any Charter, constitutional or statutory provision, nor a mandatory charge or requirement against the City in any ensuing fiscal year beyond the then current fiscal year. The City shall have no obligation to make any payment with respect to the 2010 Certificates except in connection with the payment of the Base Rentals (as defined in the Lease) and certain other payments under the Lease, which payments may be terminated by the City in accordance with the provisions of the Lease. Neither the Lease nor the 2010 Certificates shall constitute a mandatory charge or requirement of the City in any ensuing fiscal year beyond the then current fiscal year or constitute or give rise to a general obligation or other indebtedness or multiple fiscal year financial obligation of the City within the meaning of any Charter, constitutional or statutory debt limitation and shall not constitute a multiple fiscal year direct or indirect City debt or other financial obligation whatsoever. No provision of the Ground Lease, the Lease or the 2010 Certificates 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 Colorado Constitution. Neither the Lease nor the 2010 Certificates shall directly or indirectly obligate the City to make any payments beyond those budgeted and appropriated for the City's then current fiscal year.

Section 8. Reasonableness of Rentals. The City Council hereby determines and declares that the Base Rentals do not exceed a reasonable amount so as to place the City under an economic compulsion to renew the Lease or to exercise its option to purchase the Corporation's leasehold interest in the Leased Property pursuant to the Lease. The City Council hereby determines and declares that the period during which the City has an option to purchase the Corporation's leasehold interest in the Leased Property (i.e., the entire maximum term of the Lease) does not exceed the useful life of the Leased Property. The City Council hereby determines that the amount of rental payments to be received by the City from the Corporation pursuant to the Ground Lease, together with the leasing of the Leased Property back to the City pursuant to the Lease, is reasonable consideration for the leasing of the Leased Property to the Corporation for the term of the Ground Lease.

Section 9. No Recourse against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the City Council, or any officer or agent of the City acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the principal, interest or prior redemption premiums on the 2010 Certificates. Such recourse shall not be available either directly or indirectly through the City Council or the City, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the 2010 Certificates and as a part of the consideration for their sale or purchase, any person purchasing or selling such 2010 Certificate specifically waives any such recourse.

Section 10. Repealer. All bylaws, orders, ordinances, and resolutions of the City, or parts thereof, inconsistent with this ordinance or with any of the documents hereby approved are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, ordinance or resolution of the City, or part thereof, heretofore repealed.

Section 11. Severability. If any section, subsection, paragraph, clause or provision of this ordinance or the documents hereby authorized and approved (other than provisions as to the payment of Base Rentals during the Lease Term, provisions for the quiet enjoyment of the Leased Property by the City during the Lease Term and provisions for the conveyance of the Leased Property to the City under the conditions provided in the Lease) shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance or such documents, the intent being that the same are severable.

Section 12. Effective Date. This ordinance shall be in full force and effect 30 days after publication following final passage.

[The remainder of this page intentionally left blank.]



INTRODUCED, PASSED ON FIRST READING, APPROVED AND ORDERED  
PUBLISHED IN PAMPHLET FORM THIS 30<sup>th</sup> DAY OF AUGUST, 2010.

CITY OF GRAND JUNCTION, COLORADO

[ S E A L ]

\_\_\_\_\_  
PRESIDENT OF THE CITY COUNCIL

Attest:

\_\_\_\_\_  
City Clerk

PASSED ON SECOND READING, APPROVED AND ORDERED PUBLISHED  
IN PAMPHLET FORM THIS 13<sup>TH</sup> DAY OF SEPTEMBER, 2010.

CITY OF GRAND JUNCTION, COLORADO

[ S E A L ]

\_\_\_\_\_  
PRESIDENT OF THE CITY COUNCIL

Attest:

\_\_\_\_\_  
City Clerk

STATE OF COLORADO            )  
   )  
 COUNTY OF MESA                ) SS.  
   )  
 CITY OF GRAND JUNCTION    )

I, Stephanie Tuin, the City Clerk of the City of Grand Junction, Colorado (the “City”) and Clerk to the City Council of the City (the “City Council”), do hereby certify that:

1. The foregoing pages are a true, correct and complete copy of an ordinance (the “Ordinance”) which was introduced, passed on first reading and ordered published in pamphlet form by the City Council at a regular meeting thereof held on August 30, 2010 and was duly adopted and ordered published in pamphlet form by the City Council at a regular meeting thereof held on August 30, 2010, which Ordinance has not been revoked, rescinded or repealed and is in full force and effect on the date hereof.

2. The Ordinance was duly moved and seconded and the Ordinance was passed on first reading at the meeting of August 30, 2010, by an affirmative vote of a majority of the members of the City Council as follows:

<u>Councilmember</u>	<u>Voting “Aye”</u>	<u>Voting “Nay”</u>	<u>Absent</u>	<u>Abstaining</u>
Teresa Coons				
Bonnie Beckstein				
Tom Kenyon				
Sam Susuras				
Gregg Palmer				
Bruce Hill				
Bill Pitts				

3. The Ordinance was duly moved and seconded and the Ordinance was finally passed on second reading at the meeting of September 13, 2010, by an affirmative vote of a majority of the members of the City Council as follows:

<u>Councilmember</u>	<u>Voting "Aye"</u>	<u>Voting "Nay"</u>	<u>Absent</u>	<u>Abstaining</u>
Teresa Coons				
Bonnie Beckstein				
Tom Kenyon				
Sam Susuras				
Gregg Palmer				
Bruce Hill				
Bill Pitts				

4. The members of the City Council were present at such meetings and voted on the passage of such Ordinance as set forth above.

5. The Ordinance was approved and authenticated by the signature of the President of the City Council, sealed with the City seal, attested by the City Clerk and recorded in the minutes of the City Council.

6. There are no bylaws, rules or regulations of the City Council which might prohibit the adoption of said Ordinance.

7. Notices of the meetings of August 30, 2010 and September 13, 2010 in the forms attached hereto as Exhibit A were posted at City Hall in accordance with law.

8. The Ordinance was published in pamphlet form in The Daily Sentinel, a daily newspaper of general circulation in the City, on September \_\_\_\_, 2010 and September \_\_\_\_, 2010 as required by the City Charter. True and correct copies of the affidavits of publication are attached hereto as Exhibit B.

WITNESS my hand and the seal of the City affixed this \_\_\_\_ day of September, 2010.

[ S E A L ]

---

City Clerk and Clerk to the City Council

EXHIBIT A

(Attach Notices of Meetings of August 30, 2010 and September 13, 2010)

EXHIBIT B  
(Attach Affidavits of Publication)

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CITY OF GRAND JUNCTION, COLORADO

AS LESSOR

AND

GRAND JUNCTION PUBLIC FINANCE CORPORATION

AS LESSEE

---

GROUND AND IMPROVEMENT LEASE AGREEMENT

---

DATED AS OF OCTOBER 15, 2010

---

The interest of Grand Junction Public Finance Corporation in this Ground and Improvement Lease Agreement has been assigned to Zions First National Bank, Denver, Colorado, as trustee (the "Trustee"), under that certain Mortgage and Indenture of Trust, dated as of October 15, 2010, between Grand Junction Public Finance Corporation and the Trustee, and is subject to the lien and security interest of the Trustee created under said Mortgage and Indenture of Trust.

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**AFTER THIS INSTRUMENT HAS BEEN RECORDED, PLEASE RETURN TO:**

Dee P. Wisor, Esq.  
Sherman & Howard L.L.C.  
633 17th Street, Suite 3000  
Denver, Colorado 80202

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

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(This Table of Contents is not a part of this Ground and Improvement Lease Agreement and is only for convenience of reference)

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## GROUND AND IMPROVEMENT LEASE AGREEMENT

This GROUND AND IMPROVEMENT LEASE AGREEMENT, dated as of October 15, 2010 (as amended or supplemented from time to time, the "Ground Lease"), is made by and between the CITY OF GRAND JUNCTION, COLORADO, a home rule city and political subdivision duly organized and existing under the Constitution and laws of the State of Colorado (the "City"), as lessor hereunder, and GRAND JUNCTION PUBLIC FINANCE CORPORATION, a nonprofit corporation duly organized, existing and in good standing under the laws of the State of Colorado (the "Corporation"), as lessee hereunder.

### WITNESSETH:

WHEREAS, the City is a duly and regularly created, organized and existing home rule city, existing as such under and by virtue of the Constitution and laws of the State of Colorado and its City Charter (the "Charter"); and

WHEREAS, the City has the power, pursuant to Section 2(f) of the Charter and Sections 31-1-102 and 31-15-713(c), of the Colorado Revised Statutes, as amended, to lease any real estate owned by the City, together with any facilities thereon, when deemed by the Council of the City (the "Council") to be in the best interest of the City; and

WHEREAS, the City owns, in fee title, certain real estate commonly referred to as Lincoln Park (as more specifically described in Exhibit A hereto, the "Land"), together with the buildings and other improvements located on the Land (collectively, and as more specifically described in Exhibit A hereto, the "Buildings"); and

WHEREAS, the Council has determined that it is in the best interest of the City and its inhabitants to construct and install certain improvements to Suplizio Field located on the Land, including, without limitation, replacing the existing stands and press boxes, adding certain concourse and concession areas, and adding certain box seating (collectively, the "Project"); and

WHEREAS, the Council has further determined to lease the Site, the Buildings, and the Project (collectively, the "Leased Property") to the Corporation pursuant to and for the consideration described in this Ground Lease, and to lease the Leased Property back from the Corporation pursuant to the Lease; and

WHEREAS, the interest of the Corporation in this Ground Lease and the Lease (with certain exceptions as provided in the Lease) shall be assigned by the Corporation to Zions First National Bank, as trustee (the "Trustee"), pursuant to a Mortgage and Indenture of Trust, dated as of October 15, 2010, between the Corporation and the Trustee; and

WHEREAS, certain Certificates of Participation, Series 2010 (the "2010 Certificates"), evidencing assignments of the right to receive certain revenues pursuant to the Lease, shall be executed and delivered by the Trustee pursuant to the Indenture and the net proceeds thereof used to construct and install the Project; and

WHEREAS, the Board of Directors of the Corporation has by resolution authorized, approved and directed the execution and delivery by the Corporation of this Ground Lease, the Lease, the Indenture and certain other documents and has further authorized, approved and directed the issuance of the Certificates for the purpose of providing funds to finance the Project; and

WHEREAS, the Council has adopted an ordinance authorizing and approving the execution and delivery by the City of this Ground Lease and the Lease and certain actions to be taken by the City; and

WHEREAS, the Corporation desires to lease the Leased Property from the City, and the City desires to lease the Leased Property to the Corporation, pursuant to the terms and conditions and for the purposes set forth herein.

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual promises and covenants herein contained, the sum of One Dollar (\$1.00) paid in hand by the Corporation to the City and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

#### ARTICLE I DEFINITIONS

All words and phrases defined in the Indenture and in the Lease shall have the same meaning in this Ground Lease. In addition, the following terms, except where the context indicates otherwise, shall have the meanings in this Ground Lease set forth below.

“Environmental Law” means all federal, state and local laws (including all statutes, regulations, ordinances, codes, rules and other governmental restrictions, requirements and powers) now or hereafter in effect relating to the discharge of air pollutants, water pollutants or process wastewater or otherwise relating to the environment or Hazardous Materials (as any or all such laws may be amended from time to time), including but not limited to the following: (i) the Solid Waste Disposal Act, 42 U.S.C. §§ 6901 et seq.; (ii) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act 42 U.S.C. §§ 9601 et seq.; (iii) the Hazardous Materials Transportation Act, 49 U.S.C. §§ 5101 et seq.; (iv) the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq.; (v) the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §§ 6901 et seq.; (vi) the Clean Water Act, 33 U.S.C. §§ 1251 et seq.; (vii) the Clean Air Act, 42 U.S.C. §§ 7401 et seq.; (viii) the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 et seq.; (ix) the Colorado hazardous waste statutes, C.R.S. § 25-15-101 et seq.; (x) the Colorado radiation control statutes, C.R.S. § 25-11-101 et seq.; (xi) the Colorado petroleum storage tanks statutes, C.R.S. § 8-20.5-101 et seq.; (xii) the Colorado Air Pollution Prevention and Control Act, C.R.S. § 25-7-101 et seq.; (xiii) the Colorado Water Quality Control Act, C.R.S. § 25-8-101 et seq.; (xiv) the regulations under any of the foregoing and the regulations of the Environmental Protection Agency; (xv) the regulations of the Nuclear Regulatory Agency; (xvi) any other federal or state statutes or municipal or county ordinances regulating the generation, storage, containment or disposal of any Hazardous Materials or providing for the protection, preservation or enhancement of the natural environment; and

(xvii) any amendments, modifications or supplements of any such statutes, ordinances, rules and regulations.

“Hazardous Material” means any material, chemical compound, mixture, hazardous substance, hazardous waste, pollutant or contaminant defined, listed, classified or regulated under any Environmental Law.

## ARTICLE II REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1 Representations, Covenants and Warranties of the City. The City represents, covenants and warrants, for the benefit of the Corporation, the Trustee, and the Certificate Owners, as follows:

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

(b) The City has good and marketable fee simple title to the Leased Property, subject only to Permitted Encumbrances, and has by this Ground Lease leased the Leased Property to the Corporation as provided below. It is understood by the parties hereto that the Corporation shall have a leasehold interest in the Leased Property, subject only to Permitted Encumbrances. It is further understood that the interest of the Corporation in this Ground Lease and in the Lease (with certain exceptions as provided therein) will be assigned to the Trustee pursuant to the Indenture.

(c) Neither the execution and delivery hereof, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, 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 is bound, or constitutes a default under any of the foregoing.

(d) There is no litigation or proceeding pending, nor to the knowledge of the City threatened, against the City or any other person affecting the right of the City to execute this Ground Lease or to otherwise comply with its obligations hereunder.

(e) To the best of the knowledge of the City, the City hereby covenants, represents and warrants that the Leased Property does not contain any underground storage tanks and is in material compliance with all applicable Environmental Laws.

Section 2.2 Representations, Covenants and Warranties of the Corporation. The Corporation represents, covenants and warrants, for the benefit of the City, the Trustee, and the Certificate Owners, as follows:

(a) The Corporation is a nonprofit corporation, duly incorporated, in good standing and qualified to transact business in the State, is not in violation of any provision of its Articles of Incorporation or its Bylaws, has the corporate power and authority to enter into this Ground Lease, and has duly authorized and approved the execution and delivery of this Ground Lease by all requisite corporate action.

(b) The Corporation, contemporaneously with the execution of this Ground Lease, will lease or sublease the Leased Property to the City pursuant to the Lease. It is understood by the parties hereto that the Corporation shall have a leasehold interest in the Leased Property, subject to Permitted Encumbrances. It is further understood that the interest of the Corporation in this Ground Lease and the Lease (with certain exceptions as provided therein) will be assigned to the Trustee pursuant to the Indenture.

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

(d) There is no litigation or proceeding pending, or to the knowledge of the Corporation threatened, against the Corporation or any other person affecting the right of the Corporation to execute this Ground Lease or to comply with the provisions hereof.

ARTICLE III  
DEMISING CLAUSE; COVENANTS OF TITLE; OTHER MATTERS

Section 3.1 Demising Clause. The City demises and leases the Leased Property to the Corporation, and the Corporation leases the Leased Property from the City, subject only to Permitted Encumbrances, in accordance with the terms and provisions of this Ground Lease, to have and to hold for the term of this Ground Lease as provided herein.

Section 3.2 Covenants of Title. The City owns the Leased Property, and, pursuant to this Ground Lease, the Corporation will have a leasehold interest in the Leased Property. Prior to the occurrence and continuance of an Event of Nonappropriation or an Event of Default under the Lease, the Corporation will not mortgage or encumber the Leased Property except pursuant to the Lease and the Indenture. Nothing in this Ground Lease shall be construed to require the Corporation to operate the facilities on or constituting any part of the Leased Property other than as the lessee hereunder and as lessor under the Lease.

Section 3.3 No Merger. The City and the Corporation acknowledge that the City will be leasing or subleasing the Leased Property from the Corporation pursuant to the Lease. The City and the Corporation intend that there be no merger of the City's interests as lessee under the Lease and the City's ownership interest in the Leased Property so as to cause the cancellation of this Ground Lease.

ARTICLE IV  
RENT PAYMENTS

The Corporation has paid to the City, and the City hereby acknowledges receipt of, the sum of One Dollar (\$1.00), which sum shall, together with the leasing or subleasing of the Leased Property to the City pursuant to the Lease, constitute (i) consideration for the leasehold interest in the Leased Property conveyed to the Corporation under this Ground Lease from the date hereof until the occurrence and continuance of an Event of Nonappropriation or an Event of Default under the Lease; and (ii) consideration for the execution and delivery of the Lease.

Subsequent to the occurrence and during the continuance of an Event of Nonappropriation or an Event of Default under the Lease or the Indenture, if the Trustee leases or subleases the Leased Property, or any portion thereof, or sells an assignment of its interest in this Ground Lease and the Leased Property, the Trustee, as assignee of this Ground Lease, shall pay additional rent to the City, in an amount equal to 5% of the gross proceeds of such subleasing or assignment. Any rent payable to the City shall be paid promptly upon receipt by the Trustee of such gross proceeds, but only after payment or provision for payment of amounts required to be paid under Sections 7.1, 7.2 and 7.3 hereof.

ARTICLE V  
GROUND LEASE TERM

Section 5.1 Commencement of Ground Lease Term. The term of this Ground Lease shall commence as of the Closing Date and shall terminate as provided in Section 5.2 hereof.

Section 5.2 Termination of Ground Lease Term. The term of this Ground Lease shall terminate on the earliest to occur of the following:

- (a) The termination of the Lease Term as provided in Sections 4.2(b), 4.2(d) or 4.2(e) of the Lease.
- (b) Discharge of the Indenture as a result of the fact that all Certificates have been paid or have been deemed to have been paid as provided in the Indenture.
- (c) December 31, 20\_\_.

The term of any sublease of the Leased Property or any portion thereof, or any assignment of the Trustee's interest in this Ground Lease, pursuant to the Lease or the Indenture, shall not extend beyond December 31, 20\_\_.

Section 5.3 Disposition of Leased Property. At the end of the term of this Ground Lease, all right, title and interest of the Corporation, the Trustee, or any sublessee or assignee in and to the Leased Property, including, except as hereinafter provided, any and all improvements and fixtures which shall at the time be situated thereon or attached thereto, shall vest in the City. The Trustee, the Corporation and any sublessee or assignee shall execute and deliver, upon request by the City, any instrument of transfer, conveyance or release necessary or appropriate to confirm the vesting of such right, title and interest in the City.

ARTICLE VI  
ENJOYMENT OF LEASED PROPERTY

The City hereby covenants to provide the Corporation and its assigns, including the Trustee and its sublessees and assigns, if any, during the term of this Ground Lease, with quiet use and enjoyment of the Leased Property, and the Corporation shall during the term of this Ground Lease peaceably and quietly have and hold and enjoy the Leased Property without suit, trouble or hindrance from the City, except as expressly set forth herein, in the Lease or in the Indenture. The rights of the Corporation under this Article shall be subject to the rights of the City to the enjoyment of the Leased Property under Article V of the Lease. The City shall, at the request of the Corporation or the Trustee and at the expense of the City, join in any legal action in which the Corporation or the Trustee asserts its right to such possession and enjoyment, to the extent that the City may lawfully do so. In addition, the Corporation or the Trustee may join in any legal action involving the City and affecting the possession and enjoyment of the Leased Property by the Corporation or the Trustee and shall be joined in any action affecting their rights or liabilities hereunder. Violation of this Article by the City during the term of the Lease shall constitute an Event of Default under the Lease.

ARTICLE VII  
MAINTENANCE, TAXES, INSURANCE AND OTHER CHARGES

Section 7.1 Taxes, Utilities. Prior to an Event of Nonappropriation or an Event of Default under the Lease, the payment of taxes and utility charges shall be governed by Article IX of the Lease. After an Event of Nonappropriation or an Event of Default under the Lease and if this Ground Lease has not been terminated pursuant to Section 5.2 hereof, the Trustee or its sublessee or assignee shall promptly pay or cause to be paid when due all taxes and assessments which may be imposed on the Leased Property and all costs or charges for utility service supplied to the Leased Property.

Section 7.2 Maintenance. Prior to an Event of Nonappropriation or an Event of Default under the Lease, the maintenance of the Leased Property shall be governed by Article IX of the Lease. After an Event of Nonappropriation or an Event of Default under the Lease and if this Ground Lease has not been terminated pursuant to Section 5.2 hereof, the Trustee or its sublessee or assignee shall maintain the Leased Property in good condition and in good working order.

Section 7.3 Insurance. Prior to an Event of Nonappropriation or an Event of Default under the Lease, the provisions of Article IX of the Lease shall govern with respect to the maintenance of insurance with respect to the Leased Property. After an Event of Nonappropriation or an Event of Default under the Lease and if this Ground Lease has not been terminated pursuant to Section 5.2 hereof, the Trustee or its sublessee or assignee shall obtain and keep in force, at its own expense (i) comprehensive general public liability insurance against claims for personal injury, death or property damage occurring on the Leased Property in an amount not less than \$1,000,000, and (ii) fire and extended coverage insurance in an amount not less than the replacement cost of the Leased Property (excluding foundations). All such insurance shall name the Corporation, the Trustee, any sublessee or assignee, and the City as insureds. Proceeds of such fire and extended coverage insurance shall be payable to the

Corporation, the Trustee, any sublessee or assignee and the City as their respective interests may appear. All such insurance policies shall provide that the insurance company shall not cancel such insurance without first giving at least 30 days' advance written notice to the Corporation, the Trustee, the City and any sublessee of any portion of the Leased Property. Each insurance policy required by this Section shall contain a waiver of subrogation by the issuer of such policy with respect to the Corporation, the Trustee, any sublessee or assignee, and the City, and their officers, agents and employees, while acting within the scope of their employment.

Section 7.4 Advances by City; Trustee's Obligations Limited. In the event that the Trustee or its sublessee or assignee shall fail to make any payments required by, or perform any of its obligations under Section 7.1, 7.2 or 7.3 hereof, the City may (but shall be under no obligation to) make such payments or perform any of such obligations; and any payments so made or costs or expenses so incurred by the City, together with interest thereon at the rate of 12% per annum, shall be reimbursed to the City by any sublessee or assignee, or by the Trustee from any proceeds of subleasing of the Leased Property or any portion thereof or sale or assignment of its interest in this Ground Lease. Notwithstanding any other provision of this Article, any obligations of the Trustee to make payments under this Article or to pay rent under this Ground Lease shall be limited to any proceeds of subleasing of the Leased Property or any portion thereof or sale or assignment of its interest in this Ground Lease, or moneys furnished to the Trustee pursuant to Section 8.01(m) of the Indenture. No provision of this Article shall be construed to create any obligation to make any payments, nor any other obligation, on the part of the Corporation or its officers and directors.

Section 7.5 Obligations of Sublessees Limited. Any obligations of any sublessee of less than all of the Leased Property under Section 7.1, 7.2 or 7.3 hereof shall relate only to the portion of the Leased Property subleased by such sublessee.

#### ARTICLE VIII COMPLIANCE WITH REQUIREMENTS; OTHER COVENANTS

Section 8.1 Further Assurances and Corrective Instruments. The City and the Corporation agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required (a) for correcting any inadequate or incorrect description of the Leased Property, (b) for amending the description of the Leased Property in accordance with Section 9.2 of the Lease, or (c) for otherwise carrying out the intention hereof.

Section 8.2 City, Corporation and Trustee Representatives. Whenever under the provisions hereof the approval of the City, the Corporation or the Trustee is required, or the City, the Corporation or the Trustee is required to take some action at the request of the other, such approval or such request shall be given for the City by the City Representative, for the Corporation by the Corporation Representative, and for the Trustee by the Trustee Representative, and the City, the Corporation and the Trustee shall be authorized to act on any such approval or request.

Section 8.3 Use, Compliance with Laws, Waste. The Corporation and the Trustee or its sublessee or assignee shall use the Leased Property only in a careful, safe and

proper manner in compliance with all applicable federal, State, county and municipal laws, ordinances, resolutions, rules or regulations, and in a manner that would not reasonably give rise to liability pursuant to any Environmental Law. The Corporation and the Trustee or its sublessee or assignee shall not commit any waste or nuisance on the Leased Property.

Section 8.4 Inspection, Access, Records. The City shall have the right at reasonable business hours (or at any hour if necessary in an emergency) to enter upon the Leased Property for the purposes of inspecting the Leased Property or performing obligations of the Trustee or its sublessee or assignee under this Ground Lease which the Trustee or its sublessee or assignee neglects to perform and which the City elects to undertake. The City agrees that, after an Event of Nonappropriation or an Event of Default under the Lease, and if this Ground Lease has not been terminated pursuant to Section 5.2 hereof, the Corporation and the Trustee or any sublessee or assignee shall have full rights of ingress and egress to the Leased Property, and the City hereby agrees to execute and deliver any easements or rights-of-way that may be reasonably necessary to confirm such rights. The City agrees that the Corporation and the Trustee and their duly authorized agents shall have the right at all reasonable times to examine the books, records, reports and other papers of the City with respect to the Leased Property. The Corporation and the Trustee or its sublessee or assignee agree that the City and its duly authorized agents shall have the right at all reasonable times to examine the books, records, reports and other papers of the Corporation and the Trustee or its sublessee or assignee with respect to the Leased Property. The City may, at its own cost, not more frequently than once in any twelve-month period, cause an audit to be made of the books, records, reports and other papers of the Corporation, the Trustee or its sublessee or assignee with respect to the Leased Property.

Section 8.5 Compliance with Environmental Laws. Any person who subleases the Leased Property after an Event of Nonappropriation or an Event of Default under the Lease shall covenant that its use and operation of the Leased Property, and all activities conducted on the Leased Property during the term of the sublease, shall be in compliance with, and conducted in a manner so as not to give rise to liability under, any Environmental Law. Further, any person who subleases the Leased Property after an Event of Nonappropriation or an Event of Default under the Lease shall covenant that, in the event the City reasonably believes (i) sublessee is conducting or has conducted activities on the Leased Property which are or were in violation of applicable Environmental Laws, or (ii) sublessee's use or operation of the Leased Property has resulted or may result in environmental conditions on or emanating from the Leased Property which could give rise to liability under applicable Environmental Laws, such sublessee shall promptly undertake all appropriate response actions necessary to come into compliance with and mitigate any potential liability arising under applicable Environmental Laws.

Section 8.6 Corporate Existence. The Corporation agrees that, during the term of this Ground Lease, it will maintain its corporate existence, will continue to be a corporation in good standing under the laws of the State, will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another corporation or permit one or more other corporations to consolidate with or merge into it.



ARTICLE IX  
EVENTS OF DEFAULT AND REMEDIES

Section 9.1 Events of Default Defined. An “event of default” under this Ground Lease and the terms “events of default” and “default” shall mean, subsequent to an Event of Nonappropriation or an Event of Default under the Lease and termination of the Lease in accordance therewith, failure by the Trustee or any sublessee or assignee to pay any rent or any premiums for the insurance required under Section 7.3 hereof at the time when such rent or premiums shall be due and payable and the continuation of such failure for a period of 30 days after the City shall have notified the Trustee of such failure.

Section 9.2 Remedies on Default. Whenever any event of default referred to in Section 9.1 hereof shall have happened and is continuing, the City shall have the right, at its option without any further demand or notice, to take whatever action at law or in equity may appear necessary or desirable to enforce its rights hereunder; provided, however, that no such action by the City shall terminate the Corporation’s leasehold interest in the Leased Property granted under this Ground Lease.

Notwithstanding any other provision of this Article, recovery by the City from the Trustee in any action for amounts due and owing under Article IV or VII hereof shall be limited to any proceeds of subleasing the Leased Property or any portion thereof or sale or assignment of the Trustee’s interest in this Ground Lease, or moneys furnished to the Trustee pursuant to Section 8.01(m) of the Indenture.

Section 9.3 No Remedy Exclusive. Subject to the provisions of Section 9.2 hereof, no remedy herein conferred upon or reserved to the City is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Ground Lease 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.

ARTICLE X  
ASSIGNMENT AND MORTGAGE

Section 10.1 Assignment and Mortgage to Trustee. The City and the Corporation agree that, pursuant to the Indenture, the rights of the Corporation to receive certain payments and to enforce remedies pursuant to the Lease (with certain exceptions as provided therein) and all of the right, title and interest of the Corporation in this Ground Lease shall be mortgaged and assigned to the Trustee. This Ground Lease may also be assigned by the Trustee pursuant to the Indenture. After an Event of Nonappropriation or an Event of Default under the Lease, and if this Ground Lease has not been terminated pursuant to Section 5.2 hereof, the Corporation and the Trustee may also sublease and lease the Leased Property, or any portion thereof, or sell an assignment of their interests in this Ground Lease pursuant to the Lease.

Section 10.2 Restrictions on Mortgage or Sale of Leased Property. Except as provided in the Lease and the Indenture and except for Permitted Encumbrances, or as provided

in Section 10.1 hereof, the City, the Corporation and the Trustee and any sublessee or assignee of the Trustee agree that neither the City, the Corporation, the Trustee nor any sublessee or assignee of the Trustee will sell, mortgage or encumber the Leased Property or any portion thereof during the term of this Ground Lease.

ARTICLE XI  
MISCELLANEOUS

Section 11.1 Damage, Destruction, Condemnation. The provisions of Article X of the Lease shall govern with respect to any damage, destruction or condemnation of the Leased Property during the term of this Ground Lease.

Section 11.2 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, addressed as follows:

(a) if to the Corporation, Grand Junction Public Finance Corporation, \_\_\_\_\_, Grand Junction, Colorado \_\_\_\_\_, Attention: \_\_\_\_\_;

(b) if to the City, City of Grand Junction, 250 North 5th Street, Grand Junction, Colorado 81501, Attention: Financial Operations Manager; and

(c) if to the Trustee, Zions First National Bank, 1001 17<sup>th</sup> Street, Suite 1050, Denver, Colorado 80202, Attention: Corporate Trust Department.

A duplicate copy of each notice, certificate or other communication given hereunder by the Corporation or the City shall also be given to the Trustee. The Corporation, the City, and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 11.3 Binding Effect. This Ground Lease shall inure to the benefit of and shall be binding upon the Corporation, the City and their respective successors and assigns, including, without limitation, the Trustee and its successors and assigns. In the event that the Trustee subleases the Leased Property or any portion thereof, or sells an assignment of its interest in this Ground Lease, as provided in the Lease, the Trustee shall require its sublessee or assignee to consent in writing to, and to undertake compliance with, all provisions of this Ground Lease.

Section 11.4 Severability. In the event any provision of this Ground 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 11.5 Amendments, Changes and Modifications. Except as otherwise provided in Section 8.1 hereof and Section 9.04 of the Indenture, this Ground Lease may not be effectively amended, changed, modified or altered without the written consent of the City, the Corporation, and the Trustee.

Section 11.6 Execution in Counterparts. This Ground Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.7 Applicable Law. This Ground Lease shall be governed by and construed in accordance with the laws of the State of Colorado, without regard to conflict of laws principles.

Section 11.8 Captions. The captions or headings in this Ground Lease are for convenience of reference only and in no way define, limit or describe the scope or intent of any provisions or sections hereof.

[The remainder of this page intentionally left blank.]

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

CITY OF GRAND JUNCTION, COLORADO,  
as lessor

By: \_\_\_\_\_  
President of the City Council

(SEAL)

ATTEST:

\_\_\_\_\_  
City Clerk

GRAND JUNCTION PUBLIC FINANCE  
CORPORATION, as lessee

By: \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF MESA                    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of October, 2010, by Teresa Coons and Stephanie Tuin, as President of the City Council and Clerk, respectively of the City of Grand Junction, Colorado, a Colorado home rule city.

WITNESS my hand and official seal.

(SEAL)

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

My commission expires: \_\_\_\_\_

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF MESA                    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of October, 2010, by \_\_\_\_\_ and \_\_\_\_\_, as President and Secretary of the Board of Directors of Grand Junction Public Finance Corporation, a Colorado non-profit corporation.

WITNESS my hand and official seal.

(SEAL)

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

My commission expires:

EXHIBIT A

DESCRIPTION OF THE LAND

Covering the Land in the State of Colorado, County of Mesa

Described as:

Lots 1 thru 26, Inclusive, in Block 13,  
Lots 1 thru 26, Inclusive, in Block 14,  
Lots 1 thru 26, Inclusive, in Block 15,  
Lots 1 thru 26, Inclusive, in Block 16,  
Lots 1 thru 24, Inclusive, in Block 17,  
Lots 1 thru 24, Inclusive, in Block 18,  
Lots 1 thru 24, Inclusive, in Block 19,  
Lots 1 thru 24, Inclusive, in Block 20,  
Lots 1 thru 24, Inclusive, in Block 21,  
Lots 1 thru 24, Inclusive, in Block 22,  
Lots 1 thru 24, Inclusive, in Block 23,  
Lots 1 thru 24, Inclusive, in Block 24,  
Lots 1 thru 22, Inclusive, in Block 25,  
Lots 1 thru 22, Inclusive, in Block 26,  
Lots 1 thru 22, Inclusive, in Block 27,  
Lots 1 thru 22, Inclusive, in Block 28,

All in SLOCOMB'S ADDITION TO GRAND JUNCTION EXCEPT that strip of land conveyed to The Grand Valley Irrigation Company recorded December 18, 1906 in Book 100 at Page 326, Reception No. 64362

And

The Northwest Quarter of the Northwest Quarter of Section 13, Township 1 South, Range 1 West of the Ute Meridian EXCEPT North Avenue on the North.

And

That portion of the SW1/4 of the NW1/4 of Section 13, Township 1 South, Range 1 West of the Ute Meridian, described as follows:

Beginning at a point on the West line of Section 13 where the South line of Gunnison Avenue in the City of Grand Junction, Mesa County, Colorado, produced and extended East intersects the said West line of said Section 13; thence North along the said West line of said Section 13 to the Northwest corner of the SW1/4 of the NW1/4 of said Section 13, being a distance of 190 feet, more or less; thence East to the Northeast corner of the SW1/4 of the NW1/4 of said Section 13; thence South along the East line of the said SW1/4 of the NW1/4 of said Section 13, a distance of 190 feet, more or less to a point at the intersection of the South line of said Gunnison Avenue produced and extended East with the said East line of

the SW1/4 of the NW1/4 of said Section 13; thence West along the said South line of Gunnison Avenue so produced and extended to the point of beginning.



EXHIBIT B

DESCRIPTION OF THE BUILDINGS

Sam Suplizio Field, Stoker Field, the Lincoln Park-Moyer Pool and Waterslide, and a portion of the Lincoln Park Golf Course are located on Parcel I.

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GRAND JUNCTION PUBLIC FINANCE CORPORATION,  
AS LESSOR,

and

CITY OF GRAND JUNCTION, COLORADO,  
AS LESSEE,

LEASE PURCHASE AGREEMENT

Dated as of October 15, 2010

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The interest of Grand Junction Public Finance Corporation in this Lease Purchase Agreement has been assigned to Zions First National Bank, Denver, Colorado, as trustee under that certain Mortgage and Indenture of Trust, dated as of October 15, 2010, between Grand Junction Public Finance Corporation and the Trustee, and is subject to the security interest of the Trustee.

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**AFTER THIS INSTRUMENT HAS BEEN RECORDED, PLEASE RETURN TO:**

Dee P. Wisor, Esq.  
Sherman & Howard L.L.C.  
633 17th Street, Suite 3000  
Denver, Colorado 80202

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

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(This Table of Contents is not a part of this  
Lease Purchase Agreement  
and is only for convenience of reference)

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## LEASE PURCHASE AGREEMENT

This LEASE PURCHASE AGREEMENT, dated as of October 15, 2010 (the "Lease"), is by and between GRAND JUNCTION PUBLIC FINANCE CORPORATION, a nonprofit corporation duly organized, existing and in good standing under the laws of the State of Colorado (the "Corporation"), as lessor, and the CITY OF GRAND JUNCTION, COLORADO, a home rule city and political subdivision duly organized and existing under the Constitution and laws of the State of Colorado (the "City"), as lessee.

### WITNESSETH:

WHEREAS, the Corporation is a nonprofit corporation duly organized, existing and in good standing under the laws of the State of Colorado (the "State"), is duly qualified to do business in the State, and, under its articles of incorporation and bylaws, is authorized to own and manage its properties, to conduct its affairs in the State and to act in the manner contemplated herein; and

WHEREAS, the City is a duly and regularly created, organized and existing home rule city and political subdivision, existing as such under and by virtue of the Constitution and laws of the State and its City Charter (the "Charter"); and

WHEREAS, the City has the power, pursuant to Section 2(f) of the Charter and Sections 31-1-102 and 31-15-713(c), of the Colorado Revised Statutes, as amended, to lease any real estate owned by the City, together with any facilities thereon, when deemed by the Council of the City (the "Council") to be in the best interest of the City; and

WHEREAS, the City owns, in fee title, certain real estate commonly referred to as Lincoln Park (as more specifically described in Exhibit B hereto, the "Land"), together with the buildings and other improvements located on the Land (collectively, and as more specifically described in Exhibit C hereto, the "Buildings"); and

WHEREAS, the Council has determined that it is in the best interest of the City and its inhabitants to construct and install certain improvements to Suplezio Field located on the Land, including, without limitation, replacing the existing stands and press boxes, adding certain concourse and concession areas, and adding certain box seating (collectively, the "Project"); and

WHEREAS, the Council has further determined to lease the Land, the Buildings, and the Project (collectively, the "Leased Property") to the Corporation pursuant to and for the consideration described in the Ground and Improvement Lease Agreement, dated as of October 15, 2010 (the "Ground Lease"), between the City, as lessor, and the Corporation, as lessee, and to lease the Leased Property back from the Corporation pursuant to this Lease; and

WHEREAS, the City's obligation under this Lease to pay Base Rentals and Additional Rentals (both as defined herein) 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; and shall not constitute a general obligation or other indebtedness or multiple fiscal year financial obligation of the City within the meaning of any

Charter, constitutional or statutory limitation or requirement concerning the creation of indebtedness or multiple fiscal year financial obligation, nor a mandatory payment obligation of the City in any ensuing fiscal year beyond any fiscal year during which the Lease shall be in effect; and

WHEREAS, a Mortgage and Indenture of Trust (the "Indenture"), dated as of October 15, 2010, between the Corporation, as grantor, and Zions First National Bank, as trustee (the "Trustee"), will be executed simultaneously with the execution and delivery of the Ground Lease and this Lease; and

WHEREAS, the 2010 Certificates (as defined herein), which evidence assignments of the right to receive certain Revenues (as defined herein) pursuant to the Lease, shall be executed and delivered by the Trustee pursuant to the Indenture and the net proceeds thereof used to construct and install the Project; and

WHEREAS, the interest of the Corporation in this Ground Lease and the Lease (with certain exceptions as provided in the Lease) will be assigned by the Corporation to the Trustee pursuant to the Indenture; and

WHEREAS, the Board of Directors of the Corporation has by resolution authorized, approved and directed the execution and delivery by the Corporation of the Ground Lease, this Lease, the Indenture and certain other documents and has further authorized, approved and directed the execution and delivery of the 2010 Certificates for the purpose of providing funds to finance the Project; and

WHEREAS, the Council has adopted an ordinance (a) authorizing and approving the execution and delivery by the City of the Ground Lease and this Lease, and (b) authorizing and approving the Project and certain other actions to be taken by the City; and

WHEREAS, the Corporation desires to lease the Leased Property to the City, and the City desires to lease the Leased Property from the Corporation, pursuant to the terms and conditions and for the purposes set forth herein.

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

ARTICLE I

DEFINITIONS

All capitalized words and phrases used in this Lease shall have the meanings set forth in Exhibit A hereto unless the context otherwise requires.



## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1. Representations, Covenants and Warranties of the City. The City represents, covenants and warrants for the benefit of the Corporation, the Trustee and the Certificate Owners as follows:

(a) The City is a home rule city and political subdivision of the State, duly organized and existing under the Charter and the Constitution and laws of the State. The City is authorized by statute and otherwise to enter into the transactions contemplated by this Lease and the Ground Lease and to carry out the obligations of the City hereunder and thereunder. The City has duly authorized and approved the execution and delivery of this Lease and the Ground Lease and other documents related to this transaction.

(b) The City will apply the net proceeds derived from the participation of this Lease by the Trustee to the financing of the Project.

(c) The City owns the Leased Property and the Corporation has a leasehold interest in the Leased Property pursuant to the Ground Lease.

(d) The leasing of the Leased Property to the Corporation pursuant to the Ground Lease, the subleasing of the Leased Property from the Corporation under the terms and conditions provided for in this Lease and the Indenture, and the financing of the Project, 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.

(e) Nothing in this Lease shall be construed as unlawfully diminishing, delegating, or otherwise restricting any of the sovereign powers of the City. Nothing in this Lease shall be construed to require the City to 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 XII hereof.

(f) During the Lease Term, the Leased Property will at all times be used by the City for the purpose of performing one or more lawful governmental functions (except to the extent subleasing of the Leased Property by the City is permitted by Section 13.2 of this Lease) and shall be used in accordance with all applicable building and zoning ordinances and regulations, if any.

(g) None of the execution and delivery hereof, the fulfillment of or compliance with the terms and conditions hereof or of the Ground Lease, or 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 is bound, or constitutes a default under any of the foregoing or, except as provided in this Lease, the Ground Lease and the Indenture, results in the creation or imposition of any lien or encumbrance whatsoever upon any of the property or assets of the City.

(h) There is no litigation or proceeding pending or, to the knowledge of the City, threatened against the City, affecting the right of the City to execute this Lease or the Ground Lease or the ability of the City to make the payments required hereunder or to otherwise comply with the obligations contained herein and therein.

(i) The City has appropriated an amount sufficient to pay the portion of Base Rentals and the estimated Additional Rentals to become due during the Original Term.

(j) The City shall comply with its obligations under the Continuing Disclosure Certificate.

(k) The City will comply in all material respects with all applicable Environmental Laws; and to the best of the knowledge of the City, after due inquiry, the Land does not contain any underground storage tanks or Hazardous Material other than in compliance with all applicable Environmental Laws.

(l) If the Corporation or the Trustee reasonably suspects that any violation of any Environmental Law is occurring involving the Leased Property or if any Lease Event of Default relating to the environmental covenants herein shall have occurred and is continuing, the City shall take such action forthwith to comply with any Environmental Law or to cure such Lease Event of Default.

(m) All Hazardous Material generated or utilized by the City on the Leased Property will be handled, stored, transported and disposed of in accordance with applicable Environmental Law.

(n) The City covenants that all utilities installed on the Leased Property shall be underground, including, gas, water, sewer, electricity, telephone and cable television, and further covenants and agrees that no septic tanks shall be permitted on the Leased Property.

Section 2.2. Representations, Covenants and Warranties of the Corporation.  
The Corporation represents, covenants and warrants for the benefit of the City, the Trustee and the Certificate Owners, as follows:

(a) The Corporation is a nonprofit corporation duly organized, existing and in good standing under the laws of the State, is duly qualified to do business in the State, has all necessary power to enter into this Lease, the Ground Lease and the Indenture, is possessed of full power to own, hold and lease (as lessee and lessor) real and personal property and has duly authorized the execution and delivery of this Lease, the Ground Lease and the Indenture.

(b) The Corporation acknowledges and joins in the representations, covenants and warranties set forth in paragraphs (c) and (e) of Section 2.1 hereof. The Corporation will not pledge or assign the Revenues or any of its other rights under this Lease or the Ground Lease except pursuant to the Indenture, and will not mortgage or

encumber the Leased Property except for Permitted Encumbrances as set forth in Exhibit E hereto.

(c) None of the execution and delivery of this Lease, the Ground Lease or the Indenture, the fulfillment of or compliance with the terms and conditions hereof or thereof, or 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 Corporation is now a party or by which the Corporation is bound, or constitutes a default under any of the foregoing.

(d) The Corporation acknowledges and recognizes that this Lease will be terminated at the end of the Original Term or any Renewal Term in the event that sufficient funds are not budgeted and appropriated by the City specifically with respect to this Lease to continue paying all Base Rentals and Additional Rentals during the next occurring Renewal Term, and the acts of budgeting and appropriating funds are legislative acts and, as such, are solely within the discretion of the Council.

(e) There is no litigation or proceeding pending or, to the knowledge of the Corporation, threatened against the Corporation affecting the right of the Corporation to execute this Lease, the Ground Lease or the Indenture or the ability of the Corporation to comply with its obligations contained herein or therein.

### ARTICLE III

#### DEMISING CLAUSE

The Corporation demises and subleases the Leased Property to the City, and the City subleases the Leased Property from the Corporation, in accordance with the provisions of this Lease, subject only to Permitted Encumbrances as set forth in Exhibit E hereto, to have and to hold for the Original Term and the Renewal Terms, if any.

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

## ARTICLE IV

### LEASE TERM

Section 4.1. Duration of the Lease Term; City's Annual Right to Terminate. The Lease Term shall commence as of the date of delivery of the 2010 Certificates. The Original Term shall terminate on December 31, 2010. The Lease Term shall be continued, solely at the option of the City, for the first Renewal Term and for additional Renewal Terms thereafter, each of one year in duration, until terminated as provided in Section 4.2 hereof.

In the event that the City shall determine, for any reason, to terminate this Lease, the City shall give written notice to such effect to the Trustee and the Corporation not later than thirty days prior to the end of the Original Term or the then current Renewal Term; provided, however, that a failure to give such notice shall not constitute a Lease Event of Default, nor prevent the City from declining to renew this Lease, nor result in any liability on the part of the City.

The exercise of the City's annual option to not renew or terminate this Lease shall be conclusively determined by the City'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 when 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 6.2 hereof), all as more specifically set forth in Section 6.6 hereof. The City's Financial Operations Manager (or any other officer at any time charged with the responsibility of formulating budget proposals) is hereby directed to include in the annual budget proposals submitted to the Council items for all payments required under this Lease for the ensuing Fiscal Year, until such time, if any, as the City may determine to terminate this Lease; it being the intention of the City that any decision to terminate this Lease shall be made solely by the Council and not by any other official of the City. During the Lease Term, the City shall in any event, whether or not the Lease is to be renewed, furnish the Trustee and the Corporation with copies of its annual budget promptly after the budget is adopted.

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 Original Term or any Renewal Term during which there has occurred an Event of Nonappropriation pursuant to Section 4.1 and Article VI 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 6.6 hereof);
- (b) the release of the Leased Property from the provisions of the Ground Lease and this Lease as provided in Article XII hereof;
- (c) a Lease Event of Default and termination of this Lease by the Trustee as provided in Article XIV hereof;
- (d) conveyance of the Leased Property to the City upon payment by the City of all Base Rentals for the entire Lease Term, and all Additional Rentals then due, as provided in Section 12.1(b) hereof; or

(e) discharge of the Indenture, as provided in Article VI thereof.

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 for any conveyance pursuant to Article XI hereof); but all other provisions of this Lease, including all obligations of the City accrued prior to such termination, and all obligations of the Trustee with respect to the Certificate Owners and the receipt and disbursement of funds, shall be continuing until and except to the extent satisfied by discharge of the Indenture as provided in Article VI of the Indenture.

Notwithstanding any other provisions herein or in the Indenture, the Leased Property shall no longer be subject to the provisions of this Lease or the Indenture upon the termination of the Ground Lease.

## ARTICLE V

### ENJOYMENT OF LEASED PROPERTY

The Corporation hereby covenants that the City shall during the Lease Term peaceably and quietly have and hold and enjoy the Leased Property without suit, trouble or hindrance from the Corporation, except as expressly required or permitted by this Lease, the Ground Lease or the Indenture. The Corporation shall not interfere with the quiet use and enjoyment of the Leased Property by the City during the Lease Term so long as no Lease Event of Default shall have occurred and be continuing. The Corporation shall, at the request of the City and at the cost of the City, but only to the extent amounts for Additional Rentals which have been specifically appropriated by the City are available for the payments of such costs, join and cooperate fully in any legal action in which the City asserts its right to such possession and enjoyment, or which involves the imposition of any taxes or other governmental charges on or in connection with the Leased Property. In addition, the 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 V shall be subject to the Trustee's right to inspect the Leased Property as provided in Section 10.03 of the Indenture. The City also hereby consents to the provisions of Section 10.03 of the Indenture relating to inspection of records by the Trustee.

## ARTICLE VI

### PAYMENTS BY THE CITY

Section 6.1. Payments to Constitute Currently Budgeted and Appropriated Expenditures of the City. The City and the Corporation 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 from year to year only (as further provided in Sections 4.1, 4.2 and 6.6 hereof), 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 constituting a mandatory charge or requirement against the City for any ensuing Fiscal Year or creating a general obligation or other indebtedness of the City or a multiple fiscal year direct or indirect City debt or other financial obligation whatsoever within the meaning of any Charter, constitutional or statutory debt limitation. No provision of this Lease shall be construed or interpreted as creating an unlawful delegation of governmental powers nor as a donation by or a lending of the credit of the City within the meaning of Sections 1 or 2 of Article XI of the Constitution of the State. Neither this Lease nor the execution and delivery of the Certificates shall directly or indirectly obligate the City to make any payments beyond those specifically appropriated from its then current Fiscal Year. No provision of this Lease shall be construed to pledge or to create a lien on any class or source of City moneys, nor shall any provision of this Lease restrict the future issuance of any City bonds or obligations payable from any class or source of City moneys (provided, however, that the restrictions of Section 2.12 of the Indenture shall apply to the execution and delivery of Additional Certificates).

#### Section 6.2. Base Rentals and Additional Rentals.

(a) Base Rentals. The City shall pay Base Rentals during the Lease Term on the due dates set forth in Exhibit D attached hereto and made a part hereof, as it may be amended hereunder, directly to the Trustee. The Base Rentals during the Original Term and any Renewal Term shall be in the amounts in the "Total Base Rentals" column, as set forth in Exhibit D attached hereto and made a part hereof, as it may be amended. There shall be credited against the amount of Base Rentals otherwise payable hereunder any amounts available in the Certificate Fund on the Base Rentals payment date specified in Exhibit D.

The Base Rentals set forth in Exhibit D to this Lease shall be recalculated by the Trustee in the event of the execution and delivery of Additional Certificates as provided in Section 2.12(a) of the Indenture and in the event of any partial prepayment of the Certificates prior to maturity pursuant to Section 4.01(a) of the Indenture.

(b) Additional Rentals. The City shall pay Additional Rentals during the Lease Term as herein provided. The Additional Rentals during the Lease Term shall be in an amount sufficient to pay the reasonable fees and expenses of the Trustee,



reasonable expenses of the Corporation in connection with the Leased Property, and for the cost of taxes, insurance premiums, utility charges, maintenance, upkeep and repair costs, rebate payments pursuant to Section 11.8 hereof and Section 3.06 of the Indenture and all other expenses expressly required to be paid hereunder, as well as for payments into the Reserve Fund required by Section 3.03 of the Indenture. The City hereby agrees that, to the extent that Reserve Fund moneys are applied pursuant to paragraph (a) or (b) of Section 3.03 of the Indenture, the City will (i) pay to the Trustee for deposit in the Reserve Fund as Additional Rentals such amounts as are required to restore the amount on deposit in the Reserve Fund to the Reserve Fund Requirement or (ii) will cause to be deposited in the Reserve Fund a Qualified Surety Bond in an amount which, together with any moneys then contained in the Reserve Fund, will be sufficient to restore the amount on deposit in the Reserve Fund to the Reserve Fund Requirement, on or before the first day of the fourth month of the Fiscal Year following such withdrawal of moneys from the Reserve Fund; and that failure to budget and appropriate moneys for such payment or purchase of a Qualified Surety Bond by the last day of the Fiscal Year in which such withdrawal occurs shall constitute an Event of Nonappropriation.

All Additional Rentals shall be paid by the City on a timely basis directly to the Person to which such Additional Rentals are owed (except that Reserve Fund payments shall be made to the Trustee as provided in Section 3.03 of the Indenture and any Rebate Fund payments shall be made to the Trustee as provided in Section 3.06 of the Indenture). 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 and the Corporation under Section 4.1 of this Lease, the City shall furnish an itemization of such estimated Additional Rentals to the Trustee and the Corporation on or before the 15th day preceding such Fiscal Year.

Section 6.3. Interest Component. A portion of each payment of Base Rentals is paid as, and represents payment of, interest and Exhibit D hereto, as it may be amended hereunder, sets forth the interest component of each payment of Base Rentals.

Section 6.4. Manner of Payment. The Base Rentals and, if paid, the Purchase Option Price, shall be paid by lawful money of the United States of America to the Trustee at its principal operations office (provided, however, that an escrow established pursuant to Article VI of the Indenture may be established with an institution other than the Trustee). The obligation of the City to pay the Base Rentals and duly budgeted and appropriated Additional Rentals required under this Article VI and other Sections hereof during the Lease Term shall be absolute and unconditional, and payment of the Base Rentals and duly budgeted and appropriated Additional Rentals shall not be abated through accident or unforeseen circumstances. Notwithstanding any dispute between the City and the Corporation, the Trustee, any Certificate Owner, any contractor or subcontractor retained with respect to the Project, any supplier of labor or materials in connection therewith, or any other Person, the City shall, during the Lease Term, make all payments of Base Rentals and duly budgeted and appropriated Additional Rentals when due and shall not withhold any Base Rentals or duly budgeted and appropriated Additional Rentals pending final resolution of such dispute (except to the extent permitted by Sections 8.2 and 9.3 hereof with respect to certain Additional Rentals), nor shall the 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 Corporation or the Trustee shall affect the City's obligation to pay all Base Rentals and duly budgeted and appropriated Additional Rentals (except to the extent provided by Sections 8.2 and 9.3 hereof with respect to certain Additional Rentals) during the Lease Term.

Section 6.5. Expression of City's Need for the Leased Property; Determinations as to Fair Value and Fair Purchase Price. The City hereby declares its current need for and the essentiality of the Leased Property. It is hereby declared to be the present intention and expectation of the Council that this Lease will be renewed annually until the Leased Property is released from the provisions of the Ground Lease and this Lease; but this declaration shall not be construed as contractually obligating or otherwise binding the City. The City and the Corporation hereby agree and determine that the Base Rentals hereunder during the Original Term and any Renewal Term represent the fair value of the use of the Leased Property and that the Purchase Option Price represents the fair value of the release of the Leased Property from the provisions of the Ground Lease and the release of the Leased Property from the provisions of this Lease at the time of exercise of the purchase option. The City 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. In making such determinations, the City has given consideration to the uses and purposes for which the Leased Property will be employed by the City, the use and occupancy of the Leased Property pursuant to the terms and provisions of this Lease, the City's option to purchase the Leased Property, and the expected eventual vesting of title to the Leased Property in the City. The City hereby determines and declares that, to the best of its knowledge, the period during which the City has an option to purchase the Leased Property (i.e., the maximum term of this Lease including all Renewal Terms) does not exceed the useful life of the Leased Property.

Section 6.6. Nonappropriation. In the event that the City fails, for any reason, to appropriate by the last day of each Fiscal Year (i) sufficient amounts to be used to pay Base Rentals due in the next Fiscal Year and (ii) sufficient amounts to pay Additional Rentals as are estimated to become due in the next Fiscal Year (as provided in Section 6.2 hereof), an Event of Nonappropriation shall be deemed to have occurred; subject, however, to each of the following provisions:

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

(b) Absent such notice from the Council, the Trustee shall give written notice to the City of any Event of Nonappropriation, on or before the 6th day after the end of such Fiscal Year in the event of the initial appropriation for a Fiscal Year, but any failure of the Trustee to give such written notice shall not prevent the Trustee from declaring an Event of Nonappropriation or from taking any remedial action which would otherwise be available to the Trustee.

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

(d) The Trustee shall waive any Event of Nonappropriation which is cured by the City by specifically budgeting and appropriating, within 45 days of the giving of notice by the Trustee as provided in (b) above, or by the first day of the third month of the ensuing Fiscal Year, whichever is earlier, moneys sufficient to pay all Base Rentals and reasonably estimated Additional Rentals coming due for such Fiscal Year.

In the event that during the Original Term or any Renewal Term, any Additional Rentals shall become due which were not included in the City's current budget, and if there are no moneys available to pay such Additional Rentals pursuant to Section 3.03 or Section 3.05 of the Indenture, then, in the event that moneys are not specifically budgeted or appropriated to pay such Additional Rentals by the last day of such Fiscal Year, an Event of Nonappropriation shall be deemed to have occurred, subject to the provisions stated in the above paragraphs (a) through (d) of this Section.

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 Original Term or any Renewal Term during which such Event of Nonappropriation occurs; provided, however, that, subject to the limitations of Section 14.3 hereof, the City shall have the liabilities provided in Section 14.2(d)(I) hereof with respect to any period during which the City shall continue to occupy the Leased Property.

The City shall in all events vacate the Leased Property by the first day of the third month following the end of any Fiscal Year during which an Event of Nonappropriation occurs (unless such Event of Nonappropriation has been waived as hereinabove provided). The City and the Corporation hereby acknowledge and agree that any termination of this Lease, whether pursuant to this Section 6.6, Section 10.3(c), or Section 14.2 hereof, shall terminate the City's rights and obligations hereunder as to the entire Leased Property.

The Trustee shall, upon the occurrence of an Event of Nonappropriation, be entitled to all moneys then on hand and being held in all funds created under the Indenture, excluding the Rebate Fund and excluding any escrow accounts theretofore established pursuant to Article VI of the Indenture, for the benefit of the Certificate Owners. After the expiration of the Fiscal Year during which an Event of Nonappropriation occurs, and after any cure period applicable pursuant to this Section 6.6, the Trustee shall proceed to foreclose through the courts on and sell, or otherwise liquidate or dispose of, the Corporation's leasehold interest in the Leased Property as provided in Section 7.02 of the Indenture or take one or any combination of the steps described in Section 14.2 of this Lease. All property, funds and rights acquired by the Trustee upon the termination of this Lease by reason of an Event of Nonappropriation as provided herein, less any moneys due and owing to the Trustee, shall be held by the Trustee for the benefit of the Certificate Owners as set forth in the Indenture.

Section 6.7. Disposition of Base Rentals. Upon receipt by the Trustee of each payment of Base Rentals, the Trustee shall apply the amount of such Base Rentals in the following manner and order:

FIRST, the amount of such payment of Base Rentals designated and paid as interest under Exhibit D, as it may be amended hereunder, plus the amount of any past

due interest with respect to the Certificates shall be deposited in the Interest Account of the Certificate Fund.

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

## ARTICLE VII

### DESIGN, ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF THE PROJECT

Section 7.1. Design, Acquisition, Construction and Improvement of the Project.  
As further provided in Section 8.1 hereof, fee simple title to the Leased Property shall be held by the City. Pursuant to the Ground Lease, the City shall lease the Leased Property to the Corporation and pursuant to this Lease, the City shall sublease the Leased Property back from the Corporation.

The City hereby agrees that it will make all contracts, orders, receipts, writings and instructions, including all Project Contracts, with any other persons, firms or corporations and in general do all things that may be necessary, requisite or proper for the acquisition, construction, installation and completion of the Project. The City agrees to comply with all applicable federal, State of Colorado and local law in connection with the making of contracts for the Project. The administration of the Project is to comply with all policies and procedures and all standard contractual and procedural documents required by the City, except that pursuant to Section 7.4 upon termination of this Lease due to the occurrence of an Event of Nonappropriation or an Event of Lease Default, all Project Contracts shall be fully and freely assignable to the Trustee. Notwithstanding anything to the contrary contained in this Lease or the Indenture, all Project Documents shall be made and approved by the City. The City hereby further agrees:

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

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

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

complete the remainder of the Project from any moneys remaining in the Project Fund for the Project.

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

If an Event of Nonappropriation or an Event of Lease Default shall occur after the execution and delivery of this Lease, but prior to the Completion Date, any moneys held in funds and accounts created under the Indenture (other than moneys on deposit in the Rebate Fund and any defeasance escrow funds) may be utilized by the Trustee to complete, repair or modify the Project, or may be disbursed for the payment of Certificates executed and delivered pursuant to the Indenture or other charges as the Trustee may deem appropriate in accordance with the standards concerning the Trustee contained in the Indenture, subject to Section 11.8 hereof..

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

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

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

- (a) add to, modify or alter the Project or add new components thereto or construct or acquire such additional capital projects as the Council may deem necessary or advisable, whether located on the Land or otherwise; provided that such addition, modification or alteration shall be consistent with, and shall not violate the covenants contained in, the Tax Certificate or in Section 11.8 hereof, or
- (b) direct the Trustee in writing to transfer the remaining balance to the Base Rentals Fund created under the Indenture in amounts consistent with, and not in

violation of the covenants contained in, the Tax Certificate, for a credit against the Base Rentals as the same shall become due or may be prepaid under this Lease with a corresponding adjustment in the amount of Base Rentals payable under Exhibit D (Base Rentals Schedule) to this Lease, or

(c) effect a combination of the foregoing.

Base Rentals set forth in Exhibit D (Base Rentals Schedule) to this Lease shall be recalculated by the City in the event of any partial prepayment of Base Rentals in order that the Base Rentals Schedule shall reflect Base Rentals in amounts and with payment dates which, if an Appropriation has been made, will provide sufficient moneys to pay the principal of and interest on outstanding Certificates.

Section 7.4. Project Contracts. The City represents that, in the opinion of the City, based upon an examination of property, estimated design, construction, acquisition and installation costs and the configuration of the Project, the Project can, to the best of the City's present knowledge, be constructed, acquired and installed for a total cost within the amount of funds to be available in the Project Fund created under the Indenture, including anticipated investment income. In the event of cost overruns resulting in the Costs of the Project exceeding the amount available in the Project Fund created under the Indenture, all in connection with the leasing of the Leased Property and the implementation and completion of the Project, upon written consent of the City, either (a) the City shall make such modifications to the plans and specifications for the Project as will permit the Project to be provided from the amounts available therefor under the Indenture or (b) upon the Approval of Special Counsel, the City shall deposit additional funds received from appropriations by the City, or the Trustee may deposit additional funds received from the proceeds of Additional Certificates in the Project Fund created under the Indenture, sufficient to complete the Project. If the City pays any portion of the Costs of the Project pursuant to this Section, it shall not be entitled to any reimbursement therefor from the Trustee or any owner of Certificates, nor shall it be entitled to any diminution in or postponement of the Base Rentals and the Additional Rentals payable under this Lease.

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

Nonappropriation or an Event of Lease Default or upon the Trustee's assuming control over the implementation and completion of the Project as provided in Section 7.1 hereof, and upon receipt of a written request from the Trustee, the City shall assign all of its right, title and interest in and to any or all Project Contracts to the Trustee and shall deliver all such Project Documents held by it to the Trustee.

Section 7.5. Project Documents. The City Representative shall furnish, but the Trustee shall have no duty to review, to the Trustee, copies of the Project Documents, as soon after the commencement of the Lease Term as such Project Documents shall become available to the City and from time to time thereafter. Neither the Project Documents nor any change or amendment thereto shall (a) cause the Project to be used for any purpose prohibited hereby or by the Constitution or laws of the State; (b) result in a material reduction in the value of the Project (except as provided in Section 7.4 hereof); (c) adversely affect the ability of the City to meet its obligations hereunder; or (d) cause the City to violate its tax covenant in Section 11.8 hereof.

Section 7.6. Defaults Under Project Contracts. In the event of any material default by a design consultant or construction contractor under any of the Project Contracts, or in the event of a material breach of warranty with respect to any materials, workmanship or performance, the City shall promptly proceed, either separately or in conjunction with others, to pursue diligently its remedies against such design consultant or contractor and/or against each surety of any bond securing the performance of such Project Contracts. The Net Proceeds of any amounts recovered by way of damages, liquidated damages, refunds, adjustments, or otherwise in connection with the foregoing, remaining after deduction of expenses incurred in such recovery (including without limitation, attorneys' fees and costs) shall be paid to the Trustee for deposit to the Project Fund created under the Indenture if prior to the Completion Date, or if after the Completion Date, to the Trustee for deposit in the Repair and Replacement Fund in accordance with Section 10.2 of this Lease.

Section 7.7. Performance and Payment Bonds. Each contractor entering into a Project Contract for the construction of the Project shall be required to furnish a performance and payment bond in a form acceptable to the City, copies of which shall be provided to the City and the Trustee. Such bonds shall be made payable to the City subject to the provisions of the Indenture, shall be executed by a corporate surety licensed to transact business in the State and acceptable to the City and shall be in an amount equal to the contract price for such contractor's Project Contract. If, at any time during the construction of the Project, the surety on such bond shall be disqualified from doing business within the State, or shall otherwise become incapable of performing its obligations under such bond, an alternate surety acceptable to the City shall be selected. In the event of any change order resulting in the performance of additional work in connection with the Project, the amounts of such bonds pertaining thereto shall be increased to include the cost of such additional work or materials or fixtures to be incorporated in the Project.

Section 7.8. Professional Errors and Omissions Liability Insurance. The City shall require in its contracts with the design consultants for the Project that they obtain and maintain professional liability insurance for damages for claims by reason of any negligent act, error or omission committed or alleged to have been committed by them or anyone for whom they are liable, in an amount of not less than \$2,000,000 per claim and \$2,000,000 aggregate. Professional liability insurance coverage may be structured to provide coverage on a "claims-



made” basis; provided, however, the professional liability insurance coverage shall remain in effect for the period set out in Section 13-80-104 of the Colorado Revised Statutes, as amended. Deductibles for such insurance shall be paid by the design consultants. The limits of this insurance shall not be reduced unless approved by the City and the Trustee in writing.

Section 7.9. Contractor’s Commercial General Liability Insurance. Each contractor entering into a Project Contract for the construction of any portion of the Project shall be required to procure and maintain Commercial General Liability Insurance during the duration of such contractor’s Project Contract in the amount of at least \$2,000,000 each occurrence and \$4,000,000 general aggregate. The policies shall be applicable to all premises and operations. Such policies shall include the City, the Corporation and the Trustee as additional named insureds and shall include a provision prohibiting cancellation or termination without thirty (30) days prior written notice to the City, the Corporation and the Trustee. A certificate of insurance in a form acceptable to the City shall be provided to the City, the Corporation and the Trustee with respect to each contractor. Such insurance shall provide protection from all claims for bodily injury, including death, property damage, contractual liability and completed operations.

Section 7.10. Design Consultant’s General Liability Insurance. Each design consultant entering into a Project Contract for the design of any portion of the Project shall be required to procure and maintain Commercial General Liability Insurance during the duration of such design consultant’s Project Contract in the amount of at least \$1,000,000 each occurrence, and \$2,000,000 general aggregate. The policies shall be applicable to all premises and operations. Such policies shall include the City, the Corporation and the Trustee as additional named insureds and shall include a provision prohibiting cancellation or termination without thirty (30) days prior written notice to the City, the Corporation and the Trustee. A certificate of insurance in a form acceptable to the City shall be provided to the City, the Corporation and the Trustee with respect to each design consultant. Such insurance shall provide protection from all claims for bodily injury, including death, property damage, contractual liability and completed operations.

Section 7.11. Contractor’s Automobile Liability Insurance. Each contractor entering into a Project Contract for the construction of any portion of the Project shall be required to procure and maintain automobile liability insurance with minimum combined single limits for bodily injury and property damage of not less than \$2,000,000 for any one occurrence, with respect to each of the contractor’s owned, hired or non-owned vehicles assigned to or used in performance of its work.

Section 7.12. Builder’s Risk Insurance. Each contractor entering into a Project Contract for the construction of any portion of the Project shall be required to provide Builder’s Risk Insurance with minimum limits of not less than the insurable value of its work to be performed under its Project Contract. A certificate of insurance shall be provided to the City, the Corporation, and the Trustee within seven Business Days of the effective date of the policies. The policies shall be written on an “all risk” basis and shall name the City, the Corporation and the Trustee as insureds. The policies shall contain a waiver of subrogation by the issuer of such policies with respect to the City, the Corporation and the Trustee, and their respective officers, agents and employees while acting within the scope of their employment.

Section 7.13. Design Consultant's and Contractor's Worker's Compensation Insurance. Each design consultant and contractor entering into a Project Contract shall be required to procure and maintain, at its own cost and expense, worker's compensation insurance during the term of its Project Contract covering its employees working thereunder. Such insurance, if issued by a private carrier, shall contain a provision that such coverage shall not be canceled without thirty (30) days' prior written notice to the City, the Corporation, and the Trustee. A certificate issued by the state compensation insurance fund evidencing such coverage shall be provided to the City or, if such insurance is provided by a private carrier, a completed certificate of insurance, in a form acceptable to the City, shall be provided to the City with respect to each design consultant and contractor. Minimum limits of Worker's Compensation Insurance shall be \$500,000 each accident; \$500,000 disease policy and \$500,000 disease each employee.

Section 7.14. Proceeds of Certain Insurance Policies and Performance Bonds. The Net Proceeds of any performance or payment bond or insurance policy required by Sections 7.8 through 7.13 and any Net Proceeds received as a consequence of default under a Project Contract as provided by Section 7.7 of this Lease, shall be deposited into the Project Fund if received prior to the Completion Date and, if received on or after the Completion Date, remitted to the Trustee for deposit into the Repair and Replacement Fund, in accordance with Section 10.2 of this Lease.

## ARTICLE VIII

### TITLE TO THE LEASED PROPERTY; LIMITATIONS ON ENCUMBRANCES

Section 8.1. Title to the Leased Property; Title Insurance. Title to the Leased Property shall remain in the City, subject to the Ground Lease, this Lease, the Indenture and any other Permitted Encumbrances, notwithstanding any provisions to the contrary in the Ground Lease, this Lease or the Indenture. Except personal property purchased by the City at its own expense pursuant to Section 9.2 hereof, title to the Corporation'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 Corporation, subject to this Lease, the Ground Lease and the Indenture, until liquidated, conveyed or otherwise disposed of as provided in Section 7.02 of the Indenture or Article XII hereof, or until termination of the Ground Lease, notwithstanding (a) a termination hereof by the City by reason of an Event of Nonappropriation as provided in Section 6.6 hereof; (b) the occurrence of one or more Lease Events of Default as defined in Section 14.1 hereof; (c) the occurrence of any event of damage, destruction, condemnation, or construction defect, breach of warranty or title defect, as provided in Article X hereof; or (d) the violation by the Corporation (or by the Trustee as assignee of the Corporation, or any other sublessee or assignee pursuant to the Indenture) 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 mortgagee's title insurance policies issued to the Trustee, insuring the Corporation's leasehold interest in the Leased Property, subject only to Permitted Encumbrances as set forth in Exhibit E hereto, in an aggregate amount not less than the aggregate principal amount of the 2010 Certificates, 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.

Section 8.2. No Encumbrance, Mortgage or Pledge of Leased Property. Except for Permitted Encumbrances set forth in Exhibit E hereto, the City shall not permit any mechanic's or other lien to remain against the Leased Property; provided that, if the City shall first notify the Trustee of the intention of the City so to do, 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 Independent Counsel, by nonpayment of any such items the title to the Leased Property or the lien on the Leased Property pursuant to the Indenture 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 pay as Additional Rentals hereunder 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 Corporation and the Trustee will cooperate fully with the City in any such contest, upon the request and at the expense of the City. Neither the Corporation nor, except as provided above, the City, shall 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 set forth in Exhibit E hereto. The City shall promptly, at its own expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance or claim not excepted above which it shall have created, incurred, or suffered to exist. The Corporation shall promptly, at its own expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance or claim not excepted above which it shall have created or incurred.

## ARTICLE IX

### MAINTENANCE; TAXES; INSURANCE AND OTHER CHARGES

Section 9.1. Maintenance of the Leased Property. The City agrees that at all times during the Lease Term it will maintain, preserve and keep the Leased Property or cause the Leased Property to be maintained, preserved and kept, with the appurtenances and every part and parcel thereof, in good repair, working order and condition, and that the City will from time to time make or cause to be made all necessary and proper repairs, except as otherwise provided in Section 10.3 of this Lease. None of the Corporation, the Trustee, or any of the Certificate Owners shall have any responsibility in any of these matters or for the making of any additions, modifications or replacements to the Leased Property, except as otherwise provided in Article VII of the Ground Lease.

Section 9.2. Modification of the Leased Property; Installation of Furnishings and Machinery of the City. The City shall have the privilege of remodeling or making substitutions, additions, modifications or improvements to the Leased Property, at its own cost and expense; and the same shall be the property of the City, subject to this Lease, the Ground Lease, and the Indenture, and shall be included under the terms of this Lease, the Ground Lease and the Indenture; provided, however, that such remodeling, substitutions, additions, modifications and improvements shall not in any way damage the Leased Property or cause it to be used for purposes other than lawful governmental functions of the City (except to the extent of subleasing permitted under Section 13.2 hereof) or cause the City to violate its tax covenant in Section 11.8 hereof; and provided that the Leased Property, as remodeled, improved or altered, upon completion of such remodeling, substitutions, additions, modifications and improvements, shall be of a value not less than the value of the Leased Property immediately prior to such remodeling or 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 none of the Corporation, the Trustee, or the Certificate Owners shall have any interest; provided, however, that title to any such machinery, equipment and other tangible property which becomes permanently affixed to the Leased Property shall become part of the Leased Property and shall be included under the terms of this Lease and the Indenture. Property shall be considered permanently affixed if the Trustee shall reasonably determine that the Leased Property would be materially damaged or impaired by the removal of such machinery, equipment or other tangible property.

Section 9.3. Taxes, Other Governmental Charges and Utility Charges. In the event that the Leased Property or any portion thereof 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 as provided in the immediately preceding sentence and except for Permitted

Encumbrances set forth in Exhibit E hereto, the City shall not allow any liens for taxes, assessments or governmental charges to remain with respect to the Leased Property or any portion thereof (including, without limitation, any taxes levied upon the Leased Property or any portion thereof, which, if not paid, will become a charge on the rentals and receipts from the Leased Property or any portion thereof, or any interest therein, including the interest of the Corporation, the Trustee, or the Certificate Owners), or the rentals and revenues derived therefrom or hereunder. The City shall also pay as Additional Rentals, as the same respectively become due, all gas, water, steam, electricity, heat, power, telephone, utility and other charges incurred in the maintenance and upkeep of the Leased Property.

If the City shall first notify the Trustee of its intention so to do, the City may, at the expense and in the name of the City, 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 Independent Counsel, by nonpayment of any such items the security afforded pursuant to the Indenture will be materially endangered or the Leased Property or any portion thereof will be subject to loss or forfeiture, or the Corporation or the Trustee will be subject to liability, in which event such taxes, assessments, utility or other charges shall be paid as Additional Rentals hereunder (provided, however, that such payment shall not constitute a waiver of the right to continue to contest such taxes, assessments, utility or other charges).

Section 9.4. Provisions Regarding Casualty, Public Liability and Property Damage Insurance. Upon the execution and delivery of this Lease, the City shall, at its own expense, cause casualty and property damage insurance to be carried and maintained with respect to the Leased Property in an amount equal to \$\_\_\_\_\_. Such insurance policy may have a deductible clause in an amount not to exceed \$100,000. 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, at its election, may provide for casualty and property damage insurance with respect to the Leased Property, partially or wholly by means of a self-insurance fund. Full payment of insurance proceeds up to the required policy dollar limit in connection with damage to the Leased Property shall, under no circumstances, be contingent on the degree of damage sustained at other facilities owned or leased by the City. The policy must explicitly waive any co-insurance penalty.

On the Completion Date, the City shall, at its own expense, cause casualty and property damage insurance to be carried and maintained with respect to the Leased Property in an amount equal to the full replacement value of the Leased Property. Such insurance policy may have a deductible clause in an amount not to exceed \$100,000. 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, at its election, may provide for casualty and property damage insurance with respect to the Leased Property, partially or wholly by means of a self-insurance fund. Full payment of insurance proceeds up to the required policy dollar limit in connection with damage to the Leased Property shall, under no circumstances, be contingent on the degree of damage sustained

at other facilities owned or leased by the City. The policy must explicitly waive any co-insurance penalty.

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 9.4 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.

Any casualty and property damage insurance policy required by this Section 9.4 shall be so written or endorsed as to make losses, if any, payable to the City, the Corporation, and the Trustee, as their respective interests may appear. Each insurance policy provided for in this Section 9.4 shall contain a provision to the effect that the insurance company shall not cancel the policy without first giving written notice thereof to the City, the Corporation and the Trustee at least 10 days in advance of such cancellation. All insurance policies issued pursuant to this Section 9.4, or 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, whether or not covered by insurance, without the prior written consent of the Trustee; except that losses not exceeding \$100,000 may be adjusted or settled by the City without the Trustee's consent. The consent of the Corporation shall not be required for any such adjustment or settlement, regardless of the amount of the loss.

Section 9.5. Advances. In the event that the City shall fail to pay any duly budgeted and appropriated Additional Rentals during the Lease Term, the Trustee may (but shall be under no obligation to) pay such Additional Rentals, which Additional Rentals, together with interest thereon at a rate which shall be, to the maximum extent permitted by law, equal to the rate of interest then charged by the Trustee on 90-day unsecured commercial loans to its prime commercial borrowers or at the highest rate of interest per annum then borne by any Outstanding Certificate, whichever is higher, the City agrees promptly to reimburse to the Trustee.

## ARTICLE X

### DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

Section 10.1. Damage, Destruction and Condemnation. If, during the Lease Term (a) the Leased Property or any portion thereof 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 any portion thereof or the estate of the City, the Corporation, or the Trustee in the Leased Property or any portion thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any Person acting under governmental authority; or (c) a material defect or breach of warranty with respect to the Leased Property shall become apparent; or (d) title to or the use of all or any portion of the Leased Property shall be lost by reason of a defect in title thereto; then the City shall be obligated (subject to the provisions of Section 10.3 of this Lease) to continue to pay the amounts specified in Sections 6.2 and 10.2 of this Lease.

Section 10.2. Obligation of the City to Repair and Replace the Leased Property. Subject to the provisions of Section 10.3 of this Lease, the City, the Corporation and the Trustee shall cause the Net Proceeds of any insurance policies or condemnation awards or any Net Proceeds received as a consequence of default or breach of warranty in connection with the Leased Property made available by reason of any occurrence described in Section 10.1 hereof to be deposited into the Project Fund if received prior to the Completion Date, and to be deposited into the Repair and Replacement Fund if received on or after the Completion Date. Except as set forth in Section 10.3 of this Lease, all Net Proceeds so deposited shall be applied to the prompt repair, restoration, modification, improvement or replacement to the Leased Property by the City upon receipt of requisitions signed by the City Representative (a) stating with respect to each payment to be made: (i) the requisition number; (ii) the name and address of the Person to whom payment is due or has been made; (iii) the amount to be paid or reimbursed; (iv) that each obligation mentioned therein has been properly incurred, is a proper charge against the Project Fund or the Repair and Replacement Fund, as applicable, and has not been the basis of any previous withdrawal; and (v) that the disbursement requested will be used for repairs, restoration, modification, improvement or replacements to the Leased Property; (b) specifying in reasonable detail the nature of the obligation; and (c) accompanied by a bill, invoice or a statement of account for such obligation. In carrying out any of the provisions of this Section 10.2, the Trustee shall cooperate with the City in the administration of such Fund and shall not unreasonably withhold its approval of requisitions under this Section 10.2. Any repair, restoration, modification, improvement or replacement paid for in whole or in part out of such Net Proceeds shall be the property of the City, subject to this Lease, the Ground Lease, and the Indenture, and shall be included as part of the Leased Property under this Lease, the Ground Lease, and the Indenture.

Section 10.3. Insufficiency of Net Proceeds; Discharge of the Obligation of the City to Repair or Replace the Leased Property. If there occurs an event described in Section 10.1 hereof which results in frustration of the purpose for which the Leased Property was intended, and if the Net Proceeds shall be insufficient to pay in full the cost of any repair, restoration, modification, improvement or replacement of the Leased Property required under Section 10.2 of this Lease, the City may elect any of the following options:



(a) The City may complete the repair, restoration, modification, improvement or replacement of the Leased Property and pay any cost in excess of the amount of the Net Proceeds, and the City agrees that, if by reason of any such insufficiency of the Net Proceeds, the City shall make any payments pursuant to the provisions of this Section 10.3(a), the City shall not be entitled to any reimbursement therefor from the Corporation, the Trustee or the Certificate Owners, nor shall the City be entitled to any diminution of the Base Rentals and Additional Rentals payable under Section 6.2 of this Lease. Any repair, restoration, modification, improvement or replacement paid for by the City pursuant to this Section 10.3(a) which is permanently affixed to the Leased Property shall be the property of the City, subject to this Lease, the Ground Lease, and the Indenture, and shall be included as part of the Leased Property under this Lease, the Ground Lease, and the Indenture;

(b) The City may apply the Net Proceeds of such insurance policies or condemnation awards or Net Proceeds received as a consequence of default or breach of warranty in connection with the Leased Property to the payment of the then applicable Purchase Option Price in accordance with Article XII of this Lease. In the event of an insufficiency of the Net Proceeds for such purpose, the City shall pay such amounts as may be necessary to equal the Purchase Option Price; and in the event the Net Proceeds shall exceed the Purchase Option Price, such excess shall be retained by the City; or

(c) If, by the last day of the Fiscal Year in which an event specified in Section 10.1 of this Lease occurs (or the last day of any subsequent Fiscal Year in which the insufficiency of Net Proceeds to repair, restore, modify, improve or replace the Leased Property becomes apparent), the City has not budgeted and appropriated amounts sufficient to proceed under either paragraph (a) or paragraph (b) of this Section, an Event of Nonappropriation shall be deemed to have occurred. In such event, the unspent Net Proceeds shall be deposited into the Extraordinary Revenue Fund and applied as set forth in the Indenture. Unless said Event of Nonappropriation is cured as provided in Section 6.6 of this Lease, the Trustee may then pursue remedies as provided in Sections 6.6 and 14.2 hereof and Section 7.02 of the Indenture. If there are any excess moneys remaining after payment of all fees and expenses due to the Trustee and after payment or prepayment of the Certificates as provided in Sections 4.01 and 4.02 of the Indenture, such excess moneys shall be paid to the City.

It is hereby declared to be the City's present intention that, if an event described in Section 10.1 hereof should occur and if the Net Proceeds shall be insufficient to pay in full the cost of repair, restoration, modification, improvement or replacement of the Leased Property, the City would use its best efforts to proceed under either paragraph (a) or (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 10.4. Cooperation of the Corporation. The Corporation shall cooperate fully with the City and the Trustee in filing any proof of loss with respect to any insurance policy covering the events described in Section 10.1 of this Lease, in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Leased Property or any

portion thereof, and in the prosecution of any action relating to defaults in connection with the Leased Property, and hereby assigns to the Trustee its interests in such policies solely for such purposes. In no event shall the Corporation voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim, prospective or pending condemnation proceeding, or any action relating to defaults with respect to the Leased Property or any portion thereof, without the written consent of the Trustee Representative and the Council. This Section shall not be construed to obligate the Corporation to advance its own funds in order to take action hereunder.

## ARTICLE XI

### DISCLAIMER OF WARRANTIES; OTHER COVENANTS

Section 11.1. Disclaimer of Warranties. NEITHER THE CORPORATION NOR THE TRUSTEE MAKES 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 PORTION THEREOF OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LEASED PROPERTY OR ANY PORTION THEREOF. The City hereby acknowledges and declares that the City is solely responsible for the maintenance and operation of the Leased Property, and that none of the Corporation, the Trustee, or the Certificate Owners has any responsibility therefore, except as otherwise provided in the Ground Lease. In no event shall the Corporation, the Trustee or the Certificate Owners be liable for any direct or indirect, incidental, special or consequential damage in connection with or arising out of this Lease or the Ground Lease or the existence, furnishing, functioning or use by the City of any item, product or service provided for herein.

Section 11.2. Further Assurances and Corrective Instruments. The Corporation and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Property hereby leased or intended so to be, or for otherwise carrying out the intention hereof.

Section 11.3. Corporation, City and Trustee Representatives. Whenever under the provisions hereof or of the Ground Lease or the Indenture the approval of the Corporation, the City or the Trustee is required, or the City, the Corporation or the Trustee is required to take some action at the request of the other, unless otherwise provided, such approval or such request shall be given for the Corporation by the Corporation Representative, for the City by the City Representative, and for the Trustee by the Trustee Representative, and the Corporation, the City and the Trustee shall be authorized to act on any such approval or request.

Section 11.4. Granting of Easements. As long as no Event of Nonappropriation or Lease Event of Default shall have happened and is continuing, the Corporation and the Trustee shall at any time or times, but only upon the request of the City, grant easements, licenses, rights-of-way (including the dedication of public highways) and other rights or privileges in the nature of easements with respect to any property or rights included in this Lease, the Ground Lease and the Indenture, free from this Lease, the Ground Lease and the Indenture and any security interest or other encumbrance created hereunder or thereunder, and the Corporation and the Trustee shall release existing easements, licenses, rights-of-way and other rights and privileges with respect to such property or rights, with or without consideration, and the Corporation and the Trustee agree to execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way or other grant or privilege upon receipt of: (a) a copy of the instrument of grant or release; (b) a written application signed by the City Representative requesting such instrument and stating that such grant or release will not impair the effective use or interfere with the operation of the Leased

Property. The City shall not be entitled to any diminution of the Base Rentals and Additional Rentals payable under Section 6.2 of this Lease as a result of any grant or release pursuant to this Section.

Section 11.5. Partial Release and Substitution of Leased Property. So long as no Lease Event of Default or Event of Nonappropriation shall have occurred and be continuing, the Corporation and the Trustee shall release any portion of the Leased Property, and shall execute all documents necessary or appropriate to reconvey such portion of the Leased Property to the City, free of all restrictions and encumbrances imposed or created by this Lease, the Ground 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) written consent of the City Representative certifying (i) the 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 ordinance, (ii) that the disposition of the portion of the Leased Property to be released and the substitution therefor of the real property to be substituted for the portion of the Leased Property to be released (if any) will not materially adversely affect the ability of the City to operate the Leased Property or to fulfill its obligations under this Lease; (iii) that any real property to be substituted for the portion of the Leased Property to be released is necessary or useful to the operation of the Leased Property; and (iv) 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 ordinance, 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 ordinance referred to in clauses (b)(i) and (b)(iv) above; and (d) supplements and amendments to this Lease, the Ground Lease and the Indenture and any other documents necessary to subject any real property to be substituted for the portion of the Leased Property to be released to the lien of the Indenture. The City agrees that any cash paid to the Trustee pursuant to the provisions of this Section 11.5 shall be deposited into the Principal Account or the Interest Account of the Certificate Fund, or both such accounts, as directed by the City.

Section 11.6. Compliance with Requirements. During the Lease Term, the City, the Corporation and the Trustee shall observe and comply promptly with all current and future orders of all courts having jurisdiction over the Leased Property or any portion thereof, and all current and future requirements of all insurance companies writing policies covering the Leased Property or any portion thereof.

Section 11.7. City Acknowledgment of the Indenture. The City acknowledges and consents to the assignment by the Corporation to the Trustee, pursuant to the Indenture, of all rights, title and interest of the Corporation in, to and under this Lease (except the Corporation's rights to payment or reimbursement of certain expenses, indemnification, and attorneys' fees and expenses pursuant to Sections 6.2, 13.3 and 14.7 hereof) and under the Ground Lease. The City shall comply with all provisions of the Indenture which create obligations of the City so long as this Lease remains in effect.

Section 11.8. Tax Covenant. The City covenants for the benefit of the Certificate Owners that it will not take any action or omit to take any action with respect to the Leased Property, the Certificates, the proceeds thereof, any other funds of the City or any

facilities or equipment 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 in Section 6.6 hereof) if such action or omission (a) would cause the interest with respect to the Certificates to lose its exclusion from gross income for Federal income tax purposes under Section 103 of the Code, or (b) would cause interest with respect to the Certificates to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Code, or (c) would cause interest with respect to the Certificates to lose its exclusion from Colorado taxable income or Colorado alternative minimum taxable income under present Colorado law. Subject to the City's right to terminate this Lease as provided in Section 6.6 hereof, 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 Code and Colorado law have been met.

In addition, the City covenants that its direction of investments pursuant to Article V 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.

Section 11.9. Undertaking to Provide Ongoing Disclosure. The City shall comply with the provisions of the Continuing Disclosure Certificate. Any failure by the City to perform its obligations under this Section shall not constitute an Event of Default under this Lease, and the rights and remedies provided by this Lease upon the occurrence of an Event of Default hereunder shall not apply to any such failure. Neither the Corporation nor the Trustee shall have any power or duty to enforce this Section. No Certificate Owner shall be entitled to damages for the City's non-compliance with its obligations under this Section; however, the Certificate Owners may enforce specific performance of the obligations contained in this Section by any judicial proceedings available.

## ARTICLE XII

### RELEASE OF THE LEASED PROPERTY

Section 12.1. Release of the Leased Property. The Corporation shall release the Leased Property from the provisions of the Ground Lease and this Lease in the manner provided for in Section 12.2 hereof, provided, however, that prior to such assignment, transfer, conveyance or release either:

- (a) The City shall have paid the then applicable Purchase Option Price; or
- (b) The City shall have paid all Base Rentals set forth in Exhibit D hereto for the Original Term and all Renewal Terms and all Additional Rentals then due.

The City is hereby granted the option to terminate this Lease and the Ground Lease and to release the Leased Property from the Ground Lease and this Lease upon payment by the City of the then applicable Purchase Option Price. In order to exercise the option granted by this Article, the City shall give written notice to the Trustee of its intention to terminate this Lease and the Ground Lease, specifying a closing date for such purchase which shall be no less than five days after the giving of such written notice (provided, however, that no such notice shall be required for conveyance, termination and release pursuant to (b) above). Such notice may be waived by the Trustee. At the City's option, amounts then on deposit in any fund held under the Indenture (excluding the Rebate Fund and excluding defeasance escrows established pursuant to Article VI of the Indenture the terms of which are inconsistent with such application) may be credited toward the Purchase Option Price.

Section 12.2. Manner of Conveyance and Release. At the closing of any purchase or other conveyance of the Leased Property pursuant to Section 12.1 of this Lease, the Corporation and the Trustee shall execute and deliver to the City all necessary documents releasing the Leased Property from the provisions of the Ground Lease and this Lease subject to the following: (a) Permitted Encumbrances set forth in Exhibit E hereto, other than this Lease, the Ground Lease and the Indenture; (b) all liens, encumbrances and restrictions created or suffered to exist by the Corporation or the Trustee as required or permitted by this Lease, the Ground Lease or the Indenture or arising as a result of any action taken or omitted to be taken by the Corporation or the Trustee as required or permitted by this Lease, the Ground Lease or the Indenture; and (c) any lien or encumbrance created by action of the City.

## ARTICLE XIII

### ASSIGNMENT, SUBLEASING, INDEMNIFICATION, MORTGAGING AND SELLING

Section 13.1. Assignment by the Corporation. The Corporation's rights under this Lease, including rights to receive and enforce payments hereunder (except the Corporation's rights to payment or reimbursement of certain expenses, indemnification and attorneys' fees and expenses pursuant to Sections 6.2, 13.3 and 14.7 hereof), have been assigned to the Trustee pursuant to the Indenture.

Section 13.2. Assignment and Subleasing by the City. This Lease may not be assigned by the City for any reason. However, the Leased Property may be subleased, as a whole or in part, by the City, without the necessity of obtaining the consent of the Corporation, the Trustee, or any Certificate Owners; subject, however, to each of the following conditions:

(a) The Leased Property may be subleased, in whole or in part, only to an agency or department or political subdivision of the State or to another entity or entities if, in the opinion of nationally recognized bond counsel, such sublease will not adversely affect the exclusion from gross income for Federal income tax purposes of the interest with respect to the Certificates;

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

(c) The City shall furnish or cause to be furnished to the Corporation and 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 adversely affect the exclusion from gross income for Federal income tax purposes of the interest on the Certificates.

(e) The terms of any sublease shall match the terms of this Lease.

Section 13.3. Release and Indemnification Covenants. To the extent permitted by law, the City shall and hereby agrees to indemnify and save the Corporation and the Trustee, its officers and directors harmless against and from all claims by or on behalf of any Person arising from the conduct or management of, or from any work or thing done on, the Leased Property or with respect to the Project during the Lease Term from: (a) any condition of the Leased Property or on or with respect to the Project; (b) any claim or occurrence in connection with the sale of the Certificates; (c) any act of negligence of the City or of any of its agents, contractors or employees or any violation of law by the City or breach of any covenant or warranty by the City hereunder, and (d) the incurrence of any cost or expense in connection with the construction, acquisition, installation and equipping of the Project in excess of the moneys available therefor from the proceeds of the Certificates. To the extent permitted by law, the City shall indemnify and save the Corporation, its officers and directors harmless from any such claim arising as aforesaid from (a), (b), or (c) above or in connection with any action or proceeding

brought thereon and, upon notice from the Corporation or such Persons, shall defend the Corporation, its officers and directors in any such action or proceeding (subject to the availability of such proceeds to pay costs and expenses of such defense).

Section 13.4. Restrictions on Mortgage or Sale of Leased Property. The City and the Corporation agree that, except for (a) the Corporation's assignment of this Lease and the Ground Lease and the mortgaging of its leasehold interest in the Leased Property to the Trustee pursuant to the Indenture, (b) any exercise by the Trustee or the Corporation of the remedies afforded by Section 14.2 of this Lease, (c) the City's right to sublease pursuant to Section 13.2 of this Lease, (d) any conveyance or release of the Leased Property to the City pursuant to Section 12.1 of this Lease, (e) any granting of easements pursuant to Section 11.4 of this Lease, (f) any release and substitution of portions of the Leased Property pursuant to Section 11.5 of this Lease, (g) any substitutions or modifications to the Leased Property pursuant to Section 9.2 of this Lease, and (h) any replacement of the Leased Property pursuant to Section 10.2 of this Lease, neither the Corporation nor the City will mortgage, sell, assign, transfer or convey the Leased Property or any portion thereof during the Lease Term.



## ARTICLE XIV

### EVENTS OF DEFAULT AND REMEDIES

Section 14.1. Events of Default Defined. Any one of the following shall be “Lease Events of Default” hereunder:

- (a) failure by the City to pay any Base Rentals during the Lease Term on the dates specified herein and continuance of such failure for a period of 10 days after the same is due and payable; or
- (b) failure by the City to vacate the Leased Property by the first day of the third month of the Fiscal Year following an Event of Nonappropriation; or
- (c) failure by the City to observe and perform any covenant, condition or agreement (except for the covenant in Section 2.1(j) hereof relating to the City’s continuing disclosure obligations) on its part to be observed or performed, 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 given to the City by the Trustee, unless the Trustee shall agree in writing to an extension of such time prior to its expiration; provided, however, that if the failure stated in the notice cannot be corrected within the applicable period, the Trustee shall not withhold its consent to an extension of such time if corrective action shall be instituted 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 Ground Lease.

The foregoing provisions of this Section 14.1 are subject to the following limitations: (i) the City shall be obligated to pay the Base Rentals and Additional Rentals only during the Lease Term, except as otherwise expressly provided in this Lease; and (ii) if, by reason of Force Majeure, the City shall be unable in whole or in part to carry out any agreement on its part herein contained, other than the obligations on the part of the City contained in Article VI of this Lease, the City shall not be deemed in default during the continuance of such inability. The City agrees, however, to remedy, as promptly as legally and reasonably possible, the cause or causes preventing the City from carrying out its agreement; provided that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the City.

Section 14.2. Remedies on Default. Whenever any Lease Event of Default referred to in Section 14.1 of this Lease shall have happened and is continuing, the Trustee 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 Section 8.01(m) of the Indenture, without any further demand or notice, take one or any combination of the following remedial steps:

- (a) The Trustee may terminate the Lease Term and give notice to the City to vacate the Leased Property within 120 days from the date of such notice.

(b) After the occurrence of a Lease Event of Default, the Trustee may assign its interest in the Ground Lease, foreclose through the courts on its leasehold interest in the Leased Property or sell, lease, sublease or otherwise liquidate or dispose of its leasehold interest in the Leased Property, and exercise all of the rights and remedies of a secured party under the Colorado Uniform Commercial Code.

(c) In the event that the Trustee deems such action to be in the best interests of the Certificate Owners, the Trustee may lease or sublease the Leased Property or any portion thereof for the benefit of the Certificate Owners.

(d) The Trustee, acting for the Corporation, may recover from the City:

(I) The maximum amount legally available for contractual payments under this Lease under the City's then current budget and appropriation measures, plus additional amounts through condemnation or inverse condemnation proceedings or other non-contractual remedies relating to the right to occupy or use the Leased Property, to the full extent permitted by law, to a maximum total of the proportionate share of Base Rentals and any duly budgeted and appropriated Additional Rentals payable to or for the account of the Trustee, otherwise payable under this Lease and allocable to any period during which the City continues to occupy the Leased Property; which proportionate share of Base Rentals and of any such Additional Rentals is hereby determined and stipulated to be just compensation for the occupancy or use of the Leased Property for any such period; and

(II) Base Rentals and any duly budgeted and appropriated Additional Rentals payable to or for the account of the Trustee, which would otherwise have been payable by the City hereunder during the remainder, after the City vacates the Leased Property, of the Fiscal Year in which such Lease Event of Default occurs; provided, however, that if the Trustee does not proceed to foreclose through the courts on and sell, or otherwise liquidate or dispose of its leasehold interest in the Leased Property reasonably promptly after such Lease Event of Default, the Trustee shall be obligated to the City to use its best efforts to lease or sublease the Leased Property for the remainder of such Fiscal Year, as provided in paragraph (c) of this Section 14.2, and the Net Proceeds of such leasing or subleasing shall be offset against the amount recoverable from the City under this paragraph (d)(II).

(e) The Trustee, acting for the Corporation, may take whatever action at law or in equity may appear necessary or desirable to enforce its rights in and to the Leased Property under this Lease, the Ground Lease and the Indenture.

The Trustee shall also be entitled, upon any Lease Event of Default, to any moneys in any funds or accounts created under the Indenture (other than the Rebate Fund or any escrow accounts established pursuant to Article VI of the Indenture for the benefit of the Certificate Owners).

The exercise of any remedies under this Lease shall be subject to the limitations and requirements of the Indenture.

Section 14.3. Limitations on Remedies. A judgment requiring a payment of money may be entered against the City by reason of a Lease Event of Default only as to the City's liabilities described in paragraph (d) of Section 14.2 of this Lease. A judgment requiring a payment of money may be entered against the City by reason of an Event of Nonappropriation only as to the liabilities described in paragraph (d)(I) of Section 14.2 of this Lease. A judgment requiring a payment of money by the City as described in paragraph (d)(II) of Section 14.2 hereof shall not be available for a Lease Event of Default consisting of failure by the City to vacate the Leased Property by the first day of the third month of the Fiscal Year following an Event of Nonappropriation.

Section 14.4. No Remedy Exclusive. Subject to Section 14.3 hereof, no remedy herein conferred upon or reserved to the Trustee, on behalf of the Corporation, 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, on behalf of the Corporation, to exercise any remedy reserved in this Article XIV, it shall not be necessary to give any notice, other than such notice as may be required in this Article XIV.

Section 14.5. Waivers. 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. In view of the assignment of the Corporation's rights under this Lease to the Trustee pursuant to the Indenture, the Corporation shall have no right to waive any Lease Event of Default without the consent of the Trustee; and the waiver of any Lease Event of Default hereunder by the Trustee shall constitute a waiver of such Lease Event of Default by the Corporation, without the necessity of any action of or consent by the Corporation. A waiver of an Indenture Event of Default shall constitute a waiver of the corresponding Lease Event of Default under this Lease; provided, that no such waiver shall extend to or affect any subsequent or other Lease Event of Default under this Lease or impair any right consequent thereon.

Section 14.6. Waiver of Appraisal, Valuation, Stay, Extension and Redemption Laws. The Corporation and the City agree, to the extent permitted by law, that in the case of an Event of Nonappropriation or a Lease Event of Default, the Corporation, the City or anyone claiming through or under either of them shall not 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 Corporation 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.

Section 14.7. Agreement to Pay Attorneys' Fees and Expenses. In the event that either party hereto shall default under any of the provisions hereof and the non-defaulting party shall employ attorneys or incur other expenses for the collection of Base Rentals and Additional

Rentals, or the enforcement of performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it shall pay on demand therefor to the non-defaulting party the fees of such attorneys and such other expenses so incurred by the non-defaulting party, to the extent that such attorneys' fees and expenses may be determined to be reasonable by a court of competent jurisdiction.

ARTICLE XV

MISCELLANEOUS

Section 15.1. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by certified or registered mail, postage prepaid, addressed as follows:

- (a) if to the Corporation, Grand Junction Public Finance Corporation, \_\_\_\_\_, Grand Junction, Colorado \_\_\_\_\_, Attention: \_\_\_\_\_;
- (b) if to the City, City of Grand Junction, 250 North 5th Street, Grand Junction, Colorado 81501, Attention: Financial Operations Manager; and
- (c) if to the Trustee, Zions First National Bank, 1001 17<sup>th</sup> Street, Suite 1050, Denver, Colorado 80202, Attention: Corporate Trust Department.

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

Section 15.2. Binding Effect. This Lease shall inure to the benefit of and shall be binding upon the Corporation and the City and their respective successors and assigns, subject, however, to the limitations contained in Article XIII of this Lease.

Section 15.3. Amendments, Changes and Modifications. Except as otherwise provided in this Lease, the Ground Lease, or the Indenture, subsequent to the execution and delivery of the Certificates and prior to the discharge of the Indenture, this Lease may not be effectively amended, changed, modified or altered without the written consent of the Trustee as provided in the Indenture.

Section 15.4. Amounts Remaining in Funds. It is agreed by the parties hereto that any amounts remaining in the Certificate Fund, the Reserve Fund, the Extraordinary Revenue Fund, the Repair and Replacement Fund, or any other fund or account created under the Indenture (excluding the Rebate Fund and excluding any escrow accounts established pursuant to Article VI of the Indenture), upon termination of the Lease Term, and after payment in full of the Certificates (or provision for payment thereof having been made in accordance with the provisions of this Lease and the Indenture) and 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 15.5. Net Lease. This Lease shall be deemed and construed to be a “net lease,” and the City shall pay absolutely net during the Lease Term, the Base Rentals and duly budgeted and appropriated Additional Rentals, free of any deductions, and without abatement, deduction or set off (other than credits against Base Rentals and contests of Additional Rentals expressly provided for in this Lease).

Section 15.6. 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 legal holiday or a day on which banking institutions in the city in which the principal operations office of the Trustee is located are authorized by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are not authorized by law to remain closed, with the same force and effect as if done on the nominal date provided in this Lease.

Section 15.7. No Individual Liability. All covenants, stipulations, promises, agreements and obligations of the City or the Corporation, as the case may be, contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City or the Corporation, as the case may be and not of any member, director, officer, employee, servant or other agent of the City or the Corporation in his or her individual capacity, and no recourse shall be had on account of any such covenant, stipulation, promise, agreement or obligation (including, without limitation, any obligations relating to payment of principal of, prepayment premium, if any, or interest with respect to the Certificates), or for any claim based thereon or hereunder, against any member, director, officer, employee, servant, or other agent of the City or the Corporation or any natural person executing this Lease, the Ground Lease, the Indenture, the Certificates, or any related document or instrument.

Section 15.8. Severability. In the event that any provision of this Lease, other than the requirement of the City to pay Base Rentals and the requirement of the Corporation to provide quiet enjoyment of the Leased Property and to release the Land from the provisions of the Ground Lease and the Leased Property from the provisions of this Lease under the conditions set forth in Article XII of this Lease, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 15.9. Execution in Counterparts. This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 15.10. Applicable Law. This Lease shall be governed by and construed in accordance with the laws of the State.

Section 15.11. Captions. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Lease.

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

GRAND JUNCTION PUBLIC FINANCE CORPORATION,  
as lessee

By: \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

CITY OF GRAND JUNCTION, COLORADO,  
as lessor

By: \_\_\_\_\_  
President of the City Council

(SEAL)

ATTEST:

\_\_\_\_\_  
City Clerk

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF MESA                     )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of October, 2010, by \_\_\_\_\_ and \_\_\_\_\_, as President and Secretary of the Board of Directors of Grand Junction Public Finance Corporation, a Colorado non-profit corporation.

WITNESS my hand and official seal.

(SEAL)

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

My commission expires:



STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF MESA                    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of October, 2010, by Teresa Coons and Stephanie Tuin, as President of the Council and Clerk, respectively of the City of Grand Junction, Colorado, a Colorado home rule city.

WITNESS my hand and official seal.

(SEAL)

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

My commission expires: \_\_\_\_\_

## EXHIBIT A

### DEFINITIONS

“2010 Certificates” means the Certificates of Participation, Series 2010, executed and delivered pursuant to the Indenture and representing assignments of the right to receive certain revenues pursuant this Lease, in the aggregate principal amount of \$\_\_\_\_\_.

“Additional Certificates” means additional Certificates, if any, executed and delivered pursuant to Section 2.12 of the Indenture.

“Additional Rentals” means the cost of all taxes, insurance premiums, reasonable expenses and fees of the Trustee, reasonable expenses of the Corporation in connection with the Leased Property, utility charges, costs of maintenance, upkeep and repair, Reserve Fund payments, rebate payments as provided in Section 11.8 of this Lease, and 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 herein) which the City assumes or agrees to pay hereunder with respect to the Leased Property. Additional Rentals do not include the Base Rentals or the Purchase Option Price.

“Approval of Special Counsel” means an opinion of Special Counsel to the effect that the matter proposed will not adversely affect the excludability from gross income for federal income tax purposes of the interest component of the Base Rentals paid by the City under this Lease and attributable to the Certificates.

“Base Rentals” means the payments payable by the City pursuant to Section 6.2 of this Lease and Exhibit D hereto, as it may be amended hereunder, during the Lease Term, which constitute the payments payable by the City for and in consideration of the right to use the Leased Property during the Lease Term.

“Buildings” means the buildings located on the Land set forth in Exhibit C to this Lease (subject to the provisions of Sections 10.1, 11.4, and 11.5 of this Lease), which are leased by the City to the Corporation under the Ground Lease and are subleased by the Corporation to the City under this Lease.

“Business Day” means a day which is not (a) a Saturday, Sunday or legal holiday on which banking institutions in the State, the State of New York, or the state in which the Principal Office of the Trustee is located are authorized by law to close or (b) a day on which the New York Stock Exchange is closed.

“Certificate Fund” means the special fund created under Section 3.02 of the Indenture for the purpose of holding and disbursing to the Certificate Owners the Base Rentals paid by the City, and includes both the Principal Account and the Interest Account thereof.

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

“Certificates” means the 2010 Certificates and any Additional Certificates.

“City” means the City of Grand Junction, Colorado, or any successor to its functions.

“City Representative” means the Financial Operations Manager of the City and any other Person or Persons at the time designated to act on behalf of the City for purposes of performing any act under this Lease, the Ground Lease or the Indenture by a written certificate furnished by the City to the Trustee and the Corporation containing the specimen signature of such Person or Persons and signed on behalf of the City by the President of the Council. The designation of the City Representative may be changed by the City from time to time by furnishing a new certificate to the Trustee and the Corporation.

“Closing Date” means the date of the initial execution and delivery of the 2010 Certificates.

“Code” means the Internal Revenue Code of 1986, as amended to the date of delivery of the Certificates.

“Completion Date” means the earlier of (a) October \_\_, 2013, or such later date established by the City with the Approval of Special Counsel, or (b) any date on which the Certificate of Project Completion is delivered by the City Representative to the Trustee pursuant to Section 7.3 of this Lease.

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

“Corporation” means the Grand Junction Public Finance Corporation, a Colorado nonprofit corporation, acting as lessee under the Ground Lease, lessor under this Lease and grantor under the Indenture, or any successor thereto.

“Corporation Representative” means any duly qualified director of the Corporation and any other person or persons at the time designated to act on behalf of the Corporation under the Ground Lease, this Lease or the Indenture by a written certificate furnished to the City and the Trustee containing the specimen signature of such person or persons and signed on behalf of the Corporation by any duly authorized officer of the Corporation. The designation of the Corporation Representative may be changed by the Corporation from time to time by furnishing a new certificate to the City and the Trustee.

“Council” means the Council of City.

“Event of Nonappropriation” means a termination of this Lease by the City, determined by the Council’s failure, for any reason, to appropriate by the last day of each Fiscal Year, (a) sufficient amounts to be used to pay Base Rentals due in the next Fiscal Year and (b) sufficient amounts to pay such Additional Rentals as are estimated to become due in the next Fiscal Year, as provided in Section 6.6 of this Lease. An Event of Nonappropriation may also occur under certain circumstances described in Section 10.3(c) of this Lease.

“Extraordinary Revenue Fund” means the special fund created under Section 3.04 of the Indenture into which Extraordinary Revenues are to be deposited.

“Extraordinary Revenues” means (a) the Purchase Option Price, if paid; (b) all Net Proceeds, if any, of casualty insurance, title insurance and condemnation awards received in connection with the Leased Property, not applied to the repair, restoration, modification, improvement or replacement of the Leased Property; and (c) all Net Proceeds derived from foreclosure through the courts on and sale, other liquidation or disposition of, the Corporation’s leasehold interest in the Leased Property or the leasing or subleasing of the Leased Property, if any, pursuant to Section 7.02 of the Indenture.

“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.

“Fitch” means Fitch, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Fitch” shall be deemed to refer to any other nationally recognized securities rating agency designated at the written direction of the City with written notice to the Corporation and the Trustee.

“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 or of the State or any of their departments, agencies or officials or any civil or military authority; insurrection; riots; landslides; earthquakes; fires; storms; droughts; floods; explosions; breakage or accidents to machinery, transmission pipes or canals; or any other cause or event not within the control of the City.

“Ground Lease” means the Ground and Improvement Lease Agreement, dated as of October 15, 2010, between the City, as lessor, and the Corporation, as lessee, as from time to time amended and supplemented.

“Indenture” means the Mortgage and Indenture of Trust, dated as of October 15, 2010, between the Corporation and the Trustee, as from time to time amended and supplemented.

“Indenture Event of Default” means one or more events of default as defined in Section 7.01 of the Indenture.

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

“Land” means the real estate set forth in Exhibit B to this Lease (subject to the provisions of Sections 10.1, 11.4, and 11.5 of this Lease), which is leased by the City to the Corporation under the Ground Lease and is subleased by the Corporation to the City under the Lease.

“Lease” means this Lease Purchase Agreement, dated as of October 15, 2010, between the City and the Corporation, and any amendments or supplements thereto, including the exhibits attached thereto.

“Leased Property” means, collectively, the Land, the Buildings, and the Project.

“Lease Event of Default” means one or more events of default as defined in Section 14.1 of this Lease.

“Lease Term” means the Original Term and any Renewal Terms as to which the City may exercise its option to renew this Lease as further provided in Section 4.1 of this Lease, subject to the terms and provisions of Sections 4.2, 6.1, 6.2 and 6.6 of this Lease. Certain provisions of this Lease survive the termination of the Lease Term, as further provided in Section 4.2 of this Lease.

“Moody’s” means Moody’s Investor Service, a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated at the written direction of the City with written notice to the Corporation and the Trustee.

“Net Proceeds,” when used with respect to any proceeds of insurance or bonds required hereby or any condemnation award, or any proceeds resulting from default or breaches of warranty under a construction contract or otherwise in connection with the Leased Property, or proceeds derived from foreclosure through the courts on, and sale, other liquidation or disposition of the Corporation’s leasehold interest in the Leased Property or the leasing or subleasing of the Leased Property or any portion thereof, means the amount remaining after deducting from the gross proceeds thereof: (a) all expenses (including, without limitation, attorneys’ fees and costs) incurred in the collection of such proceeds or award; and (b) all other fees, expenses and indemnity payments due to the Trustee or the Corporation.

“Original Term” means the portion of the Lease Term which terminates on December 31, 2010.

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

- (a) Certificates canceled or which shall have been surrendered to the Trustee for cancellation;
- (b) Certificates in lieu of which other Certificates have been authenticated under Section 2.09 or 2.10 of the Indenture;
- (c) Certificates which shall have been prepaid as provided in Article IV of the Indenture (including Certificates prepaid on payment of an amount less than the principal amount thereof and accrued interest thereon as provided in Sections 4.01 and 4.02 of the Indenture); and

(d) Certificates which are deemed to be paid pursuant to Article VI of the Indenture.

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

“Permitted Encumbrances” 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 Article VIII and Article IX of this Lease; (b) this Lease, the Ground Lease and the Indenture; (c) utility, access and other easements, rights of way, restrictions and exceptions and other minor defects, irregularities, encumbrances and clouds on title which the City Representative certifies will not interfere with or impair the Leased Property, including rights or privileges in the nature of easements as provided in Section 11.4 of this Lease; (d) any financing statements filed to perfect security interests pursuant to this Lease, the Ground Lease or the Indenture; (e) any subleases entered into pursuant to Section 13.2 of this Lease; and (f) those easements, rights of way, encumbrances, restrictions and exceptions set forth in Exhibit E to this Lease.

“Permitted Investments” means any legal investments of the City.

“Person” means natural persons, firms, associations, corporations and public bodies.

“Principal Office” means, with respect to the Trustee, the office of the Trustee at 1001 17<sup>th</sup> Street, Denver, Colorado 80202, or such other or additional offices as may be specified by the Trustee.

“Project” means the construction and installation of certain improvements to Suplizio Field located on the Land, including, without limitation, replacing the existing stands and press boxes, adding certain concourse and concession areas, and adding certain box seating.

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

“Project Documents” means the following: (a) plans, drawings and specifications for the Project, when and as they are approved by the City, including change orders, if any; (b) any necessary permits for the Project, including any building permits and certificates of occupancy; (c) the Project Contracts; (d) policies of title insurance, insurance policies required under the Project Contracts, including general liability, property damage and automobile, workers’ compensation and builders’ risk insurance policies in respect of the general contractor for construction of the Project and, on and after the Completion Date of the Project, insurance policies required under Article 9 of this Lease, including commercial general liability and public liability, property and worker’s compensation insurance policies, or certificates of insurance for

any of such policies thereof, as required by this Lease; (e) contractor's performance and payment bonds with respect to the Project; and (f) any and all other documents executed by or furnished to the City or the Trustee in connection with the Project.

"Project Costs" shall be deemed to include payment of or reimbursement for the following items with respect to the Project:

(a) any costs paid or incurred for the acquisition of any real estate acquired as part of the Project;

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

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

(d) the costs of engineering and architectural services including obligations incurred or assumed for preliminary design and development work, test borings, surveys, estimates and plans and specifications;

(e) administrative costs related to the Project incurred prior to the completion date, including supervision of the construction, acquisition, installation and equipping as well as the performance of all of the other duties required by or consequent upon the construction, acquisition, installation and equipping of the Project, including, without limitation, costs of preparing and securing all Project contracts, permits, architectural fees, legal fees and expenses, appraisal fees, independent inspection fees, engineering fees, auditing fees and advertising expenses in connection with the Project;

(f) costs incurred in connection with the Certificates, including the initial compensation and expenses of the Trustee prior to the completion date, any fees and expenses of the Corporation prior to the completion date, legal fees and expenses, costs incurred in obtaining ratings from rating agencies, the premium for the Qualified Surety Bond, if any, accounting fees;

(g) all costs which shall be required to be paid under the terms of any contract relating to the Project; and

(h) all other costs which are considered to be a part of the costs of the Project in accordance with generally accepted accounting principles and which will not adversely affect the exclusion from gross income for Federal income tax purposes of the designated interest component of Base Rentals payable by the City under the Lease and assigned pursuant to the Indenture.

"Purchase Option Price" means the amount payable, at the option of the City, for the purpose of terminating the Ground Lease and this Lease and releasing the Leased Property from the provisions of the Ground Lease and this Lease, which amount shall be the amount required to discharge the Indenture as provided in Article VI thereof. The Purchase Option Price shall include all fees, costs and expenses due to the Trustee.

“Qualified Surety Bond” means any unconditional and irrevocable surety bond or other insurance policy deposited in the Reserve Fund in lieu of or in partial substitution for moneys on deposit therein, the Surety Provider of which is rated in one of the two highest rating categories by each Rating Agency then rating the Certificates.

“Rating Agencies” means one or more of Standard & Poor’s, Moody’s or Fitch.

“Rebate Fund” means the special fund created under Section 3.06 of the Indenture.

“Renewal Term” means any optional Renewal Term of the Lease Term as provided in Article IV of this Lease.

“Repair and Replacement Fund” means the special fund created under and to be disbursed as provided in Section 3.05 of the Indenture.

“Reserve Fund” means the special fund created under and to be disbursed as provided in Section 3.03 of the Indenture.

“Reserve Fund Requirement” means the least of (a) 10% of the stated principal amount of the Certificates, unless original issue discount or premium on such Certificates exceeds 2%, then 10% of the issue price of the Certificates; (b) 100% of the maximum annual principal of and interest with respect to the Outstanding Certificates; or (c) 125% of the average annual principal of and interest with respect to the Outstanding Certificates.

“Revenues” means (a) Extraordinary Revenues, if any; (b) the Base Rentals; (c) any portion of the proceeds of the Certificates deposited with the Trustee in the Certificate Fund to pay accrued or capitalized interest on the Certificates; (d) any portion of the proceeds of the 2010 Certificates deposited with the Trustee in the Project Fund to pay the costs of the Project, (d) any earnings on moneys on deposit in the Certificate Fund or the Project Fund; (e) all other revenues derived from the Lease, excluding Additional Rentals (other than Reserve Fund payments made to the Trustee pursuant to Section 3.03 of the Indenture), excluding payments into the Repair and Replacement Fund, and excluding payments constituting compensation to the Trustee for its services or reimbursement to the Trustee or the Corporation for costs or expenses; and (f) any other moneys to which the Trustee may be entitled for the benefit of the Certificate Owners, except for moneys on deposit in the Rebate Fund and any defeasance escrow funds.

“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, which Special Counsel shall be acceptable to the Trustee.

“Standard & Poor’s” or “S&P” means Standard & Poor’s Ratings Services, a division of McGraw-Hill, Inc., a corporation organized and existing under the laws of the State of New York, or its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Standard & Poor’s” shall be deemed to refer to any other nationally recognized securities rating agency



designated at the written direction of the City with written notice to the Corporation and the Trustee.

“State” means the State of Colorado.

“Tax Certificate” means the federal income tax certificate executed and delivered by the City concurrently with the execution and delivery of the Certificates concerning compliance with the requirements of the Code in relation to the City’s covenants under Section 11.8 of the Lease.

“Trustee” means Zions First National Bank, organized under the laws of the United States of America, with its principal corporate trust office located in Denver, Colorado, acting in the capacity of trustee for the Certificate Owners pursuant to the Indenture, and any successor thereto appointed under the Indenture.

“Trustee Representative” means the Person or Persons at the time designated in writing by the Trustee to act on behalf of the Trustee for purposes of performing any act under the Indenture.

EXHIBIT B

DESCRIPTION OF THE LAND

2. Covering the Land in the State of Colorado, County of Mesa

Described as:

**Lots 1 thru 26, Inclusive, in Block 13,  
Lots 1 thru 26, Inclusive, in Block 14,  
Lots 1 thru 26, Inclusive, in Block 15,  
Lots 1 thru 26, Inclusive, in Block 16,  
Lots 1 thru 24, Inclusive, in Block 17,  
Lots 1 thru 24, Inclusive, in Block 18,  
Lots 1 thru 24, Inclusive, in Block 19,  
Lots 1 thru 24, Inclusive, in Block 20,  
Lots 1 thru 24, Inclusive, in Block 21,  
Lots 1 thru 24, Inclusive, in Block 22,  
Lots 1 thru 24, Inclusive, in Block 23,  
Lots 1 thru 24, Inclusive, in Block 24,  
Lots 1 thru 22, Inclusive, in Block 25,  
Lots 1 thru 22, Inclusive, in Block 26,  
Lots 1 thru 22, Inclusive, in Block 27,  
Lots 1 thru 22, Inclusive, in Block 28,  
All in SLOCOMB'S ADDITION TO GRAND JUNCTION  
EXCEPT that strip of land conveyed to The Grand  
Valley Irrigation Company recorded December 18,  
1906 in Book 100 at Page 326, Reception No. 64362**

**And**

**The Northwest Quarter of the Northwest Quarter of Section  
13, Township 1 South, Range 1 West of the Ute Meridian  
EXCEPT North Avenue on the North.**

**And**

**That portion of the SW1/4 of the NW1/4 of Section 13, Township  
1 South, Range 1 West of the Ute Meridian, described as follows:**

**Beginning at a point on the West line of Section 13 where the South line of Gunnison Avenue in the City  
of Grand Junction, Mesa County, Colorado, produced and extended East intersects the said West line of  
said Section 13;  
thence North along the said West line of said Section 13 to the Northwest corner of the SW1/4 of the  
NW1/4 of said Section 13, being  
a distance of 190 feet, more or less;  
thence East to the Northeast corner of the SW1/4 of the NW1/4 of said Section 13;  
thence South along the East line of the said SW1/4 of the NW1/4 of said Section 13, a distance of 190 feet,  
more or less to a point at the intersection of the South line of said Gunnison Avenue produced and  
extended East with the said East line of the SW1/4 of the NW1/4 of said Section 13;  
thence West along the said South line of Gunnison Avenue so produced and extended to the point of  
beginning.**

EXHIBIT C

DESCRIPTION OF THE BUILDINGS

Sam Suplizio Field, Stoker Field, the Lincoln Park-Moyer Pool and Waterslide, and a portion of the Lincoln Park Golf Course are located on Parcel I.

EXHIBIT D

BASE RENTALS SCHEDULE (1)

<u>Date</u>	<u>Base Rentals Principal Component</u>	<u>Base Rentals Interest Component</u>	<u>Total Base Rentals</u>
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1 There will be credited against Base Rentals amounts available in the Certificate Fund as provided in Section 6.2 of this Lease.

EXHIBIT E  
SCHEDULE OF PERMITTED ENCUMBRANCES

EXHIBIT F  
FORM OF REQUISITION

REQUISITION NO. \_\_\_\_\_

To: Zions First National Bank, as Trustee  
Attention: Corporate Trust Department

The undersigned City Representative (the "City Representative") of the City of Grand Junction, Colorado (the "City"), as the lessee's representative under the Lease Purchase Agreement, dated as of October 15, 2010 (the "Lease"), between Grand Junction Public Finance Corporation (the "Corporation"), as lessor, and the City, as lessee, hereby requisitions the following sum from the Project Fund established under the Indenture of Trust, dated as of October 15, 2010 (the "Indenture"), between the Corporation and you, as Trustee, and in connection with such request, certifies as follows:

Amount: \$ \_\_\_\_\_

Name and Address of Payee:

Describe Nature of Obligation:

The City Representative further certifies that:

- (a) the obligation described above has been properly incurred, is a proper charge against the Project Fund and has not been the basis of any previous withdrawal or requisition;
- (b) all conditions required by the Lease and the Indenture to be met prior to the disbursement of the above amount have been satisfied;
- (c) the disbursement requested is due and payable and will be used for the "Costs of the Project" permitted under the Lease and the Indenture;
- (d) the City is not in breach of any of the agreements contained in the Lease;
- (e) No Event of Default or Event of Nonappropriation has occurred and is continuing; and

CITY OF GRAND JUNCTION, COLORADO

Date: \_\_\_\_\_ By: \_\_\_\_\_  
City Representative

EXHIBIT G

CERTIFICATE OF PROJECT COMPLETION

To: Zions First National Bank, as Trustee  
Attention: Corporate Trust Department

The undersigned hereby states and certifies that:

(a) I am the City Representative (the "City Representative") of the City of Grand Junction, Colorado (the "City"), acting as the lessee's representative under the Lease Purchase Agreement, dated as of October 15, 2010 (the "Lease"), between Grand Junction Public Finance Corporation, as lessor, and the City, as lessee. I am familiar with the facts herein certified and am authorized and qualified to certify the same.

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

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

In accordance with Section 7.3 of the Lease and Section 3.07 of the Indenture, the City hereby directs the Trustee to apply any balance remaining in the Project Fund as follows:

\_\_\_\_\_.

CITY OF GRAND JUNCTION, COLORADO

By: \_\_\_\_\_  
City Representative

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GRAND JUNCTION PUBLIC FINANCE CORPORATION

AND

ZIONS FIRST NATIONAL BANK, AS TRUSTEE

---

MORTGAGE AND INDENTURE OF TRUST

Dated as of  
October 15, 2010

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This is a security agreement with respect to chattels, as well as a mortgage on real estate and other property.

**AFTER THIS INSTRUMENT HAS BEEN RECORDED, PLEASE RETURN TO:**

Dee P. Wisor, Esq.  
Sherman & Howard L.L.C.  
633 17th Street, Suite 3000  
Denver, Colorado 80202

Pursuant to Section 39-13-104(1)(j) of the Colorado Revised Statutes, as amended, this Mortgage and Indenture of Trust is exempt from the documentary fee.

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(This Table of Contents is not a part of this Indenture  
and is only for convenience of reference)

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## MORTGAGE AND INDENTURE OF TRUST

This MORTGAGE AND INDENTURE OF TRUST, dated as of October 15, 2010, is by and between GRAND JUNCTION PUBLIC FINANCE CORPORATION, a nonprofit corporation duly organized, existing and in good standing under the laws of the State of Colorado (the “Corporation”), and ZIONS FIRST NATIONAL BANK, a national banking association duly organized and existing under the laws of the United States of America and having an office and principal place of business in Denver, Colorado, and being authorized to accept and execute trusts of the character herein set out under and by virtue of the laws of the United States of America (the “Trustee”).

### WITNESSETH:

WHEREAS, the City is a duly and regularly created, organized and existing home rule city and political subdivision, existing as such under and by virtue of the Constitution and laws of the State of Colorado (the “State”) and its City Charter (the “Charter”); and

WHEREAS, the City has the power, pursuant to Section 2(f) of the Charter and Sections 31-1-102 and 31-15-713(c), of the Colorado Revised Statutes, as amended, to lease any real estate owned by the City, together with any facilities thereon, when deemed by the Council of the City (the “Council”) to be in the best interest of the City; and

WHEREAS, the Corporation is a nonprofit corporation duly organized, existing and in good standing under the laws of the State, is duly qualified to do business in the State, and, under its articles of incorporation and bylaws, is authorized to own and manage its properties, to conduct its affairs in the State and to act in the manner contemplated herein; and

WHEREAS, the City owns, in fee title, certain real estate commonly referred to as Lincoln Park (as more specifically described in Exhibit C hereto, the “Land”), together with the buildings and other improvements located on the Land (collectively, and as more specifically described in Exhibit C hereto, the “Buildings”); and

WHEREAS, the Council has determined that it is in the best interest of the City and its inhabitants to construct and install certain improvements to Suplizio Field located on the Land (collectively, the “Project”); and

WHEREAS, the Council has further determined to lease the Land, the Buildings, and the Project (collectively, the “Leased Property”) to the Corporation pursuant to and for the consideration described in the Ground Lease (defined herein), between the City, as lessor, and the Corporation, as lessee, and to lease the Leased Property back from the Corporation pursuant to the Lease; and

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

WHEREAS, in order to finance the Project, it is necessary to enter into this Indenture; and

WHEREAS, pursuant to this Indenture, the Corporation's right to receive the Base Rentals, and rights to receive certain other payments as provided herein and in the Lease, and the Corporation's duties under the Lease, have been assigned to the Trustee; and

WHEREAS, pursuant to this Indenture, the Corporation has granted to the Trustee a mortgage on and assignment of the Corporation's interest in the Ground Lease (as defined herein); and

WHEREAS, the Trustee is authorized to accept and execute trusts of the character herein set out under and by virtue of the laws of the United States of America and has an office and place of business in Denver, Colorado; and

WHEREAS, the Certificates (as hereinafter defined) will be executed and delivered by the Trustee pursuant to this Indenture, which Certificates represent assignments of the right to receive Revenues (as defined in the Lease) under the Lease; and

WHEREAS, the net proceeds received from the sale of the 2010 Certificates (as hereinafter defined) will be used to defray the costs of the Project; and

WHEREAS, the Certificates shall be payable solely from the sources provided herein and in the Lease, and shall not constitute a general obligation or other indebtedness of the City or multiple fiscal year direct or indirect debt or other financial obligation whatsoever or a mandatory charge or requirement against the City in any Fiscal Year (as hereinafter defined) beyond the then current Fiscal Year; and

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

WHEREAS, the Certificates are to be in substantially the form set forth in Exhibit B hereto, with such necessary or appropriate variations, omissions and insertions as required by the circumstances or as permitted or required by this Indenture; and

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

NOW, THEREFORE, THIS MORTGAGE AND INDENTURE OF TRUST WITNESSETH:

That the Corporation, in consideration of the premises and the mutual covenants herein contained, and for the benefit of the Certificate Owners, and for other good, valuable and sufficient consideration, the receipt of which is hereby acknowledged, in order to secure the payment of the principal of, premium, if any, and interest with respect to all Certificates at any time Outstanding under this Indenture, according to their tenor and effect, and to secure the performance and observance of all of the covenants and conditions in the Certificates and herein contained, and to declare the terms and conditions upon and subject to which the Certificates are executed, delivered and secured, has executed and delivered this Indenture and has irrevocably, unconditionally, and completely granted, bargained, sold, warranted, mortgaged, alienated, remised, released, conveyed, assigned, pledged, set over and confirmed, and by these presents does irrevocably and unconditionally grant, bargain, sell, warrant, mortgage, alien, remise, release, convey, assign, pledge, set over and confirm unto the Trustee, and to its successors and assigns forever, all and singular of the following described property, franchises and income:

(a) All rights, title and interest of the Corporation in, to and under the Ground Lease.

(b) Its leasehold interest in the Leased Property, as more specifically described in Exhibit C attached hereto and by this reference made a part hereof, and all buildings, additions and real property improvements now or hereafter located thereon and the tenements, hereditaments, appurtenances, rights, privileges and immunities thereto belonging or appertaining (subject to Permitted Encumbrances, as defined in the Lease, and subject to the provisions of Sections 9.2, 10.2, 11.4, and 11.5 of the Lease).

(c) All rights, title and interest of the Corporation in, to and under the Lease (except the Corporation's rights to payment or reimbursement of certain expenses, indemnification, and attorneys' fees and expenses pursuant to Sections 6.2, 13.3 and 14.7 of the Lease).

(d) All Revenues and any other receipts receivable by or on behalf of the Corporation pursuant to the Lease including, without limitation, (i) all Base Rentals (as defined in the Lease) to be received from the City pursuant to the Lease and pursuant to the terms of which the Base Rentals are to be paid directly to the Trustee; (ii) all Net Proceeds received pursuant to the Lease; and (iii) all rights to enforce payments under the Lease when due or to otherwise enforce rights under the Lease for the benefit of the Certificate Owners (but excluding the Corporation's rights to payment or reimbursement of certain expenses, indemnification and attorneys' fees and expenses pursuant to Sections 6.2, 13.3 and 14.7 of the Lease).

(e) All moneys and securities from time to time held by the Trustee under this Indenture (other than moneys and securities held in the Rebate Fund and in any defeasance escrow) and any and all other real or personal property of every name and nature from time to time hereafter by delivery or by writing of any kind specially mortgaged, pledged, or hypothecated, as and for additional security hereunder, by the Corporation, or by anyone on its behalf, in favor of the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

PROVIDED, that with respect to the property, interests and income described in paragraphs (a), (c), (d), and (e) above, it is the intention of the Corporation that this Indenture constitutes an absolute present conveyance of the Corporation's interests therein, including all legal and equitable title to such interests, and that no debtor-creditor relationship between the Corporation and the Certificate Owners or the Trustee be created by such conveyance;

PROVIDED FURTHER, that in the event the conveyance of the property, interests and income described in paragraphs (a), (c), (d) and (e) above is determined not to be an absolute present conveyance of the Corporation's interests therein, or is deemed to create a debtor-creditor relationship between the Corporation and the Certificate Owners or the Trustee, the Corporation hereby grants to the Trustee a security interest in the property, interests and income described in paragraphs (a), (c), (d) and (e);

TO HAVE AND TO HOLD the same with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended to be, to the Trustee and its successors in said trust and assigns forever;

IN TRUST, NEVERTHELESS, upon the terms herein set forth for the equal and proportionate benefit, security and protection of all Certificate Owners, without privilege, priority or distinction as to the lien or otherwise of any of the Certificates over any other of the Certificates;

PROVIDED, HOWEVER, that if the principal of the Certificates and the premium, if any, and the interest due or to become due with respect thereto, shall be paid at the times and in the manner mentioned in the Certificates, according to the true intent and meaning thereof, or if this Indenture is otherwise discharged pursuant to Article VI hereof, and if there are paid to the Trustee all sums of money due or to become due to the Trustee in accordance with the terms and provisions hereof, then upon such final payments this Indenture and the rights hereby granted shall cease, terminate and be void; otherwise this Indenture is to be and remain in full force and effect.

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

ARTICLE I.

Definitions

Section 1.01 Definitions. All capitalized words and phrases used in this Indenture shall have the meanings ascribed to them in Exhibit A hereto unless the context otherwise requires.



ARTICLE II.

Authorization, Terms, Execution and Delivery of Certificates

Section 2.01 Authorized Amount of Certificates. No Certificates may be executed and delivered hereunder except in accordance with this Article II. The aggregate principal amount of 2010 Certificates that may be executed and delivered shall be \$\_\_\_\_\_. Additional Certificates may be executed as provided in Section 2.12 of this Indenture. The Certificates are executed and delivered under the authority of the Supplemental Act and shall so recite as provided in Section 2.05 of this Indenture. Pursuant to Section 11-57-210 of the Supplemental Act, such recital shall be conclusive evidence of the validity and the regularity of the execution and delivery of the Certificates after their delivery for value.

Section 2.02 Execution and Delivery of 2010 Certificates.

(a) In order to provide funds to accomplish the Project, including the costs of executing and delivering the 2010 Certificates, the 2010 Certificates shall be executed and delivered in the form attached hereto as Exhibit B and shall constitute assignments of the right to receive Revenues under the Lease. The 2010 Certificates shall be executed and delivered solely as fully registered 2010 Certificates without coupons in Authorized Denominations. The 2010 Certificates shall be numbered in such manner as shall be determined by the Trustee.

(b) The 2010 Certificates shall be dated as of the date of delivery, and shall bear interest from such date to maturity or prepayment at the rates per annum shown below, payable semiannually on \_\_\_\_\_ and \_\_\_\_\_ of each year, with the first interest payment to be made on \_\_\_\_\_, 20\_\_\_\_; except that 2010 Certificates which are executed and delivered upon transfer, exchange or other replacement shall bear interest from the most recent interest payment date to which interest has been paid, or if no interest has been paid, from the date of the 2010 Certificates. The 2010 Certificates shall mature on \_\_\_\_\_ of the years and in the amounts and shall bear interest at the rates per annum, set forth below:

Maturity Date (_____)	Principal <u>Amount</u>	Interest <u>Rate</u>
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The principal of and premium, if any, on any 2010 Certificate shall be payable to the registered owner thereof as shown on the registration records of the Trustee upon maturity or prepayment thereof and upon presentation and surrender at the principal operations office of the Trustee. Payment of interest with respect to the 2010 Certificates shall be made to the Registered Owner thereof by check or wire sent by the Trustee on each Interest Payment Date (or, if such Interest Payment Date is not a Business Day, on the next succeeding Business Day), to the registered owner thereof at his or her address as it last appears on the registration records of the Trustee at the close of business on the Record Date for such Interest Payment Date; but any such interest not so timely paid shall cease to be payable to the Person who is the registered owner thereof at the close of business on the Record Date and shall be payable to the Person who is the registered owner thereof at the close of business on a Special Record Date for the payment of such defaulted interest. Such Special Record Date shall be fixed by the Trustee whenever moneys become available for payment of the defaulted interest, and notice of the Special Record Date shall be given to the registered owners of the 2010 Certificates not less than ten days prior thereto by first-class mail to each such registered owner as shown on the registration records, stating the date of the Special Record Date and the date fixed for the payment of such defaulted interest. Alternative means of payment of interest may be used if mutually agreed to between the registered owner of any 2010 Certificate and the Trustee.

If the principal of any 2010 Certificate is not paid on the maturity date or upon prepayment thereof, interest with respect to the unpaid principal shall continue to accrue at the interest rate borne by said 2010 Certificate until such principal shall have been paid in full.

All payments of principal, premium and interest with respect to the 2010 Certificates shall be payable in lawful money of the United States of America, without deduction for exchange or collection charges. Interest with respect to all 2010 Certificates shall be computed based on a year of 360 days, consisting of twelve months of thirty days each.

Section 2.03 Limited Obligation. Each Certificate shall represent assignments of the right to receive Revenues under the Lease. The Certificates are payable solely from Revenues as, when and if the same are received by the Trustee. The Revenues are to be held in trust by the Trustee for such purposes in the manner and to the extent provided herein. The Certificates shall not constitute a mandatory charge or requirement of the City in any Fiscal Year beyond the then current Fiscal Year, and shall not constitute or give rise to a general obligation or other indebtedness of the City, or a multiple fiscal year direct or indirect City debt or other multiple fiscal year obligation whatsoever, within the meaning of any Charter, constitutional or statutory debt limitation. No provision of the Certificates shall be construed or interpreted as creating a 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 Colorado Constitution. The Certificates shall not directly or indirectly obligate the City to make any payments beyond those specifically appropriated for the City's then current Fiscal Year. The Certificates shall not constitute a debt or liability of the Corporation, and the Corporation shall have no obligation with respect to the Certificates except to the extent of its assignment of the Trust Estate to the Trustee

pursuant to this Indenture; and neither the Lease nor this Indenture shall create any pecuniary liability on the part of the directors or officers of the Corporation.

NEITHER THE LEASE NOR THE CERTIFICATES CONSTITUTES A GENERAL OBLIGATION OR OTHER INDEBTEDNESS OR MULTIPLE FISCAL YEAR FINANCIAL OBLIGATION OF THE CITY WITHIN THE MEANING OF ANY CHARTER, CONSTITUTIONAL OR STATUTORY DEBT LIMITATION. NONE OF THE LEASE, THIS INDENTURE OR THE CERTIFICATES HAVE DIRECTLY OR INDIRECTLY OBLIGATED THE CITY TO MAKE ANY PAYMENTS BEYOND THOSE APPROPRIATED FOR ANY FISCAL YEAR IN WHICH THE LEASE SHALL BE IN EFFECT. EXCEPT TO THE EXTENT PAYABLE FROM NET PROCEEDS OF CERTAIN INSURANCE POLICIES, FROM NET PROCEEDS OF FORECLOSURE THROUGH THE COURTS ON, AND SALE, LEASE OR OTHER LIQUIDATION OR DISPOSITION OF THE CORPORATION'S LEASEHOLD INTEREST IN THE LEASED PROPERTY, OR FROM OTHER AMOUNTS MADE AVAILABLE UNDER THIS INDENTURE, THE CERTIFICATES WILL BE PAYABLE DURING THE LEASE TERM SOLELY FROM BASE RENTALS TO BE PAID BY OR ON BEHALF OF THE CITY UNDER THE LEASE AND THE INCOME FROM CERTAIN INVESTMENTS THEREUNDER. ALL PAYMENT OBLIGATIONS OF THE CITY UNDER THE LEASE, INCLUDING, WITHOUT LIMITATION, THE OBLIGATION OF THE CITY TO PAY BASE RENTALS, ARE FROM YEAR TO YEAR ONLY AND DO NOT CONSTITUTE A MANDATORY PAYMENT OBLIGATION OF THE CITY IN ANY FISCAL YEAR BEYOND A FISCAL YEAR IN WHICH THE LEASE SHALL BE IN EFFECT. THE LEASE IS SUBJECT TO ANNUAL RENEWAL AT THE OPTION OF THE CITY AND WILL BE TERMINATED UPON THE OCCURRENCE OF AN EVENT OF NONAPPROPRIATION. IN SUCH EVENT, ALL PAYMENTS FROM THE CITY UNDER THE LEASE WILL TERMINATE, AND THE CERTIFICATES AND THE INTEREST THEREON WILL BE PAYABLE FROM CERTAIN MONEYS, IF ANY, HELD BY THE TRUSTEE UNDER THIS INDENTURE, AND ANY MONEYS MADE AVAILABLE FROM FORECLOSURE THROUGH THE COURTS ON AND SALE, LEASE OR OTHER LIQUIDATION OR DISPOSITION OF THE CORPORATION'S LEASEHOLD INTEREST IN THE LEASED PROPERTY. THE CORPORATION HAS NO OBLIGATION TO MAKE ANY PAYMENTS ON THE CERTIFICATES.

Section 2.04 Execution of the Certificates. The manual signature of a duly authorized officer or employee of the Trustee shall appear on each Certificate. Any Certificate shall be deemed to have been executed by a duly authorized representative of the Trustee if signed by the Trustee Representative, but it shall not be necessary that the same officer or employee of the Trustee sign all of the Certificates executed and delivered hereunder. In case any official or employee of the Trustee whose signature shall appear on the Certificates shall cease to be such official or employee before delivery of the Certificates, such signature shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained in office until delivery.

Section 2.05 Incontestable Recital in Certificates. Each Certificate shall recite that it is executed and delivered under the authority of the Supplemental Act. Such recital shall be conclusive evidence of the validity and the regularity of the execution and delivery of the Certificates after their delivery for value.

Section 2.06 Effect of Execution. No Certificate shall be valid or obligatory for any purpose or entitled to any security or benefit hereunder unless and until executed in the manner prescribed by Section 2.04 of this Indenture, and such execution of any Certificate shall be conclusive evidence that such Certificate has been properly delivered hereunder.

Section 2.07 Form of Certificates. The Certificates shall be substantially in the form set forth in Exhibit B to this Indenture, with such appropriate variations, omissions and insertions as may be required by the circumstances, or as may be permitted or required hereby. Temporary Certificates may be executed and delivered pending the preparation of Certificates in definitive form.

Section 2.08 Delivery of the 2010 Certificates. Upon the execution and delivery of this Indenture, the Trustee shall execute and deliver the 2010 Certificates in the aggregate principal amount of \$ \_\_\_\_\_ to the original purchasers thereof, as hereinafter in this Section 2.08 provided.

(a) Prior to the delivery by the Trustee of any of the 2010 Certificates, there shall be filed with the Trustee an originally executed counterpart of the Ground Lease, the Lease, this Indenture and a certified copy of the ordinance adopted by the Council approving the Ground Lease, the Lease and the execution and delivery of the 2010 Certificates; and the title insurance commitment or commitments required by Section 7.1 of the Lease shall be delivered to the Trustee.

(b) Thereupon, the Trustee shall deliver the 2010 Certificates to the original purchasers thereof, upon payment to the Trustee or the City, as provided in Section 3.01 hereof, of a sum equal to the agreed purchase price. Such sum shall be applied pursuant to Article III hereof, concurrently with the delivery of the 2010 Certificates.

Section 2.09 Mutilated, Lost, Stolen or Destroyed Certificates. In the event that any Certificate is mutilated, lost, stolen or destroyed, a new Certificate may be executed on behalf of the Trustee, of like date, maturity and Authorized Denomination as that mutilated, lost, stolen or destroyed; provided that the Trustee shall have received such evidence, information or indemnity from the owner of the Certificate as it and the City may reasonably require, and provided further, in case of any mutilated Certificate, that such mutilated Certificate shall first be surrendered to the Trustee. In the event that any such Certificate shall have matured or been called for prepayment or is about to mature or be called for prepayment, instead of executing and delivering a duplicate Certificate, the Trustee may pay the same without surrender thereof. The Trustee may charge the owner of the Certificate with its reasonable fees and expenses in this connection.

Section 2.10 Registration of Certificates; Persons Treated as Owners; Transfer and Exchange of Certificates. Records for the registration and transfer of Certificates shall be kept by the Trustee which is hereby appointed the registrar. Except as otherwise provided in Section 2.02 hereof with respect to Record Dates and Special Record Dates for the payment of interest, the principal of, interest with respect to, and any prepayment premium on any Certificate shall be payable only to or upon the order of the registered owner or his or her legal

representative. Upon surrender for transfer of any Certificate at the principal corporate trust office of the Trustee, duly endorsed for transfer or accompanied by an assignment satisfactory to the Trustee duly executed by the registered owner or his or her attorney duly authorized in writing, the Trustee shall enter such transfer on the registration records and shall execute and deliver in the name of the transferee or transferees a new fully registered Certificate or Certificates of a like aggregate principal amount and of the same maturity, bearing a number or numbers not previously assigned.

Fully registered Certificates may be exchanged at the principal corporate trust office or principal operations office of the Trustee for an equal aggregate principal amount of fully registered Certificates of the same maturity of other Authorized Denominations. The Trustee shall execute and deliver Certificates which the Certificate Owner making the exchange is entitled to receive, bearing numbers not previously assigned.

The Trustee may require the payment by the owner of any Certificate requesting exchange or transfer of any reasonable charges as well as any taxes, transfer fees, or other governmental charge required to be paid with respect to such exchange or transfer, together with payment of the fees and expenses of the Trustee in connection with such exchange or transfer.

The Trustee shall not be required to transfer or exchange (i) all or any portion of any Certificate during the period beginning at the opening of business fifteen days before the day of the mailing by the Trustee of notice calling any Certificates for prepayment and ending at the close of business on the day of such mailing, or (ii) all or any portion of a Certificate after the mailing of notice calling such Certificate or any portion thereof for prepayment.

Except as otherwise provided in Section 2.02 hereof with respect to Record Dates and Special Record Dates for the payment of interest, the Person in whose name any Certificate shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes except as otherwise provided herein, and payment of or on account of the principal or interest with respect to any Certificate shall be made only to or upon the written order of the registered owner thereof or his or her legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge such Certificate to the extent of the sum or sums paid.

Section 2.11. Cancellation of Certificates. Whenever any Outstanding Certificates shall be delivered to the Trustee for cancellation pursuant to this Indenture, upon payment thereof or for or after replacement pursuant to Section 2.09 or 2.10 of this Indenture, such Certificates shall be promptly canceled and destroyed by the Trustee, and counterparts of a certificate of destruction evidencing such destruction shall be furnished by the Trustee to the City upon the request of the City.

Section 2.12. Execution and Delivery of Additional Certificates. So long as the Lease Term shall remain in effect and no Event of Nonappropriation or Lease Event of Default shall have occurred and be continuing, one or more series of Additional Certificates may be executed and delivered upon the terms and conditions provided herein. Additional Certificates may be executed and delivered to provide funds to pay the costs of (i) making at any time or from time to time such substitutions, additions, modifications and improvements in, on or to the

Leased Property or of doing other capital projects as the City may deem necessary or desirable; or (ii) refunding all or any portion of the 2010 Certificates and any Additional Certificates then Outstanding; and in either case the costs of the execution, delivery, and sale of the Additional Certificates, deposit to the Reserve Fund, and capitalized interest for such period, and other costs reasonably related to the financing as shall be agreed upon by the City and the Trustee.

Additional Certificates may be executed and delivered only upon there being furnished to the Trustee:

(a) Originally executed counterparts of a supplemental Indenture and an amendment to the Ground Lease and the Lease adopted in accordance with the requirements of Article IX hereof, expressly providing that, for all the purposes hereof, the Leased Property shall include any property, buildings or equipment being financed by the Additional Certificates and that the Certificates shall mean and include the Additional Certificates being executed and delivered as well as any Certificates and Additional Certificates theretofore executed and delivered, except that the date or dates of the Additional Certificates, the rate or rates of interest with respect to the Additional Certificates, and provisions for the prepayment thereof, if any, all shall be as provided in the supplemental Indenture and amendment to the Ground Lease and the Lease rather than as provided in this Indenture; and further providing for an adjustment in the Base Rentals to be paid to the Trustee under Exhibit C to the Lease to reflect the execution and delivery of the Additional Certificates.

(b) A written opinion of nationally recognized municipal bond counsel mutually acceptable to the City to the effect that the execution and delivery of the Additional Certificates have been duly authorized, that all conditions precedent to the delivery thereof have been fulfilled, that the exclusion from gross income for federal income tax purposes of the interest with respect to the 2010 Certificates and Additional Certificates theretofore executed and delivered will not be adversely affected by the execution and delivery of the Additional Certificates, and that the execution, sale and delivery of the Additional Certificates will not constitute a default under the Ground Lease, the Lease or this Indenture nor cause any violation of the covenants or representations therein or herein.

(c) In the event that the proceeds of such Additional Certificates are to be expended with respect to real estate, evidence that the amount of the title insurance required by Section 8.1 of the Lease has been increased (or a commitment reflecting such increase), if necessary, to reflect the amount of the Outstanding 2010 Certificates and Outstanding Additional Certificates plus the Additional Certificates being executed and delivered (or such lesser amount as shall be the maximum insurable value of the Leased Property).

(d) A Qualified Surety Bond or proceeds of such Additional Certificates for deposit into the Reserve Fund in an amount sufficient to raise the amount on deposit in the Reserve Fund to the then applicable Reserve Fund Requirement.

(e) A written order to the Trustee by the City to deliver the Additional Certificates to the purchaser or purchasers therein identified upon payment to the Trustee of a specified sum plus accrued interest.

Each of the Additional Certificates executed and delivered pursuant to this Section 2.12 shall evidence an assignment of a right to receive Revenues under the Lease, as amended, proportionately and ratably secured with the Certificates originally executed and delivered and all other series of Additional Certificates, if any, executed and delivered pursuant to this Section 2.12, without preference, priority or distinction of any Certificates or Additional Certificates over any other.

Section 2.13. Uniform Commercial Code. Subject to the registration provisions hereof, the Certificates shall be fully negotiable and shall have all the qualities of negotiable paper, and the owner or owners thereof shall possess all rights enjoyed by the holders or owners of investment securities under the provisions of the Uniform Commercial Code-Investment Securities. The principal of and interest with respect to the Certificates shall be paid, and the Certificates shall be transferable, free from and without regard to any equities, set-offs or cross-claims between or among the City, the Corporation, the Trustee and the original or any intermediate owner of any Certificates.

Section 2.14. Book Entry. (a) Notwithstanding any contrary provision of this Indenture, the Certificates shall initially be evidenced by one (or more than one if required by the Securities Depository) Certificate for each maturity and interest rate in which the Certificates mature in denominations equal to the aggregate principal amount of the Certificates maturing for that maturity and interest rate. Such initially delivered Certificates shall be registered in the name of "Cede & Co." as nominee for DTC, the initial Securities Depository for the Certificates. As long as the Certificates are held by DTC, the Trustee and the Corporation may treat DTC (or its nominee) as the sole and exclusive owner of the Certificates registered in its name for the purposes of payment of the principal of, premium if any, or interest with respect to the Certificates, selecting the Certificates or portions thereof of a particular maturity to be prepaid, and for all other purposes whatsoever, and neither the Trustee nor the Corporation shall be affected by any notice to the contrary. Neither the Trustee nor the Corporation shall have any responsibility or obligation to any DTC Participant, any beneficial owner of the Certificates, or any other person which is not shown on the registration records of the Trustee as being an owner of Certificates, with respect to the accuracy of any records maintained by DTC or any DTC Participant; the payment by DTC or any DTC Participant of any amount in respect of the principal of, premium, if any, or interest with respect to the Certificates; any notice which is permitted or required to be given to the owners of Certificates under this Indenture; the selection by DTC or any DTC Participant of any person to receive payment in the event of a partial prepayment of the Certificates; or any consent given or other action taken by DTC as owners of the Certificates. The Certificates may not thereafter be transferred or exchanged except:

(1) to any successor of DTC or its nominee, which successor must be a qualified and registered "clearing agency" under Section 17A of the Securities Exchange Act of 1934, as amended; or

(2) upon the resignation of DTC or a successor or new depository under clause (1) or this clause (2) of this paragraph (a), or a determination by the City that DTC or such successor or new depository is no longer able to carry out its functions, and the designation by the City of another depository institution acceptable to the City and to the depository then holding the Certificates, which new depository institution must be a qualified and registered “clearing agency” under Section 17A of the Securities Exchange Act of 1934, as amended, to carry out the functions of DTC or such successor or new depository; or

(3) upon the resignation of DTC or a successor or new depository under clause (1) or clause (2) of this paragraph (a), or a determination of the City that DTC or such successor or new depository is no longer able to carry out its functions, and the failure by the City, after reasonable investigation, to locate another qualified depository institution under clause (2) to carry out such depository functions.

(b) In the case of a transfer to a successor of DTC or its nominee as referred to in clause (1) of paragraph (a) hereof or designation of a new depository pursuant to clause (2) of paragraph (a) hereof, upon receipt of the Outstanding Certificates by the Trustee, together with written instructions for transfer satisfactory to the Trustee, a new Certificate for each maturity of the Certificates then Outstanding shall be executed and delivered to such successor or new depository, as the case may be, or its nominee, as is specified in such written transfer instructions. In the case of a resignation or determination under clause (3) of paragraph (a) hereof and the failure after reasonable investigation to locate another qualified depository institution for the Certificates as provided in clause (3) of paragraph (a) hereof, and upon receipt of the Outstanding Certificates by the Trustee, together with written instructions for transfer satisfactory to the Trustee, new Certificates shall be executed and delivered in Authorized Denominations, as provided in and subject to the limitations of Section 2.08 of this Indenture, registered in the names of such Persons, and in such Authorized Denominations as are requested in such written transfer instructions; provided however, the Trustee shall not be required to deliver such new Certificates within a period of less than 60 days from the date of receipt of such written transfer instructions.

(c) The City and the Trustee shall be entitled to treat the registered owner of any Certificate as the absolute owner thereof for all purposes hereof and any applicable laws, notwithstanding any notice to the contrary received by them and the City and the Trustee shall have no responsibility for transmitting payments to the beneficial owners of the Certificates held by the Securities Depository or any successor or new depository named pursuant to paragraph (a) hereof.

(d) The City and the Trustee shall endeavor to cooperate with the Securities Depository or any successor or new depository named pursuant to clause (1) or (2) of paragraph (a) hereof in effectuating payment of the principal amount of the Certificates upon maturity or prepayment by arranging for payment in such a manner that funds representing such payments are available to the depository on the date they are due.



(e) Upon any partial prepayment of any maturity of the Certificates, Cede & Co. (or its successor) in its discretion may request the City to execute and deliver a new Certificate or shall make an appropriate notation on the Certificates indicating the date and amount of prepayment, except in the case of final maturity, in which case the Certificates must be presented to the Trustee prior to payment.

ARTICLE III.

Revenues and Funds

Section 3.01 Source of Payment of Certificates; Disposition of Proceeds of Certificates. All payments by the City under the Lease shall be currently appropriated expenditures within and for the City's then current Fiscal Year, all as provided in Sections 4.1, 4.2, 6.1, 6.2 and 6.6 of the Lease. The City's obligation to make payments under the Lease are from year to year only and do not constitute a mandatory charge or requirement in any ensuing Fiscal Year beyond the then current Fiscal Year. The Certificates herein authorized represent assignments of rights to receive Revenues under the Lease. The Certificates shall be payable solely from Revenues received by the Trustee, and amounts on deposit in the funds established hereby (other than the Rebate Fund and any defeasance escrows established pursuant to Article VI hereof) and do not constitute a general obligation or other indebtedness of the City and shall not constitute a multiple fiscal year direct or indirect City debt or other financial obligation whatsoever within the meaning of any Charter, constitutional or statutory debt limitation. Revenues, when, as, and if received by the Trustee, shall be held hereunder for payment of the principal of, premium, if any, and interest with respect to the Certificates as provided in this Indenture.

The proceeds of the Certificates (net of underwriter's discount) shall be accounted for as follows:

- (a) \$ \_\_\_\_\_ of such moneys shall be deposited into the Reserve Fund.
- (b) \$ \_\_\_\_\_ of such moneys shall be deposited into the Costs of Execution and Delivery Fund and applied to the Costs of Execution and Delivery of the 2010 Certificates.
- (c) \$ \_\_\_\_\_ of such moneys shall be deposited into the Project Fund and be used to finance the Project in accordance with Section 3.07 of this Indenture, Article 7 of the Lease and the Tax Certificate.

Section 3.02 The Certificate Fund. The Certificate Fund is hereby created and established with the Trustee, which shall be used to pay the principal of and interest with respect to the Certificates. Within the Certificate Fund there are hereby created and ordered established an Interest Account and a Principal Account, as follows:

- (a) There shall be deposited into the Interest Account of the Certificate Fund (i) all capitalized interest received at the time of delivery of the Certificates; (ii) that portion of each payment of Base Rentals which is designated in Exhibit C to the Lease, as it may be amended, and paid by the City as interest; (iii) any moneys transferred to the Interest Account of the Certificate Fund from the Reserve Fund, the Extraordinary Revenue Fund, the Repair and Replacement Fund, or the Project Fund pursuant to Sections 3.03, 3.04 and 3.05, and 3.08 hereof; and (iv) all other moneys received by the

Trustee under this Indenture accompanied by directions from the City that such moneys are to be deposited into the Interest Account of the Certificate Fund.

(b) There shall be deposited into the Principal Account of the Certificate Fund (i) that portion of each payment of Base Rentals which is designated in Exhibit C to the Lease, as it may be amended, and paid by the City as principal; (ii) any moneys transferred to the Principal Account of the Certificate Fund from the Reserve Fund, the Extraordinary Revenue Fund or the Repair and Replacement Fund pursuant to Sections 3.03, 3.04, and 3.05, and 3.08 hereof; and (iii) all other moneys received by the Trustee under this Indenture accompanied by directions from the City that such moneys are to be deposited into the Principal Account of the Certificate Fund.

Moneys held in the Certificate Fund shall be invested and reinvested in accordance with Article V of this Indenture. Moneys in the Interest Account of the Certificate Fund shall be used solely for the payment of the interest with respect to the Certificates. Moneys in the Principal Account of the Certificate Fund shall be used solely for the payment of the principal of the Certificates. In the event the Certificates are to be prepaid in whole pursuant to Section 4.01 of this Indenture, any moneys remaining in the Certificate Fund shall be applied to such prepayment along with other moneys held by the Trustee for such purpose.

The Certificate Fund shall be in the custody of the Trustee. The Trustee shall withdraw sufficient funds from the Certificate Fund to pay the principal of and interest with respect to the Certificates as the same become due and payable, which responsibility, to the extent of the moneys therein, the Trustee hereby accepts.

Section 3.03 The Reserve Fund. The Reserve Fund is hereby created and established with the Trustee, into which fund there shall be deposited the amount of the Reserve Fund Requirement from the proceeds of the sale of the Certificates or other amounts provided by the City or a Qualified Surety Bond, in lieu thereof, and any moneys paid by the City pursuant to the last paragraph of this Section 3.03. Moneys held in the Reserve Fund shall be invested and reinvested by the Trustee in accordance with Article V of this Indenture. Except as provided in Section 3.06 hereof, income derived from the investment of the moneys in the Reserve Fund shall be retained in the Reserve Fund to the extent the amount on deposit therein is less than the Reserve Fund Requirement. If the amount in the Reserve Fund exceeds the Reserve Fund Requirement for any reason, such excess shall be deposited in the Principal Account or Interest Account of the Certificate Fund, as directed by the City, for use as provided in Section 3.02 hereof. Moneys held in the Reserve Fund, excluding income derived from the investment thereof, shall be applied to any of the following purposes:

(a) To the payment of the principal amount of the Certificates and interest with respect thereto, as the same shall become due, to the extent of any deficiency in either the Interest Account or the Principal Account of the Certificate Fund for such purpose;

(b) At the option of the Trustee and upon receipt of an opinion of nationally recognized bond counsel that such payment will not adversely affect the exclusion from gross income for federal income tax purposes of interest with respect to

the Certificates, to the payment of any Additional Rentals in the event the City shall fail to make payment thereof;

(c) At the option of the Trustee, subsequent to the occurrence of an Event of Nonappropriation or a Lease Event of Default, to the payment of any cost or expense necessary to preserve or protect the Leased Property or the interest of the Trustee or the Certificate Owners therein, or necessary to make any repairs or modifications to the Leased Property in preparation for sale or other disposition thereof, as the Trustee may deem to be in the best interests of the Certificate Owners;

(d) Except to the extent applied pursuant to (c) above, upon the termination of the Lease Term by reason of the occurrence of an Event of Nonappropriation or a Lease Event of Default, proportionately to the prepayment or payment of the Certificates then Outstanding and the payment of interest with respect thereto; or

(e) In the event that the City shall exercise its option to terminate the Lease Term upon payment of the Purchase Option Price, to the City, or, at the option of the City, as a reduction of such Purchase Option Price.

Cash or Permitted Investments in the Reserve Fund shall be used for the purposes specified above before any Qualified Surety Bond therein is so used. The City may at any time, substitute (i) cash or Permitted Investments for a Qualified Surety Bond, (ii) a Qualified Surety Bond for cash or Permitted Investments, or (iii) a Qualified Surety Bond for another Qualified Surety Bond so long as the amount on deposit in the Reserve Fund after any such substitution is at least equal to the Reserve Fund Requirement. Notwithstanding the foregoing, no Qualified Surety Bond shall be accepted by the Trustee for substitution for cash or Permitted Investments unless the Trustee has received an opinion of nationally recognized municipal bond counsel to the effect that such substitution and the intended use by the City of the cash or Permitted Investments to be released from the Reserve Fund will not adversely affect the exclusion from gross income for federal income tax purposes of interest with respect to the Certificates. For the purposes of determining the amount on deposit in the Reserve Fund, a Qualified Surety Bond shall be valued at the amount available to be drawn thereunder.

To the extent that Reserve Fund moneys are applied pursuant to paragraph (a) or (b) of this Section 3.03, the City has agreed to pay to the Trustee for deposit in the Reserve Fund as Additional Rentals such amounts as are required to restore the amount on deposit in the Reserve Fund to the Reserve Fund Requirement by the first day of the fourth month of the Fiscal Year following such withdrawal of moneys from the Reserve Fund. The City has further agreed that failure to budget and appropriate moneys for such payment by the last day of the Fiscal Year during which such withdrawal occurs shall constitute an Event of Nonappropriation.

Section 3.04 The Extraordinary Revenue Fund. There is hereby created and established with the Trustee the Extraordinary Revenue Fund, into which shall be deposited all Extraordinary Revenues. Moneys on deposit in the Extraordinary Revenue Fund shall be applied as provided in Section 4.02 of this Indenture. Moneys on deposit in the Extraordinary Revenue Fund, other than the Purchase Option Price, if paid, shall be transferred to the Certificate Fund as

necessary to pay principal of or interest with respect to the Certificates on the normal maturity and interest payment dates, to the extent of moneys available therefor, and subject to the provisions of Section 4.02 hereof. Pending such application, the Trustee shall, at the written direction of the City, invest such Extraordinary Revenues (upon the advice of nationally recognized bond counsel selected by the City, the fees of which counsel shall be paid by the City as Additional Rentals provided no Event of Nonappropriation has occurred, otherwise such fees may be paid from Extraordinary Revenues), in such a manner that the federal tax exemption of interest with respect to the Certificates is preserved. The Extraordinary Revenue Fund (including moneys other than Extraordinary Revenues which may be available to the Trustee) may be maintained as an escrow for the payment of the Certificates to effect a discharge of this Indenture pursuant to Article VI hereof.

Section 3.05 The Repair and Replacement Fund. There is hereby created and established with the Trustee the Repair and Replacement Fund. Amounts shall be deposited therein pursuant to Section 10.2 of the Lease. Any moneys held in the Repair and Replacement Fund shall be invested and reinvested by the Trustee in accordance with Article V of this Indenture, and the income derived from such investment shall be retained in the Repair and Replacement Fund.

Except as provided in Section 10.3 of the Lease, so long as no Event of Nonappropriation or Lease Event of Default shall have occurred and be continuing, the Trustee shall make disbursements from the Repair and Replacement Fund for the prompt repair, restoration, modification, improvement or replacement of the Leased Property in accordance with Section 10.2 of the Lease. Upon completion of any such repair, restoration, modification, improvement or replacement, any money remaining on deposit in the Repair and Replacement Fund shall be transferred to the Certificate Fund and used as set forth in Section 3.02 hereof.

If an Event of Nonappropriation or Lease Event of Default shall have occurred and be continuing, the Repair and Replacement Fund shall be applied as provided in Section 4.02 of this Indenture.

Section 3.06 The Rebate Fund. There is hereby created and established with the Trustee the Rebate Fund. There shall be deposited into the Rebate Fund investment income on moneys in any fund created hereunder (except defeasance escrows pursuant to Article VI hereof), to the extent provided in the direction of the City pursuant to Section 11.8 of the Lease and subject to the limitations in Section 5.01 hereof, moneys received from the City pursuant to Section 11.8 of the Lease, moneys transferred to the Rebate Fund from any other fund created hereunder pursuant to the provisions of this Section 3.06, and all other moneys received by the Trustee when accompanied by directions not inconsistent with the Lease or this Indenture that such moneys are to be paid into the Rebate Fund. The Trustee shall cause amounts on deposit in the Rebate Fund to be forwarded to the United States Treasury (at the address provided in the Tax Certificate) at the times and in the amounts set forth in the City direction pursuant to Section 11.8 of the Lease.

If, upon receipt of the certification pursuant to Section 11.8 of the Lease, the moneys on deposit in the Rebate Fund are insufficient for the purposes thereof, the Trustee may transfer moneys to the Rebate Fund from the following funds in the following order of priority:

the Extraordinary Revenue Fund, the Repair and Replacement Fund, the Reserve Fund, the Project Fund, the Principal Account of the Certificate Fund and the Interest Account of the Certificate Fund. Any moneys so advanced shall be included in the Trustee's estimates of Additional Rentals for the ensuing Fiscal Year pursuant to Section 6.2(b) of the Lease. Upon receipt by the Trustee of an opinion of nationally recognized municipal bond counsel to the effect that the amount in the Rebate Fund is in excess of the amount required to be therein pursuant to the provisions of the Tax Certificate, such excess shall be transferred to the Interest Account of the Certificate Fund.

Section 3.07 The Costs of Execution and Delivery Fund. There is hereby created and established with the Trustee the Costs of Execution and Delivery Fund. Amounts deposited therein shall be held in Permitted Investments by the Trustee and used to pay the costs of execution and delivery of the Certificates in accordance with written instructions received by the Trustee from the City. If any moneys remain on deposit in the Costs of Execution and Delivery Fund after the payment of all the costs of issuance of the Certificates, the Trustee shall transfer any such remaining amounts to the Certificate Fund.

Section 3.08 Project Fund. There is hereby created and established with the Trustee the Project Fund. Moneys on deposit in the Construction Fund shall be disbursed, upon the written direction of the City Representative, to pay the Costs of the Project (as defined in the Lease) as set forth in Article 7 of the Lease. Prior to the Completion Date (as defined in the Lease), (a) all income earned from the investment of moneys in the Construction Fund shall be retained in the Construction Fund; provided, however, income from the Construction Fund may be transferred to the Rebate Fund if required by Section 3.06 hereof, and (b) all such income shall be reinvested or used for purposes of the applicable account of the Construction Fund until transferred. Any moneys remaining in the Construction Fund on the Completion Date, except for amounts set aside by the Trustee to pay remaining Costs of the Project as provided in the Certificate of Project Completion (in form as provided in Exhibit G to the Lease) filed with the Trustee by the City Representative, shall be transferred to the Base Rentals Fund and used for the purposes of such Fund. Any moneys held in the Construction Fund shall be invested by the Trustee in accordance with Article 5 hereof.

Section 3.09 Nonpresentation of Certificates. In the event any Certificate shall not be presented for payment when due, if funds sufficient to pay such Certificate shall have been made available to the Trustee for the benefit of the owner thereof, it shall be the duty of the Trustee to hold such funds without liability for interest with respect thereto for the benefit of the owner of such Certificate, who shall be restricted exclusively to such funds for any claim of whatever nature on his or her part under the Lease or this Indenture or on or with respect to such Certificate. If any Certificate shall not be presented for payment within the period of three years following the date when such Certificate becomes due, whether by maturity or otherwise, the Trustee shall return to the City the funds theretofore held by it for payment of such Certificate and such Certificate shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the City.

Section 3.10 Moneys to be Held in Trust. The ownership of the Certificate Fund, the Reserve Fund, the Extraordinary Revenue Fund, the Repair and Replacement Fund, and any other fund or account created hereunder shall be in the Trustee for the benefit of the

Certificate Owners as specified in this Indenture; provided, however, that, (i) during the Lease Term, the Repair and Replacement Fund shall also be subject to the beneficial interest of the City, as provided herein and in the Lease and (ii) moneys in the Rebate Fund and in any defeasance escrows established pursuant to Article VI hereof shall be used only for the specific purposes provided in this Indenture in connection therewith.

Section 3.11 Repayment to the City from the Trustee. After payment in full of the Certificates, the interest with respect thereto, any premium thereon, the fees, charges and expenses of the Trustee and all other amounts required to be paid hereunder, any amounts remaining in the Certificate Fund, the Reserve Fund, the Extraordinary Revenue Fund, the Repair and Replacement Fund, the Project Fund or otherwise held by the Trustee pursuant hereto (but excluding the Rebate Fund and defeasance escrows established pursuant to Article VI hereof) shall be paid to the City as a return of an overpayment of Base Rentals.

## ARTICLE IV.

### Prepayment of Certificates

#### Section 4.01 Prepayment.

(a) The 2010 Certificates maturing on and before December 1, 20\_\_ are not subject to prepayment prior to maturity. The 2010 Certificates maturing on and after December 1, 20\_\_ are subject to prepayment prior to maturity, at the option of the City, in whole or in part from any maturity, and by lot (giving proportionate weight to 2010 Certificates in denominations larger than \$5,000) within a maturity in such manner as the Trustee may determine, on December 1, 20\_\_, and on any date thereafter, at a prepayment price equal to the principal amount so redeemed plus accrued interest to the prepayment date without a prepayment premium.

(b) The Certificates shall be called for prepayment in the event that the Lease Term is terminated by reason of the occurrence of an Event of Nonappropriation or a Lease Event of Default, as further provided in Section 4.02 hereof. If called for prepayment pursuant to this paragraph (b), the Certificates shall be prepaid in whole on such date or dates as the Trustee may determine to be in the best interests of the Certificate Owners for a prepayment price equal to the principal amount thereof plus accrued interest to the prepayment date (subject to the availability of funds therefor as herein provided).

Section 4.02 Application of Moneys Upon Termination of the Lease Term by Reason of Certain Events. The Certificates shall be called for prepayment as provided in Section 4.01(b) hereof in the event that the Lease Term shall be terminated by reason of the occurrence of an Event of Nonappropriation or a Lease Event of Default. If the Certificates are to be prepaid by reason of any such event, the Certificate Owners shall have no right to payment from the City, the Corporation or the Trustee in prepayment of their Certificates or otherwise, except as expressly set forth in this Section 4.02.

Upon the termination of the Lease Term by reason of the occurrence of an Event of Nonappropriation or a Lease Event of Default (if Net Proceeds otherwise received and other moneys available under this Indenture are insufficient to provide for the payment in full of all Outstanding Certificates and Additional Certificates and interest with respect thereto), the Trustee shall commence proceedings for the foreclosure through the courts on and sale, leasing, subleasing, or other liquidation or disposition of, the Corporation's leasehold interest in the Leased Property as provided in Section 7.02 of this Indenture. The Certificates then Outstanding shall be prepaid by the Trustee from any Net Proceeds of such foreclosure through the courts on and sale, leasing, subleasing, or other liquidation or disposition of, the Corporation's leasehold interest in the Leased Property and all other moneys, if any, then on hand and being held by the Trustee for the Certificate Owners, including any moneys in the Extraordinary Revenue Fund, the Repair and Replacement Fund and the Project Fund (but excluding moneys in the Rebate Fund or in any escrows established pursuant to Article VI hereof).

In the event that such Net Proceeds and other moneys shall be insufficient to prepay the Certificates at 100% of the principal amount thereof Outstanding plus accrued interest



to the prepayment date, then such Net Proceeds and other moneys shall be allocated proportionately among the Certificates, according to the principal amount thereof Outstanding. In the event that such Net Proceeds and other moneys are in excess of the amount required to prepay the Certificates then Outstanding at 100% of the principal amount thereof Outstanding plus accrued interest to the prepayment date, then such excess moneys shall be paid to the City.

Prior to any distribution of the Net Proceeds or other moneys in prepayment of the Certificates pursuant to this Section 4.02, the Trustee shall be entitled to payment of its reasonable and customary fees for all services rendered in connection with any foreclosure through the courts on and sale, leasing, subleasing, or other liquidation or disposition, as well as reimbursement for all reasonable costs and expenses incurred thereby, from proceeds of such foreclosure through the courts on and sale, leasing, subleasing, or other liquidation or disposition. If the Certificates are to be prepaid for an amount less than the aggregate principal amount thereof Outstanding plus accrued interest to the prepayment date, such payment shall be deemed to constitute a prepayment in full of the Certificates, and upon such payment no Certificate Owner shall have any further claim for payment against the City, the Corporation or the Trustee. Nothing herein shall prevent the Trustee from applying any moneys available therefor hereunder to partial payments in prepayment of Certificates, ratably according to the amounts of principal Outstanding, on more than one date, if the Trustee shall deem such application of moneys to be in the best interests of the Certificate Owners.

Section 4.03 Notice of Prepayment. Notice of the call for any prepayment, identifying the Certificates or portions thereof to be prepaid and specifying the terms of such prepayment, shall be given by the Trustee, upon being satisfactorily indemnified as to expenses, by mailing a copy of the prepayment notice by first class mail at least 30 days and not more than 60 days prior to the date fixed for prepayment to the registered owner of each Certificate to be prepaid at the address shown on the registration records; provided however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of any proceedings for the prepayment of Certificates as to which no such failure has occurred. Any notice mailed as provided in this Section 4.03 shall be conclusively presumed to have been duly given, whether or not the registered owner receives the notice.

Such notice shall identify the Certificates or portions thereof to be prepaid (if less than all are to be prepaid) and the date fixed for prepayment, and shall further state that on such prepayment date the principal amount thereof and the designated premium thereon, if any, will become due and payable at the principal corporate trust office of the Trustee, and that from and after such date interest will cease to accrue. Accrued interest to the prepayment date will be paid by check, draft or wire sent to the Certificate Owner (or by alternative means if so agreed to by the Trustee and the Certificate Owner). Notice having been given in the manner hereinbefore provided, the Certificate or Certificates so called for prepayment shall become due and payable on the prepayment date so designated; and upon presentation thereof at the Trustee, payment of the Certificate or Certificates so called for prepayment shall be made as herein provided.

Notwithstanding the provisions of this section, any notice of prepayment may contain a statement that the prepayment is conditioned upon the receipt by the Trustee of funds on or before the date fixed for prepayment sufficient to pay the prepayment price of the Certificates so called for prepayment, and that if such funds are not available, such prepayment

shall be canceled by written notice to the owners of the Certificates called for prepayment in the same manner as the original prepayment notice was mailed.

Section 4.04 Prepayments. On or prior to the date fixed for prepayment, funds shall be deposited with the Trustee to pay, and the Trustee is hereby authorized and directed to apply such funds to the payment of, the Certificates called, together with accrued interest with respect thereto to the prepayment date, and any required premium. Upon the giving of notice and the deposit of such funds as may be available for prepayment pursuant to this Indenture (which, in the case of prepayment pursuant to Section 4.01(b) above, may be less than the full principal amount of the Outstanding Certificates and accrued interest with respect thereto to the prepayment date), interest with respect to the Certificates or portions thereof thus called shall no longer accrue after the date fixed for prepayment.

Section 4.05 Cancellation. All Certificates which have been prepaid shall not be executed and delivered again but shall be canceled and destroyed by the Trustee in accordance with Section 2.11 hereof.

## ARTICLE V.

### Investments

Section 5.01 Investment of Moneys. All moneys held as part of the Certificate Fund, the Reserve Fund, the Extraordinary Revenue Fund, the Repair and Replacement Fund, the Project Fund or any other fund or account created hereunder (except the Escrow Account and any defeasance escrow pursuant to Article VI hereof) shall be deposited or invested and reinvested by the Trustee, at the written direction of the City, in Permitted Investments; provided, however, that such written directions shall not require the Trustee to make deposits or investments of any fund or account created hereunder which shall interfere with or prevent withdrawals for payment of the Certificates at or before maturity or interest with respect thereto as required hereunder. Any and all deposits or investments shall be held by or under the control of the Trustee. The Trustee may make any and all such deposits or investments through its own bond department or the bond department of any bank or trust company under common control with the Trustee. Income from deposits or investments of moneys in the Reserve Fund shall be deposited in the Certificate Fund to the extent provided in Section 3.03 of this Indenture; otherwise deposits or investments shall at all times be a part of the fund or account from which the moneys used to acquire such deposits or investments shall have come, and all income and profits on such deposits or investments shall be credited to, and losses thereon shall be charged against, such fund or account. Pursuant to Section 3.06 hereof, any interest or other gain from any fund created hereunder (except the Escrow Account and any defeasance escrows pursuant to Article VI hereof) shall be deposited in the Rebate Fund to the extent directed by the City pursuant to Section 11.8 of the Lease; but no such transfer shall be made if such transfer would cause the amount then on deposit in such fund to be less than required by the provisions of this Indenture or the Lease, unless the Trustee consents to such transfer. The Trustee shall sell and reduce to cash a sufficient amount of such deposits or investments whenever the cash balance in the Certificate Fund is insufficient to pay the principal of and interest with respect to the Certificates when due, or whenever the cash balance in any fund or account created hereunder is insufficient to satisfy the purposes of such fund or account.

Furthermore, cash investments in the Reserve Fund must be valued at fair market value and marked to market annually by the Trustee as of December 15. Reserve Fund investments may not have maturities extending beyond five years.

## ARTICLE VI.

### Discharge of Indenture

Section 6.01 Discharge of this Indenture. If, when the Certificates shall become due and payable in accordance with their terms or otherwise as provided in this Indenture, the whole amount of the principal of, premium, if any, and interest due and payable upon all of the Certificates shall be paid (or, in the case of prepayment of the Certificates pursuant to Section 4.01(b) of this Indenture, if payment of an amount less than the aggregate principal amount of the Certificates Outstanding plus accrued interest with respect thereto to the prepayment date is made as provided in Section 4.02 of this Indenture), or provision shall have been made for the payment of the same, together with all other sums payable hereunder, then the right, title and interest of the Trustee in and to the Trust Estate and all covenants, agreements and other obligations of the Corporation to the Trustee and the Certificate Owners shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Trustee and the Corporation shall transfer, convey and release to the City or to its order all property assigned, pledged or mortgaged to the Trustee by the Corporation then held by the Corporation or by the Trustee pursuant to the Ground Lease, the Lease and this Indenture, and the Corporation and the Trustee shall execute such documents as may be reasonably required by the City and shall turn over to the City any surplus in any fund created under this Indenture (except the Escrow Account).

Any Outstanding Certificate shall prior to the maturity or prepayment date thereof be deemed to have been paid within the meaning and with the effect expressed in this Section 6.01 if (i) in case said Certificate is to be prepaid on any date prior to its maturity, the City shall have given to the Trustee in form satisfactory to the Trustee irrevocable instructions to give notice of prepayment of such Certificate on said prepayment date, such notice to be given on a date and otherwise in accordance with the provisions of Section 4.03 hereof, (ii) there shall have been deposited in trust either moneys in an amount which shall be sufficient, or Federal Securities the principal of and the interest with respect to which when due, and without any reinvestment thereof, will provide moneys which, together with the moneys, if any, deposited with or held in trust at the same time, shall be sufficient to pay when due the principal of, premium, if any, and interest due and to become due on said Certificate on and prior to the prepayment date or maturity date thereof, as the case may be, and (iii) in the event said Certificate is not by its terms subject to prepayment within the next 60 days, the City shall have given the Trustee in form satisfactory to it irrevocable instructions to give, as soon as practicable in the same manner as the notice of prepayment is given pursuant to Section 4.03 hereof, a notice to the owner of such Certificate that the deposit required by (ii) above has been made in trust and that said Certificate is deemed to have been paid in accordance with this Section and stating such maturity or prepayment date upon which moneys are to be available for the payment of the principal of, premium, if any, and interest with respect to said Certificate. Neither the Federal Securities nor moneys deposited in trust pursuant to this Section 6.01 or principal or interest payments on any such Federal Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, premium, if any, and interest with respect to said Certificate; provided that any cash received from such principal or interest payments on such Federal Securities deposited with the Trustee, if not then needed for such purpose, may be reinvested in Federal Securities maturing at the times and in amounts sufficient

to pay when due the principal of, premium, if any, and interest to become due on the Certificate on or prior to such prepayment date or maturity date thereof, as the case may be. At such time as any Certificate shall be deemed paid as aforesaid, such Certificate shall no longer be secured by or entitled to the benefits of this Indenture or the Lease, except for the purpose of exchange and transfer and any payment from such moneys or Federal Securities deposited in trust.

Prior to any discharge of this Indenture becoming effective, there shall be delivered to the City and the Trustee an opinion of bond counsel addressed to the City and the Trustee to the effect that such defeasance will not constitute a violation by the Council of its tax covenant in Section 11.8 of the Lease.

The discharge of this Indenture pursuant to this Section shall be without prejudice to the rights of the Trustee to be paid reasonable compensation for all services rendered by it hereunder and all its reasonable expenses, charges and other disbursements incurred with respect to the administration of the trust hereby created and the performance of its powers and duties hereunder.

In the event that there is a defeasance of only part of the Certificates of any maturity, the Trustee shall, if requested by the City, institute a system to preserve the identity of the individual Certificates or portions thereof so defeased, regardless of changes in Certificate numbers attributable to transfers and exchanges of Certificates; and the Trustee shall be entitled to reasonable compensation and reimbursement of expenses from the City in connection with such system as Additional Rentals under the Lease.

## ARTICLE VII.

### Defaults and Remedies

Section 7.01 Events of Default. If any of the following events occur it is hereby defined as and shall be deemed an “Indenture Event of Default” under this Indenture:

- (a) Default in the payment of the principal of or premium, if any, on any Certificate when the same shall become due and payable, whether at the stated maturity thereof or upon proceedings for prepayment.
- (b) Default in the payment of any installment of interest with respect to any Certificate when the same shall become due and payable.
- (c) The occurrence of an Event of Nonappropriation as provided in Sections 6.2, 6.6 or 10.3(c) of the Lease or the occurrence of a Lease Event of Default as provided in Section 14.1 of the Lease.

Upon the failure of the City to pay any Base Rental or Additional Rental during the Lease Term, the Trustee shall give notice of such occurrence to the City at least three Business Days prior to the date upon which such failure would, if continuing, become a Lease Event of Default under Section 14.1(a) of the Lease.

Section 7.02 Remedies on Default. Upon the occurrence of an Indenture Event of Default described in Section 7.01 of this Indenture, and if such Indenture Event of Default consists of the occurrence of an Event of Nonappropriation under Section 6.6 of the Lease, after any applicable cure period pursuant to Section 6.6 of the Lease, the Trustee shall, at the request of the owners of a majority in aggregate principal amount of the Certificates then Outstanding, and, in any case, upon indemnification as to costs and expenses as provided in Section 8.01(m) hereof, without any further demand or notice, take one or any combination of the following remedial steps:

- (a) The Trustee may terminate the Lease Term and give notice to the City to vacate the Leased Property as provided in Sections 6.6, 10.3(c) and 14.2 of the Lease, as the case may be.
- (b) After the occurrence of an Indenture Event of Default, the Trustee may assign its interest in the Ground Lease, or foreclose through the courts on the Corporation’s leasehold interest in the Leased Property or sell, lease, sublease or otherwise liquidate or dispose of the Corporation’s leasehold interest in the Leased Property, and exercise all the rights and remedies of a secured party under the Colorado Uniform Commercial Code.
- (c) In the event that the Trustee deems such action to be in the best interests of the Certificate Owners, the Trustee may lease or sublease the Leased Property or any portion thereof for the benefit of the Certificate Owners.

(d) The Trustee, acting for the Corporation, may recover from the City:

(I) The maximum amount legally available for contractual payments under the Lease under the City's then current budget and appropriation measures, plus additional amounts through condemnation or inverse condemnation proceedings or other noncontractual remedies relating to the right to occupy or use the Leased Property, to the full extent permitted by law, to a maximum total of the proportionate share of Base Rentals and any duly budgeted and appropriated Additional Rentals payable to or for the account of the Trustee, otherwise payable under the Lease and allocable to any period during which the City continues to occupy the Leased Property; which proportionate share of Base Rentals and of any such Additional Rentals is hereby determined and stipulated to be just compensation for the occupancy or use of the Leased Property for any such period; and

(II) Base Rentals and any duly budgeted and appropriated Additional Rentals payable to or for the account of the Trustee, which would otherwise have been payable by the City under the Lease during the remainder, after the City vacates the Leased Property, of the Fiscal Year in which such Indenture Event of Default occurs; provided, however, that if the Trustee does not proceed to foreclose through the courts on and sell, or otherwise liquidate or dispose of the Corporation's leasehold interest in the Leased Property reasonably promptly after such Indenture Event of Default, the Trustee shall be obligated to the City to use its best efforts to lease or sublease the Leased Property for the remainder of such Fiscal Year, as provided in paragraph (c) of this Section 7.02, and the Net Proceeds of such leasing or subleasing shall be offset against the amount recoverable from the City under this paragraph (d)(II).

(e) The Trustee, acting for the Corporation, may 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 Ground Lease, the Lease and this Indenture.

The Trustee shall also be entitled, upon any Indenture Event of Default described in Section 7.01 above, to any moneys in any funds or accounts created hereunder (other than the Rebate Fund or any escrow accounts established pursuant to Article VI hereof for the benefit of the Certificate Owners).

No right or remedy is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or by statute. However, notwithstanding any other provision of the Lease, the Ground Lease or this Indenture, any and all remedies against the City under the Lease, the Ground Lease or this Indenture shall be limited as provided in Section 14.3 of the Lease.

If any Indenture Event of Default shall have occurred and if requested by the owners of at least a majority in aggregate principal amount of Certificates then Outstanding and if the Trustee is indemnified as provided in Section 8.01(m) hereof, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Section as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Certificate Owners.

Section 7.03 Majority of Certificate Owners May Control Proceedings. Anything in this Indenture to the contrary notwithstanding, the owners of a majority in aggregate principal amount of the Certificates then Outstanding, shall have the right, at any time, to the extent permitted by law, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver, and any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions hereof. The Trustee shall not be required to act on any direction given to it pursuant to this Section until the indemnity described in Section 8.01(m) of this Indenture is furnished to it by such Certificate Owners.

Section 7.04 Rights and Remedies of Certificate Owners. No Certificate Owner shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless a default has occurred of which the Trustee has been notified as provided in Section 8.01(h) hereof, or of which by said Section it is deemed to have notice, nor unless such default shall have become an Indenture Event of Default as defined in Section 7.01 hereof, and the owners of a majority in aggregate principal amount of Certificates then Outstanding shall have made written request to the Trustee and shall have offered reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceedings in its own name, nor unless they have also offered to the Trustee indemnity as provided in Section 8.01(m) hereof nor unless the Trustee shall thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name; and such notification, request, offer of indemnity and consent or default are hereby declared in every case at the option of the Trustee to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more Certificate Owners shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by his, her, its or their action or to enforce any right hereunder except in the manner herein provided and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the owners of all Certificates then Outstanding. Nothing contained in this Indenture shall, however, affect or impair the right of any Certificate Owner to enforce the payment of the principal of, premium, if any, or interest with respect to any Certificate at and after the maturity thereof.

Section 7.05 Purchase of Corporation's Interest in the Leased Property by Certificate Owners or Trustee; Application of Certificates Toward Purchase Price. Upon the occurrence of an Indenture Event of Default, the lien on the Corporation's interest in the Leased Property created and vested in the Trustee hereunder may be foreclosed either by sale at public



auction or by proceedings in equity. Upon any such sale, any Certificate Owner or the Trustee may bid for and purchase the Corporation's leasehold interest in the Leased Property and, upon compliance with the terms of sale, may hold, retain and possess and dispose of such property in his, her or their own absolute right without further accountability; and any purchaser at any such sale may, if permitted by law, after allowing for the proportion of the total purchase price required to be paid in cash for the costs and expenses of the sale, compensation and other charges, in paying purchase money, turn in Certificates then Outstanding in lieu of cash, to the amount which shall, upon distribution of the Net Proceeds of such sale, be payable thereon. If the Trustee shall acquire the Corporation's leasehold interest in the Leased Property as a result of any such foreclosure sale, or any proceeding or transaction in lieu of foreclosure, the Trustee shall thereafter sell the Corporation's leasehold interest in the Leased Property (except to the extent otherwise provided in paragraph (c) of Section 7.02 of this Indenture); and may take any further lawful action with respect to the Leased Property which it, being advised by counsel, shall deem to be in the best interest of the Certificate Owners, including but not limited to the enforcement of all rights and remedies set forth in the Lease, the Ground Lease and this Indenture and the taking of all other courses of action permitted herein or therein.

Section 7.06 Waiver of Appraisement, Valuation, Stay, Execution and Redemption Laws. The Corporation agrees, to the extent permitted by law, that in case of the occurrence of an Indenture Event of Default, neither the Corporation nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisement, valuation, stay, extension or redemption laws now or hereafter in force in order to prevent or hinder the enforcement or foreclosure of this Indenture, or the absolute sale of the Trust Estate, or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereat; and the Corporation, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully do so, the benefit of all such laws, and any and all right to have the estates comprised in the security intended to be hereby created marshaled upon any foreclosure of the lien hereof and agrees that the Trustee or any court having jurisdiction to foreclose such lien may sell the Leased Property as an entirety.

Section 7.07 Trustee May Enforce Rights Without Certificates. All rights of action and claims under this Indenture or any of the Certificates Outstanding hereunder may be enforced by the Trustee without the possession of any of the Certificates or the production thereof in any trial or proceedings relative thereto; and any suit or proceeding instituted by the Trustee shall be brought in its name as Trustee, without the necessity of joining as plaintiffs or defendants any Certificate Owners, and any recovery of judgment shall be for the ratable benefit of the Certificate Owners, subject to the provisions of this Indenture.

Section 7.08 Trustee to File Proofs of Claim in Receivership, Etc. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceedings affecting the Leased Property, the Trustee shall, to the extent permitted by law, be entitled to file such proofs of claims and other documents as may be necessary or advisable in order to have claims of the Trustee and of the Certificate Owners allowed in such proceedings for the entire amount due and payable on the Certificates under this Indenture, at the date of the institution of such proceedings and for any additional amounts which may become due and payable by it after such date, without prejudice, however, to the right of any Certificate Owner to file a claim in his or her own behalf.

Section 7.09 Delay or Omission No Waiver. No delay or omission of the Trustee or of any Certificate Owner to exercise any right or power accruing upon any default shall exhaust or impair any such right or power or shall be construed to be a waiver of any such default, or acquiescence therein; and every power and remedy given by this Indenture may be exercised from time to time and as often as may be deemed expedient.

Section 7.10. No Waiver of One Default to Affect Another. No waiver of any default hereunder, whether by the Trustee or the Certificate Owners, shall extend to or affect any subsequent or any other then existing default or shall impair any rights or remedies consequent thereon.

Section 7.11. Discontinuance of Proceedings on Default; Position of Parties Restored. In case the Trustee shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then and in every such case the Corporation, the City, the Trustee and the Certificate Owners shall be restored to their former positions and rights hereunder with respect to the Trust Estate, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 7.12. Waivers of Events of Default. The Trustee may in its discretion waive any Indenture Event of Default hereunder and its consequences, and notwithstanding anything else to the contrary contained in this Indenture shall do so upon the written request of the owners of not less than two-thirds in aggregate principal amount of all the Certificates then Outstanding; provided, however, that there shall not be waived without the consent of the owners of 100% of the Certificates then Outstanding as to which the Indenture Event of Default exists (i) any Indenture Event of Default in the payment of the principal of or premium on any Outstanding Certificates at the date of maturity specified therein or (ii) any default in the payment when due of the interest with respect to any such Certificates, unless prior to such waiver or rescission, all arrears of interest and all arrears of payments of principal and premium, if any, then due, as the case may be (both with interest at a rate which shall be, to the maximum extent permitted by law, equal to the rate of interest then charged by the Trustee on 90-day unsecured commercial loans to its prime commercial borrowers or at the highest rate of interest per annum then borne by any Outstanding Certificate, whichever is higher, on all overdue installments), and all expenses of the Trustee in connection with such default shall have been paid or provided for. In case of any such waiver, or in case any proceedings taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely to the Trustee, then and in every such case the Corporation, the City, the Trustee and the Certificate Owners shall be restored to their former positions and rights hereunder respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

## ARTICLE VIII.

### Concerning the Trustee

Section 8.01 Duties of the Trustee. The Trustee hereby accepts the trusts imposed upon it by this Indenture and agrees to perform said trusts, but only upon and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Indenture against the Trustee:

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

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

(c) The Trustee shall not be responsible for any recital herein or in the Certificates (except in respect to the execution of the Certificates on behalf of the Trustee), or for the recording or rerecording, filing or refileing of the Ground Lease, the Lease or this Indenture or of any supplements thereto or hereto or instruments of further assurance, or collecting any insurance moneys or for the validity of the execution by the Corporation of this Indenture or of any supplements hereto or instruments of further assurance, or for the sufficiency of the security for the Certificates executed and delivered hereunder or intended to be secured hereby, or for the value of or title to the Leased Property, and the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements on the part of the Corporation or the City, except as provided herein; but the Trustee may require of the Corporation or the City full information and advice as to the performance of the covenants, conditions and agreements aforesaid. The Trustee shall have no obligation to perform any of the duties of the City under the Ground Lease or the Lease; and the Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with Article V hereof.

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

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

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate signed on behalf of the Corporation by the Corporation Representative, or on behalf of the City by the City Representative or such other Person as may be designated for such purpose by resolution of the Council, as sufficient evidence of the facts therein contained, and, prior to the occurrence of a default of which the Trustee has been notified as provided in subsection (h) of this Section or of which by said subsection it is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

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

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by the City to cause to be made any of the payments to the Trustee required to be made by Article III hereof and Article VI of the Lease, unless the Trustee shall be specifically notified in writing of such default by the Corporation, or the City, or by any Certificate Owner, and all notices or other instruments required by this Indenture to be delivered to the Trustee, must, in order to be effective, be delivered at the principal operations office of the Trustee, and in the absence of such notice so delivered, the Trustee may conclusively assume there is no default except as aforesaid.

(i) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust in the manner and for the purposes for which they were received but need not be segregated from other funds except to the extent required by this Indenture or law. The Trustee shall not be under any liability for interest on any moneys received hereunder except that the Trustee is responsible for complying with the written investment directions of the City.

(j) At any and all reasonable times the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right,

but shall not be required, to inspect any and all of the property pledged herein, including all books, papers and records of the Corporation or the City pertaining to the Leased Property.

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

(l) Notwithstanding anything in this Indenture contained, the Trustee shall have the right, but shall not be required, to demand in respect of the execution and delivery of any Certificates, the withdrawal of any cash, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the Corporation or the City to the execution and delivery of any Certificates, the withdrawal of any cash, or the taking of any other action by the Trustee.

(m) Before taking any action hereunder the Trustee may require that satisfactory indemnity be furnished to it by the Certificate Owners for the reimbursement of all costs and expenses which it may incur and to protect it against all liability, except liability which may result from its negligence or willful default, by reason of any action so taken.

No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

Section 8.02 Fees and Expenses of Trustee. During the Lease Term, the Trustee shall be entitled to payment and reimbursement for its reasonable fees for its services rendered hereunder as and when the same become due and all expenses, including attorney's fees, reasonably and necessarily made or incurred by the Trustee in connection with such services as and when the same become due, as provided in Section 6.2 of the Lease.

Section 8.03 Resignation or Replacement of Trustee. The present or any future Trustee may resign by giving written notice to the City and to the Corporation not less than 60 days before such resignation is to take effect. Such resignation shall take effect only upon the appointment of a successor qualified as provided in the third paragraph of this Section 8.03; provided, however, that if no successor is appointed within 60 days following the date designated in the notice for the Trustee's resignation to take effect, the resigning Trustee may petition a court of competent jurisdiction for the appointment of a successor. The present or any future Trustee may be removed at any time by an instrument in writing, executed by the City or by the owners of at least a majority in aggregate principal amount of the Certificates then Outstanding.

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

Every successor shall always be a bank or trust company in good standing, duly authorized to exercise trust powers and subject to examination by federal or state authority, qualified to act hereunder, having a reported capital and surplus of not less than \$50,000,000. Any successor appointed hereunder shall execute, acknowledge and deliver to the City and to the Corporation an instrument accepting such appointment hereunder, and thereupon such successor shall, without any further act, deed or conveyance, become vested with all the estates, properties, rights, powers and trusts of its predecessor in the trust hereunder with like effect as if originally named as Trustee herein; but the Trustee retiring shall, nevertheless, on the written demand of its successor, execute and deliver an instrument conveying and transferring to such successor, upon the trusts herein expressed, all the estates, properties, rights, powers and trusts of the predecessor, which shall duly assign, transfer and deliver to the successor all properties and moneys held by it under this Indenture. Should any instrument in writing from the City or the Corporation be required by any successor for more fully and certainly vesting in and confirming to it, the said deeds, conveyances and instruments in writing shall be made, executed, acknowledged and delivered by the City or the Corporation on request of such successor.

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

Section 8.04 Conversion, Consolidation or Merger of Trustee. Any bank or trust company into which the Trustee or its successor may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business as a whole shall be the successor of the Trustee under this Indenture with the same rights, powers, duties and obligations and subject to the same restrictions, limitations and liabilities as its predecessor, all without the execution or filing of any papers or any further act on the part of any of the parties hereto or thereto, anything herein or therein to the contrary notwithstanding. In case any of the Certificates to be executed and delivered hereunder shall have been executed, but not delivered, any successor Trustee may adopt the signature of any predecessor Trustee, and deliver the same as executed; and, in case any of such Certificates shall not have been executed, any successor Trustee may execute such Certificates in the name of such successor Trustee.

Section 8.05 Intervention by Trustee. In any judicial proceeding to which the Corporation or the City is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of Certificate Owners, the Trustee may intervene on behalf of Certificate Owners and shall do so if requested in writing by the owners of at least 25% in aggregate principal amount in Certificates then Outstanding.

Section 8.06 Undertakings to Provide Ongoing Disclosure. The City has undertaken to provide ongoing disclosure for the benefit of the Certificate Owners in Section 11.9 of the Lease. Notwithstanding any other provision of this Indenture, failure of the City to comply with Section 11.9 of the Lease shall not be considered an Indenture Event of Default and the rights and remedies provided by this Indenture upon the occurrence of an Indenture Event of Default shall not apply to any such failure. Section 11.9 of the Lease shall be enforceable only by specific performance by any Certificate Owner as further described in therein. However, neither the Corporation nor the Trustee shall have any power or duty to enforce the obligations of the City under Section 11.9 of the Lease.

ARTICLE IX.

Supplemental Indentures and  
Amendments of the Ground Lease and the Lease

Section 9.01 Supplemental Indentures Not Requiring Consent of Certificate Owners. The Trustee and the Corporation may, with the written consent of the City, but without the consent of, or notice to, the Certificate Owners, enter into such indentures or agreements supplemental hereto for any one or more or all of the following purposes:

(a) To add to the covenants and agreements of the Corporation contained in this Indenture other covenants and agreements to be thereafter observed by the Corporation;

(b) To cure any ambiguity, or to cure, correct or supplement any defect or omission or inconsistent provision contained in this Indenture, or to make any provisions with respect to matters arising under this Indenture or for any other purpose if such provisions are necessary or desirable and do not adversely affect the interests of the Certificate Owners;

(c) To subject to this Indenture additional revenues, properties or collateral (including the release and substitution of the Leased Property or portions thereof pursuant to Section 11.5 of the Lease); or

(d) To set forth the terms and conditions and other matters in connection with the issuance of Additional Certificates for certain purposes pursuant to Section 2.12 hereof; or

(e) To effect, in connection with the preservation of the exclusion from gross income and alternative minimum taxable income for federal income tax purposes of the interest with respect to the Certificates, any other changes in this Indenture which, in the opinion of nationally recognized municipal bond counsel, do not materially and prejudicially affect the rights of the owners of any Certificates.

Section 9.02 Supplemental Indentures Requiring Consent of Certificate Owners. Exclusive of supplemental indentures permitted by Section 9.01 hereof, the written consent of the City, and the owners of not less than two-thirds in aggregate principal amount of the Certificates then Outstanding, shall be required for the execution by the Corporation and the Trustee of any indenture or indentures supplemental hereto; provided, however, that without the consent of the owners of all the Certificates at the time Outstanding or of all of the Certificates adversely affected thereby, as the case may be, nothing herein contained shall permit or be construed as permitting:

(a) A change in the terms of prepayment or maturity of the principal amount of or the interest with respect to any Outstanding Certificate, or a reduction in the principal amount of or premium payable upon any prepayment of any Outstanding Certificate or the rate of interest with respect thereto, without the consent of the owner of such Certificate;



(b) The deprivation of the owner of any Certificate then Outstanding of the lien created by this Indenture (other than as originally permitted hereby), without the consent of the owner of such Certificate;

(c) A privilege or priority of any Certificate or Certificates over any other Certificate or Certificates; or

(d) A reduction in the aggregate principal amount of the Certificates required for consent to such supplemental indenture.

If at any time the City or the Corporation shall request the Trustee to enter into such supplemental indenture for any of the purposes of this Section and the consent of Certificate Owners is required, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be mailed to the registered owners of the Certificates at the addresses last shown on the registration records of the Trustee. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the principal corporate trust office of the Trustee for inspection by all Certificate Owners. If, within 60 days or such longer period as shall be prescribed by the City following the mailing of such notice, the owners of not less than the requisite aggregate principal amount of the Certificates then Outstanding at the time of the execution of any such supplemental indenture shall have consented to and approved the execution thereof as herein provided, no Certificate Owner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Corporation from executing the same or from taking any action pursuant to the provisions thereof.

Section 9.03 Execution of Supplemental Indenture. The Trustee is authorized to join with the Corporation in the execution of any such supplemental indenture and to make further agreements and stipulations which may be contained therein, but the Trustee shall not be obligated to enter into any such supplemental indenture which affects its rights, duties or immunities under this Indenture. Any supplemental indenture executed in accordance with the provisions of this Article shall thereafter form a part of this Indenture; and all the terms and conditions contained in any such supplemental indenture as to any provision authorized to be contained therein shall be deemed to be part of this Indenture for any and all purposes. In case of the execution and delivery of any supplemental indenture, express reference may be made thereto in the text of the Certificates executed and delivered thereafter, if any, if deemed necessary or desirable by the Trustee.

Section 9.04 Amendments, Etc., of the Ground Lease and the Lease Not Requiring Consent of Certificate Owners. The Corporation and the City may, with the written consent of the Trustee, but without the consent of or notice to the Certificate Owners, enter into any amendment, change or modification of the Ground Lease or the Lease as may be required (i) by the provisions of the Ground Lease, the Lease or this Indenture, (ii) for the purpose of curing any ambiguity or to cure, correct or amend any formal defect or omission in the Ground Lease or the Lease or inconsistent provision contained in the Ground Lease or the Lease, or for any other purpose if such provisions are necessary or desirable and do not adversely affect the

interests of the Certificate Owners, (iii) in order to more precisely identify the Leased Property or to add additional or substituted improvements or properties acquired in accordance with the Ground Lease, the Lease and this Indenture; (iv) in connection with the issuance of Additional Certificates for certain purposes as provided in Section 2.12 hereof; or (v) to effect, in connection with the preservation of the exclusion from gross income for federal income tax purposes of the interest with respect to the Certificates, any other changes in the Ground Lease or the Lease which, in the opinion of nationally recognized municipal bond counsel, do not materially and prejudicially affect the rights of the owners of any Certificates.

Section 9.05 Amendments, Etc. of the Ground Lease and the Lease Requiring Consent of Certificate Owners. Except for the amendments, changes or modifications permitted by Section 9.04 hereof, neither the Corporation nor the Trustee shall consent to any other amendment, change or modification of the Ground Lease or the Lease without the giving of notice, the written approval or consent of the owners of not less than two-thirds in aggregate principal amount of the Certificates at the time Outstanding given and procured as provided in Section 9.02 hereof. If at any time the City and the Corporation shall request the consent of the Trustee to any such proposed amendment, change or modification of the Ground Lease or the Lease and the consent of Certificate Owners is necessary, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of such proposed amendment, change or modification to be given in the same manner as provided in Section 9.02 hereof. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the principal corporate trust office of the Trustee for inspection by all Certificate Owners.

ARTICLE X.

Miscellaneous

Section 10.01 Evidence of Signature of Certificate Owners and Ownership of Certificates. Any request, consent or other instrument which this Indenture may require or permit to be signed and executed by the Certificate Owners may be in one or more instruments of similar tenor, and shall be signed or executed by such Certificate Owners in person or by their attorneys appointed in writing. Proof of the execution of any such instrument or of an instrument appointing any such attorney, or the ownership of Certificates shall be sufficient (except as otherwise herein expressly provided) if made in the following manner, but the Trustee may, nevertheless, in its discretion require further or other proof in cases where it deems the same desirable:

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

(b) The fact of the owning by any Person of Certificates, the amounts and numbers of such Certificates and the date of the owning of the same may be proved by the registration records of the Trustee.

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

Section 10.02 Covenants of the Corporation. The Corporation hereby covenants to the Trustee for the benefit of the Certificate Owners that the Corporation will observe and comply with the covenant of quiet enjoyment contained in Article V of the Lease, and with all of its representations and warranties under the Ground Lease and the Lease. The Corporation agrees that wherever in the Ground Lease or the Lease it is stated that the Corporation will notify the Trustee, or whenever the Ground Lease or the Lease gives the Trustee some right or privilege or in any way attempts to confer upon the Trustee the ability to protect the security for payment of the Certificates, such part of the Ground Lease or the Lease shall be as if it were set forth in full in this Indenture. The Corporation agrees that the Trustee as assignee of the Corporation under the Ground Lease and the Lease may enforce, in its name or in the name of the Corporation, all rights of the Corporation and all obligations of the City under the Ground Lease and the Lease, for and on behalf of the Certificate Owners, whether or not the Corporation is in default under this Indenture. The Trustee and the Corporation hereby agree that the Corporation shall not be obligated to, and shall not, make any payments with respect to the Leased Property under the Ground Lease or the Lease.

Section 10.03 Inspection of the Leased Property. The Trustee and its duly authorized agents shall have the right, on reasonable notice to the City, at all reasonable times, to examine and inspect the Leased Property (subject to such reasonable regulations as may be imposed by the City). The Trustee and its duly authorized agents shall also be permitted, at all reasonable times, to examine the books, records, reports and other papers of the City with respect to the Leased Property.

Section 10.04 Parties Interested Herein. Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any Person other than the City, the Corporation, the Trustee, the Surety Provider, if any, and the Certificate Owners, any right, remedy or claim under or by reason of this Indenture or any covenant, condition or stipulation hereof; and all the covenants, stipulations, promises and agreements in this Indenture contained by and on behalf of the Corporation or the Trustee shall be for the sole and exclusive benefit of the City, the Corporation, the Trustee, the Surety Provider, if any, and the Certificate Owners.

Section 10.05 Pledge of Revenues. The creation, perfection, enforcement and priority of the pledge of revenues to secure or pay the Certificates as provided herein shall be governed by Section 11-57-208 of the Supplemental Act and this Indenture. The revenues pledged for the payment of the Certificates, as received by or otherwise credited to the Corporation or the Trustee, shall immediately be subject to the lien of such pledge without any physical delivery, filing or further act. The lien of such pledge on the revenues pledged for payment of the Certificates and the obligation to perform the contractual provisions made herein shall have priority over any or all other obligations and liabilities of the Corporation or the Trustee. The lien of such pledge shall be valid, binding and enforceable as against all persons having claims of any kind in tort, contract or otherwise against the Corporation or the Trustee irrespective of whether such persons have notice of such liens.

Section 10.06 No Recourse against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Board of Directors of the Corporation, or any officer or agent of the Corporation acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the principal, interest or prepayment premiums on the Certificates. Such recourse shall not be available either directly or indirectly through the Board of Directors of the Corporation, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the Certificates and as a part of the consideration of their sale or purchase, any person purchasing or selling such Certificate specifically waives any such recourse.

Section 10.07 Full Integration. This Indenture constitutes the entire agreement and understanding among the parties relating to the subject matter hereof and supersedes all prior agreements, negotiations, representations, and understandings of any and every kind relating to such subject matter.

Section 10.08 Titles, Headings, Etc. The titles and headings of the articles, sections and subdivisions of this Indenture have been inserted for convenience of reference only and shall in no way modify or restrict any of the terms or provisions hereof.

Section 10.09 Severability. In the event any provision of this Indenture shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 10.10 Governing Law. This Indenture shall be governed and construed in accordance with the law of the State of Colorado.

Section 10.11 Execution in Counterparts. This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 10.12 Notices. All notices, certificates or other communications 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 City:	City of Grand Junction 250 North 5 <sup>th</sup> Street Grand Junction, Colorado 81501 Attention: Financial Operations Manager
if to the Corporation:	Grand Junction Public Finance Corporation  Grand Junction, Colorado _____ Attention: President
if to the Trustee:	Zions First National Bank  Denver, Colorado _____ Attention: Corporate Trust Services

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

Section 10.13. Payments Due on Non-Business Days. 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 Indenture, shall not be 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 Indenture.

IN WITNESS WHEREOF, the Corporation and the Trustee have caused this Indenture to be executed in their respective corporate names and attested by their duly authorized officials or officers, all as of the date first above written.

GRAND JUNCTION PUBLIC FINANCE  
CORPORATION

---

President

Attest:

---

Secretary

ZIONS FIRST NATIONAL BANK,  
as Trustee

By: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF COLORADO            )  
  ) ss.  
CITY OF MESA                    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of October, 2010, by \_\_\_\_\_ and \_\_\_\_\_, as President of the Board of Directors and Secretary of the Grand Junction Public Finance Corporation, a nonprofit corporation in good standing and organized under the laws of the State of Colorado.

WITNESS my hand and official seal the day and year above written.

My commission expires \_\_\_\_\_.

(SEAL)

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



STATE OF COLORADO                     )  
   ) SS.  
CITY AND CITY OF DENVER             )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of October, 2010 by \_\_\_\_\_, as \_\_\_\_\_ of Zions First National Bank, Denver, Colorado, a national banking association.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public for the State of Colorado

(SEAL)

My commission expires: \_\_\_\_\_

## EXHIBIT A

### DEFINITIONS

“2010 Certificates” means the Certificates of Participation, Series 20010, dated as of October \_\_, 2010, representing assignments of the right to receive certain Revenues pursuant to the Lease.

“Authorized Denominations” means denominations of \$5,000 or integral multiples thereof; provided that no Certificate may be executed and delivered in a denomination which exceeds the aggregate principal amount of Certificates coming due on any maturity date, and no individual Certificate will be executed and delivered for more than one maturity.

“Additional Certificates” means additional Certificates, if any, executed and delivered pursuant to Section 2.12 of this Indenture.

“Additional Rentals” means the cost of all taxes, insurance premiums, reasonable expenses and fees of the Trustee, reasonable expenses of the Corporation in connection with the Leased Property, utility charges, costs of maintenance, upkeep and repair, Reserve Fund payments, rebate payments as provided in Section 11.8 of the Lease, and 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 herein) which the City assumes or agrees to pay hereunder with respect to the Leased Property. Additional Rentals do not include the Base Rentals or the Purchase Option Price.

“Base Rentals” means the payments payable by the City pursuant to Section 6.2 of the Lease and Exhibit D thereto, as it may be amended thereunder, during the Lease Term, which constitute the payments payable by the City for and in consideration of the right to use the Leased Property during the Lease Term.

“Buildings” means the buildings located on the Land set forth in Exhibit C to the Lease (subject to the provisions of Sections 10.1, 11.4, and 11.5 of the Lease), which are leased by the City to the Corporation under the Ground Lease and are subleased by the Corporation to the City under the Lease.

“Business Day” means a day which is not (a) a Saturday, Sunday or legal holiday on which banking institutions in the State, the State of New York, or the state in which the Principal Office of the Trustee is located are authorized by law to close or (b) a day on which the New York Stock Exchange is closed.

“Certificate Fund” means the special fund created under Section 3.02 of this Indenture for the purpose of holding and disbursing to the Certificate Owners the Base Rentals paid by the City, and includes both the Principal Account and the Interest Account thereof.

“City” means the City of Grand Junction, Colorado, or any successor to its functions.

“City Representative” means the Financial Operations Manager of the City and any other Person or Persons at the time designated to act on behalf of the City for purposes of performing any act under the Lease, the Ground Lease or this Indenture by a written certificate furnished by the City to the Trustee and the Corporation containing the specimen signature of such Person or Persons and signed on behalf of the City by the President of the Council. The designation of the City Representative may be changed by the City from time to time by furnishing a new certificate to the Trustee and the Corporation.

“Closing Date” means the date of the initial execution and delivery of the 2010 Certificates.

“Code” means the Internal Revenue Code of 1986, as amended to the Closing Date.

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

“Corporation” means the Grand Junction Public Finance Corporation, a Colorado nonprofit corporation, acting as lessee under the Ground Lease, lessor under the Lease and grantor under this Indenture, or any successor thereto.

“Corporation Representative” means any duly qualified director of the Corporation and any other person or persons at the time designated to act on behalf of the Corporation under the Ground Lease, the Lease or this Indenture by a written certificate furnished to the City and the Trustee containing the specimen signature of such person or persons and signed on behalf of the Corporation by any duly authorized officer of the Corporation. The designation of the Corporation Representative may be changed by the Corporation from time to time by furnishing a new certificate to the City and the Trustee.

“Costs of Execution and Delivery” means all items of expense directly or indirectly payable by the Trustee related to the authorization, sale, execution and delivery of the Certificates and to be paid from the Costs of Execution and Delivery Fund, including but not limited to, survey costs, title insurance premiums, closing costs and other costs relating to the leasing of the Leased Property under the Ground Lease and the Lease, costs of preparation and reproduction of documents, costs of printing the Certificates and the Preliminary and final Official Statements prepared in connection with the offering of the Certificates, costs of Rating Agencies and costs to provide information required by Rating Agencies for the rating or proposed rating of Certificates, initial fees and charges of the Trustee and Paying Agent, legal fees and charges, including fees and expenses of Special (Certificate) Counsel, Special (Disclosure) Counsel, the City’s financial advisor, fees and disbursements of professionals and the Underwriter, fees and charges for preparation, execution and safekeeping of the Certificates, premiums for insurance on the Certificates or for the costs of any Qualified Surety Bond that is deposited to any account of the Reserve Fund in connection with the execution and delivery of any series of Certificates, and any other cost, charge or fee in connection with the original sale and the execution and delivery of the Certificates; provided, however, that Additional Rentals

shall not be Costs of Execution and Delivery of the Certificates and are to be paid by the City as provided in the Lease.

“Costs of Execution and Delivery Fund” means the special fund created under Section 3.07 of this Indenture for the purpose of holding and disbursing the costs of execution and delivery of the Certificates as directed by the City.

“Council” means the Council of City.

“DTC” means The Depository Trust Company, New York, New York, and any successor corporation.

“Event of Nonappropriation” means a termination of the Lease by the City, determined by the Council’s failure, for any reason, to appropriate by the last day of each Fiscal Year, (a) sufficient amounts to be used to pay Base Rentals due in the next Fiscal Year and (b) sufficient amounts to pay such Additional Rentals as are estimated to become due in the next Fiscal Year, as provided in Section 6.6 of the Lease. An Event of Nonappropriation may also occur under certain circumstances described in Section 10.3(c) of the Lease.

“Extraordinary Revenue Fund” means the special fund created under Section 3.04 of this Indenture into which Extraordinary Revenues are to be deposited.

“Extraordinary Revenues” means (a) the Purchase Option Price, if paid; (b) all Net Proceeds, if any, of casualty insurance, title insurance and condemnation awards received in connection with the Leased Property, not applied to the repair, restoration, modification, improvement or replacement of the Leased Property; and (c) all Net Proceeds derived from foreclosure through the courts on and sale, other liquidation or disposition of, the Corporation’s leasehold interest in the Leased Property or the leasing or subleasing of the Leased Property, if any, pursuant to Section 7.02 of this Indenture.

“Federal Securities” means Permitted Investments which are noncallable direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States of America, or interests in such obligations.

“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.

“Fitch” means Fitch, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Fitch” shall be deemed to refer to any other nationally recognized securities rating agency designated at the written direction of the City with written notice to the Corporation and the Trustee.

“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 or of the State or any of their departments,

agencies or officials or any civil or military authority; insurrection; riots; landslides; earthquakes; fires; storms; droughts; floods; explosions; breakage or accidents to machinery, transmission pipes or canals; or any other cause or event not within the control of the City.

“Ground Lease” means the Ground and Improvement Lease Agreement, dated as of October 15, 2010, between the City, as lessor, and the Corporation, as lessee, as from time to time amended and supplemented.

“Indenture” means this Mortgage and Indenture of Trust, dated as of October 15, 2010, between the Corporation and the Trustee, as from time to time amended and supplemented.

“Indenture Event of Default” means one or more events of default as defined in Section 7.01 of this Indenture.

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

“Interest Payment Date” means, with respect to the 2010 Certificate, \_\_\_\_\_ and \_\_\_\_\_ of each year, commencing \_\_\_\_\_, 20\_\_.

“Land” means the real estate set forth in Exhibit B to the Lease (subject to the provisions of Sections 10.1, 11.4, and 11.5 of the Lease), which is leased by the City to the Corporation under the Ground Lease and is subleased by the Corporation to the City under the Lease.

“Lease” means the Lease Purchase Agreement, dated as of October 15, 2010, between the City and the Corporation, and any amendments or supplements thereto, including the exhibits attached thereto.

“Leased Property” means, collectively, the Land, the Buildings, and the Project.

“Lease Event of Default” means one or more events of default as defined in Section 14.1 of the Lease.

“Lease Term” means the Original Term and any Renewal Terms as to which the City may exercise its option to renew the Lease as further provided in Section 4.1 of the Lease, subject to the terms and provisions of Sections 4.2, 6.1, 6.2 and 6.6 of the Lease. Certain provisions of the Lease survive the termination of the Lease Term, as further provided in Section 4.2 of the Lease.

“Moody's” means Moody's Investor Service, a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody's” shall be deemed to refer to any other nationally recognized securities rating agency designated at the written direction of the City with written notice to the Corporation and the Trustee.

“Net Proceeds,” when used with respect to any proceeds of insurance or bonds required hereby or any condemnation award, or any proceeds resulting from default or breaches of warranty under a construction contract or otherwise in connection with the Leased Property, or proceeds derived from foreclosure through the courts on, and sale, other liquidation or disposition of the Corporation’s leasehold interest in the Leased Property or the leasing or subleasing of the Leased Property or any portion thereof, means the amount remaining after deducting from the gross proceeds thereof: (a) all expenses (including, without limitation, attorneys’ fees and costs) incurred in the collection of such proceeds or award; and (b) all other fees, expenses and indemnity payments due to the Trustee or the Corporation.

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

“Original Term” means the portion of the Lease Term which terminates on December 31, 2010.

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

- (a) Certificates canceled or which shall have been surrendered to the Trustee for cancellation;
- (b) Certificates in lieu of which other Certificates have been authenticated under Section 2.09 or 2.10 of this Indenture;
- (c) Certificates which shall have been prepaid as provided in Article IV of this Indenture (including Certificates prepaid on payment of an amount less than the principal amount thereof and accrued interest with respect thereto as provided in Sections 4.01 and 4.02 of this Indenture); and
- (d) Certificates which are deemed to be paid pursuant to Article VI of this Indenture.

“Owner” or “registered owner” of a Certificate or “Certificate Owner” means the registered owner of any Certificate or Additional Certificate as shown on the registration records of the Trustee.

“Permitted Encumbrances” 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 Article VIII and Article IX of the Lease; (b) the Lease, the Ground Lease and the Indenture; (c) utility, access and other easements, rights of way, restrictions and exceptions and other minor defects, irregularities, encumbrances and clouds on title which the City Representative certifies will not interfere with or impair the Leased Property, including rights or privileges in the nature of easements as provided in Section 11.4 of the Lease; (d) any financing statements filed to perfect security interests pursuant to the Lease, the Ground Lease or the Indenture; (e) any subleases entered into pursuant to Section 13.2 of the Lease; and (f) those easements, rights of way, encumbrances, restrictions and exceptions set forth in Exhibit E to the Lease.

“Permitted Investments” means any legal investments of the City.

“Person” means natural persons, firms, associations, corporations and public bodies.

“Principal Office” means, with respect to the Trustee, the office of the Trustee at 1001 17<sup>th</sup> Street, Denver, Colorado 80202, or such other or additional offices as may be specified by the Trustee.

“Project” means the construction and installation of certain improvements to Suplizio Field located on the Land, including, without limitation, replacing the existing stands and press boxes, adding certain concourse and concession areas, and adding certain box seating.

“Purchase Option Price” means the amount payable, at the option of the City, for the purpose of terminating the Ground Lease and the Lease and releasing the Leased Property from the provisions of the Ground Lease and the Lease, which amount shall be the amount required to discharge this Indenture as provided in Article VI hereof. The Purchase Option Price shall include all fees, costs and expenses due to the Trustee.

“Qualified Surety Bond” means any unconditional and irrevocable surety bond or other insurance policy deposited in the Reserve Fund in lieu of or in partial substitution for moneys on deposit therein, the Surety Provider of which is rated in one of the two highest rating categories by each Rating Agency then rating the Certificates.

“Rating Agencies” means one or more of Standard & Poor’s, Moody’s or Fitch.

“Rebate Fund” means the special fund created under Section 3.06 of this Indenture.

“Record Date” means the means the fifteenth day (whether or not a business day) of the calendar month immediately preceding an interest payment date.

“Renewal Term” means any optional Renewal Term of the Lease Term as provided in Article IV of the Lease.

“Repair and Replacement Fund” means the special fund created under and to be disbursed as provided in Section 3.05 of this Indenture.

“Reserve Fund” means the special fund created under and to be disbursed as provided in Section 3.03 of this Indenture.

“Reserve Fund Requirement” means the least of (a) 10% of the stated principal amount of the Certificates, unless original issue discount or premium on such Certificates exceeds 2%, then 10% of the issue price of the Certificates; (b) 100% of the maximum annual principal of and interest with respect to the Outstanding Certificates; or (c) 125% of the average annual principal of and interest with respect to the Outstanding Certificates.

“Revenues” means (a) Extraordinary Revenues, if any; (b) the Base Rentals; (c) any portion of the proceeds of the Certificates deposited with the Trustee in the Certificate Fund to pay accrued or capitalized interest on the Certificates; (d) any portion of the proceeds of the 2010 Certificates deposited with the Trustee in the Project Fund to pay the costs of the Project, (d) any earnings on moneys on deposit in the Certificate Fund or the Project Fund; (e) all other revenues derived from the Lease, excluding Additional Rentals (other than Reserve Fund payments made to the Trustee pursuant to Section 3.03 of the Indenture), excluding payments into the Repair and Replacement Fund, and excluding payments constituting compensation to the Trustee for its services or reimbursement to the Trustee or the Corporation for costs or expenses; and (f) any other moneys to which the Trustee may be entitled for the benefit of the Certificate Owners, except for moneys on deposit in the Rebate Fund and any defeasance escrow funds.

“Securities Depository” means DTC or any successor securities depository appointed pursuant to Section 2.14 of this Indenture.

“Special Record Date” means a special date fixed to determine the names and addresses of registered owners of Certificates for purposes of paying interest on a special interest payment date for defaulted interest, all as provided in Section 2.02 of this Indenture.

“Standard & Poor’s” or “S&P” means Standard & Poor’s Ratings Services, a division of McGraw-Hill, Inc., a corporation organized and existing under the laws of the State of New York, or its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Standard & Poor’s” shall be deemed to refer to any other nationally recognized securities rating agency designated at the written direction of the City with written notice to the Corporation and the Trustee.

“State” means the State of Colorado.

“Supplemental Act” means the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, of the Colorado Revised Statutes, as amended.

“Tax Certificate” means the federal income tax certificate executed and delivered by the City concurrently with the issuance of the Certificates concerning compliance with the requirements of the Code in relation to the City’s covenants under Section 11.8 of the Lease.

“Trustee” means Zions First National Bank, organized under the laws of the United States of America, with its principal corporate trust office located in Denver, Colorado, acting in the capacity of trustee for the Certificate Owners pursuant to the Indenture, and any successor thereto appointed under the Indenture.

“Trustee Representative” means the Person or Persons at the time designated in writing by the Trustee to act on behalf of the Trustee for purposes of performing any act under the Indenture.

“Trust Estate” means the property mortgaged, pledged and assigned to the Trustee pursuant to the granting clauses of this Indenture.



EXHIBIT B  
FORM OF 2010 CERTIFICATE

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Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any certificate executed and delivered is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

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CERTIFICATE OF PARTICIPATION, SERIES 2010  
Representing Assignments of the Right to Receive Certain Revenues  
Pursuant to a Lease Purchase Agreement Dated as of October 15, 2010

Between

GRAND JUNCTION PUBLIC FINANCE CORPORATION,  
as Lessor, and

GRAND JUNCTION, COLORADO,  
as Lessee

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

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATED</u>	<u>CUSIP</u>
	_____, 20__	_____, 2010	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

THIS CERTIFIES THAT the registered owner specified above, or registered assigns, has a right to receive certain revenues, as described below, pursuant to a Lease Purchase Agreement, dated as of October 15, 2010 (the "Lease"), between GRAND JUNCTION PUBLIC FINANCE CORPORATION, a Colorado nonprofit corporation, as lessor (the "Corporation"), and the CITY OF GRAND JUNCTION, COLORADO, as lessee (the "City"). The interest of the registered owner of this Certificate of Participation is secured as provided in the Lease and in the Mortgage and Indenture of Trust, dated as of October 15, 2010 (the "Indenture"), between the Corporation and Zions First National Bank, Denver, Colorado, as trustee (the "Trustee"), for the registered owners (the "2010 Certificate Owners") of the Certificates of Participation of the series of which this Certificate of Participation is one (the "2010 Certificates"), whereby the rights of the Corporation as lessor under the Lease (with certain exceptions as therein provided) have been assigned by the Corporation to the Trustee for the benefit of the 2010 Certificate

Owners. Under the Indenture, the Corporation has also granted to the Trustee, for the benefit of the 2010 Certificate Owners, a mortgage and security interest in the Corporation's leasehold interest in the Leased Property (as defined in the Indenture). Under the Indenture, all of the rights, title and interest of the Corporation in the Ground Lease (as hereinafter defined) has also been assigned by the Corporation to the Trustee. Pursuant to the Lease and the Indenture, the registered owner hereof is entitled to receive, solely out of and to the extent available from the sources hereinafter identified, on the Maturity Date specified above (or earlier as hereinafter provided), the Principal Amount specified above and interest with respect thereto at the Interest Rate per annum specified above, payable semiannually on \_\_\_\_\_ and \_\_\_\_\_ in each year, commencing on \_\_\_\_\_, 20\_\_\_\_. This 2010 Certificate bears interest, matures, is payable, is subject to prepayment, and is transferable as provided in the Indenture. To the extent not defined herein, terms used in this 2010 Certificate shall have the same meanings as set forth in the Indenture.

The 2010 Certificates represent assignments of the right to receive certain Revenues, as described below, pursuant to the Lease, which have been executed and delivered in an aggregate principal amount of \$\_\_\_\_\_ pursuant to the Indenture for the purpose of providing funds to finance the Project, as defined in the Indenture.

Pursuant to the Ground and Improvement Lease Agreement (the "Ground Lease"), dated as of October 15, 2010, between the City, as lessor, and the Corporation, as lessee, the City has leased the Leased Property to the Corporation. Pursuant to the Lease, the City, as lessee, has subleased the Leased Property from the Corporation, as lessor, and the City has agreed to pay directly to the Trustee semiannual rental payments in consideration for its right to use the Leased Property, the proceeds of which are required by the Indenture to be distributed by the Trustee to the payment of the principal of, premium, if any, and interest with respect to the 2010 Certificates.

It is provided in the Indenture that there may hereafter be executed and delivered additional certificates ("Additional Certificates") from time to time under certain terms and conditions, and if executed and delivered, such Additional Certificates will be equally and proportionately secured under and entitled to the protection given by the Indenture with the 2010 Certificates (the 2010 Certificates and any Additional Certificates being collectively referred to herein as the "Certificates"). Reference is hereby made to the Lease and the Indenture for a description of the rights, duties and obligations of the City, the Corporation, the Trustee, and the Certificate Owners, the terms upon which Additional Certificates may be executed and delivered, the terms upon which the Certificates are secured, the terms and conditions upon which the Certificates will be deemed to be paid at or prior to maturity or prepayment of the Certificates upon the making of provision for the full or partial payment thereof, and the rights of the Certificate Owners upon the occurrence of a Lease Event of Default or an Event of Nonappropriation.

NEITHER THE LEASE NOR THE CERTIFICATES CONSTITUTES A GENERAL OBLIGATION OR OTHER INDEBTEDNESS OR MULTIPLE FISCAL YEAR FINANCIAL OBLIGATION OF THE CITY WITHIN THE MEANING OF ANY CHARTER, CONSTITUTIONAL OR STATUTORY DEBT LIMITATION. NONE OF THE LEASE, THE GROUND LEASE, THE INDENTURE OR THE CERTIFICATES HAVE DIRECTLY OR

INDIRECTLY OBLIGATED THE CITY TO MAKE ANY PAYMENTS BEYOND THOSE APPROPRIATED FOR ANY FISCAL YEAR IN WHICH THE LEASE SHALL BE IN EFFECT. EXCEPT TO THE EXTENT PAYABLE FROM THE PROCEEDS OF THE SALE OF THE CERTIFICATES AND INCOME FROM THE INVESTMENT THEREOF, FROM NET PROCEEDS OF CERTAIN INSURANCE POLICIES, FROM NET PROCEEDS OF FORECLOSURE THROUGH THE COURTS ON, AND SALE, LEASE OR OTHER LIQUIDATION OR DISPOSITION OF THE CORPORATION'S LEASEHOLD INTEREST IN THE LEASED PROPERTY, OR FROM OTHER AMOUNTS MADE AVAILABLE UNDER THE INDENTURE. THE CERTIFICATES WILL BE PAYABLE DURING THE LEASE TERM SOLELY FROM BASE RENTALS TO BE PAID BY OR ON BEHALF OF THE CITY UNDER THE LEASE AND THE INCOME FROM CERTAIN INVESTMENTS THEREUNDER. ALL PAYMENT OBLIGATIONS OF THE CITY UNDER THE LEASE, INCLUDING, WITHOUT LIMITATION, THE OBLIGATION OF THE CITY TO PAY BASE RENTALS, ARE FROM YEAR TO YEAR ONLY AND DO NOT CONSTITUTE A MANDATORY PAYMENT OBLIGATION OF THE CITY IN ANY FISCAL YEAR BEYOND A FISCAL YEAR IN WHICH THE LEASE SHALL BE IN EFFECT. THE LEASE IS SUBJECT TO ANNUAL RENEWAL AT THE OPTION OF THE CITY AND WILL BE TERMINATED UPON THE OCCURRENCE OF AN EVENT OF NONAPPROPRIATION. IN SUCH EVENT, ALL PAYMENTS FROM THE CITY UNDER THE LEASE WILL TERMINATE, AND THE CERTIFICATES AND THE INTEREST THEREON WILL BE PAYABLE FROM CERTAIN MONEYS, IF ANY, HELD BY THE TRUSTEE UNDER THE INDENTURE, AND ANY MONEYS MADE AVAILABLE FROM FORECLOSURE THROUGH THE COURTS ON AND SALE, LEASE, SUBLEASE, OR OTHER LIQUIDATION OR DISPOSITION OF THE CORPORATION'S LEASEHOLD INTEREST IN THE LEASED PROPERTY. THE CORPORATION HAS NO OBLIGATION TO MAKE ANY PAYMENTS ON THE CERTIFICATES.

Except to the extent otherwise provided herein and in the Indenture with respect to Record Dates and Special Record Dates for the payment of interest, the Trustee may deem and treat the Person in whose name this 2010 Certificate is registered as the absolute owner hereof, whether or not this 2010 Certificate shall be overdue, for the purpose of receiving payment and for all other purposes, and neither the City nor the Trustee shall be affected by any notice to the contrary.

This 2010 Certificate is executed and delivered under the authority of Part 2 of Article 57, Title 11, Colorado Revised Statutes, as amended ("C.R.S."). Pursuant to Section 11-57-210, C.R.S., such recital shall be conclusive evidence of the validity and the regularity of the issuance of this certificate after its delivery for value.

This 2010 Certificate is executed and delivered with the intent that the laws of the State of Colorado shall govern its legality, validity, enforceability and construction. This 2010 Certificate is authorized, executed, and delivered under the authority of and in full conformity with the Constitution of the State of Colorado and all other laws of the State of Colorado thereunto enabling.

This 2010 Certificate shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Lease, the Ground Lease or the Indenture until signed on behalf of the Trustee.

IN WITNESS WHEREOF, this 2010 Certificate has been executed with the manual signature of an authorized representative of the Trustee all as of date first above written.

Zions First National Bank,  
as Trustee

By \_\_\_\_\_ (Manual Signature) \_\_\_\_\_  
Authorized Representative

(End of Form of 2010 Certificate)

(Form of Transfer)

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

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

\_\_\_\_\_

Signature Guaranteed:

\_\_\_\_\_

Address of transferee:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Social Security or other tax  
identification number of transferee:

\_\_\_\_\_

NOTE: The signature to this Assignment must correspond with the name as written on the face of the within Certificate in every particular, without alteration or enlargement or any change whatsoever, and be guaranteed by a financial institution that is a member of a Medallion Program..

(End of Form of Transfer)

(Form of Prepayment Panel)

The following installments of principal (or portions thereof) of this Certificate have been prepaid in accordance with the terms of the Indenture authorizing the issuance of this Certificate.

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<u>Date of Prepayment</u>	<u>Principal Prepaid</u>	<u>Signature of Authorized Representative of DTC</u>

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(End of Form of Prepayment Panel)

EXHIBIT C  
DESCRIPTION OF THE LEASED PROPERTY

Land:

Buildings:



CITY OF GRAND JUNCTION, COLORADO  
CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (this "Disclosure Certificate") is executed and delivered by the City of Grand Junction, Colorado (the "City"), in connection with its authorization, execution and delivery of a Lease Purchase Agreement, dated as of October 15, 2010 (the "Lease"), between the City, as lessee, and Grand Junction Public Finance Corporation, as lessor (the "Corporation"), and the execution and delivery of certain Certificates of Participation, Series 2010 (the "Certificates"). The Certificates are being executed and delivered pursuant to an Indenture of Trust, dated as of October 15, 2010 (the "Indenture"), between the Corporation and Zions First National Bank, as trustee (the "Trustee"). The City covenants and agrees as follows:

SECTION 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the City for the benefit of the holders and beneficial owners of the Certificates and in order to assist the Participating Underwriter in complying with Rule 15c2-12(b)(5) of the Securities and Exchange Commission (the "SEC").

SECTION 2. Definitions. In addition to the definitions set forth in the Indenture or parenthetically defined herein, which apply to any capitalized terms used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"Dissemination Agent" shall mean, initially, the City, or any successor Dissemination Agent designated in writing by the City and which has filed with the City a written acceptance of such designation.

"Material Events" shall mean any of the events listed in Section 5 of this Disclosure Certificate.

"MSRB" shall mean the Municipal Securities Rulemaking Board. As of the date hereof, the MSRB's required method of filing is electronically via its Electronic Municipal Market Access (EMMA) system available on the Internet at <http://emma.msrb.org>.

"Participating Underwriter" shall mean the original underwriter of the Certificates required to comply with the Rule in connection with an offering of the Certificates.

"Rule" shall mean Rule 15c2-12(b)(5) adopted by the SEC under the Securities Exchange Act of 1934, as the same may be amended from time to time.

SECTION 3. Provision of Annual Reports.

(a) The City shall, or shall cause the Dissemination Agent to, not later than nine (9) months following the end of the City's Fiscal Year of each year, commencing nine (9)

months following the end of the City's Fiscal Year ending December 31, 2010, provide to the MSRB in an electronic format as prescribed by the MSRB, an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than five (5) business days prior to said date, the City shall provide the Annual Report to the Dissemination Agent (if other than the City). The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report.

(b) If the City is unable to provide to the MSRB an Annual Report by the date required in subsection (a) of this Section, the City shall send or cause to be sent a notice in substantially the form attached as Exhibit "A" to the MSRB.

(c) The Dissemination Agent shall:

i. determine each year prior to the date for providing the Annual Report the appropriate electronic format prescribed by the MSRB;

ii. if the Dissemination Agent is other than the City, send written notice to the City at least 45 days prior to the date the Annual Report is due stating that the Annual Report is due as provided in Section 3(a) hereof; and

iii. if the Dissemination Agent is other than the City, file a report with the City certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, stating the date it was provided and listing all the entities to which it was provided.

SECTION 4. Content of Annual Reports. The City's Annual Report shall contain or incorporate by reference the following:

(a) A copy of its annual financial statements prepared in accordance with generally accepted accounting principles audited by a firm of certified public accountants. If audited annual financial statements are not available by the time specified in Section 3(a) above, unaudited financial statements will be provided as part of the Annual Report and audited financial statements will be provided when and if available.

(b) An update of the type of information identified in Exhibit "B" hereto, which is contained in the tables in the Official Statement with respect to the Certificates.

Any or all of the items listed above may be incorporated by reference from other documents, including official statements of debt issues of the City or related public entities, which are available to the public on the MSRB's Internet Website or filed with the SEC. The City shall clearly identify each such document incorporated by reference.

SECTION 5. Reporting of Material Events. The City shall provide or cause to be provided, in a timely manner, notice of any of the following events with respect to the Certificates, if such event is material, to the MSRB:

- (a) Principal and interest payment delinquencies;
- (b) Non-payment related defaults;
- (c) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (d) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (e) Substitution of credit or liquidity providers or their failure to perform;
- (f) Adverse tax opinions or events affecting the tax-exempt status of the Certificates;
- (g) Modifications to rights of Certificate holders;
- (h) Certificate calls;
- (i) Defeasances;
- (j) Release, substitution or sale of property securing repayment of the Certificates; or
- (k) Rating changes.

SECTION 6. Identifying Information. All documents provided to the MSRB pursuant to this Disclosure Certificate shall be accompanied by identifying information as prescribed by the MSRB.

SECTION 7. Termination of Reporting Obligation. The City's obligations under this Disclosure Certificate shall terminate upon the earliest of: (i) the date of legal defeasance, prior redemption or payment in full of all of the Certificates; (ii) the date that the City shall no longer constitute an "obligated person" within the meaning of the Rule; or (iii) the date on which those portions of the Rule which require this written undertaking are held to be invalid by a court of competent jurisdiction in a non-appealable action, have been repealed retroactively or otherwise do not apply to the Certificates.

SECTION 8. Dissemination Agent. The City may, from time to time, appoint or engage a Dissemination Agent to assist the City in carrying out its obligations under this Disclosure Certificate, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent.

SECTION 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the City may amend this Disclosure Certificate and may waive any provision hereof, without the consent of the holders and beneficial owners of the Certificates, if such amendment or waiver does not, in and of itself, cause the undertakings herein (or action of any Participating Underwriter in reliance on the undertakings herein) to violate the Rule, but taking into account any subsequent change in or official interpretation of the Rule. The City will provide notice of such amendment to the MSRB.

SECTION 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Material Event, in addition to that which is required by this Disclosure Certificate. If the City chooses to include any information in any Annual Report or notice of occurrence of a Material Event in

addition to that which is specifically required by this Disclosure Certificate, the City shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Material Event.

SECTION 11. Default. In the event of a failure of the City to comply with any provision of this Disclosure Certificate, any holder or beneficial owner of the Certificates may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed a Lease Event of Default, and the sole remedy under this Disclosure Certificate in the event of any failure of the City to comply with this Disclosure Certificate shall be an action to compel performance.

SECTION 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriter and the holders and beneficial owners from time to time of the Certificates, and shall create no rights in any other person or entity.

DATED: October \_\_, 2010.

CITY OF GRAND JUNCTION, COLORADO

By: \_\_\_\_\_  
President of the City Council

EXHIBIT "A"

**NOTICE TO MUNICIPAL SECURITIES RULEMAKING BOARD  
OF FAILURE TO FILE ANNUAL REPORT**

Name: City of Grand Junction, Colorado (the "City").

Name of Issue: Certificates of Participation, Series 2010, Representing Assignments of the Right to Receive Certain Revenues Pursuant to a Lease Purchase Agreement dated as of October 15, 2010 between the City of Grand Junction, Colorado and Grand Junction Public Finance Corporation

CUSIP:

Date of Issuance: October \_\_, 2010.

NOTICE IS HEREBY GIVEN that the City has not provided an Annual Report with respect to the Certificates as required by Section 11.9 of the Lease Purchase Agreement, dated as of October 15, 2010, and the Continuing Disclosure Certificate executed on October \_\_, 2010 by the City. The City anticipates that the Annual Report will be filed by \_\_\_\_\_, 20\_\_.

Dated: \_\_\_\_\_, 20\_\_

CITY OF GRAND JUNCTION, COLORADO

By: \_\_\_\_\_  
Title: \_\_\_\_\_

EXHIBIT "B"

**INDEX OF OFFICIAL STATEMENT TABLES TO BE UPDATED**



Date: 8/13/10  
 Author: Jay Valentine  
 Title/ Phone Ext: Asst. Fin. Ops  
Mgr. x 1517  
 Proposed Schedule: August 30,  
2010  
 2nd Reading: September 13,  
2010

Attach 3

**Setting a Hearing on the Issuance of Certificates to Construct the Public Safety Buildings**

**CITY COUNCIL AGENDA ITEM**

<b>Subject:</b> Issuance of Certificates of Participation to Construct Public Safety Buildings.
<b>File # (if applicable):</b>
<b>Presenters Name &amp; Title:</b> Laurie Kadrich, City Manager Jay Valentine, Assistant Financial Operations Manager

**Executive Summary:**

This item introduces an ordinance on August 30 and if passed for publication sets a public hearing on September 13, 2010 to consider the proposed execution and delivery of one or more series of certificates of participation in an aggregate principal amount not to exceed \$36,300,000. These certificates represent assignments of the right to receive certain revenues pursuant to a Lease Purchase Agreement between the Zions First National Bank, as lessor, and the City, as lessee. The proceeds will be used by the City to finance the construction of a police station, emergency communication center and the possible remodel of the existing shops building to serve as Fire Station #1 and the Fire Administration building.

**How this item relates to the Comprehensive Plan Goals and Policies:**

**Goal 4:** Support the continued development of the downtown area of the City Center into a vibrant and growing area with jobs, housing and tourist attractions.

Reconstruction of these existing public safety facilities will constitute a significant redevelopment project in the downtown area.

**Goal 11:** Public safety facilities and services for our citizens will be a priority in planning for growth.

Providing new public safety facilities and maintaining essential public safety services to the community have been a top priority for several years.

**Goal 12:** Being a regional provider of goods and services the City and County will sustain, develop and enhance a healthy, diverse economy.

Public safety is a fundamental and critical component of a healthy community and economy. Having new and functional public safety facilities will help to ensure the delivery of these essential services in the community.

**Action Requested/Recommendation:**

Introduction of a Proposed Ordinance and Set a Hearing for September 13, 2010.

**Board or Committee Recommendation:**

The Grand Junction Emergency Telephone Safety Authority Board has pledged support for this project by authorizing the use of \$500,000 for annual lease payments for the Emergency Communication Center.

**Background, Analysis and Options:**

Because the 2008 ballot questions for funding public safety facilities failed, the City's police station, including the 911 communications center and the main fire station are dangerously close to the end of their useful life. To assist the City in finding a solution to this problem, the City Council held several forums in order to listen to citizen comments regarding the facilities, the community's needs and desires and methods to finance the necessary improvements. Through those meetings several key themes were heard, primarily, the citizens want the City to do something now, look at a smaller scale project and fund new public safety facilities within existing resources.

With the certificate financing plan proposed, the City, along with the Grand Junction Emergency Telephone Safety Authority Board (911 Board), will be able to fund a lease purchase of a new building within existing revenues.

Other direction to come out of the public forums was that citizens wanted the City to look at existing buildings as a possibility for some components of improving the public safety building plan. A possibility consistent with that direction is the remodeling of the existing shops building. That building has recently been vacated due to reductions in the City work force and movement among City departments. This financing plan assumes that the shops building could be remodeled to house Fire Station #1 and Fire Station Administration. The final programming, location, design, schedule and cost for those facilities is currently being assessed.

The issuance of Certificates of Participation (Certificates) will enable the City to obtain funding for these important public buildings. Capital assets, like the police and fire buildings, may be acquired in one of two ways: by entering into a rental agreement to obtain use, but not ownership, of the asset; or by purchasing the asset, either outright or through a financing arrangement, to obtain use and ownership. Tax-exempt leasing involving the sale of Certificates uses both methods. Lease revenues will be sold to



raise the proceeds necessary to construct the capital improvements. When the facility is constructed and ready for use, the City will lease the facility from the lessor. Unlike bonded debt, these lease payments by the City to the lessor will be subject to annual appropriation. At the end of the lease, the City will own the improved facilities outright.

**Financial Impact/Budget:**

The public safety improvements described above are projected to cost \$32 million. That amount will be financed from lease payments over 30 years. The annual lease payment will not exceed \$3.43 million and after the payment of interest from the Build America Bond subsidy, the net annual lease is projected to be \$2.2 million each year. The 911 Board has committed up to \$500,000 annually towards the lease payment.

**Legal issues:**

Neither the lease nor the Certificates constitute a general obligation or other indebtedness or multiple fiscal year obligation of the City within the Colorado Constitution, statutes or City Charter. The lease is subject to annual renewal.

**Previously presented or discussed:**

Public safety facility improvements have most recently been discussed by City Council on August 2, 2010. Prior to that discussion, improvements to public safety facilities have been identified as the number one priority by City Council.

**Attachments:**

Ordinance  
Ground and Improvement Lease Agreement  
Lease Purchase Agreement  
Indenture of Trust  
Continuing Disclosure Certificate

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A GROUND AND IMPROVEMENT LEASE AGREEMENT, A LEASE PURCHASE AGREEMENT, A CONTINUING DISCLOSURE CERTIFICATE, AN OFFICIAL STATEMENT, AND CERTAIN RELATED DOCUMENTS BY THE CITY; APPROVING THE FORMS OF RELATED DOCUMENTS; AND PROVIDING FOR OTHER MATTERS RELATING THERETO.

RECITALS:

1. The City of Grand Junction, Colorado (the "City"), is a home rule city duly existing under the Constitution and laws of the State of Colorado and its City Charter (the "Charter").

2. The members of the City Council of the City (the "City Council") have been duly elected or appointed and qualified.

3. The City has the power, pursuant to Section 2(f) of the Charter and Sections 31-1-102 and 31-15-713(c), of the Colorado Revised Statutes, as amended, to lease any real estate owned by the City, together with any facilities thereon, when deemed by the City Council to be in the best interest of the City.

4. The City owns certain parcels of real property (the "Parcels"), together with the facilities located thereon, if any (the "Facilities"), more particularly described in the Ground Lease described herein (such Parcels and Facilities being collectively referred to herein as the "Site").

5. The City Council has determined, and now hereby determines, that it is in the best interest of the City and its inhabitants that the City, as lessor, lease the Site and certain improvements to be constructed and installed thereon (collectively, the "Leased Property") to Zions First National Bank (the "Trustee"), solely in its capacity as trustee under the Indenture described herein, as lessee, pursuant to a Ground and Improvement Lease Agreement (the "Ground Lease"), and lease back the Trustee's leasehold interest in the Leased Property pursuant to the terms of a Lease Purchase Agreement (the "Lease") between the Trustee, as lessor, and the City, as lessee.

6. Pursuant to the Lease, and subject to the right of the City to terminate the Lease and other limitations as therein provided, the City will pay certain Base Rentals and Additional Rentals (as such terms are defined in the Lease) in consideration for the right of the City to use the Leased Property.

7. The City's obligation under the Lease to pay Base Rentals and Additional Rentals 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; and shall not constitute a general obligation or other indebtedness or a multiple fiscal year financial obligation of the City within the meaning of any Charter, constitutional or statutory limitation or requirement concerning the creation of indebtedness or any multiple fiscal year financial obligation, nor a mandatory payment obligation of the City in any ensuing fiscal year beyond any fiscal year during which the Lease shall be in effect.

8. The Trustee will enter into an Indenture of Trust (the "Indenture"), pursuant to which the Trustee will execute and deliver one or more series of certificates of participation, dated as of their date of delivery, in an aggregate principal amount not to exceed \$36,300,000 (the "2010 Certificates").

9. The net proceeds of the 2010 Certificates will be used (a) for the construction of a police building, including a 911 emergency dispatch center on Parcel I (as defined in the Ground Lease), (b) the remodeling of the existing facilities on Parcel II (as defined in Exhibit A hereto) for use as a fire station, and (c) the construction, acquisition, installation, and equipping of such other capital improvements as the City Council may from time to time determine to locate on any portion of the Site (subsections (a), (b) and (c) of this recital being collectively referred to herein as the "Project"), and the Project will constitute a portion of the Leased Property.

10. The 2010 Certificates represent undivided interests in the right to receive certain Revenues (as defined in the 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 the Lease shall be in effect.

11. There has been presented to the City Council and are on file at the City offices the proposed form of the following: (a) the Ground Lease; (b) the Lease; (c) the Continuing Disclosure Certificate (the "Disclosure Certificate") with respect to the 2010 Certificates; and (d) the Preliminary Official Statement (the "Preliminary Official Statement") with respect to the 2010 Certificates.

12. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Lease.

13. Section 11-57-204 of the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2 of the Colorado Revised Statutes, as amended (the "Supplemental Act"), provides that a public entity, including the City, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

Section 1. Ratification and Approval of Prior Actions. All action heretofore taken (not inconsistent with the provisions of this ordinance) by the City Council or the officers or agents of the City Council or the City relating to the Ground Lease, the Lease, or the construction or installation of the Project is hereby ratified, approved and confirmed. The designation of the Preliminary Official Statement by the Financial Operations Manager as a

“nearly final Official Statement” for purposes of Rule 15c2-12 of the U.S. Securities and Exchange Commission is hereby ratified, approved and confirmed.

Section 2. Finding of Best Interests. The City Council hereby finds and determines, pursuant to the Constitution and laws of the State of Colorado, that the construction and installation of the Project and the financing of the costs thereof pursuant to the terms set forth in the Ground Lease and the Lease is necessary, convenient, and in furtherance of the City’s purposes and is in the best interests of the inhabitants of the City and the City Council hereby authorizes and approves the same.

Section 3. Supplemental Act; Parameters. The City Council hereby elects to apply all of the Supplemental Act to the Ground Lease and the Lease and in connection therewith delegates to each of the President of the City Council (the “President”) and the Financial Operations Manager the authority to make any determination delegable pursuant to Section 11-57-205(1)(a-i) of the Colorado Revised Statutes, as amended, in relation to the Ground Lease and the Lease, and to execute a sale certificate (the “Sale Certificate”) setting forth such determinations, including, without limitation, the term of the Ground Lease, the rental amount to be paid by the City pursuant to the Lease, and the term of the Lease, subject to the following parameters and restrictions: (a) the term of the Ground Lease shall not extend beyond December 31, 2050; (b) the aggregate principal amount of the Base Rentals payable by the City pursuant to the Lease shall not exceed \$36,300,000; (c) the maximum amount of Base Rentals payable by the City in any fiscal year shall not exceed \$3,430,000; (d) the Lease Term shall not extend beyond December 31, 2040; and (e) the maximum net effective interest rate on the interest component of the Base Rentals relating to the 2010 Certificates shall not exceed 5.50%, net of any federal subsidy received with respect to all or any portion of the 2010 Certificates.

Pursuant to Section 11-57-205 of the Supplemental Act, the City Council hereby delegates to each of the President and the Financial Operations Manager the authority to sign a contract for the purchase of the 2010 Certificates or to accept a binding bid for the 2010 Certificates and to execute any agreement or agreements in connection therewith. In addition, each of the President or the Financial Operations Manager is hereby authorized to determine if obtaining an insurance policy for all or any portion of the 2010 Certificates is in the best interests of the City, and if so, to select an insurer to issue an insurance policy, execute a commitment relating to the same and execute any related documents or agreements required by such commitment. Each of the President or the Financial Operations Manager is hereby authorized to determine if obtaining a reserve fund insurance policy for the 2010 Certificates is in the best interests of the City, and if so, to select a surety provider to issue a reserve fund insurance policy and execute any related documents or agreements required by such commitment.

Section 4. Approval of Documents. The Ground Lease, the Lease and the Disclosure Certificate, in substantially the forms presented to the City Council and on file with the City, are in all respects approved, authorized and confirmed, and the President is hereby authorized and directed, for and on behalf of the City, to execute and deliver the Ground Lease, the Lease and the Disclosure Certificate in substantially the forms and with substantially the same contents as presented to the City Council, provided that such documents may be completed, corrected or revised as deemed necessary by the parties thereto in order to carry out the purposes of this ordinance.

Section 5. Approval of Official Statement. A final Official Statement, in substantially the form of the Preliminary Official Statement presented to the City Council and on file with the City, is in all respects approved and authorized. The President is hereby authorized and directed, for and on behalf of the City, to execute and deliver the final Official Statement in substantially the form and with substantially the same content as the Preliminary Official Statement on file with the City, with such changes as may be approved by the Financial Operations Manager. The distribution of the Preliminary Official Statement and the final Official Statement to all interested persons in connection with the sale of the 2010 Certificates is hereby ratified, approved and authorized.

Section 6. Authorization to Execute Collateral Documents. The City Clerk (the "Clerk") is hereby authorized and directed to attest all signatures and acts of any official of the City in connection with the matters authorized by this ordinance and to place the seal of the City on any document authorized and approved by this ordinance. The President and the Clerk and other appropriate officials or employees of the City are hereby authorized to execute and deliver, for and on behalf of the City, any and all additional certificates, documents, instruments and other papers, and to perform all other acts that they deem necessary or appropriate, in order to implement and carry out the transactions and other matters authorized by this ordinance. The approval hereby given to the various documents referred to above includes an approval of such additional details therein as may be necessary and appropriate for their completion, deletions therefrom and additions thereto as may be approved by bond counsel prior to the execution of the documents. The execution of any instrument by the aforementioned officers or members of the City Council shall be conclusive evidence of the approval by the City of such instrument in accordance with the terms hereof and thereof.

Section 7. No General Obligation Debt. No provision of this ordinance, the Ground Lease, the Lease, the Indenture, the 2010 Certificates, the Preliminary Official Statement, or the final Official Statement shall be construed as creating or constituting a general obligation or other indebtedness or multiple fiscal year financial obligation of the City within the meaning of any Charter, constitutional or statutory provision, nor a mandatory charge or requirement against the City in any ensuing fiscal year beyond the then current fiscal year. The City shall have no obligation to make any payment with respect to the 2010 Certificates except in connection with the payment of the Base Rentals (as defined in the Lease) and certain other payments under the Lease, which payments may be terminated by the City in accordance with the provisions of the Lease. Neither the Lease nor the 2010 Certificates shall constitute a mandatory charge or requirement of the City in any ensuing fiscal year beyond the then current fiscal year or constitute or give rise to a general obligation or other indebtedness or multiple fiscal year financial obligation of the City within the meaning of any Charter, constitutional or statutory debt limitation and shall not constitute a multiple fiscal year direct or indirect City debt or other financial obligation whatsoever. No provision of the Ground Lease, the Lease or the 2010 Certificates 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 Colorado Constitution. Neither the Lease nor the 2010 Certificates shall directly or indirectly obligate the City to make any payments beyond those budgeted and appropriated for the City's then current fiscal year.

Section 8. Reasonableness of Rentals. The City Council hereby determines and declares that the Base Rentals do not exceed a reasonable amount so as to place the City under an economic compulsion to renew the Lease or to exercise its option to purchase the Trustee's leasehold interest in the Leased Property pursuant to the Lease. The City Council 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 term of the Lease) does not exceed the useful life of the Leased Property. The City Council hereby determines that the amount of rental payments to be received by the City from the Trustee pursuant to the Ground Lease, together with the leasing of the Leased Property back to the City pursuant to the Lease, is reasonable consideration for the leasing of the Leased Property to the Trustee for the term of the Ground Lease.

Section 9. No Recourse against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the City Council, or any officer or agent of the City acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the principal, interest or prior redemption premiums on the 2010 Certificates. Such recourse shall not be available either directly or indirectly through the City Council or the City, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the 2010 Certificates and as a part of the consideration for their sale or purchase, any person purchasing or selling such 2010 Certificate specifically waives any such recourse.

Section 10. Repealer. All bylaws, orders, ordinances, or resolutions of the City, or parts thereof, inconsistent with this ordinance or with any of the documents hereby approved are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, ordinance, or resolution of the City, or part thereof, heretofore repealed.

Section 11. Severability. If any section, subsection, paragraph, clause or provision of this ordinance or the documents hereby authorized and approved (other than provisions as to the payment of Base Rentals during the Lease Term, provisions for the quiet enjoyment of the Leased Property by the City during the Lease Term and provisions for the conveyance of the Leased Property to the City under the conditions provided in the Lease) shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance or such documents, the intent being that the same are severable.

Section 12. Effective Date. This ordinance shall be in full force and effect 30 days after publication following final passage.

[The remainder of this page intentionally left blank.]

INTRODUCED, PASSED ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN PAMPHLET FORM THIS 30<sup>th</sup> DAY OF AUGUST, 2010.

CITY OF GRAND JUNCTION, COLORADO

[ S E A L ]

\_\_\_\_\_  
PRESIDENT OF THE CITY COUNCIL

Attest:

\_\_\_\_\_  
City Clerk

PASSED ON SECOND READING, APPROVED AND ORDERED PUBLISHED IN PAMPHLET FORM THIS 13<sup>th</sup> DAY OF SEPTEMBER, 2010.

CITY OF GRAND JUNCTION, COLORADO

[ S E A L ]

\_\_\_\_\_  
PRESIDENT OF THE CITY COUNCIL

Attest:

\_\_\_\_\_  
City Clerk

STATE OF COLORADO            )  
   )  
 COUNTY OF MESA                ) SS.  
   )  
 CITY OF GRAND JUNCTION    )

I, Stephanie Tuin, the City Clerk of the City of Grand Junction, Colorado (the “City”) and Clerk to the City Council of the City (the “City Council”), do hereby certify that:

(1) The foregoing pages are a true, correct and complete copy of an ordinance (the “Ordinance”) which was introduced, passed on first reading and ordered published in pamphlet form by the City Council at a regular meeting thereof held on August 30, 2010 and was duly adopted and ordered published in pamphlet form by the City Council at a regular meeting thereof held on September 13, 2010, which Ordinance has not been revoked, rescinded or repealed and is in full force and effect on the date hereof.

(2) The Ordinance was duly moved and seconded and the Ordinance was passed on first reading at the meeting of August 30, 2010, by an affirmative vote of a majority of the members of the City Council as follows:

<u>Councilmember</u>	<u>Voting “Aye”</u>	<u>Voting “Nay”</u>	<u>Absent</u>	<u>Abstaining</u>
Teresa Coons				
Bonnie Beckstein				
Tom Kenyon				
Sam Susuras				
Gregg Palmer				
Bruce Hill				
Bill Pitts				

(3) The Ordinance was duly moved and seconded and the Ordinance was finally passed on second reading at the meeting of September 13, 2010, by an affirmative vote of a majority of the members of the City Council as follows:



<u>Councilmember</u>	<u>Voting "Aye"</u>	<u>Voting "Nay"</u>	<u>Absent</u>	<u>Abstaining</u>
Teresa Coons				
Bonnie Beckstein				
Tom Kenyon				
Sam Susuras				
Gregg Palmer				
Bruce Hill				
Bill Pitts				

(4) The members of the City Council were present at such meetings and voted on the passage of such Ordinance as set forth above.

(5) The Ordinance was approved and authenticated by the signature of the President of the City Council, sealed with the City seal, attested by the City Clerk and recorded in the minutes of the City Council.

(6) There are no bylaws, rules or regulations of the City Council which might prohibit the adoption of said Ordinance.

(7) Notices of the meetings of August 30, 2010 and September 13, 2010 in the forms attached hereto as Exhibit A were posted at City Hall in accordance with law.

(8) The Ordinance was published in pamphlet form in The Daily Sentinel, a daily newspaper of general circulation in the City, on September \_\_, 2010 and September \_\_, 2010 as required by the City Charter. True and correct copies of the affidavits of publication are attached hereto as Exhibit B.

WITNESS my hand and the seal of the City affixed this \_\_\_\_ day of September, 2010.

[ S E A L ]

\_\_\_\_\_  
City Clerk and Clerk to the City Council

EXHIBIT A

(Attach Notices of Meetings of August 30, 2010 and September 13, 2010)

EXHIBIT B

(Attach Affidavits of Publication)

AFTER RECORDATION PLEASE RETURN TO:

Sherman & Howard L.L.C.  
633 17<sup>th</sup> Street, Suite 3000  
Denver, Colorado 80202  
Attention: Dee P. Wisor, Esq.

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GROUND AND IMPROVEMENT LEASE AGREEMENT

DATED AS OF OCTOBER 15, 2010

BETWEEN

CITY OF GRAND JUNCTION, COLORADO,  
AS LESSOR

AND

ZIONS FIRST NATIONAL BANK,  
solely in its capacity as trustee under the Indenture described herein,  
AS LESSEE

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This GROUND AND IMPROVEMENT LEASE AGREEMENT, dated as of October 15, 2010 (this "Ground Lease"), is by and between the CITY OF GRAND JUNCTION, COLORADO, a Colorado home rule city (the "City"), as lessor, and ZIONS FIRST NATIONAL BANK, solely in its capacity as trustee under the Indenture described herein (the "Trustee"), as lessee.

#### PREFACE

Unless the context otherwise requires, capitalized terms used herein shall have the meanings ascribed to them herein and in the Lease Purchase Agreement, dated as of October 15, 2010 (the "Lease"), between the Trustee, as lessor, and the City, as lessee.

#### RECITALS

1. The City of Grand Junction, Colorado (the "City"), is a home rule city duly existing under the Constitution and laws of the State of Colorado and its City Charter (the "Charter").

2. The City has the power, pursuant to Section 2(f) of the Charter and Sections 31-1-102 and 31-15-713(c), of the Colorado Revised Statutes, as amended, to lease any real estate owned by the City, together with any facilities thereon, when deemed by the Council to be in the best interest of the City.

3. The City owns certain parcels of real property (the "Parcels"), together with the facilities located thereon, if any (the "Facilities"), more particularly described in Exhibit A attached hereto (such Parcels and Facilities being collectively referred to herein as the "Site").

4. The Council has determined that it is in the best interest of the City and its inhabitants to construct and install certain improvements on the Site, including, without limitation, (a) the construction of a police building, including a 911 emergency dispatch center on Parcel I (as defined in Exhibit A hereto), (b) the remodeling of the existing facilities on Parcel II (as defined in Exhibit A hereto) for use as a fire station, and (c) the construction and installation of such other capital improvements as the Council may from time to time determine to locate on any portion of the Site (subsections (a), (b) and (c) of this recital are, to the extent financed with proceeds of the Certificates, collectively referred to herein as the "Project").

5. In order to finance the Project, the Board has further determined to lease the Site and the Project (collectively, the "Leased Property") to the Trustee pursuant to and for the consideration described in this Ground Lease, and to lease the Leased Property back from the Trustee pursuant to the Lease.

6. The consideration received by the Trustee from its participation of the Revenues to be received pursuant to the Lease will be held by the Trustee and disbursed to the City under and pursuant to an Indenture of Trust, dated as of October 15, 2010 (the "Indenture"), executed and delivered by the Trustee, and will be used to construct and install the Project.

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

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

**Section 1. Ground Lease and Terms.** The City hereby leases to the Trustee and the Trustee hereby leases from the City, on the terms and conditions hereinafter set forth, the Leased Property, subject to the Permitted Encumbrances described in Exhibit B hereto.

The term of this Ground Lease shall commence on the date hereof and shall end on December 31, 20\_\_ (the "Ground Lease Termination Date"), unless such term is sooner terminated as hereinafter provided. If, prior to the Ground Lease Termination Date, the Trustee has transferred and conveyed its leasehold interest in all of the Leased Property pursuant to Article 12 of the Lease as a result of the City's payment of (a) the applicable Purchase Option Price thereunder, or (b) all Base Rentals and Additional Rentals, all as further provided in Section 12.2 of the Lease, then the term of this Ground Lease shall end in connection with such transfer and conveyance.

The term of any sublease of the Leased Property or any portion thereof, or any assignment of the Trustee's interest in this Ground Lease, pursuant to Section 5 hereof, the Lease and the Indenture, shall not extend beyond December 31, 20\_\_\_. At the end of the term of this Ground Lease, all right, title and interest of the Trustee, or any sublessee or assignee, in and to the Leased Property, shall terminate. Upon such termination, the Trustee and any sublessee or assignee shall execute and deliver to the City any necessary documents releasing, assigning, transferring and conveying the Trustee's, sublessee's or assignees' respective interests in the Leased Property.

**Section 2. Rental.** The Trustee has paid to the City, and the City hereby acknowledges receipt of, the sum of Ten Dollars (\$10.00), which sum shall, together with the leasing of the Leased Property back to the City pursuant to the Lease, constitute (a) consideration for the leasehold interest in the Leased Property conveyed to the Trustee under this Ground Lease from the date hereof until the occurrence and continuance of an Event of Nonappropriation or an Event of Default under the Lease; and (b) consideration for the execution and delivery of the Lease.

Subsequent to the occurrence and during the continuance of an Event of Nonappropriation or an Event of Default under the Lease or the Indenture, if the Trustee leases or subleases the Leased Property, or any portion thereof, or sells an assignment of its interest in this Ground Lease and the Leased Property, the Trustee shall pay additional rent to the City, in an amount equal to 5% of the gross proceeds of such subleasing or assignment. Any rent payable to the City shall be paid promptly upon receipt by the Trustee of such gross proceeds, but only after payment or provision for payment of amounts required to be paid under Section 11 hereof.

**Section 3. Purpose.** The Trustee shall use the Leased Property solely for the purpose of providing and leasing the Leased Property to the City pursuant to the Lease and for such other purposes as may be incidental thereto; provided, that upon the occurrence of an Event of Nonappropriation or an Event of Lease Default, the City shall vacate the Leased Property as provided in the Lease and the Trustee may exercise the remedies provided in the Lease.

**Section 4. Owner in Fee.** The City represents that (a) it is the owner in fee of the Site, subject only to Permitted Encumbrances as described in Exhibit B hereto, (b) it is the owner in fee of the Project, and (c) the Permitted Encumbrances do not and shall not interfere in any material way with the Leased Property. The Trustee acknowledges that is only obtaining a leasehold interest in the Leased Property (i.e. the Site and the Project) pursuant to this Ground Lease.

**Section 5. Sales, Assignments and Subleases.** Unless an Event of Nonappropriation or an Event of Lease Default shall have occurred and except as may otherwise be provided in the Lease, the Trustee may not sell or assign its rights and interests under this Ground Lease or sublet the Leased Property or any portion thereof without the written consent of the City.

In the event that (a) the Lease is terminated for any reason and (b) this Ground Lease is not terminated, the Trustee may sublease the Leased Property or any portion thereof, or sell or assign the Trustee's leasehold interest in this Ground Lease, pursuant to the terms of the Lease and the Indenture, and any purchasers from or sublessees or assignees of the Trustee may sell or assign its respective interests in the Leased Property, subject to the terms of this Ground Lease, the Lease and the Indenture. The City and the Trustee (or any purchasers from or assignees or sublessees of the Trustee) agree that, except as permitted by this Ground Lease, the Lease and the Indenture and except for Permitted Encumbrances (including purchase options under the Lease), neither the City, the Trustee, nor any purchasers from or sublessees or assignees of the Trustee will sell, mortgage or encumber the Leased Property or any portion thereof during the term of this Ground Lease.

**Section 6. Right of Entry.** The City reserves the right, so long as no Event of Nonappropriation or Event of Lease Default shall have occurred, for any of its duly authorized representatives to enter upon any portion of the Leased Property at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

**Section 7. Partial Release; Termination.** Upon the amortization of Parcel I pursuant to Section 12.4 and Exhibit G of the Lease, the Trustee agrees to quit and surrender Parcel I, and shall execute all necessary documents releasing Parcel I from the provisions of this Ground Lease.

The Trustee agrees, upon the termination of this Ground Lease, to quit and surrender all of the Leased Property to the City.

As provided in Section 1 hereof, this Ground Lease shall terminate upon the City's exercise of the Purchase Option Price with respect to all of the Leased Property pursuant to Article 12 of the Lease. Notwithstanding the provisions of Section 1 hereof, in the event that the Lease is held invalid or unenforceable with respect to any portion of the Leased Property by a court of competent jurisdiction and the Lease is thus terminated with respect to such portion of the Leased Property, such judgment shall also cause the termination of this Ground Lease with respect to such portion of the Leased Property.

**Section 8. Default.** In the event the Trustee shall be in default in the performance of any obligation on its part to be performed under the terms of this Ground Lease, which default continues for 30 days following notice and demand for correction thereof to the Trustee, the City may exercise any and all remedies granted by law, except that no merger of this Ground Lease and of the Lease shall be deemed to occur as a result thereof and that so long as any certificates of participation are outstanding and unpaid under the Indenture, the Base Rentals due under the Lease shall continue to be paid to the Trustee except as otherwise provided in the Lease. In addition, so long as any of such certificates of participation are outstanding, this Ground Lease shall not be terminated except as described in Section 7 hereof.

**Section 9. Quiet Enjoyment and Acknowledgment of Ownership.** The Trustee at all times during the term of this Ground Lease shall peaceably and quietly have, hold and enjoy the Leased Property, subject to the provisions of the Lease and the Indenture.

**Section 10. Trustee's Disclaimer.** It is expressly understood and agreed that (a) this Ground Lease is executed by the Trustee solely in its capacity as trustee under the Indenture, (b) each of the representations, undertakings and agreements herein made on the part of the Trustee is made and intended for the purpose of binding only the Trustee to this Ground Lease, (c) nothing herein shall be construed as creating any liability on the Trustee other than in its capacity as trustee under the Indenture and (d) under no circumstances shall the Trustee be personally liable for the payment of any indebtedness or expenses of the Trustee or be liable for the breach or failure of any obligation, representation, warranty, or covenant made or undertaken by the Trustee under this Ground Lease other than in its capacity as trustee under the Indenture. Moreover, nothing herein shall require the Trustee to act hereunder except subject to the terms, conditions and protections provided for in the Indenture.

**Section 11. Taxes; Maintenance; Insurance.** During the Lease Term and in accordance with the provisions of the Lease, including Sections 9.1 and 9.3 thereof, the City covenants and agrees to pay any and all taxes, assessments, governmental charges, maintenance costs, and utility charges in connection with the Leased Property. In the event that (a) the Lease is terminated for any reason, (b) this Ground Lease is not terminated, and (c) the Trustee subleases all or any portion of the Leased Property or sells or assigns its interests in this Ground Lease, the Trustee or any such sublessee, assignee or purchaser shall pay or cause to be paid when due, solely from the proceeds of such sale, subleasing or assignment, all such taxes, assessments or governmental charges and maintain the Leased Property in good condition and working order. Any such payments that are to be made by the Trustee shall be made solely from the proceeds of such sale, subleasing or assignment, or from moneys furnished to the Trustee under Section 8.02(m) of the Indenture.

The provisions of the Lease shall govern with respect to the maintenance of insurance hereunder during the Lease Term. In the event that (a) the Lease is terminated for any reason, (b) this Ground Lease is not terminated, and (c) the Trustee subleases all or any portion of the Leased Property or sells or assigns its interest in this Ground Lease, the Trustee or any such sublessee, assignee or purchaser shall obtain and keep in force, solely from the proceeds of such subleasing, assignment, or sale, (i) commercial general liability insurance against claims for personal injury, death or damage to property of others occurring on or in the Leased Property in an amount not less than \$600,000 and (ii) property insurance in an amount not less than the full



replacement value of the Leased Property. Any such insurance that is to be obtained by the Trustee shall be paid for solely from the proceeds of such subleasing, sale or assignment, or from moneys furnished to the Trustee under Section 8.02(m) of the Indenture. All such insurance shall name the Trustee, any such sublessee, assignee or purchaser, and the City as insureds. The Trustee and the City shall waive any rights of subrogation with respect to the Trustee, any such sublessee, assignee or purchaser, and the City, and their members, directors, officers, agents and employees, while acting within the scope of their employment and each such insurance policy shall contain such a waiver of subrogation by the issuer of such policy.

**Section 12. Damage, Destruction or Condemnation.** The provisions of the Lease shall govern with respect to any damage, destruction or condemnation of the Leased Property during the Lease Term. In the event that (a) the Lease is terminated for any reason and (b) this Ground Lease is not terminated, and either (i) the Leased Property or any portion thereof is damaged or destroyed by fire or other casualty, or (ii) title to or use of the Leased Property or any portion thereof shall be taken under the exercise of the power of eminent domain, the City and the Trustee, or any sublessee of the Leased Property and/or assignee or purchaser of the Trustee's interests in this Ground Lease, shall cause the Net Proceeds of any insurance claim or condemnation award to be applied in accordance with the provisions of Article 10 of the Lease.

**Section 13. Hazardous Substances.** The following covenant shall only pertain to this Ground Lease in the event that (a) the Lease is terminated for any reason, (b) this Ground Lease is not terminated and (c) the Trustee subleases the Leased Property and/or assigns or sells its interest in this Ground Lease.

Except for customary materials necessary for construction, operation, cleaning and maintenance of the Leased Property, neither the City nor the Trustee (or any sublessee of the Leased Property and/or assignee or purchaser of the Trustee's interests in this Ground Lease) shall cause or permit any Hazardous Substance to be brought upon, generated at, stored or kept or used in or about any portion of the Leased Property without prior written notice to the City and 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 any portion of the Leased Property. If the presence of a Hazardous Substance on any portion of the Leased Property caused or permitted by the City or the Trustee (or any sublessee of the Leased Property and/or assignee or purchaser of the Trustee's interests in this Ground Lease) results in contamination of such portion of the Leased Property, or if contamination of such portion of the Leased Property by a Hazardous Substance otherwise occurs for which the City or the Trustee (or any sublessee of the Leased Property and/or assignee or purchaser of the Trustee's interests in this Ground Lease) is legally liable for damage resulting therefrom, then the City or the Trustee (or any sublessee of the Leased Property and/or assignee or purchaser of the Trustee's interests in this Ground Lease) shall reimburse the other party for its reasonable and necessary legal expenses to defend any claims for damages, penalties, fines, costs, liabilities or losses; provided that the cost of such defense, (a) in the case of the Trustee shall be payable solely from the Trust Estate, or (b) in the case of the City, shall be payable only if the cost of such defense has been annually appropriated by the City. This duty to reimburse legal expenses is not an indemnification. It is expressly understood that neither the City nor the Trustee (or any sublessee of the Leased Property and/or assignee or purchaser of the

Trustee's interests in this Ground Lease) is indemnifying any person with respect to this Ground Lease. Without limiting the foregoing, if the presence of any Hazardous Substance on any portion of the Leased Property caused or permitted by:

(a) the Trustee (or any sublessee of the Leased Property and/or assignee or purchaser of the Trustee's interests in this Ground Lease) results in contamination of any portion of the Leased Property, the Trustee (or any sublessee of the Leased Property and/or assignee or purchaser of the Trustee's interests in this Ground Lease) shall provide prior written notice to the City and promptly take all actions, solely at the expense of the Trust Estate, as are necessary to effect remediation of the contamination in accordance with legal requirements; or

(b) the City results in contamination of any portion of the Leased Property, the City shall provide prior written notice to the Trustee and promptly take all actions, solely at the expense of the City, which expenses shall constitute Additional Rentals, as are necessary to effect remediation of the contamination in accordance with legal requirements.

**Section 14. Partial Invalidity.** If any one or more of the terms, provisions, covenants or conditions of this Ground Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Ground Lease shall be affected thereby, and each provision of this Ground Lease shall be valid and enforceable to the fullest extent permitted by law.

**Section 15. No Merger.** The City and the Trustee intend that the legal doctrine of merger shall have no application to this Ground Lease and that neither the execution and delivery of the Lease by the Trustee and the City nor the exercise of any remedies under this Ground Lease or the Lease shall operate to terminate or extinguish this Ground Lease or the Lease, except as specifically provided herein and therein.

**Section 16. Amendments.** This Ground Lease may only be amended, changed, modified or altered as provided in the Indenture.

**Section 17. Notices.** All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or if mailed shall be made by United States registered mail, return receipt requested, postage prepaid, at the addresses indicated in the Lease, or to such other addresses as the respective parties may from time to time designate in writing.

**Section 18. Recitals.** The Recitals set forth in this Ground Lease are hereby incorporated by this reference and made a part of this Ground Lease.

**Section 19. Section Headings.** All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Ground Lease.

**Section 20. Execution.** This Ground Lease may be executed in any number of counterparts, each of which shall be deemed to be an original but all together shall constitute but one and the same Ground Lease.

**Section 21. Governing Law.** This Ground Lease shall be governed by and construed in accordance with the law of the State of Colorado.

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

CITY OF GRAND JUNCTION,  
COLORADO,  
as lessor

ZIONS FIRST NATIONAL BANK,  
as lessee, solely in its capacity as trustee  
under the Indenture described herein

By: \_\_\_\_\_  
President of the City Council

By: \_\_\_\_\_  
Vice President

[SEAL]

ATTEST:

\_\_\_\_\_  
City Clerk

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF MESA                     )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of October, 2010, by Teresa Coons and Stephanie Tuin, as President of the City Council and Clerk, respectively, of the City of Grand Junction, Colorado, a Colorado home rule city.

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 October, 2010,  
by Casey Gunning, a Vice President of Zions First National Bank, as trustee.

WITNESS my hand and official seal.

(SEAL)

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

My commission expires:

EXHIBIT A  
DESCRIPTION OF THE LEASED PROPERTY

Parcel I:

*Legal Description:*

A certain parcel of land lying in the Southwest Quarter (SW 1/4) of Section 14, Township 1 South, Range 1 West of the Ute Principal Meridian, City of Grand Junction, County of Mesa, State of Colorado and being more particularly described as follows:

ALL of Lots 1 through 32, inclusive, Block 139, Grand Junction Plat of Part of Second Division Resurvey, as Amended, as same is recorded in Plat Book 2, Page 21, Public Records of Mesa County, Colorado.

*Facilities:*

No facilities presently exist on Parcel I. A portion of the Project consists of the construction of a new police building, including a 911 emergency dispatch center on Parcel I.

Parcel II:

*Legal Description:*

BEG 15FT N OF SW COR SE4SW4 SEC 15 1S 1W E 1320FT N 683.45FT TO D&RGW RR N 40DEG44' W 131FT S 61DEG33' W 1408FT S 115.9FT TO BEG & BEG 15FT N OF SW COR SW4NE4 SD SEC 15 E 30FT N 645.32FT N 40DEG44' W 45FT S 683.45 FT TO BEG, ALL IN THE CITY OF GRAND JUNCTION, COLORADO.

(Parcel Number 2945-152-00-941, Mesa County, Colorado)

and

BEG 30FT E OF SW COR SW4SW4NE4 SEC 15 1S 1W N 15FT E TO RR ROW SELY ALG RR TO S LI SD SW4SW4NE4 W TO BEG & BEG 15FT N & 30FT E OF SW COR SW4NE4 SD SEC 15 N TO RR SELY ALG RR TO A PT 15FT N OF S LI SW4SW4NE4 W TO BEG EXC BEG E 315FT FR C SEC 15 N 0DEG02' E 258.24FT TO SWLY BNDRY RR N 40DEG47' W 438.8FT S 61.2FT S 40DEG47' E 377.6FT S 0DEG02' W 243.36FT E 40FT TO BEG & EXC PARCEL LYG DIRECTLY EAST OF ABOVE EXCEPTION AND SWLY OF RR & ALSO EXC ANY ROADS, DITCHES, CULVERTS & LEGAL HWYS, ALL IN THE CITY OF GRAND JUNCTION, COLORADO.

(Parcel Number 2945-152-00-941, Mesa County, Colorado)

*Facilities:*

A building housing the City's fleet management center is presently located on Parcel II. Such building will be remodeled into a new fire station as a portion of the Project.



## EXHIBIT B

### PERMITTED ENCUMBRANCES

“Permitted Encumbrances” is defined as follows:

“Permitted Encumbrances” 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 the Lease; (b) this Ground Lease, the Lease, the Indenture and any related fixture filing and any liens arising or granted pursuant to the 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 the Lease and other Project Contracts; and (d) the easements, covenants, restrictions, liens and encumbrances (if any) to which title to the Site was subject when leased to the Trustee pursuant to this Ground Lease, as shown below and which do not interfere in any material way with the Leased Property.

The easements, covenants, restrictions, liens and encumbrances (if any) to which title to the Site was subject when leased to the Trustee pursuant to this Ground Lease are as follows:

Permitted Encumbrances with respect to Parcel I:

Permitted Encumbrances with respect to Parcel II:

AFTER RECORDATION PLEASE RETURN TO:

Sherman & Howard, L.L.C.  
633 17<sup>th</sup> Street, Suite 3000  
Denver, Colorado 80202  
Attention: Dee P. Wisor, Esq.

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LEASE PURCHASE AGREEMENT

DATED AS OF OCTOBER 15, 2010

BETWEEN

ZIONS FIRST NATIONAL BANK,  
solely in its capacity as trustee under the Indenture described herein,  
AS LESSOR

AND

CITY OF GRAND JUNCTION, COLORADO,  
AS LESSEE

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This LEASE PURCHASE AGREEMENT, dated as of October 15, 2010 (this "Lease"), is by and between Zions First National Bank, Denver, Colorado, a national banking association duly organized and validly existing under the laws of the United States of America, solely in its capacity as trustee under the Indenture described herein (the "Trustee"), as lessor, and the City of Grand Junction, Colorado, a Colorado 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 Grand Junction, Colorado (the "City"), is a home rule city duly existing under the Constitution and laws of the State of Colorado and its City Charter (the "Charter").

2. The City has the power, pursuant to Section 2(f) of the Charter and Sections 31-1-102 and 31-15-713(c), of the Colorado Revised Statutes, as amended, to lease any real estate owned by the City, together with any facilities thereon, when deemed by the Council to be in the best interest of the City.

3. The City owns certain parcels of real property (the "Parcels"), together with the facilities located thereon, if any (the "Facilities"), more particularly described in Exhibit A attached hereto (such Parcels and Facilities being collectively referred to herein as the "Site").

4. The Council has determined that it is in the best interest of the City and its inhabitants to construct and install certain improvements on the Site, including, without limitation, (a) the construction of a police building, including a 911 emergency dispatch center on Parcel I (as defined in Exhibit A hereto), (b) the remodeling of the existing facilities on Parcel II (as defined in Exhibit A hereto) for use as a fire station, and (c) the construction and installation of such other capital improvements as the Council may from time to time determine to locate on any portion of the Site (subsections (a), (b) and (c) of this recital are, to the extent financed with proceeds of the Certificates, collectively referred to herein as the "Project").

5. In order to finance the Project, the Council has further determined to lease the Site and the Project (collectively, the "Leased Property") to the Trustee pursuant to and for the consideration described in this Ground Lease, and to lease the Leased Property back from the Trustee pursuant to the Lease.

6. The consideration received by the City pursuant to the Ground Lease will be held by the Trustee and disbursed to the City under and pursuant to an Indenture of Trust, dated as of October 15, 2010 (the "Indenture"), executed and delivered by the Trustee, and will be used to construct and install the Project..

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 Charter, the Colorado constitution 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. 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.

10. 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:

“2010 Certificates” means, collectively, the 2010A Certificates and the 2010B Certificates.

“2010A Certificates” means the “Tax-Exempt Certificates of Participation, Series 2010A”, dated October \_\_, 2010, executed and delivered pursuant to the Indenture.

“2010A Construction Account” means an account of the Construction Fund created in the Indenture.

“2010B Certificates” means the “Taxable Certificates of Participation (Direct Pay Build America Bonds), Series 2010B”, dated October \_\_, 2010, executed and delivered pursuant to the Indenture.

“2010B Construction Account” means an account of the Construction Fund created in the Indenture.

“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 Ground Lease or the Indenture, including the reasonable fees and expenses of any person or firm employed by the Trustee to make rebate calculations under the provisions of Section 3.05(c) 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 the Lease, (ii) the cost of insurance premiums and insurance deductible amounts under any insurance policy reasonably deemed necessary by the Trustee 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;

(c) payments into any account of the Reserve Fund, payments to any surety provider as a result of draws of amounts under a Qualified Surety Bond and rebate payments as provided in the Lease; and

(d) 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 the 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.

“Approval of Special Counsel” means an opinion of Special Counsel to the effect that the matter proposed will not adversely affect the excludability from gross income for federal income tax purposes of the Interest Portion of the Base Rentals paid by the City under this Lease and attributable to the 2010A Certificates or disqualify the 2010B Certificates as Build America Bonds under Section 54AA of the Tax Code.

“BAB Credit” has the meaning set forth in Section 11.5 of this Lease.

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

“Certificates” means, collectively, the 2010 Certificates and any Additional Certificates.

“City” means the City of Grand Junction, Colorado.

“City Representative” means the Financial Operations Manager 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 Ground 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 Chair of the Council.

“Completion Date” means the earlier of (a) October \_\_, 2013, or such later date established by the City with the Approval of Special Counsel, or (b) any date on which the Certificate of Project Completion is delivered by the City Representative to the Trustee pursuant to Section 7.3 of this Lease.

“Construction Fund” means the Construction Fund created by the Indenture, which consists of the 2010A Construction Account and the 2010B Construction Account.

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

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

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

(a) any costs paid or incurred for the acquisition of any real estate acquired as part of the Leased Property;

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

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

(d) the costs of engineering, architectural and other professional and technical services including obligations incurred or assumed for preliminary design and development work, test borings, soils tests, surveys, environmental review, estimates and plans and specifications;

(e) administrative costs incurred in connection with the leasing of the Leased Property and the construction of the Project incurred prior to the Completion Date, including supervision of the construction, acquisition, installation and equipping as well as the performance of all of the other duties required by or consequent upon the construction, acquisition, installation and equipping of the Project, including, without limitation, costs of preparing and securing all Project Documents, architectural, engineering and other professional and technical fees, building permit fees, water tap fees, sanitary sewer and wastewater fees, legal

fees and expenses, appraisal fees, independent inspection fees, auditing fees and advertising expenses in connection with the Project;

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

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

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

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

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

(k) all other costs which are considered to be a part of the costs of the Project in accordance with generally accepted accounting principles and which will not adversely affect the exclusion from gross income for federal income tax purposes of the Interest Portion of Base Rentals due under this Lease and attributable to the 2010A Certificates and will not disqualify the 2010B Certificates as Build America Bonds under Section 54AA of the Tax Code; and

(l) any and all other costs necessary to effect the Trustee's leasing of the Site and the implementation and completion of the Project to the extent the same are permitted by the laws of the State of Colorado and will not adversely affect the excludability from gross income for federal income tax purposes of the Interest Portion of Base Rentals due under this Lease and attributable to the 2010A Certificates and will not disqualify the 2010B Certificates as Build America Bonds under Section 54AA of the Tax Code.

"Council" means the 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.

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

"Event of Nonappropriation" means the termination and non-renewal of this Lease by the City, determined by the Council's failure, for any reason, to appropriate by the last day of each Fiscal Year, (a) sufficient amounts to be used to pay Base Rentals due in the next Fiscal Year and (b) sufficient amounts to pay such Additional Rentals as are estimated to become due in the next Fiscal Year, as provided in Section 6.4 of this Lease. An Event of Nonappropriation may also occur under certain circumstances described in Section 10.3(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.

"Fiscal Year" means any 12-month period adopted by the City as its fiscal year.

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

"Ground Lease" means the Ground and Improvement Lease Agreement, dated as of October 15, 2010, between the City, as lessor, and the Trustee, as lessee, as the same may hereafter be amended.

"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 October 15, 2010, executed and delivered by the Trustee.

"Initial Term" means the period which commences on the date of delivery of this Lease and terminates on December 31, 2010.

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

"Lease" means this Lease Purchase Agreement, dated as of October 15, 2010, between the Trustee, as lessor, and the City, as lessee, as the same may hereafter be amended.

"Lease Balance" means the Total Aggregate Principal Portion of the Base Rentals under this Lease set forth on Exhibit C (Base Rentals Schedule) hereto, less the aggregate amount of Principal Portions of Base Rentals paid or prepaid by the City pursuant to this Lease.

“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, collectively, the Site, the Project, any New Facility, and any additions and modifications thereto and replacements thereof.

“Net Proceeds” means the proceeds of any performance or payment bond, or proceeds of insurance, including self-insurance, required by this Lease or proceeds from any condemnation award, or any proceeds resulting from default or breaches of warranty under any Project Contract, or proceeds derived from the exercise of any Lease Remedy or otherwise following termination of this Lease by reason of an Event of Nonappropriation or an Event of Lease Default, allocable to the Leased Property, less (a) all related expenses (including, without limitation, attorney’s fees and costs) incurred in the collection of such proceeds or award; and (b) all other related fees, expenses and payments due to the City and the Trustee.

“New Facility” means any real property, buildings or equipment leased by the City from the Trustee pursuant to a future amendment to the Ground Lease and/or this Lease in connection with the issuance of Additional Certificates.

“Owners” means the registered owners of any Certificates and Beneficial Owners.

“Parcel I” means that certain parcel of real property owned by the City and leased by the City to the Trustee under the Ground 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, together with any facilities located thereon.

“Parcel II” means that certain parcel of real property owned by the City and leased by the City to the Trustee under the Ground 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, together with any facilities located thereon.

“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 Ground Lease, this Lease, the Indenture and any related fixture filing and any liens arising or granted pursuant to 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 or other Project Contracts; 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 Ground Lease, as shown on Exhibit B hereto, and which the City hereby certifies do not interfere in any material way with the Leased Property.

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

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

“Project” means, to the extent financed with the proceeds of the Certificates, (a) the construction of a police building, including a 911 emergency dispatch center on Parcel I (as defined in Exhibit A hereto), (b) the remodeling of the existing facilities on Parcel II (as defined in Exhibit A hereto) for use as a fire station, and (c) the construction, acquisition, installation, and equipping of such other capital improvements as the Council may from time to time determine to locate on any portion of the Site.

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

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

“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.

“Requisition” means the process by which the City Representative will request the reimbursement to the City or the payment to others of qualifying Costs of the Project, such

Requisition to be initiated by the submission to the Trustee of a form substantially as set forth in Exhibit E hereto, together with all necessary invoices or other attachments.

“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 (except for payments made by the City as Additional Rentals to initially fund or replenish any account of the Reserve Fund); (b) any portion of the proceeds of the Certificates deposited into the Construction Fund and the Base Rentals Fund (subject to certain restrictions with respect to proceeds of the 2010B Certificates on deposit therein), each 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 and any defeasance escrow funds).

“Site” means, collectively, Parcel I and Parcel II, and such other real property as may from time to time be described in Exhibit A hereto pursuant to any amendment to this Lease permitted by Section 9.03 of the Indenture.

“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, which Special Counsel shall be acceptable to the Trustee.

“Tax Certificate” means, collectively, the one or more Tax Certificates entered into by the City with respect to this Lease.

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

“Trustee” means Zions First National Bank, acting in the capacity of trustee pursuant to the Indenture, and any successor thereto appointed under the Indenture.



**ARTICLE 2**  
**REPRESENTATIONS AND COVENANTS; RELATIONSHIP**  
**OF CITY AND TRUSTEE**

**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 city duly organized and validly existing within the State under the Charter and the Constitution and laws of the State. The City is authorized to enter into this Lease and the Ground Lease and to carry out its obligations under this Lease and the Ground Lease. The City has duly authorized and approved the execution and delivery of this Lease, the Ground Lease and all other documents related to the execution and delivery of this Lease and the Ground Lease.

(b) The leasing of the Site by the City to the Trustee pursuant to the Ground Lease, and the implementation and completion of the Project by the City and the Trustee under the terms and conditions provided for in this Lease, are necessary, convenient and in furtherance of and in the best interests of the citizens of the City. The City will apply the net proceeds of the Certificates to the financing of the Project.

(c) Neither the execution and delivery of this Lease and the Ground Lease, nor the fulfillment of or compliance with the terms and conditions of this Lease and the Ground 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.

(d) 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.

(e) There is no litigation or proceeding pending against the City affecting the right of the City to execute this Lease or the Ground 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.

(f) 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 and, to the extent the City shall not appropriate Additional Rentals, the Trustee shall have a first lien on assets of the Trust Estate to the extent permitted by law. 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.

(g) 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) So long as no Event of Indenture Default has occurred and is then continuing or existing, except as specifically provided in the Ground Lease or this Lease or as necessary to transfer the Trust Estate to a successor Trustee, the Trustee shall not pledge or assign its right, title and interest in and to (i) this Lease or the Ground 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 Ground Lease and/or (iii) the Leased Property and any reversion therein or any of its other rights under this Lease or the Ground Lease or assign, pledge, mortgage, encumber or grant a security interest in its right, title and interest in, to and under this Lease or the Ground Lease or the Leased Property except for Permitted Encumbrances.

(b) Neither the execution and delivery of this Lease, the Ground Lease or the Indenture by the Trustee, nor the fulfillment of or compliance with the terms and conditions thereof and hereof, nor the consummation of the transactions contemplated thereby or hereby conflicts with or results in a breach of the terms, conditions and provisions of any restriction or

any agreement or instrument to which the Trustee is now a party or by which the Trustee is bound, or constitutes a default under any of the foregoing.

(c) To the Trustee's knowledge, there is no litigation or proceeding pending against the Trustee affecting the right of the Trustee to execute this Lease, the Ground Lease or 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 Charter, constitutional or statutory debt limitation. No provision of this Lease shall be construed or interpreted as creating an unlawful delegation of governmental powers nor as a donation by or a lending of the credit of the City within the meaning of 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 Trustee's interest in 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 Ground 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 assume 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.

**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, 2010. This Lease may be renewed, solely at the option of the City, for the number of Renewal Terms represented on Exhibit C (Base Rentals Schedule) attached hereto. 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 Financial Operations Manager 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 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 12 and Exhibit C (Base Rentals Schedule) hereof.

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

- (a) the expiration of the Initial Term or any Renewal Term during which there occurs an Event of Nonappropriation pursuant to Section 4.1 and Article 6 of this Lease (provided that the Lease Term will not be deemed to have been terminated if the Event of Nonappropriation is cured as provided in Section 6.4 hereof);
- (b) the occurrence of an Event of Nonappropriation under this Lease (provided that the Lease Term will not be deemed to have been terminated if the Event of Nonappropriation is cured as provided in Section 6.4 hereof);
- (c) the conveyance of the Trustee's leasehold interest in the Leased Property under this Lease to the 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 12.2(a) or (b) of this Lease; or
- (d) an uncured Event of Lease Default and termination of this Lease under Article 14 of this Lease by the Trustee.

Except for an event described in subparagraph (c) above, upon termination of this Lease, the 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 14.2(c)(i) hereof, and except for any conveyance pursuant to Article 12 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.

**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, except as expressly required or permitted by this Lease including Article 7 hereof. 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 11.8 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 Ground 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 Charter, constitutional or statutory debt limitation, including without limitation, Article X, Section 20 of the Colorado constitution. This Lease shall not 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 each series of 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 each series of 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 shall be recalculated in the event of the issuance of Additional Certificates as provided in the Indenture.

(b) The City may, on any date, pay the then applicable Purchase Option Price for the purpose of terminating this Lease and the Ground Lease in whole and purchasing the Trustee's leasehold interest in the Leased Property as further provided in Article 12 of this Lease. Subject to the Approval of Special Counsel, the City may also, at any time during the Lease Term, (1)

prepay any portion of the Base Rentals due under this Lease and (2) in connection with such prepayment, recalculate the Base Rentals set forth in Exhibit C (Base Rentals Schedule). Any such revised Exhibit C (Base Rentals Schedule) shall be prepared by the City Representative and delivered to the Trustee. 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.

(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. If any account of the Reserve Fund is cash-funded as provided in Section 3.04 of the Indenture, to the extent that moneys in such account of the Reserve Fund are applied pursuant to paragraph (a) or (b) of Section 3.04 of the Indenture, the City will pay to the Trustee, for deposit in such account of the Reserve Fund, as Additional Rentals, such amounts as are required to restore the amount on deposit in such account of the Reserve Fund to its respective Reserve Account Requirement (as defined in the Indenture) within ninety (90) days following the withdrawal of moneys from such account of the Reserve Fund. 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, any default by the Trustee under this Lease, 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 9.3 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 8.2 and 9.3 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 8.2 and 9.3 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 10.3(c) hereof (when applicable), an Event of Nonappropriation shall be deemed to have occurred; subject, however, to each of the following provisions:

(a) In the event the Trustee does not receive the written notice provided for by Section 4.1 hereof or evidence that an Appropriation has been effected by the 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.

(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 14.3 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 in respect of 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 and any defeasance escrow funds) to be used as described therein and (b) all property, funds and rights then held or acquired by the Trustee upon the termination of this Lease by reason of an Event of Nonappropriation are to be held by the Trustee in accordance with the terms of the Indenture.

**Section 6.5 Holdover Tenant.** If the 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 14.2(a) hereof, with the written permission of the Trustee it will be deemed to be a holdover tenant on a month-to-month basis, and will be bound by all of the other terms, covenants and agreements of this Lease. Any holding over by the 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**  
**DESIGN, ACQUISITION, CONSTRUCTION AND**  
**IMPROVEMENT OF THE PROJECT**

**Section 7.1 Design, Acquisition, Construction and Improvement of the Project.**

As further provided in Section 8.1 hereof, fee simple title to the Leased Property shall be held by the City. Pursuant to the Ground Lease, the City shall lease the Leased Property to the Trustee and pursuant to this Lease, the City shall lease the Leased Property back from the Trustee.

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

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

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

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

**Section 7.2 Disbursements for Costs of the Project.** So long as no Event of Nonappropriation or Event of Lease Default has occurred, the Trustee shall disburse the moneys in the Construction Fund created under the Indenture to pay the Costs of the Project. All moneys on deposit in the 2010B Construction Account of the Construction Fund shall be disbursed only to pay capital expenditures related to the Project. All capital expenditures relating to the Project shall be paid from moneys on deposit in the 2010B Construction Account until no funds remain on deposit therein, and thereafter all capital expenditures may be paid from moneys on deposit in the 2010A Construction Account. Such disbursements from the Construction Fund shall be made upon receipt by the Trustee of a Requisition signed by the City Representative, in substantially the form set forth in Exhibit E hereto, specifying in reasonable detail the nature of the obligation and accompanied by a bill, invoice or statement of account for such obligation. The Trustee shall have no duty to review or examine the accompanying bill, invoice or statement of account, but may conclusively rely on the properly executed disbursement request.

If an Event of Nonappropriation or an Event of Lease Default shall occur after the execution and delivery of this Lease, but prior to the Completion Date, any moneys held in funds and accounts created under the Indenture (other than moneys on deposit in the Rebate Fund and any defeasance escrow funds) may be utilized by the Trustee to complete, repair or modify the Project, or may be disbursed for the payment of Certificates executed and delivered pursuant to the Indenture or other charges as the Trustee may deem appropriate in accordance with the standards concerning the Trustee contained in the Indenture, subject to Section 11.5 hereof.

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

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

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

- (a) add to, modify or alter the Project or add new components thereto or construct or acquire a New Facility; provided that such addition, modification or alteration shall be consistent with, and shall not violate the covenants contained in, the Tax Certificate or in Section 11.5 hereof, or
- (b) except as hereinafter provided with respect to money on deposit in the 2010B Construction Account, direct the Trustee in writing to transfer the remaining

balance to the Base Rentals Fund created under the Indenture in amounts consistent with, and not in violation of the covenants contained in, the Tax Certificate, for a credit against the Base Rentals as the same shall become due or may be prepaid under this Lease with a corresponding adjustment in the amount of Base Rentals payable under Exhibit C (Base Rentals Schedule) to this Lease, or

(c) effect a combination of the foregoing.

Notwithstanding the foregoing or any other provision of this Lease or the Indenture to the contrary, if there are amounts on deposit in the 2010B Construction Account after the Completion Date, such amounts shall be transferred to the City and used by the City solely for capital expenditures, unless the City obtains the Approval of Special Counsel.

Base Rentals set forth in Exhibit C (Base Rentals Schedule) to this Lease shall be recalculated by the City in the event of any partial prepayment of Base Rentals in order that the Base Rentals Schedule shall reflect Base Rentals in amounts and with payment dates which, if an Appropriation has been made, will provide sufficient moneys to pay the principal of and interest on outstanding Certificates.

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

**Section 7.5 Project Contracts.** The City represents that, in the opinion of the City, based upon an examination of property, estimated design, construction, acquisition and installation costs and the configuration of the Project, the Project can, to the best of the City's present knowledge, be constructed, acquired and installed for a total cost within the amount of funds to be available in the Construction Fund created under the Indenture, including anticipated investment income. In the event of cost overruns resulting in the Costs of the Project exceeding the amount available in the Construction Fund created under the Indenture, all in connection with the leasing of the Site and the implementation and completion of the Project, upon written consent of the City, either (a) the City shall make such modifications to the plans and specifications for the Project as will permit the Project to be provided from the amounts available therefor under the Indenture or (b) upon the Approval of Special Counsel, the City shall deposit additional funds received from appropriations by the City, or the Trustee may deposit additional funds received from the proceeds of Additional Certificates in the Construction Fund created under the Indenture, sufficient to complete the Project. If the City pays any portion of the Costs of the Project pursuant to this Section, it shall not be entitled to any reimbursement therefor from the Trustee or any owner of Certificates, nor shall it be entitled to any diminution in or postponement of the Base Rentals and the Additional Rentals payable under this Lease.

Upon the occurrence of an Event of Nonappropriation or an Event of Lease Default, the Trustee as lessee of the Leased Property under the Ground Lease, may complete the Project,

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

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

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

**Section 7.8 Performance and Payment Bonds.** Each contractor entering into a Project Contract for the construction of the Project shall be required to furnish a performance and payment bond in a form acceptable to the City, copies of which shall be provided to the City and the Trustee. Such bonds shall be made payable to the City subject to the provisions of the Indenture, shall be executed by a corporate surety licensed to transact business in the State and



acceptable to the City and shall be in an amount equal to the contract price for such contractor's Project Contract. If, at any time during the construction of the Project, the surety on such bond shall be disqualified from doing business within the State, or shall otherwise become incapable of performing its obligations under such bond, an alternate surety acceptable to the City shall be selected. In the event of any change order resulting in the performance of additional work in connection with the Project, the amounts of such bonds pertaining thereto shall be increased to include the cost of such additional work or materials or fixtures to be incorporated in the Project.

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

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

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

**Section 7.12 Contractor's Automobile Liability Insurance.** Each contractor entering into a Project Contract for the construction of any portion of the Project shall be required to procure and maintain automobile liability insurance with minimum combined single limits for bodily injury and property damage of not less than \$2,000,000 for any one occurrence, with

respect to each of the contractor's owned, hired or non-owned vehicles assigned to or used in performance of its work.

**Section 7.13 Builder's Risk Insurance.** Each contractor entering into a Project Contract for the construction of any portion of the Project shall be required to provide Builder's Risk Insurance with minimum limits of not less than the insurable value of its work to be performed under its Project Contract. A certificate of insurance shall be provided to the Trustee and the City within seven Business Days of the effective date of the policies. The policies shall be written on an "all risk" basis and shall name the City and the Trustee as insureds. The policies shall contain a waiver of subrogation by the issuer of such policies with respect to the City and the Trustee, and their respective officers, agents and employees while acting within the scope of their employment.

**Section 7.14 Design Consultant's and Contractor's Worker's Compensation Insurance.** Each design consultant and contractor entering into a Project Contract shall be required to procure and maintain, at its own cost and expense, worker's compensation insurance during the term of its Project Contract covering its employees working thereunder. Such insurance, if issued by a private carrier, shall contain a provision that such coverage shall not be canceled without thirty (30) days' prior written notice to the City and the Trustee. A certificate issued by the state compensation insurance fund evidencing such coverage shall be provided to the City or, if such insurance is provided by a private carrier, a completed certificate of insurance, in a form acceptable to the City, shall be provided to the City with respect to each design consultant and contractor. Minimum limits of Worker's Compensation Insurance shall be \$500,000 each accident; \$500,000 disease policy and \$500,000 disease each employee.

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

**ARTICLE 8**  
**TITLE TO LEASED PROPERTY;**  
**LIMITATIONS ON ENCUMBRANCES**

**Section 8.1 Title to the Leased Property** At all times during the Lease Term, title to the Leased Property shall remain in the City, subject to the Ground Lease, this Lease, the Indenture and any other Permitted Encumbrances. Except for personal property purchased by the City at its own expense pursuant to Section 9.2 of this Lease, a leasehold estate in the Leased Property and any and all additions and modifications thereto and replacements thereof shall be held in the name of the Trustee until the Trustee has exercised Lease Remedies or until the Trustee's leasehold interest in the Leased Property is conveyed to the City as provided in Article 12 of this Lease, notwithstanding (a) the occurrence of an Event of Nonappropriation; (b) the occurrence of one or more Events of Lease Default; (c) the occurrence of any event of damage, destruction, condemnation, or construction, manufacturing or design defect or title defect, as provided in Article 10 of this Lease; or (d) the violation by the Trustee of any provision of the Ground Lease or this Lease.

The Trustee shall not, in any way, be construed as the owner of the Leased Property.

**Section 8.2 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 9**  
**MAINTENANCE; TAXES; INSURANCE AND OTHER CHARGES**

**Section 9.1 Maintenance of the Leased Property by the City.** Subject to its right to not appropriate and as otherwise provided in Section 10.3 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 9.2 Modification of the Leased Property; Installation of Furnishings and Machinery of the City.** The City shall have the privilege of making substitutions, additions, modifications and improvements to the Leased Property, at its own cost and expense, as appropriate and any such substitutions, additions, modifications and improvements to the Leased Property shall be the property of the City, subject to the Ground Lease, this Lease and the Indenture and shall be included under the terms of the Ground 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 13.2 hereof) or cause the City to violate its tax covenant in Section 11.5 hereof; and provided that the Leased Property, as improved or altered, upon completion of such substitutions, additions, modifications and improvements, shall be of a value not less than the value of the Leased Property immediately prior to such making of substitutions, additions, modifications and improvements.

The 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 Ground Lease, this Lease and the Indenture, in the event the Trustee shall reasonably determine that such Leased Property would be damaged or impaired by the removal of such machinery, equipment or other tangible property.

**Section 9.3 Taxes, Other Governmental Charges and Utility Charges.** In the event that the Leased Property shall, for any reason, be deemed subject to taxation, assessments or charges lawfully made by any governmental body, the 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 9.4 Provisions For Liability, Property and Worker's Compensation Insurance after Completion.** On and after the Completion Date, 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 not to exceed \$150,000. 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, at its election, may 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.

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.

Any casualty and property damage insurance policy required by this Section shall be so written or endorsed as to make payments under such insurance policy of \$25,000 or less payable to the City, and payments under such insurance policy over \$25,000 payable to the Trustee, which shall be listed as a mortgagee and/or loss payee. Each insurance policy provided for in this Section shall be issued by an insurance provider rated "A" or better by Standard & Poor's and shall contain a provision to the effect that the insurance company shall not cancel the policy without first giving written notice thereof to the City and the Trustee at least 30 days in advance of such cancellation. All insurance policies issued pursuant to this Section, or certificates evidencing such policies, shall be deposited with the Trustee. No agent or employee of the City

shall have the power to adjust or settle any loss with respect to the Leased Property in excess of \$25,000, whether or not covered by insurance, without the prior written consent of the Trustee.

Upon request of the Trustee, 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 mortgagee and loss payee and that the 30-day required notice of cancellation provision is in effect. A certificate of insurance from the City or the City's insurance agent will be acceptable evidence of insurance. Certificates evidencing all insurance policies issued pursuant to this Section shall be deposited with the Trustee.

**Section 9.5 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 9.6 Granting of Easements.** As long as no Event of Nonappropriation or Event of Lease Default shall have happened and be continuing, the Trustee shall, upon the request of the City, (a) grant or enter into easements, permits, licenses, party wall and other agreements, rights-of-way (including the dedication of public roads) and other rights or privileges in the nature of easements, permits, licenses, party wall and other agreements and rights of way with respect to any property or rights included in this Lease (whether such rights are in the nature of surface rights, sub-surface rights or air space rights), free from this Lease and any security interest or other encumbrance created hereunder or thereunder; (b) release existing easements, permits, licenses, party wall and other agreements, rights-of-way, and other rights and privileges with respect to such property or rights, with or without consideration; and (c) execute and deliver any instrument necessary or appropriate to grant, enter into or release any such easement, permit, license, party wall or other agreement, right-of-way or other grant or privilege upon receipt of: (i) a copy of the instrument of grant, agreement or release and (ii) a written application signed by the 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 10**  
**DAMAGE, DESTRUCTION AND CONDEMNATION;**  
**USE OF NET PROCEEDS**

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

(a) the Leased Property shall be destroyed (in whole or in part), or damaged by fire or other casualty; or

(b) title to, or the temporary or permanent use of, the Leased Property or the estate of the 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) regardless of whether the Certificate of Final Completion provided for in Section 7.3 of this Lease shall have been delivered to the Trustee.

**Section 10.2 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, or from default under a Project Contract to be deposited in the Construction Fund created under the Indenture, if received before the Completion Date, or, if received thereafter, to be deposited in a separate trust fund. All Net Proceeds so deposited shall be applied to the prompt repair, restoration, modification, improvement or replacement of the Leased Property by the City, upon receipt of requisitions acceptable to the Trustee 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.

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.

If there is a balance of any Net Proceeds allocable to the Leased Property remaining after such repair, restoration, modification, improvement or replacement has been completed, this balance shall be used by the City, to:

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

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

- (a) complete the work or, with the written consent of the Trustee, 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 12 of this Lease. 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 the Purchase Option Price; and in the event the Net Proceeds shall exceed the Purchase Option Price, such excess shall be used as directed by the City in the same manner as set forth in Section 10.2 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 10.1 of this Lease. It is hereby declared to be the City's present intention that, if an event described in Section 10.1 hereof should occur and if the Net Proceeds shall be insufficient to pay in full the cost of repair, restoration, modification, improvement or replacement of the Leased Property, the 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 10.4 Cooperation of the Trustee.** The Trustee shall cooperate fully with the City in filing any proof of loss with respect to any insurance policy or performance bond covering the events described in Section 10.1 of this Lease and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Leased Property and the enforcement of all warranties relating to the Leased Property. So long as no Event of Lease Default or Event of Nonappropriation has occurred and is then existing, the Trustee shall not voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim performance or payment bond claim, prospective or pending condemnation proceeding with respect to the Leased Property without the written consent of the City.

**ARTICLE 11**  
**DISCLAIMER OF WARRANTIES; OTHER COVENANTS**

**Section 11.1 Disclaimer of Warranties.** THE TRUSTEE HAS NOT MADE AND WILL NOT MAKE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR USE OF THE LEASED PROPERTY OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LEASED PROPERTY. THE CITY HEREBY ACKNOWLEDGES AND DECLARES THAT THE CITY IS SOLELY RESPONSIBLE FOR THE COMPLETION OF THE PROJECT AND THE MAINTENANCE AND 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 that result in personal injury (including death), damage to tangible personal property and/or intellectual property infringement or resulting from the negligence, bad faith or intentional misconduct of the Trustee or its employees.

**Section 11.2 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 11.3 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 11.4 Partial Release and Substitution of Leased Property.** So long as no Event of Lease Default or Event of Nonappropriation shall have occurred and be continuing, the Trustee shall release any portion of the Leased Property, and shall execute all documents necessary or appropriate to reconvey or release such portion of the Leased Property to the City, free of all restrictions and encumbrances imposed or created by the Ground 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) the fair market value of the portion of the

Leased Property to be released and of any real property to be substituted for the portion of the Leased Property to be released; (ii) the disposition to be made of the portion of the Leased Property to be released and the consideration, if any, to be received therefor; (iii) 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; (iv) that any real property to be substituted for the portion of the Leased Property to be released is necessary or useful to the operation of the Leased Property; and (v) that the fair market value of any real property to be substituted for the portion of the Leased Property to be released, together with cash to be paid by the City to the Trustee, if any, is at least equal to the fair market value of the portion of the Leased Property to be released; (c) appraisals of the fair market value of the portion of the Leased Property to be released and any real property to be substituted for the portion of the Leased Property to be released, respectively, by a member of the American Institute of Real Estate Appraisers (MAI); and (d) supplements and amendments to the Ground Lease, this Lease and the Indenture and any other documents necessary to subject any real property to be substituted for the portion of the Leased Property to be released to the lien of the Indenture. The City agrees that any cash paid to the Trustee pursuant to the provisions of this Section 11.4 shall be deposited into the Base Rentals Fund.

**Section 11.5 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 2010A Certificates that it will not take any action or omit to take any action with respect to the 2010A Certificates, the proceeds thereof, any other funds of the City or any facilities financed or refinanced with the proceeds of the 2010A 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 2010A Certificates to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Tax Code, (ii) would cause interest on the 2010A Certificates to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code, or (iii) would cause interest on the 2010A 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 2010A 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.

The City hereby makes an irrevocable election that Section 54AA of the Tax Code shall apply to the 2010B Certificates and that subsection (g) of Section 54AA will also apply to the 2010B Certificates so that the City will directly receive the credit provided in Section 6431 of the Tax Code in lieu of any credit otherwise available to the Certificate holders under Section 54AA(a) of the Tax Code (the credit described in Section 6431 is herein, the "BAB Credit"). None of the Owners of the 2010B Certificates shall be entitled to any credit under Section 54AA(a) of the Tax Code. The City covenants for the benefit of the Owners of the 2010B Certificates that it will not take any action or omit to take any action with respect to the 2010B

Certificates, the proceeds thereof, any other funds of the City or any project financed with the proceeds of the 2010B Certificates if such action or omission would cause the City to not be entitled to the BAB Credit with respect to the 2010B Certificates. The City shall timely file any document required by the Internal Revenue Service to be filed in order to claim the BAB Credit.

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 covenant herein.

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

**Section 11.7 Covenant to Reimburse Legal Expenses.** To the extent permitted by law, the 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, unless such acts or omissions are, or are alleged to be, willful and wanton. Such claims shall be subject to the limitations of the Colorado Governmental Immunity Act, C.R.S. 24-10-101 to 24-10-120. The 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 and to the extent the City shall not appropriate Additional Rentals the Trustee shall have a first lien on assets of the Trust Estate (as defined in the Indenture) to the extent permitted by law.

**Section 11.8 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 12**  
**PURCHASE OPTION**

**Section 12.1 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 12.2.

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 12.2 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 12.3 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 any defeasance escrow funds) may be credited toward the Purchase Option Price.

**Section 12.3 Manner of Conveyance.** At the closing of the purchase or other conveyance of all of the Trustee's leasehold interest in the Leased Property pursuant to Section 12.2 of this Lease, the Trustee shall release and terminate the Ground 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 Ground 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 Ground 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 Ground 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.

**Section 12.4 Release of Portions of the Leased Property.** When the principal component of Base Rentals paid by the City, plus the principal amount of any Certificates redeemed through optional redemption, or the total principal amount of Certificates paid or deemed to be paid pursuant to Article VI of the Indenture, equals the amount set forth in Exhibit G hereto, the cost of the corresponding portion of the Leased Property set forth in Exhibit G (or of any property substituted for such portion of the Leased Property pursuant to any provision of this Lease) shall be deemed to have been fully amortized and the Trustee shall execute and deliver to the City all documents necessary to release such portion of the Leased Property from the provisions of the Ground Lease (or any property substituted for such portion of the Leased Property pursuant to any provision of this Lease), provided, however, that the fair value of the remaining Leased Property must be at least equal to 100% of the aggregate principal amount of the Certificates then Outstanding, as certified to by the City Representative. The Trustee shall execute and deliver to the City all documents necessary or appropriate to convey the Trustee's leasehold interest in such portion of the Leased Property to the City, free of all restrictions and encumbrances imposed or created by this Lease, the Ground Lease or the Indenture, in substantially the manner provided in Section 12.3 hereof. After such release and conveyance, the property so released and conveyed shall no longer be a part of the Leased Property for any purpose of this Lease, the Ground Lease or the Indenture. The Trustee shall fully cooperate with the City in executing, delivering and recording, at the City's expense, such documents as may be necessary to effectuate the provisions of this Section.

**ARTICLE 13**  
**ASSIGNMENT AND SUBLEASING**

**Section 13.1 Assignment by the Trustee; Replacement of the Trustee.** 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 14.2.

**Section 13.2 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, without the necessity of obtaining the consent of the Trustee or any owner of the Certificates subject to each of the following conditions:

(a) The Leased Property may be subleased, in whole or in part, only to an agency or department of, or a political subdivision of, the State, or to another entity or entities with Approval of Special Counsel;

(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 relationship with the Trustee, notwithstanding any sublease; and

(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 11.5 hereof.



**ARTICLE 14**  
**EVENTS OF LEASE DEFAULT AND REMEDIES**

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

- (a) failure by the 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 45 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, in the Trustee's reasonable judgment, 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 Ground Lease.

The foregoing provisions of this Section 14.1 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 or the Trustee as applicable.

**Section 14.2 Remedies on Default.** Whenever any Event of Lease Default shall have happened and be continuing beyond any applicable cure period, the Trustee may, 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 Ground 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 14.2(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 and any defeasance escrow funds).

**Section 14.3 Limitations on Remedies.** The remedies in connection with an Event of Lease Default shall be limited as set forth in this section. A judgment requiring a payment of money may be entered against the City by reason of an Event of Lease Default only as to the City's liabilities described in paragraph (c) of Section 14.2 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 14.2 hereof. The remedy described in paragraph (c)(ii) of Section 14.2 of this Lease is not available for an Event of Lease Default consisting of failure by the City to vacate and

surrender possession of the Leased Property by March 1 following an Event of Nonappropriation.

**Section 14.4 No Remedy Exclusive.** Subject to Section 14.3 hereof, no remedy herein conferred upon or reserved to the Trustee, is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Trustee to exercise any remedy reserved in this Article 14, it shall not be necessary to give any notice, other than such notice as may be required in this Article 14.

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

**Section 14.6 Agreement to Pay Attorneys' Fees and Expenses.** In the event that either party hereto shall default under any of the provisions hereof and the nondefaulting party shall employ attorneys or incur other expenses for the collection of Base Rentals or Additional Rentals, or the enforcement of performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it shall on demand therefor pay to the nondefaulting party, to the extent permitted by law, the reasonable fees of such attorneys and such other reasonable expenses so incurred by the nondefaulting party. Notwithstanding the foregoing, any such fees and expenses owed by the City hereunder shall constitute Additional Rentals for all purposes of this Lease and shall be subject to Appropriation.

**Section 14.7 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 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 City, for itself and all who may at any time claim through or under it hereby waives, to the full extent that it may lawfully do so, the benefit of all such laws. Notwithstanding the foregoing, it is expressly understood that the 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 15**  
**MISCELLANEOUS**

**Section 15.1 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 12 hereof.

**Section 15.2 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 first class mail, postage prepaid, addressed as follows:

if to the City,

City of Grand Junction, Colorado  
250 North 5th Street  
Grand Junction, Colorado 81501  
Attention: Financial Operations Manager

if to the Trustee,

Zions First National Bank  
1001 17th Street, Suite 1050  
Denver, CO 80202  
Attention: Corporate Trust Department

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 15.3 Third Party Beneficiaries.** It is expressly understood and agreed that the Owners of the outstanding Certificates are third party beneficiaries to this Lease and enforcement of the terms and conditions of this Lease, and all rights of action relating to such enforcement, shall be strictly reserved to the City, as lessee and the Trustee, as lessor, and their respective successors and assigns, and to the Owners of the Certificates. 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.

**Section 15.4 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 13 of this Lease.

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

**Section 15.6 Amounts Remaining in Funds.** It is agreed by the parties hereto that any amounts remaining in the Base Rentals Fund, the Construction Fund, the Reserve Fund, the Costs of Execution and Delivery Fund, or any other fund or account created under the Indenture (except the Rebate Fund and any defeasance escrow funds), upon termination of the Lease Term, and after payment in full of the Certificates (or provision for payment thereof having been made in accordance with the provisions of this Lease and the Indenture) and fees and expenses of the Trustee in accordance with this Lease and the Indenture, shall belong to and be paid to the City by the Trustee, as an overpayment of Base Rentals.

**Section 15.7 Absolute Net Lease.** This Lease shall be deemed and construed to be an “absolute 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 15.8 Computation of Time.** In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is not a Business Day, the period is extended to include the next day which is a Business Day. If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month. Notwithstanding the foregoing, Base Rentals shall be recalculated in the event of any overpayment of Base Rentals as provided in Section 6.2(b) hereof.

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

**Section 15.10 Severability.** Except for the requirement of the 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 12 of this Lease (which, if held invalid or unenforceable by any court of competent jurisdiction, may have the effect of invalidating or rendering unenforceable the other provisions of this Lease), in the event that any other provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 15.11 Execution in Counterparts.** This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 15.12 Applicable Law.** This Lease shall be governed by and construed in accordance with the law of the State of Colorado.

**Section 15.13 The Trustee Is Independent of the City.** The Trustee shall perform its duties hereunder as an independent contractor and not as an employee of the City. Neither the Trustee nor any agent or employee of the Trustee shall be or shall be deemed to be an agent or employee of the City. The Trustee shall pay when due all required employment taxes and income tax and local head tax on any monies paid by the City pursuant to this Lease. The Trustee acknowledges that the Trustee and its employees are not entitled to unemployment insurance benefits of the City unless the Trustee or a third party otherwise provides such coverage and that the City does not pay for or otherwise provide such coverage. The Trustee shall have no authorization, express or implied, to bind the City to any agreements, liability or understanding except as expressly set forth herein. The Trustee shall provide and keep in force workers' compensation (and provide proof of such insurance when requested by the City) and unemployment compensation insurance in the amounts required by law and shall be solely responsible for the acts of the Trustee, its employees and agents.

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

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

**Section 15.16 Captions.** The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Lease.

**Section 15.17 Trustee's Disclaimer.** It is expressly understood and agreed that (a) the Lease is executed by Zions First National Bank solely in its capacity as Trustee under the Indenture, and (b) nothing herein shall be construed as creating any liability on Zions First National Bank 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.

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

CITY OF GRAND JUNCTION,  
COLORADO,  
as Lessee

ZIONS FIRST NATIONAL BANK, solely in  
its capacity of Trustee under the Indenture, as  
Lessor

By: \_\_\_\_\_  
President of the City Council

By: \_\_\_\_\_  
Vice President

Attest:

By: \_\_\_\_\_  
City Clerk

[CITY SEAL]

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF MESA                     )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of October, 2010, by Teresa Coons and Stephanie Tuin, as President of the City Council and Clerk, respectively, of the City of Grand Junction, Colorado, a Colorado home rule city.

WITNESS my hand and official seal.

(SEAL)

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

My commission expires: \_\_\_\_\_



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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of October 2010,  
by Casey Gunning, a Vice President of Zions First National Bank, 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 Project (as more fully described below), and such other capital improvements as the Council may from time to time determine to locate on any portion of the Site (to the extent financed with proceeds of the Certificates).

#### Parcel I:

##### *Legal Description:*

A certain parcel of land lying in the Southwest Quarter (SW 1/4) of Section 14, Township 1 South, Range 1 West of the Ute Principal Meridian, City of Grand Junction, County of Mesa, State of Colorado and being more particularly described as follows:

ALL of Lots 1 through 32, inclusive, Block 139, Grand Junction Plat of Part of Second Division Resurvey, as Amended, as same is recorded in Plat Book 2, Page 21, Public Records of Mesa County, Colorado.

##### *Facilities:*

No facilities presently exist on Parcel I. A portion of the Project consists of the construction of a new police building, including a 911 emergency dispatch center on Parcel I.

#### Parcel II:

##### *Legal Description:*

BEG 15FT N OF SW COR SE4SW4 SEC 15 1S 1W E 1320FT N 683.45FT TO D&RGW RR N 40DEG44' W 131FT S 61DEG33' W 1408FT S 115.9FT TO BEG & BEG 15FT N OF SW COR SW4NE4 SD SEC 15 E 30FT N 645.32FT N 40DEG44' W 45FT S 683.45 FT TO BEG, ALL IN THE CITY OF GRAND JUNCTION, COLORADO.

(Parcel Number 2945-152-00-941, Mesa County, Colorado)

and

BEG 30FT E OF SW COR SW4SW4NE4 SEC 15 1S 1W N 15FT E TO RR ROW SELY ALG RR TO S LI SD SW4SW4NE4 W TO BEG & BEG 15FT N & 30FT E OF SW COR SW4NE4 SD SEC 15 N TO RR SELY ALG RR TO A PT 15FT N OF S LI SW4SW4NE4 W TO BEG EXC BEG E 315FT FR C SEC 15 N 0DEG02' E 258.24FT TO SWLY BNDRY RR N 40DEG47' W 438.8FT S 61.2FT S 40DEG47' E 377.6FT S 0DEG02' W 243.36FT E 40FT TO BEG & EXC PARCEL LYG DIRECTLY EAST OF ABOVE EXCEPTION AND SWLY OF RR & ALSO EXC ANY ROADS, DITCHES, CULVERTS & LEGAL HWYS, ALL IN THE CITY OF GRAND JUNCTION, COLORADO.

(Parcel Number 2945-152-00-941, Mesa County, Colorado)

*Facilities:*

A building housing the City's fleet management center is presently located on Parcel II. Such building will be remodeled into a new fire station as a portion of the Project.

**EXHIBIT B**  
**PERMITTED ENCUMBRANCES**

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

**EXHIBIT C**  
**BASE RENTALS SCHEDULE**

<u>Date</u> _____	Base Rentals Principal Component 2010A <u>Certificates</u>	Base Rentals Interest Component 2010A <u>Certificates</u>	Base Rentals Principal Component 2010B <u>Certificates</u>	Base Rentals Interest Component 2010B <u>Certificates</u>	Total Base Rentals <u>Rentals</u>
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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: Zions First National Bank, as Trustee  
Attention: Corporate Trust Department

The undersigned is the City Representative of the City of Grand Junction, Colorado (the "City"). The City is the lessee under that certain Lease Purchase Agreement, dated as of October \_\_, 2010 (the "Lease"), between the City and Zions First National Bank, 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 GRAND JUNCTION, COLORADO**

By: \_\_\_\_\_  
City Representative

**EXHIBIT E**  
**FORM OF REQUISITION**

REQUISITION NO. \_\_\_\_\_

To: Zions First National Bank, as Trustee  
Attention: Corporate Trust Department

The undersigned City Representative (the "City Representative") of the City of Grand Junction, Colorado (the "City"), as the lessee's representative under the Lease Purchase Agreement, dated as of October 15, 2010 (the "Lease"), between Zions First National Bank, as trustee, as lessor, and the City, as lessee, hereby requisitions the following sum from the [2010A Construction Account] [2010B Construction Account] of the Construction Fund established under the Indenture of Trust, dated as of October 15, 2010 (the "Indenture"), entered into by you, as Trustee, and in connection with such request, certifies as follows:

Amount: \$ \_\_\_\_\_

Name and Address of Payee:

Describe Nature of Obligation:

The City Representative further certifies that:

- (a) the obligation described above has been properly incurred, is a proper charge against the applicable Construction Account of the Construction Fund and has not been the basis of any previous withdrawal or requisition;
- (b) all conditions required by the Lease and the Indenture to be met prior to the disbursement of the above amount have been satisfied;
- (c) the disbursement requested is due and payable and will be used for the "Costs of the Project" permitted under the Lease and the Indenture;
- (d) the City is not in breach of any of the agreements contained in the Lease;
- (e) No Event of Default or Event of Nonappropriation has occurred and is continuing; and
- (f) To the extent that the obligation is payable from the 2010B Construction Account of the Construction Fund, such obligation is a capital expenditure.

CITY OF GRAND JUNCTION, COLORADO

Date: \_\_\_\_\_ By: \_\_\_\_\_  
City Representative



**EXHIBIT F**

**CERTIFICATE OF PROJECT COMPLETION**

To: Zions First National Bank, as Trustee  
Attention: Corporate Trust Department

The undersigned hereby states and certifies that:

1. I am the City Representative (the "City Representative") of the City of Grand Junction, Colorado (the "City"), acting as the lessee's representative under the Lease Purchase Agreement, dated as of October 15, 2010 (the "Lease"), between Zions First National Bank, as trustee, as lessor, and the City, as lessee. I am familiar with the facts herein certified and am authorized and qualified to certify the same.

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

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

4. In accordance with Section 7.3 of the Lease and Section 3.07 of the Indenture, the City hereby directs the Trustee to apply any balance remaining in the Construction Fund as follows: \_\_\_\_\_.

**CITY OF GRAND JUNCTION, COLORADO**

By: \_\_\_\_\_  
City Representative

**EXHIBIT G**

**RELEASE AND AMORTIZATION SCHEDULE**

<u>PORTION OF THE LEASED PROPERTY</u>	<u>TOTAL AMOUNTS OF BASE RENTALS PRINCIPAL PAYMENTS AND OPTIONAL PRIOR REDEMPTIONS WHICH MUST BE MADE OR OF CERTIFICATES WHICH MUST BE PAID OR DEFEASED, TO RELEASE<sup>1</sup></u>
1. Parcel I	
2. Parcel II	

<sup>1</sup> Pursuant to Section 12.4 of the Lease, when the principal component of Base Rentals paid by the City, plus the principal amount of Certificates redeemed through optional redemption, or the total amount of Certificates paid or deemed to have been paid, totals the amount set forth in this column, the corresponding portion of the Leased Property will be deemed amortized and shall be released from the lien of the Ground Lease, the Lease and the Indenture, provided, however, that the remaining Leased Property shall be at least equal to the aggregate principal amount of the outstanding Certificates.

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**INDENTURE OF TRUST**

**DATED AS OF OCTOBER 15, 2010**

**BY**

**ZIONS FIRST NATIONAL BANK,  
As Trustee**

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

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EXHIBIT A - FORM OF 2010A CERTIFICATE  
EXHIBIT B - FORM OF 2010B CERTIFICATE

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## INDENTURE OF TRUST

This INDENTURE OF TRUST, dated as of October 15, 2010 (this "Indenture"), is executed and delivered by Zions First National Bank, a national banking association duly organized and validly existing under the laws of the United States of America, as trustee (the "Trustee"), for the benefit of the Owners of the Certificates as set forth in this Indenture.

### PREFACE

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

### RECITALS

1. This Indenture is being executed and delivered to provide for the execution, delivery, payment of and security for the Certificates, the net proceeds of which will be used to finance the Project. The Certificates evidence undivided interests in the right to receive Revenues under the Lease.

2. Pursuant to the Lease, and subject to the rights of the City to not appropriate the Base Rentals and Additional Rentals thereunder and, therefore, to not renew and to terminate the Lease and other limitations as therein provided, the City is to pay certain Base Rentals directly to the Trustee, for the benefit of the Owners of the Certificates, in consideration of the City's right to possess and use the Leased Property.

3. The Trustee has entered into this Indenture for and on behalf of the Owners of the Certificates and the Trustee will hold the Revenues and the Leased Property and will exercise the Trustee's rights under the Ground Lease and the Lease for the equal and proportionate benefit of the Owners of the Certificates as described herein, and will disburse money received by the Trustee in accordance with this Indenture.

4. The proceeds from the sale of the Certificates to the Owners will be disbursed by the Trustee to implement the Project as described herein and in the Lease and for other purposes set forth herein.

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that the Trustee, in consideration of the premises, the purchase of the Certificates by the Owners and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, in order to secure the payment of the principal of, premium, if any, and interest on the Certificates and all other amounts payable to the Owners with respect to the Certificates, to secure the performance and observance of all of the covenants and conditions set forth in the Certificates and the Indenture, and to declare the terms and conditions upon and subject to which the Certificates are executed, delivered and secured, has executed and delivered this Indenture and has granted, assigned, pledged, bargained, sold, alienated, remised, released, conveyed, set over and confirmed, and by these presents does grant, assign, pledge, bargain, sell, alienate, remise, release, convey, set over and confirm, in trust upon the terms set forth herein all and singular the following described property, franchises and income, including any title or interest therein

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

(a) all rights, title and interest of the Trustee in, to and under the Ground Lease and the Lease (other than the Trustee's rights to payment of its fees and expenses under the Ground Lease and the Lease and the rights of third parties to Additional Rent payable to them under the Lease);

(b) all Revenues and any other receipts receivable by or on behalf of the Trustee pursuant to the Lease, including, without limitation, all Base Rentals, Prepayments, the Purchase Option Price and Net Proceeds;

(c) the Project Documents, including all extensions and renewals of the terms thereof, if any, together with the rights, titles and interests of the City in and to the Project Documents, including, but not limited to, the present and continuing right to make claim for, collect, receive and receipt for any of the sums, amounts, income, revenues, issues and profits and any other sums of money payable or receivable under the Project Documents, to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which the City under the Project Documents is or may become entitled to; provided, however, that for so long as the Lease is in effect, the City shall retain the right to bring actions and proceedings under the Project Documents and enforce the provisions thereof against the parties thereto other than the City; and

(d) all money and securities from time to time held by the Trustee under this Indenture in the Base Rentals Fund, the Reserve Fund, the Construction Fund, and the Costs of Execution and Delivery Fund (but not the Rebate Fund or any defeasance escrow fund or account), any and all other property, revenues or funds from time to time hereafter by delivery or by writing of any kind specially granted, assigned or pledged as and for additional security hereunder, by any Person in favor of the Trustee, which shall accept any and all such property and hold and apply the same subject to the terms hereof.

TO HAVE AND TO HOLD IN TRUST, NEVERTHELESS, the Trust Estate for the equal and ratable benefit and security of all Owners of the Certificates, without preference, priority or distinction as to lien or otherwise of any one Certificate over any other Certificate upon the terms and subject to the conditions hereinafter set forth.

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

THIS INDENTURE FURTHER WITNESSETH and it is expressly declared, that all Certificates are to be executed and delivered and all said property, rights, interests, revenues and receipts hereby pledged are to be dealt with and disposed of under, upon and subject to the terms,



conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Trustee has agreed and covenanted, and does hereby agree and covenant, for the benefit of the Owners, as follows:

**ARTICLE 1**  
**DEFINITIONS**

**Section 1.01 Certain Funds and Accounts.** All references herein to any Funds and Accounts shall mean the Funds and Accounts so designated which are established pursuant to Article 3 hereof.

**Section 1.02 Definitions.** All capitalized terms defined in Article 1 of the Lease shall have the same meaning in this Indenture. In addition, the following capitalized terms shall have the following meanings under this Indenture:

“2010 Certificates” means, collectively, the 2010A Certificates and the 2010B Certificates.

“2010A Capitalized Interest Account” means an account of the Base Rentals Fund created in Section 3.03 hereof.

“2010A Certificates” means the “Tax-Exempt Certificates of Participation, Series 2010A”, dated October \_\_, 2010, executed and delivered pursuant to this Indenture.

“2010A Construction Account” means an account of the Construction Fund created in Section 3.07 hereof.

“2010A Costs of Execution and Delivery Account” means and account of the Costs of Execution and Delivery Fund created in Section 3.06 hereof.

“2010A Rebate Account” means an account of the Rebate Fund created in Section 3.05 hereof.

“2010A Reserve Account” means an account of the Reserve Fund created in Section 3.04 hereof, securing the 2010A Certificates and no other Certificates.

“2010B Capitalized Interest Account” means an account of the Base Rentals Fund created in Section 3.03 hereof.

“2010B Certificates” means the “Taxable Certificates of Participation (Direct Pay Build America Bonds), Series 2010B”, dated October \_\_, 2010, executed and delivered pursuant to this Indenture.

“2010B Construction Account” means an account of the Construction Fund created in Section 3.07 hereof.

“2010B Costs of Execution and Delivery Account” means and account of the Costs of Execution and Delivery Fund created in Section 3.06 hereof.

“2010B Rebate Account” means an account of the Rebate Fund created in Section 3.05 hereof.

“2010B Reserve Account” means an account of the Reserve Fund created in Section 3.04 hereof, securing the 2010B Certificates and no other Certificates.

“Additional Certificates” means Additional Certificates which may be executed and delivered pursuant to this 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 the Lease, the Ground Lease or this Indenture, including the reasonable fees and expenses of any person or firm employed by the Trustee to make rebate calculations under the provisions of Section 3.05(c) of this 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 the Lease, (ii) the cost of insurance premiums and insurance deductible amounts under any insurance policy reasonably deemed necessary by the Trustee to protect the Trustee from any liability under the 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 the Lease;

(c) payments into any account of the Reserve Fund, payments to any surety provider as a result of draws of amounts under a Qualified Surety Bond and rebate payments as provided in the Lease; and

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

Additional Rentals shall not include Base Rentals.

“Approval of Special Counsel” means an opinion of Special Counsel to the effect that the matter proposed will not adversely affect the excludability from gross income for federal income tax purposes of the Interest Portion of the Base Rentals paid by the City under the Lease and attributable to the 2010A Certificates or disqualify the 2010B Certificates as Build America Bonds under Section 54AA of the Tax Code.

“Authorized Denominations” means \$5,000 or integral multiples of \$5,000.

“BAB Credit” means the amount of the direct payment the federal government is to make to the City with respect to the 2010B Certificates pursuant to Sections 54AA and 6431 of the Tax Code, as further set forth in Section 11.5 of the Lease.

“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) of the Lease. Base Rentals does not include Additional Rentals.

“Base Rentals Fund” means the fund created under Section 3.03 hereof.

“Beneficial Owners” means any person for which a DTC Participant acquires an interest in Certificates.

“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.

“Cede & Co.” means DTC’s nominee or any new nominee of DTC.

“Certificate Purchase Agreement” means the Certificate Purchase Agreement, dated October \_\_, 2010, between the Underwriter and the Trustee relating to the 2010 Certificates.

“Certificates” means, collectively, the 2010 Certificates and any Additional Certificates.

“City” means the City of Grand Junction, Colorado.

“Closing” means the date of execution and delivery of the 2010 Certificates.

“Completion Date” means the earlier of (a) October \_\_, 2013, or such later date established by the City with the Approval of Special Counsel, or (b) any date on which the Certificate of Project Completion is delivered by the City Representative to the Trustee pursuant to Section 7.3 of the Lease.

“Construction Fund” means the Construction Fund created by Section 3.07 hereof, which consists of the 2010A Construction Account and the 2010B Construction Account.

“Costs of Execution and Delivery” means all items of expense directly or indirectly payable by the Trustee related to the authorization, sale, execution and delivery of the Certificates and to be paid from the Costs of Execution and Delivery Fund, including but not limited to, survey costs, title insurance premiums, closing costs and other costs relating to the leasing of the Leased Property under the Ground Lease and the Lease, costs of preparation and reproduction of documents, costs of printing the Certificates and the Preliminary and final Official Statements prepared in connection with the offering of the Certificates, costs of Rating Agencies and costs to provide information required by Rating Agencies for the rating or proposed rating of Certificates, initial fees and charges of the Trustee and Paying Agent, legal fees and charges, including fees and expenses of Special (Certificate) Counsel, Special (Disclosure) Counsel, the City’s financial advisor, and Counsel to the Trustee, fees and disbursements of professionals and the Underwriter, fees and charges for preparation, execution and safekeeping of the Certificates, premiums for insurance on the Certificates or for the costs of any Qualified Surety Bond that is deposited to any account of the Reserve Fund in connection with the execution and delivery of any series of Certificates, and any other cost, charge or fee in

connection with the original sale and the execution and delivery of the Certificates; provided, however, that Additional Rentals shall not be Costs of Execution and Delivery of the Certificates and are to be paid by the City as provided in the Lease.

“Costs of Execution and Delivery Fund” means the fund created under Section 3.06 hereof, and includes the 2010A Costs of Execution and Delivery Account and the 2010B Costs of Execution and Delivery Account.

“Council” means the City Council of the City.

“City Representative” means the Financial Operations Manager or such other person at the time designated to act on behalf of the City for the purpose of performing any act under the Lease, the Ground Lease or this 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 President of the Council.

“Depository” means any securities depository as the Trustee may provide and appoint pursuant to Section 2.03 hereof, in accordance with then current guidelines of the Securities and Exchange Commission, which shall act as securities depository for the Certificates.

“DTC” means the Depository Trust Company, New York, New York, and its successors and assigns.

“DTC Participant(s)” means any broker-dealer, bank or other financial institution from time to time for which DTC holds Certificates as Depository.

“Event(s) of Indenture Default” means those defaults specified in Section 7.01 of this Indenture.

“Extraordinary Event” means an event causing the BAB Credit expected to be received with respect to the 2010B Certificates to be eliminated or reduced, as reasonably determined by the City Representative, which determination shall be conclusive, as a result of:

- (a) a material adverse change to Section 54AA or 6431 of the Code;
- (b) guidance published by the Internal Revenue Service or the United States Treasury with respect to such Sections; or
- (c) a determination by the Internal Revenue Service or the United States Treasury, which determination is not the result of a failure of the City to satisfy the requirements of Section 11.5 of the Lease.

“Extraordinary Optional Redemption” means any redemption made with respect to the 2010B Certificates pursuant to Section 4.04 hereof upon the occurrence of an Extraordinary Event.

“Extraordinary Mandatory Redemption” means any redemption made pursuant to Section 4.03 hereof.

“Federal Securities” means non-callable bills, certificates of indebtedness, notes or bonds which are direct obligations of, or the principal of and interest on which are unconditionally guaranteed by, the United States of America.

“Ground Lease” means the Ground and Improvement Lease Agreement, dated as of October 15, 2010, between the City, as lessor, and the Trustee, as lessee, as the same may hereafter be amended.

“Indenture” means this Indenture of Trust, dated as of October 15, 2010, executed and delivered by the Trustee, as the same may be hereafter amended or supplemented.

“Interest Payment Date” means, in respect of the 2010 Certificates, each \_\_\_\_\_ and \_\_\_\_\_, commencing \_\_\_\_\_, 2011.

“Lease” means the Lease Purchase Agreement, dated as of October 15, 2010, between the Trustee, as lessor, and the City, as lessee.

“Leased Property” means, collectively, the Site, the Project, any New Facility, and any additions and modifications thereto and replacements thereof.

“Legal Investments” means those investments that are legal for the City under the laws of the State of Colorado.

“Moody’s” means Moody’s Investors Service, Inc.

“New Facility” means any real property, buildings or equipment leased by the City to the Trustee pursuant to a future amendment to the Ground Lease and leased back by the City from the Trustee pursuant to a future amendment to the Lease in connection with the issuance of Additional Certificates.

“Optional Redemption” means any redemption made pursuant to Section 4.01 hereof.

“Optional Redemption Date” means the date of redemption of 2010 Certificates upon the Prepayment of Base Rentals or the payment of the Purchase Option Price under the Lease.

“Outstanding” means, with respect to the Certificates, all Certificates executed and delivered pursuant to this Indenture as of the time in question, except:

(a) All Certificates theretofore canceled or required to be canceled under Section 2.07 of this Indenture;

(b) Certificates in substitution for which other Certificates have been executed and delivered under Section 2.05 or 2.06 of this Indenture;

(c) Certificates which have been redeemed as provided in Article 4 of this Indenture;

(d) Certificates for the payment or redemption of which provision has been made in accordance with Article 6 of this Indenture; provided that, if such Certificates are being redeemed, the required notice of redemption has been given or provision satisfactory to the Trustee has been made therefor; and

(e) Certificates deemed to have been paid pursuant to Section 6.01 of this Indenture.

“Owners” means the registered owners of any Certificates and Beneficial Owners.

“Parcel I” means that certain parcel of real property owned by the City and leased by the City to the Trustee under the Ground Lease and subleased by the Trustee to the City under the Lease, the legal description of which is set forth in Exhibit A to the Lease, or an amendment or supplement thereto, together with any facilities located thereon.

“Parcel II” means that certain parcel of real property owned by the City and leased by the City to the Trustee under the Ground Lease and subleased by the Trustee to the City under the Lease, the legal descriptions of which is set forth in Exhibit A to the Lease, or an amendment or supplement thereto, together with any facilities located thereon.

“Paying Agent” means the Trustee or any successor or additional paying agent appointed pursuant to this Indenture.

“Permitted Investments” means those investments the City is authorized to enter into under the laws of the State of Colorado.

“Project” means, to the extent financed with the proceeds of the Certificates, (a) the construction of a police building, including a 911 emergency dispatch center on Parcel I (as defined in Exhibit A hereto), (b) the remodeling of the existing facilities on Parcel II (as defined in Exhibit A hereto) for use as a fire station, and (c) the construction, acquisition, installation, and equipping of such other capital improvements as the Council may from time to time determine to locate on any portion of the Site.

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

“Project Documents” means the following: (a) plans, drawings and specifications for the Project, when and as they are approved by the City, including change orders, if any; (b) any necessary permits for the Project, including any building permits and certificates of occupancy; (c) the Project Contracts; (d) policies of title insurance, insurance policies required under the Project Contracts, including general liability, property damage and automobile, workers’ compensation and builders’ risk insurance policies in respect of the general contractor for construction of the Project and, on and after the Completion Date of the Project, insurance policies required under Article 9 of the Lease, including commercial general liability and public

liability, property and worker's compensation insurance policies, or certificates of insurance for any of such policies thereof, as required by the Lease; (e) contractor's performance and payment bonds with respect to the Project; and (f) any and all other documents executed by or furnished to the City or the Trustee in connection with the Project.

"Qualified Surety Bond" means any insurance policy, surety bond, irrevocable letter of credit or similar instrument deposited in or credited to any account of the Reserve Fund in lieu of or in partial substitution for moneys on deposit therein, issued by an entity which is rated at the time of such deposit in one of the two highest rating categories by any two Rating Agencies.

"Rating Agency" or "Rating Agencies" means Moody's, Standard & Poor's or other nationally recognized securities rating agency or agencies as may be directed by the City in writing to the Trustee.

"Rebate Fund" means the fund created under Section 3.05 hereof.

"Regular Record Date" in respect of the 2010 Certificates means the \_\_\_ day of the month preceding the month in which an interest payment date occurs.

"Reserve Account Requirement" means:

(a) \$\_\_\_\_\_ with respect to the 2010A Certificates, which is equal to the least of (i) 10% of the proceeds of the 2010A Certificates, (ii) the maximum annual principal and interest payable with respect to the 2010A Certificates, or (iii) 125% of the average annual principal and interest payable with respect to the 2010A Certificates; and

(b) \$\_\_\_\_\_ with respect to the 2010B Certificates, which is equal to the least of (i) 10% of the proceeds of the 2010B Certificates, (b) the maximum annual principal and interest payable with respect to the 2010B Certificates, or (c) 125% of the average annual principal and interest payable with respect to the 2010B Certificates. When calculating the Reserve Account Requirement for the 2010B Certificates, the BAB Credit shall not be subtracted from the interest due with respect to the 2010B Certificates.

For purposes of this definition of Reserve Fund Requirement, the term "proceeds" means the aggregate stated principal amount of such 2010 Certificates, unless there is more than a de minimis amount (as defined in Section 1.148-1(b) of the Regulations) of original issue discount or premium, in which case "proceeds" means issue price. If an account of the Reserve Fund secures Additional Certificates, the Reserve Fund Requirement with respect to such Additional Certificates shall be such amount as is set forth in the ordinance or indenture authorizing the execution and delivery of such Additional Certificates.

"Reserve Fund" means the special fund maintained under and to be disbursed as provided in Section 3.04 of this Indenture, and includes the 2010A Reserve Account and the 2010B Reserve Account. The Reserve Fund shall secure only the payment of the 2010 Certificates unless otherwise provided in the ordinance or indenture authorizing the issuance of Additional Certificates.



“Revenues” means (a) all amounts payable by or on behalf of the City or with respect to the Leased Property pursuant to the Lease including, but not limited to, all Base Rentals, Prepayments, the Purchase Option Price and Net Proceeds, but not including Additional Rentals (except for payments made by the City as Additional Rentals to initially fund or replenish any account of the Reserve Fund); (b) any portion of the proceeds of the Certificates deposited into the Construction Fund, the Base Rentals Fund and the Reserve Fund (subject to certain restrictions with respect to proceeds of the 2010B Certificates on deposit therein), each created under this 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 this Indenture (except for moneys and securities held in the Rebate Fund or any defeasance escrow fund or account).

“Site” means, collectively, Parcel I and Parcel II.

“Special Counsel” means any counsel experienced in matters of municipal law, satisfactory to the Trustee, and listed in the list of municipal bond attorneys, as published semiannually by *The Bond Buyer*, or any successor publication.

“Standard & Poor’s” means Standard & Poor’s Ratings Services, a division of The McGraw Hill Companies, Inc.

“Supplemental Act” means the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, C.R.S.

“Tax Certificate” means, collectively, the one or more Tax Certificates entered into by the City with respect to the Lease.

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

“Treasury Rate” means, with respect to any redemption date for a particular 2010B Certificate, the yield to maturity as of such redemption date of United State Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the redemption date (excluding inflation-indexed securities) (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the redemption date to the maturity date of the 2010B Certificates to be redeemed; provided, however that if the period from the redemption date to the maturity date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year shall be used.

“Trust Estate” means all of the property placed in trust by the Trustee pursuant to the Granting Clauses hereof.

“Trustee” means Zions First National Bank, as Trustee under this Indenture for the benefit of the Owners of the Certificates and any Additional Certificates, and its successors and assigns.

“Underwriter” means D.A. Davidson & Co., the initial purchaser of the 2010 Certificates.

**ARTICLE 2**  
**THE CERTIFICATES**

**Section 2.01 Amount of the Certificates; Nature of the Certificates.** The aggregate original principal amount of 2010A Certificates that may be executed and delivered pursuant to this Indenture shall be \$ \_\_\_\_\_, and the aggregate original principal amount of 2010B Certificates that may be executed and delivered pursuant to this Indenture shall be \$ \_\_\_\_\_. Additional Certificates may be executed and delivered pursuant to this Indenture in accordance with Section 2.08 hereof.

The Certificates evidence proportionate interests in the Revenues. The Certificates shall constitute a contract between the Trustee and the Owners. In no event shall any decision by the Council not to appropriate any amounts payable under the Lease be construed to constitute an action impairing such contract.

The Certificates shall not constitute a mandatory charge or requirement of the City in any ensuing Fiscal Year beyond the current Fiscal Year, and shall not constitute or give rise to a general obligation or other indebtedness of the City or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the City, within the meaning of any constitutional or statutory debt provision or limitation. No provision of the Certificates shall be construed or interpreted as creating a 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 Colorado Constitution. The execution and delivery of the Certificates shall not directly or indirectly obligate the City to renew the Lease from Fiscal Year to Fiscal Year or to make any payments beyond those appropriated for the City's then current Fiscal Year.

**Section 2.02 Forms, Denominations, Maturities and Other Terms of 2010 Certificates.** The 2010A Certificates shall be in substantially the form attached hereto as Exhibit A, and the 2010B Certificates shall be in substantially the form attached hereto as Exhibit B.

Each series of the 2010 Certificates shall be executed and delivered in fully registered form in Authorized Denominations not exceeding the aggregate principal amount stated to mature on any given date. Each series of the 2010 Certificates shall be numbered consecutively in such manner as the Trustee shall determine; provided that while the 2010 Certificates are held by a Depository, one 2010A Certificate shall be executed and delivered for each maturity bearing interest at the same interest rate as the Outstanding 2010A Certificates of such maturity, and one 2010B Certificate shall be executed and delivered for each maturity bearing interest at the same interest rate as the Outstanding 2010B Certificates of such maturity.

The 2010 Certificates are issued under the authority of the Supplemental Act and shall so recite. Pursuant to Section 11-57-210 of the Supplemental Act, such recital shall be conclusive evidence of the validity and the regularity of the issuance of the 2010 Certificates after their delivery for value. The 2010B Certificates are also issued under the authority of the Colorado Recovery and Reinvestment Finance Act of 2010, Part 1 of Article 59.7 of Title 11, Colorado Revised Statutes.

The 2010 Certificates shall be dated October \_\_, 2010.

The 2010A Certificates shall mature on the dates and in the amounts, with interest thereon at the rates, set forth below:

Maturity Date (_____)	Principal <u>Amount</u>	Interest <u>Rate</u>
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The 2010B Certificates shall mature on the dates and in the amounts, with interest thereon at the rates, set forth below:

Maturity Date (_____)	Principal <u>Amount</u>	Interest <u>Rate</u>
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The 2010 Certificates shall bear interest from their date to maturity or prior redemption at the rates per annum set forth above, payable on each Interest Payment Date and calculated on the basis of a 360-day year of twelve 30-day months.

The payment of principal, premium, if any, and interest represented by the Certificates shall be made in lawful money of the United States of America.

Each series of the 2010 Certificates shall be subject to redemption prior to maturity, all as provided in Article 4 hereof.

Except for any Certificates for which DTC is acting as Depository or for an Owner of \$1,000,000 or more in aggregate principal amount of Certificates, the principal of, premium, if any, and interest on all Certificates shall be payable to the Owner thereof at its address last appearing on the registration books maintained by the Trustee. In the case of any Certificates for which DTC is acting as Depository, the principal of, premium, if any, and interest on such Certificates shall be payable as directed in writing by the Depository. In the case of an Owner of \$1,000,000 or more in aggregate principal amount of Certificates, the principal of, premium, if any, and interest on such Certificates shall be payable by wire transfer of funds to a bank account designated by the Certificate Owner in written instructions to the Trustee.

Interest shall be paid to the Owner of each 2010 Certificate, as shown on the registration books kept by the Trustee, as of the close of business on the Regular Record Date, irrespective of any transfer of ownership of 2010 Certificates subsequent to the Regular Record Date and prior to such Interest Payment Date, or on a special record date, which shall be fixed by the Trustee for such purpose, irrespective of any transfer of ownership of 2010 Certificates subsequent to such special record date and prior to the date fixed by the Trustee for the payment of such interest. Notice of the special record date and of the date fixed for the payment of such interest shall be given by providing a copy thereof by first class mail postage prepaid at least ten (10) days prior to the special record date, to the Owner of each 2010 Certificate upon which interest will be paid, determined as of the close of business on the day preceding the giving of such notice.

**Section 2.03 Execution; Global Book-Entry System.** Each Certificate shall be executed with the manual signature of a duly authorized representative of the Trustee. It shall not be necessary that the same authorized representative of the Trustee sign all of the Certificates executed and delivered hereunder. In case any authorized representative of the Trustee whose signature appears on the Certificates ceases to be such representative before delivery of the Certificates, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such authorized representative had remained as such authorized representative until delivery.

No Certificate shall be valid or obligatory for any purpose or entitled to any security or benefit hereunder unless and until executed in the manner prescribed by this Section, and such execution of any Certificate shall be conclusive evidence that such Certificate has been properly executed and delivered hereunder.

DTC may act as Depository for any Certificates. The Certificates for which DTC is acting as Depository shall be initially executed and delivered as set forth herein with a separate fully registered certificate (in printed or type-written form) for each of the maturities bearing interest at the same interest rate of the Certificates. Upon initial execution and delivery, the ownership of any Certificates for which DTC is acting as Depository shall be registered in the registration books kept by the Trustee, in the name of Cede & Co., as the nominee of DTC or such other nominee as DTC shall appoint in writing.

The Trustee is hereby authorized to take any and all actions as may be necessary and not inconsistent with this Indenture in order to qualify any Certificates for the Depository's book-entry system, including the execution of the Depository's form of Representation Letter.

With respect to any Certificates which shall or may be registered in the registration books kept by the Trustee in the name of Cede & Co., as nominee of DTC, the Trustee shall not have any responsibility or obligation to any DTC Participants or to any Beneficial Owners. Without limiting the immediately preceding sentence, the Trustee shall not have any responsibility or obligation with respect to (a) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Certificates, (b) the delivery to any DTC Participant, any Beneficial Owner or any other person, other than DTC, of any notice with respect to the Certificates, including any notice of redemption, or (c) the payment to any DTC Participant, any Beneficial Owner or any other person, other than DTC, of any amount with respect to the principal of and premium, if any, or interest on the Certificates.

Except as set forth above, the Trustee may treat as and deem DTC to be the absolute Owner of each Certificate for which DTC is acting as Depository for all purposes, including payment of the principal of and premium and interest on such Certificate, giving notices of redemption and registering transfers with respect to such Certificates. The Trustee shall pay all principal of and interest on the Certificates only to or upon the order of the Owners as shown on the registration books kept by the Trustee or their respective attorneys duly authorized in writing and all such payments shall be valid and effective to fully satisfy and discharge the obligations with respect to the principal of and interest on the Certificates to the extent of the sum or sums so paid.

No person other than an Owner, as shown on the registration books kept by the Trustee, shall receive a Certificate. Upon delivery by DTC to the Beneficial Owner and the Trustee, a written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the transfer provisions in Section 2.06 hereof, references to "Cede & Co." in this Section shall refer to such new nominee of DTC.

DTC may determine to discontinue providing its services with respect to any Certificates at any time after giving written notice to the Trustee and discharging its responsibilities with respect thereto under applicable law. The Trustee, upon the written direction of the City, may terminate the services of DTC with respect to any Certificates if it determines that DTC is unable to discharge its responsibilities with respect to such Certificates or that continuation of the system of book-entry transfers through DTC is not in the best interests of the Beneficial Owners, and the Trustee shall provide notice of such termination to the Trustee.

Upon the termination of the services of DTC as provided in the previous paragraph, and if no substitute Depository willing to undertake the functions of DTC in respect of the Certificates can be found which, in the opinion of the Trustee is willing and able to undertake such functions upon reasonable or customary terms, or if the Trustee determines that it is in the best interests of the Beneficial Owners of the Certificates that they be able to obtain certificated Certificates, the Certificates shall no longer be restricted to being registered in the registration books of the Trustee in the name of Cede & Co., as nominee of DTC, but may be registered in whatever name or names the Owners shall designate at that time, in accordance with Section

2.06. To the extent that the Beneficial Owners are designated as the transferee by the Owners, in accordance with Section 2.06, the Certificates will be delivered to the Beneficial Owners.

**Section 2.04 Delivery of Certificates.** Upon the execution and delivery of this Indenture, the Trustee is authorized to execute and deliver the 2010 Certificates either to DTC or to the purchasers thereof in the aggregate principal amounts set forth in Section 2.01 hereof, as provided in this Section:

(a) Before or upon the delivery by the Trustee of any of the 2010 Certificates, there shall be filed with the Trustee an originally executed counterpart of this Indenture, the Lease, the Ground Lease, and a title insurance commitment or commitments (with a title insurance policy to be delivered in a timely fashion after the delivery of the 2010 Certificates) under which the Trustee's leasehold interests in the Leased Property are insured; and

(b) Thereupon, the Trustee shall execute and deliver the 2010 Certificates to DTC or the purchasers thereof, upon payment to the Trustee of the purchase price set forth in the Certificate Purchase Agreement. The net proceeds of the Certificates shall be deposited into the Base Rentals Fund, the Cost of Execution and Delivery Fund, the Reserve Fund, and the Construction Fund, all as provided in Article 3 hereof and in the Lease. Notwithstanding anything herein to the contrary, the Trustee is authorized to execute and transfer or cause to be transferred to DTC in advance of the date of the execution and delivery of the 2010 Certificates, 2010 Certificates to effect the registration and delivery thereof to the Owners pending and subject to the delivery of the opinion of Special Counsel necessary to effect the delivery of the 2010 Certificates.

**Section 2.05 Mutilated, Lost, Stolen or Destroyed Certificates.** In the event the Certificates are in the hands of DTC or Owners and one or more is mutilated, lost, stolen or destroyed, a new Certificate may be executed by the Trustee, of like date, maturity and denomination as that mutilated, lost, stolen or destroyed; provided that the Trustee shall have received indemnity from DTC or the Owner of the Certificate, as the case may be, satisfactory to it and provided further, in case of any mutilated Certificate, that such mutilated Certificate shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Certificate, that there shall be first furnished to the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee. In the event that any such Certificate shall have matured, instead of executing and delivering a duplicate Certificate, the Trustee may pay the same without surrender thereof. The Trustee may charge DTC or the Owner of the Certificate, as the case may be, with its reasonable fees and expenses in connection herewith.

**Section 2.06 Registration of Certificates; Persons Treated as Owners; Transfer and Exchange of Certificates.** Books for the registration and for the transfer of Certificates shall be kept by the Trustee which is hereby appointed the registrar. Upon surrender for transfer of any Certificate at the principal corporate trust office of the Trustee or at such other location as it shall designate, the Trustee shall execute and deliver in the name of the transferee or transferees a new Certificate or Certificates of the same series, of a like aggregate principal amount and interest rate and of the same maturity.

Certificates may be exchanged at the principal corporate trust office of the Trustee or at such other location as it shall designate for an equal aggregate principal amount of Certificates of the same series, of the same maturity of other Authorized Denominations. The Trustee shall execute and deliver Certificates which the Owner making the exchange is entitled to receive, bearing numbers not contemporaneously outstanding.

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

The Trustee shall not be required to transfer or exchange any Certificate during the period of fifteen (15) days next preceding any Interest Payment Date nor to transfer or exchange any Certificate after the mailing of notice calling such Certificate for redemption has been made as herein provided, nor during the period of fifteen (15) days next preceding the mailing of such notice of redemption.

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

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

**Section 2.07 Cancellation of Certificates.** Whenever any outstanding Certificates shall be delivered to the Trustee for cancellation pursuant to this Indenture, upon payment thereof or for or after replacement pursuant to Sections 2.05 or 2.06 hereof, such Certificates shall be promptly canceled and destroyed by the Trustee, and counterparts of a certificate of destruction evidencing such destruction shall be held by the Trustee in its files relating to this Indenture.

**Section 2.08 Additional Certificates.** So long as no Event of Indenture Default, Event of Nonappropriation or Event of Lease Default has occurred and is continuing and the Lease Term is in effect, one or more series of Additional Certificates may be executed and delivered upon the terms and conditions set forth herein. The principal of any Additional Certificates shall mature on \_\_\_\_\_ and Interest Payment Dates therefore shall be the same as the Interest Payment Dates for the 2010 Certificates; otherwise the times and amounts of payment of Additional Certificates shall be as provided in the supplemental ordinance or indenture and amendment to the Lease entered into in connection therewith.



Additional Certificates may be executed and delivered without the consent of or notice to the Owners of Outstanding Certificates, to provide moneys to pay any one or more of the following:

- (a) the costs of acquiring, constructing, improving and installing any New Facility, or of acquiring a site for any New Facility (and costs reasonably related thereto);
- (b) the costs of completing the Project or making, at any time or from time to time, such substitutions, additions, modifications and improvements for or to the Project as the City may deem necessary or desirable, and as in accordance with the provisions of the Lease; or
- (c) for the purpose of refunding or refinancing all or any portion of Outstanding Certificates.

In such case, the Costs of Execution and Delivery of the Additional Certificates, the amount to be deposited into a separate account in the Reserve Fund for such Additional Certificates, if any, or the costs of acquiring a Qualified Surety Bond for deposit into a separate account in the Reserve Fund for such Additional Certificates, and other costs reasonably related to the purposes for which Additional Certificates are being executed and delivered may be included.

Additional Certificates may be executed and delivered only upon there being furnished to the Trustee:

- (a) Originally executed counterparts of a supplemental Indenture and related and necessary amendments to the Ground Lease and the Lease (including any necessary amendment to the Base Rentals Schedule); and
- (b) A commitment or other evidence that the amount of the title insurance policy delivered in respect of the 2010 Certificates will be increased, if necessary, to reflect the amount of the Additional Certificates and all other Outstanding Certificates (or such lesser amount) as shall be the maximum insurable value of the real property included in the Leased Property); and
- (c) A written opinion of Special Counsel, acceptable to the Trustee, to the effect that:
  - (i) the execution and delivery of Additional Certificates have been duly authorized and that all conditions precedent to the delivery thereof have been fulfilled;
  - (ii) the excludability of interest from gross income for federal income tax purposes on Outstanding 2010A Certificates, and the qualification of the Outstanding 2010B Certificates as Build America Bonds under Section 54AA of the Tax Code, will not be adversely affected by the execution and delivery of the Additional Certificates being executed and delivered; and
  - (iii) the sale, execution and delivery of the Additional Certificates, in and of themselves, will not constitute an Event of Indenture Default or an Event of Lease Default nor cause any violation of the covenants or representations herein or in the Lease; and

(d) If the Additional Certificates are secured by an account in the Reserve Fund, a Qualified Surety Bond or proceeds of such Additional Certificates or other moneys for deposit into such account of the Reserve Fund for such Additional Certificates in the amount required by the supplement to this Indenture authorizing such Additional Certificates.

(e) Written directions from the underwriter or placement agent in respect of the Additional Certificates, together with written acknowledgment of the City, to the Trustee to deliver the Additional Certificates to the purchaser or purchasers therein identified upon payment to the Trustee of a specified purchase price.

Each Additional Certificate executed and delivered pursuant to this Section shall evidence a proportionate interest in the right to receive Revenues and shall be ratably secured with all Outstanding Certificates and in respect of all Revenues, and shall be ranked pari passu with such Outstanding Certificates and with Additional Certificates that may be executed and delivered in the future, if any.

**Section 2.09 Negotiability.** Subject to the registration provisions hereof, the Certificates shall be fully negotiable and shall have all of the qualities of negotiable paper, and the owner or owners thereof shall possess all rights enjoyed by the holders or owners of negotiable instruments under the provisions of the Uniform Commercial Code-Investment Securities. The principal of and interest on the Certificates shall be paid, and the Certificates shall be transferable, free from and without regard to any equities, set-offs or cross-claims between or among the City, the Trustee and the original or any intermediate owner of any Certificates.

**ARTICLE 3  
REVENUES AND FUNDS**

**Section 3.01 Segregation and Disposition of Proceeds of Certificates.** The proceeds of the 2010 Certificates (net of the Underwriter's discount and any original issue discount plus any original issue premium) shall be accounted for as follows:

(a) The proceeds of the 2010A Certificates shall be deposited as follows:

(i) \$\_\_\_\_\_, representing a portion of the interest expected to accrue on the 2010A Certificates from the Closing through and including \_\_\_\_\_, shall be deposited into the 2010A Capitalized Interest Account.

(ii) \$\_\_\_\_\_, representing a portion of the interest expected to accrue on the 2010B Certificates from the Closing through and including \_\_\_\_\_, shall be deposited into the 2010B Capitalized Interest Account.

(iii) \$\_\_\_\_\_ shall be deposited into the 2010A Costs of Execution and Delivery Account and applied to the Costs of Execution and Delivery of the 2010A Certificates. The Costs of Execution and Delivery of the 2010 Certificates have been allocated pro rata between the 2010A Certificates and the 2010B Certificates based on the original principal amounts thereof.

(iv) \$\_\_\_\_\_ shall be deposited into the 2010A Reserve Account in satisfaction of the Reserve Account Requirement for the 2010A Certificates.

(v) \$\_\_\_\_\_ shall be deposited into the 2010A Construction Account of the Construction Fund and be used to finance a portion of the Project in accordance with Section 3.07 of this Indenture, Article 7 of the Lease and the Tax Certificate.

(b) The proceeds of the 2010B Certificates shall be deposited as follows:

(i) \$\_\_\_\_\_ shall be deposited into the 2010B Costs of Execution and Delivery Account and applied to the Costs of Execution and Delivery of the 2010B Certificates. The Costs of Execution and Delivery of the 2010 Certificates have been allocated pro rata between the 2010A Certificates and the 2010B Certificates based on the original principal amounts thereof. The amount deposited into the 2010B Costs of Execution and Delivery Account from the proceeds of the 2010B Certificates does not exceed 2% of the proceeds of the 2010B Certificates.

(ii) \$\_\_\_\_\_ shall be deposited into the 2010B Reserve Account in satisfaction of the Reserve Account Requirement for the 2010A Certificates.

(iii) \$\_\_\_\_\_ shall be deposited into the 2010B Construction Account of the Construction Fund and be used to finance a portion of the Project in accordance with Section 3.07 of this Indenture, Article 7 of the Lease and the Tax Certificate.

**Section 3.02 Application of Revenues and Other Moneys.**

(a) All Base Rentals payable under the Lease and other Revenues shall be paid directly to the Trustee. If the Trustee receives any other payments on account of the Lease, the Trustee shall immediately deposit the same as provided below.

(b) The Trustee shall deposit all Revenues and any other payments received in respect of the Lease, immediately upon receipt thereof, to the Base Rentals Fund in an amount required to cause the aggregate amount on deposit therein to equal the amount then required to make the principal and interest payments due on the Certificates on the next Interest Payment Date. In the event that the Trustee receives Prepayments under the Lease, the Trustee shall apply such Prepayments to the Optional Redemption of the Certificates or portions thereof in accordance with Section 4.01 hereof.

**Section 3.03 Base Rentals Fund.** A special fund is hereby created and established with the Trustee denominated the “Base Rentals Fund” which shall be used for the deposit of all Revenues, upon receipt thereof by the Trustee. Moneys in the Base Rentals Fund shall be used solely for the payment of the principal of and interest on the Certificates whether on an Interest Payment Date, at maturity or upon prior redemption, except as provided in Section 3.05 hereof.

A special account is hereby created and established within the Base Rentals Funds and denominated the “2010A Capitalized Interest Account.” Proceeds of the 2010A Certificates in the amount set forth in Section 3.01(a)(i) hereof shall be deposited into the 2010A Capitalized Interest Account and shall be used solely to pay interest on the 2010A Certificates for the period described in Section 3.01(a)(i) hereof. A special account is hereby created and established within the Base Rentals Funds and denominated the “2010B Capitalized Interest Account.” Proceeds of the 2010A Certificates in the amount set forth in Section 3.01(a)(ii) hereof shall be deposited into the 2010B Capitalized Interest Account and shall be used solely to pay interest on the 2010B Certificates for the period described in Section 3.01(a)(ii) hereof.

The Base Rentals Fund shall be in the custody of the Trustee. The Trustee shall withdraw sufficient funds from the Base Rentals Fund to pay the principal of and interest on the Certificates as the same become due and payable whether on an Interest Payment Date, at maturity or upon prior redemption, which responsibility, to the extent of the moneys therein, the Trustee hereby accepts.

Any moneys held in the Base Rentals Fund shall be invested by the Trustee in accordance with Article 5 hereof.

**Section 3.04 The Reserve Fund.**

(a) A special fund is hereby created to be held by the Trustee and designated as the “Certificates of Participation Reserve Fund” (the “Reserve Fund”), and within the Reserve Fund there is hereby created a “2010A Reserve Account” and a “2010B Reserve Account.” Proceeds of the 2010A Certificates in the amount set forth in Section 3.01(a)(iv) shall be deposited into the 2010A Reserve Account on the delivery date of the 2010A Certificates, and shall be used and invested as provided in this Section 3.04. Proceeds of the 2010B Certificates in the amount set forth in Section 3.01(b)(ii) shall be deposited into the 2010B Reserve Account on the delivery

date of the 2010B Certificates, and shall be used and invested as provided in this Section 3.04. Concurrently with the execution and delivery of any series of Additional Certificates that are secured by an account in the Reserve Fund, there shall be deposited to such account of the Reserve Fund from the proceeds derived from the sale of such Additional Certificates, such amount, if any, as may be required by the supplement to this Indenture authorizing such Additional Certificates. Any moneys paid by the City pursuant to subsection (i) of this Section 3.04 shall also be deposited to the respective account of the Reserve Fund.

(b) Income derived from the investment of moneys in the 2010A Reserve Account: (1) shall be retained in such account to the extent the amount therein is less than the Reserve Account Requirement therefor; (2) shall be used as provided in subsections (d)(1) to (7) of this Section to the extent required thereunder; (3) shall, to the extent required by Section 3.05(d) hereof, be deposited into the 2010A Rebate Account; and (4) to the extent not required to be used as provided in clause (1), (2) or (3), may, at the option and direction of the City, be (A) transferred to the Base Rentals Fund to pay the principal of or interest with respect to the 2010A Certificates; (B) used to pay fees and expenses of the Trustee; (c) used to defease the 2010A Certificates pursuant to Article 6 of this Indenture; or (D) used for any combination of (A), (B), or (C).

(c) Income derived from the investment of moneys in the 2010B Reserve Account: (1) shall be retained in such account to the extent the amount therein is less than the Reserve Account Requirement therefor; (2) shall be used as provided in subsections (d)(1) to (7) of this Section to the extent required thereunder; (3) shall, to the extent required by Section 3.05(d) hereof, be deposited into the 2010B Rebate Account; and (4) to the extent not required to be used as provided in clause (1), (2) or (3), may, at the option and direction of the City, be (A) transferred to the Base Rentals Fund to pay the principal of or interest with respect to the 2010B Certificates; or (B) used to defease the 2010B Certificates pursuant to Article 6 of this Indenture; or (C) used for any combination of (A) or (B).

(d) Except as hereinafter provided, moneys held in each account within the Reserve Fund shall be applied to any of the following purposes; provided, however, that each such purpose relates only to the series of 2010 Certificates or Additional Certificates for which a deposit to the Reserve Fund was required pursuant to this Indenture or the Supplemental Indenture relating to such Certificates and to no other issue of Certificates:

(1) To the payment of the principal amount of the 2010 Certificates and any Additional Certificates secured by the Reserve Fund and interest thereon, as the same shall become due, to the extent of any deficiency in the Base Rentals Fund;

(2) At the option of the Trustee and upon Approval of Special Counsel, to the payment of any Additional Rentals in the event the City shall fail to make payment thereof;

(3) At the option of the Trustee and upon Approval of Special Counsel, subsequent to the occurrence of an Event of Nonappropriation or an Event of Indenture Default, to the payment of any cost or expense necessary to preserve or protect the Leased Property or the interest of the Trustee or the Certificate Owners therein, or necessary to make any repairs or modifications to the Leased Property in preparation for subleasing the Leased Property or other

disposition thereof, or the fees and expenses of the Trustee including fees and expenses of its counsel, as the Trustee may deem to be in the best interests of the Owners;

(4) Except to the extent applied pursuant to (3) above, upon the termination of the Lease Term by reason of the occurrence of an Event of Nonappropriation or an Event of Indenture Default, to the redemption or payment of the 2010 Certificates and any Additional Certificates secured by the Reserve Fund then Outstanding and the payment of interest thereon;

(5) In the event that the City shall exercise its option to purchase the Trustee's leasehold interest in the Leased Property and terminate the Lease Term upon payment of the Purchase Option Price, to the City, or, at the option of the City, as a reduction of such Purchase Option Price;

(6) At the option of the City, in reduction of the final and, to the extent sufficient therefor, the next preceding payments of Base Rentals (in inverse order) payable by the City under the Lease; or

(7) To be deposited in escrow for the payment or defeasance of the 2010 Certificates and any Additional Certificates secured by the Reserve Fund pursuant to Article 6 hereof.

(e) Notwithstanding subsection (c) of this Section or any other provision of this Indenture to the contrary, moneys on deposit in the 2010B Reserve Account shall only be used to pay debt service on the 2010B Certificates to the extent of any deficiency in the Base Rentals Fund, to pay rebate on the 2010B Certificates, or to defease the 2010B Certificates, unless the Trustee receives an opinion of Special Counsel that any other use of moneys on deposit in the 2010B Reserve Account will not disqualify the 2010B Certificates as Build America Bonds under Section 54AA of the Tax Code.

(f) Notwithstanding the foregoing or any other provisions in this Indenture to the contrary, to the extent that any account of the Reserve Fund is funded in whole or in part with a Qualified Surety Bond, the Trustee shall draw on any such Qualified Surety Bond only for the purpose of paying the principal of or interest on the Certificates secured by such Qualified Surety Bond to the extent of any deficiency in the Base Rental Fund and for no other purposes, unless approved in writing by the provider of such Qualified Surety Bond.

(g) The City may at any time substitute (i) cash or Permitted Investments for a Qualified Surety Bond, (ii) a Qualified Surety Bond for cash or Permitted Investments, or (iii) a Qualified Surety Bond for another Qualified Surety Bond so long as the amount on deposit in the applicable account of the Reserve Fund after any such substitution is at least equal to the Reserve Account Requirement for such account. Notwithstanding the foregoing, or any other provisions contained herein, no Qualified Surety Bond shall be accepted by the Trustee for substitution for cash or Permitted Investments unless the Trustee has received an Approval of Special Counsel to the effect that such substitution and the intended use by the City of the cash or Permitted Investments to be released from the Reserve Fund will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the 2010A Certificates or the

qualification of the 2010B Certificates as Build America Bonds under Section 54AA of the Tax Code.

(h) For the purposes of determining the amount on deposit in each account of the Reserve Fund, a Qualified Surety Bond shall be valued at the amount available to be drawn thereunder. If an account of the Reserve Fund contains both cash and a Qualified Surety Bond, all cash held in such account of the Reserve Fund shall be applied to the purposes of such account of the Reserve Fund before a demand is made on the Qualified Surety Bond. In the event that such account of the Reserve Fund contains two or more Qualified Surety Bonds, demands shall be made on such Qualified Surety Bonds on a pro-rata basis. All Revenues available for replenishment of such account of the Reserve Fund shall be applied first to reimburse the providers of the Qualified Surety Bonds, and second to replenish cash in the Reserve Fund.

(i) To the extent that moneys in any account of the Reserve Fund are applied pursuant to paragraph (d)(1) or (2) of this Section 3.04, the City has agreed to pay to the Trustee for deposit in such account(s) of the Reserve Fund, on a pro rata basis, as Additional Rentals, such amounts as are required to restore the amount on deposit in such account(s) of the Reserve Fund to their respective Reserve Account Requirement, within ninety (90) days following such withdrawal of moneys from such account(s) of the Reserve Fund. The City has further agreed that failure by the City to budget and appropriate moneys for such payment shall constitute an Event of Nonappropriation.

(j) Any moneys held in any account of the Reserve Fund shall be invested by the Trustee in accordance with Article 5 hereof.

**Section 3.05 Rebate Fund.**

(a) A special fund is hereby created and established to be held by the Trustee, and to be designated the “City of Grand Junction, Colorado, 2010 Lease Purchase Agreement, Rebate Fund” (the “Rebate Fund”). A separate account shall be established in the Rebate Fund for each series of Certificates subject to rebate, including, without limitation, the 2010A Rebate Account for the 2010A Certificates and the 2010B Rebate Account for the 2010B Certificates.

(b) Not later than 60 days after October \_\_, 2015, and every five years thereafter (each, a “Computation Date”), the Trustee, on behalf of and at the direction of the City, shall pay to the United States of America the amounts required by the Tax Certificate applicable to such series of 2010 Certificates. Each payment shall be accompanied by a copy of Internal Revenue Form 8038-T and a statement summarizing the determination of the amount to be paid to the United States of America provided to the Trustee by the City. The City reserves the right, in all events, to pursue such remedies and procedures as are available in order to assert any claim of overpayment of any rebated amounts.

(c) The City shall make or cause to be made all required rebate calculations at the times required by the Tax Certificate and notify the Trustee of the resulting rebate amount so as to provide the information required to transfer moneys to the corresponding accounts of the Rebate Fund pursuant to subsection (d) of this Section. The City may employ, at its expense, a

designated agent to calculate the amount of deposits to and disbursements from the accounts in the Rebate Fund based upon information furnished by the Trustee. Records of the determinations required by this Section for each account of the Rebate Fund must be retained by the Trustee until six years after the final retirement of the corresponding Certificates.

(d) The City agrees that while the Lease is in effect, if, for any reason, the amount on deposit in any account of the Rebate Fund as of each Computation Date is less than the amount that is required to be rebated to the United States of America pursuant to the Tax Certificate, either (i) the City will, subject to Appropriation, pay to the Trustee the amount required to make such payment on such date, or (ii) (A) with respect to the 2010A Certificates, transfer amounts derived from earnings on amounts in the 2010A Reserve Account and the 2010A Construction Account to the 2010A Rebate Account, and (B) with respect to the 2010B Certificates, transfer amounts derived from earnings on amounts in the 2010B Reserve Account to the 2010B Rebate Account.

(e) Any moneys held in any account of the Rebate Fund shall be invested by the Trustee in accordance with Article 5 hereof.

**Section 3.06 Costs of Execution and Delivery Fund.**

(a) A special fund is hereby created and established with the Trustee and designated the "Costs of Execution and Delivery Fund," and within the Costs of Execution and Delivery Fund there is hereby created a "2010A Costs of Execution and Delivery Account" and a "2010B Costs of Execution and Delivery Account." Upon the delivery of the 2010 Certificates there shall be deposited into the 2010A Costs of Execution and Delivery Account and the 2010B Costs of Execution and Delivery Account, respectively, from the proceeds of the 2010 Certificates the amounts directed by Section 3.01(a)(iii) and 3.01(b)(i) hereof and the Underwriter shall deliver to the Trustee a closing memorandum detailing the anticipated amounts of Costs of Execution and Delivery. Payments from the Costs of Execution and Delivery Fund shall be made by the Trustee upon receipt of a statement or a bill for the provision of Costs of Execution and Delivery of the 2010 Certificates approved in writing by the City Representative and (a) stating the payee, the amount to be paid and the purpose of the payment and (b) certifying that the amount to be paid is due and payable, has not been the subject of any previous requisition and is a proper charge against the Costs of Execution and Delivery Fund.

(b) The Trustee shall transfer all moneys remaining in the Costs of Execution and Delivery Fund to the credit of the Construction Fund upon the earliest of (a) final payment of all Costs of Execution and Delivery, as directed in writing by the City Representative, (b) receipt by the Trustee of the Certificate of Project Completion, or (c) 180 days after Closing. Notwithstanding the foregoing, any moneys remaining in the 2010B Costs of Execution and Delivery Account shall be deposited into the 2010B Construction Account and used to pay capital expenditures.

(c) Any moneys held in the Costs of Execution and Delivery Fund shall be invested by the Trustee in accordance with Article 5 hereof.

**Section 3.07 Construction Fund.**



(a) A special fund is hereby created and established with the Trustee and denominated the "Construction Fund" and within the Construction Fund there is hereby created and established with the Trustee the "2010A Construction Account" and the "2010B Construction Account."

(b) Moneys on deposit in the Construction Fund shall be disbursed, upon the written direction of the City Representative, to pay the Costs of the Project (as defined in the Lease) as set forth in Article 7 of the Lease.

(c) Prior to the Completion Date, (i) all income earned from the investment of moneys in the Construction Fund shall be retained in the applicable account of the Construction Fund; provided, however, income from the 2010A Construction Account may be transferred to the 2010 Rebate Account if required by Section 3.05 hereof, and (ii) all such income shall be reinvested or used for purposes of the applicable account of the Construction Fund until transferred, if applicable, as provided in subsections (d) and (e) of this Section.

(d) Any moneys remaining in the 2010A Construction Account on the Completion Date, except for amounts set aside by the Trustee to pay remaining Costs of the Project as provided in the Certificate of Project Completion (in form as provided in Exhibit F to the Lease) filed with the Trustee by the City Representative, shall be transferred to the Base Rentals Fund and used for the purposes of such Fund.

(e) Any moneys remaining in the 2010B Construction Account on the Completion Date shall be remitted by the Trustee to the City and shall be used by the City to pay for capital expenditures of the City, unless the City obtains an Approval of Special Counsel that any such excess moneys may be applied to other purposes without disqualifying the 2010B Certificates as Build America Bonds under Section 54AA of the Tax Code. The Trustee shall no duty to verify the City's use of the amounts transferred for such purposes.

(f) Any moneys held in the Construction Fund shall be invested by the Trustee in accordance with Article 5 hereof.

**Section 3.08 Moneys to be Held in Trust.** The ownership of the Base Rentals Fund, the Costs of Execution and Delivery Fund, the Reserve Fund, and the Construction Fund, and all accounts within such Funds and any other fund or account created hereunder shall be held in trust by the Trustee for the benefit of the Owners of the Certificates; provided that moneys in the Rebate Fund shall be used only for the specific purpose provided in Section 3.05 hereof.

**Section 3.09 Nonpresentment of Certificates.** Any moneys deposited with the Trustee pursuant to the terms of this Indenture to be used for the payment of principal of, premium, if any, or interest on any of the Certificates and remaining unclaimed by the Owners of such Certificates for a period of three (3) years after the final due date of any Certificate, whether the final date of maturity or the final redemption date, shall, upon the written request of the City, and if the City shall not at the time, to the knowledge of the Trustee, be in default with respect to any of the terms and conditions contained in this Indenture, in the Certificates or under the Lease, be paid to the City and such Owners shall thereafter look only to the City for payment and then only (a) to the extent of the amounts so received by the City from the Trustee without

interest thereon, (b) subject to the defense of any applicable statute of limitations and (c) subject to the City's Appropriation of such payment. After payment by the Trustee of all of the foregoing, if any moneys are then remaining under this Indenture, the Trustee shall pay such moneys to the City as an overpayment of Base Rentals.

**Section 3.10 Repayment to the City from the Trustee.** After payment in full of the Certificates, the interest thereon, any premium thereon, the fees, charges and expenses of the Trustee, and all other amounts required to be paid hereunder, any amounts remaining in the Base Rentals Fund, the Reserve Fund (to the extent cash-funded), the Costs of Execution and Delivery Fund, and the Construction Fund, or otherwise held by the Trustee pursuant hereto (but excluding the Rebate Fund and any defeasance escrow fund or account) shall be paid to the City upon the expiration or sooner termination of the Lease Term as a return of an overpayment of Base Rentals.

**ARTICLE 4**  
**REDEMPTION OF CERTIFICATES**

**Section 4.01 Optional Redemption.**

(a) The 2010A Certificates maturing on and before \_\_\_\_\_, 20\_\_ are not subject to redemption prior to maturity. The 2010A Certificates maturing on and after \_\_\_\_\_, 20\_\_ are subject to redemption prior to maturity, at the option of the City, in whole or in part from any maturity, and by lot (giving proportionate weight to 2010A Certificates in denominations larger than \$5,000) within a maturity in such manner as the Trustee may determine, on \_\_\_\_\_, 20\_\_, and on any date thereafter, at a redemption price equal to the principal amount so redeemed plus accrued interest to the redemption date without a redemption premium.

(b) The 2010B Certificates maturing on and before \_\_\_\_\_, 20\_\_ are not subject to redemption prior to maturity. The 2010B Certificates maturing on and after \_\_\_\_\_, 20\_\_ are subject to redemption prior to maturity, at the option of the City, in whole or in part from any maturity, and by lot (giving proportionate weight to 2010B Certificates in denominations larger than \$5,000) within a maturity in such manner as the Trustee may determine, on \_\_\_\_\_, 20\_\_, and on any date thereafter, at a redemption price equal to the principal amount so redeemed plus accrued interest to the redemption date without a redemption premium.

(c) In the case of a Prepayment in part of Base Rentals under the Lease, the Trustee shall confirm that the revised Base Rentals Schedule to be provided by the City Representative pursuant to Section 6.2(b) of the Lease sets forth Principal Portions and Interest Portions of Base Rentals that are equal to the principal and interest due on the respective series of 2010 Certificates that remain Outstanding after any optional redemption pursuant to Section 4.01(a) or (b). For such confirmation, the Trustee may rely on a certification of the City Representative or other person as provided in Section 8.07 hereof.

**Section 4.02 Mandatory Sinking Fund Redemption.**

(a) The 2010A Certificates maturing on \_\_\_\_\_, 20\_\_, are subject to mandatory sinking fund redemption at a price equal to the principal amount thereof plus accrued interest to the redemption date. 2010A Certificates subject to mandatory sinking fund redemption shall be selected by lot (giving proportionate weight to 2010A Certificates in denominations larger than \$5,000) in such manner as the Trustee shall determine.

As and for a sinking fund for the redemption of the 2010A Certificates maturing \_\_\_\_\_, 20\_\_, the City will deposit into the Base Rentals Fund at least one Business Day prior to \_\_\_\_\_, 20\_\_ and at least one Business Day prior to each \_\_\_\_\_ through and including \_\_\_\_\_, 20\_\_, a sum which together with other moneys available in the Base Rentals Fund is sufficient to redeem the following principal amounts of the 2010A Certificates maturing \_\_\_\_\_, 20\_\_:

Redemption Date	Principal <u>Amount</u>
(_____)	

The remaining \$\_\_\_\_\_ of the 2010A Certificates maturing on \_\_\_\_\_, 20\_\_\_\_, shall be paid upon presentation and surrender at maturity unless redeemed pursuant to optional redemption prior to maturity.

(b) The 2010B Certificates maturing on \_\_\_\_\_, 20\_\_\_\_, are subject to mandatory sinking fund redemption at a price equal to the principal amount thereof plus accrued interest to the redemption date. 2010B Certificates subject to mandatory sinking fund redemption shall be selected by lot (giving proportionate weight to 2010B Certificates in denominations larger than \$5,000) in such manner as the Trustee shall determine.

As and for a sinking fund for the redemption of the 2010B Certificates maturing \_\_\_\_\_, 20\_\_\_\_, the City will deposit into the Base Rentals Fund at least one Business Day prior to \_\_\_\_\_, 20\_\_\_\_ and at least one Business Day prior to each \_\_\_\_\_ through and including \_\_\_\_\_, 20\_\_\_\_, a sum which together with other moneys available in the Base Rentals Fund is sufficient to redeem the following principal amounts of the 2010B Certificates maturing \_\_\_\_\_, 20\_\_\_\_:

Redemption Date (_____)	Principal <u>Amount</u>
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The remaining \$\_\_\_\_\_ of the 2010B Certificates maturing on \_\_\_\_\_, 20\_\_\_\_, shall be paid upon presentation and surrender at maturity unless redeemed pursuant to optional redemption prior to maturity.

On or before the 30th day prior to each such sinking fund payment date, the Trustee shall proceed to call the 2010B Certificates indicated above (or any 2010B Certificate or Certificates issued to replace such 2010B Certificates) for redemption from the sinking fund on the next \_\_\_\_\_, and give notice of such call without other instruction or notice from the City. The amount of each sinking fund installment may be reduced by the principal amount of any 2010B Certificates of the maturity and interest rate which are subject to sinking fund redemption on such date and which prior to such date have been redeemed (otherwise than through the operation of the sinking fund) or otherwise canceled and not theretofore applied as a credit against a sinking fund installment. Such reductions, if any, shall be applied in such year or years as may be determined by the City.

**Section 4.03 Extraordinary Mandatory Redemption.** If the Lease is terminated by reason of the occurrence of (a) an Event of Nonappropriation, or (b) an Event of Lease Default, or (c) the Trustee, with the written consent of the City, fails to repair or replace the Leased Property pursuant to the terms of the Lease, if (1) the Leased Property is damaged or destroyed in whole or in part by fire or other casualty, or (2) title to, or the temporary or permanent use of, the Leased Property has been taken by eminent domain by any governmental body or (3) breach of warranty or any material defect with respect to the Leased Property becomes apparent or (4) title to or the use of all or the Leased Property is lost by reason of a defect in title thereto, and the

Net Proceeds of any insurance, performance bond or condemnation award, or Net Proceeds received as a consequence of defaults under contracts relating to the Leased Property, made available by reason of such occurrences, shall be insufficient to pay in full, the cost of repairing or replacing the Leased Property, and the City does not appropriate sufficient funds for such purpose or cause the Lease to be amended in order that Additional Certificates may be executed and delivered pursuant to this Indenture for such purpose, the Certificates shall be called for redemption. If called for redemption as described herein, the Certificates shall be redeemed in whole on such date or dates as the Trustee may determine, for a redemption price equal to the principal amount thereof, plus accrued interest to the redemption date (subject to the availability of funds as set forth below).

If the Net Proceeds, including the Net Proceeds from the exercise of any Lease Remedy under the Lease, otherwise received and other moneys then available under this Indenture are insufficient to pay in full the principal of and accrued interest on all Outstanding Certificates, the Trustee may, or at the request of the Owners of a majority in aggregate principal amount of the Certificates Outstanding, and upon indemnification as to fees, costs and expenses as provided in this Indenture, without any further demand or notice, shall, exercise all or any combination of Lease Remedies as provided in the Lease and the Certificates shall be redeemed by the Trustee from the Net Proceeds resulting from the exercise of such Lease Remedies and all other moneys, if any, then on hand and being held by the Trustee for the Owners of the Certificates.

If the Net Proceeds resulting from the exercise of such Lease Remedies and other moneys are insufficient to redeem the Certificates at 100% of the principal amount thereof plus interest accrued to the redemption date, then such Net Proceeds resulting from the exercise of such Lease Remedies and other moneys shall be allocated proportionately among the Certificates, according to the principal amount thereof Outstanding. In the event that such Net Proceeds resulting from the exercise of such Lease Remedies and other moneys are in excess of the amount required to redeem the Certificates at 100% of the principal amount thereof plus interest accrued to the redemption date, then such excess moneys shall be paid to the City as an overpayment of the Purchase Option Price. Prior to any distribution of the Net Proceeds resulting from the exercise of any of such remedies, the Trustee shall be entitled to payment of its reasonable and customary fees for all services rendered in connection with such disposition, as well as reimbursement for all reasonable costs and expenses, including attorneys' fees, incurred thereby, from proceeds resulting from the exercise of such Lease Remedies and other moneys.

IF THE CERTIFICATES, INCLUDING THE 2010 CERTIFICATES, ARE REDEEMED PURSUANT TO THIS SECTION 4.03 FOR AN AMOUNT LESS THAN THE AGGREGATE PRINCIPAL AMOUNT THEREOF PLUS INTEREST ACCRUED TO THE REDEMPTION DATE, SUCH PARTIAL PAYMENT SHALL BE DEEMED TO CONSTITUTE A REDEMPTION IN FULL OF THE RELATED CERTIFICATES, AND UPON SUCH A PARTIAL PAYMENT NO OWNER OF SUCH CERTIFICATES, INCLUDING THE 2010 CERTIFICATES, SHALL HAVE ANY FURTHER CLAIM FOR PAYMENT AGAINST THE TRUSTEE OR THE CITY.

**Section 4.04 Extraordinary Optional Redemption of 2010B Certificates.**

(a) From the date of execution and delivery of the 2010B Certificates up to, but not including, the first optional redemption date of the 2010B Certificates, the 2010B Certificates are subject to extraordinary redemption prior to their respective maturities, at the option of the City, upon the occurrence of an Extraordinary Event from any source of available funds, in whole or in part (and by lot within a maturity) from such maturities as are selected by the City at the “Make-Whole Prepayment Price.” The “Make-Whole Prepayment Price” means the amount equal to the greatest of the following:

- (i) 100% of the principal amount of the 2010B Certificates to be redeemed;
- (ii) the issue price of the 2010B Certificates to be redeemed as set forth in the Certificate Purchase Agreement; or
- (iii) the sum of the present value of the remaining scheduled payments of debt service on the 2010B Certificates to be redeemed to the maturity date of such 2010B Certificates, not including any portion of those payments of interest accrued and unpaid as of the date on which the 2010B Certificates are to be redeemed, discounted to the date on which the 2010B Certificates are to be redeemed on a semi-annual basis, assuming a 360-day year containing twelve 30-day months, at the Treasury Rate, plus 100 basis points; plus, in each case, accrued interest on the 2010B Certificates to be redeemed to the redemption date.

(b) The City shall notify the Trustee of the Make-Whole Prepayment Price, and advise the Trustee whether it was determined pursuant to Section 4.4(a)(i), (ii) or (iii) hereof. The Trustee shall be entitled to rely on the City’s determination of the Make-Whole Prepayment Price

**Section 4.05 Partial Redemption.**

(a) The Certificates shall be prepaid only in integral multiples of \$5,000. The Trustee shall treat any Certificate of denomination greater than \$5,000 as representing that number of separate Certificates each of the denomination of \$5,000 as can be obtained by dividing the actual principal amount of such Certificate by \$5,000.

(b) Upon surrender of any Certificate for redemption in part, the Trustee shall execute and deliver to the Owner thereof, at no expense of the Owner, a new Certificate or Certificates of Authorized Denominations in an aggregate principal amount equal to the unredeemed portion of the Certificates so surrendered.

**Section 4.06 Notice of Redemption.** Whenever Certificates are to be redeemed under any provision of this Indenture, the Trustee shall, not less than thirty (30) and not more than sixty (60) days prior to the redemption date (except for Extraordinary Mandatory Redemption under Section 4.03, which notice shall be immediate), mail notice of redemption to all Owners of all Certificates to be redeemed at their registered addresses, by first class mail, postage prepaid, or in the event that the Certificates to be redeemed are registered in the name of the Depository, such notice may, in the alternative, be given by electronic means in accordance with the requirements of the Depository. In addition, the Trustee shall at all reasonable times make available to the City and any Certificate Owner, including the Depository, if applicable,

information as to Certificates which have been redeemed or called for redemption. Any notice of redemption shall:

- (a) identify the Certificates to be redeemed;
- (b) specify the redemption date and the redemption price;
- (c) (in the event the redemption is occurring under Section 4.01 hereof) state that the City has given notice of its intent to exercise its option to purchase or prepay Base Rentals under the Lease;
- (d) state that such redemption is subject to the deposit of the funds related to such option by the City on or before the stated redemption date; and
- (e) state that on the redemption date the Certificates called for redemption will be payable at the principal corporate trust office of the Trustee and that from that date interest will cease to accrue.

The Trustee may use "CUSIP" numbers in notices of redemption as a convenience to Certificate Owners, provided that any such notice shall state that no representation is made as to the correctness of such numbers either as printed on the Certificates or as contained in any notice of redemption and that reliance may be placed only on the identification numbers containing the prefix established pursuant to this Indenture.

Any notice of redemption may contain a statement that the redemption is conditioned upon the receipt by the Trustee of funds on or before the date fixed for redemption sufficient to pay the redemption price of the Certificates so called for redemption, and that if such funds are not available, such redemption shall be canceled by written notice to the owners of the Certificates called for redemption in the same manner as the original redemption notice was given.

**Section 4.07 Redemption Payments.** On or prior to the date fixed for redemption, funds shall be deposited with the Trustee to pay the Certificates called for redemption, together with accrued interest thereon to the redemption date, and any required premium. Upon the giving of notice and the deposit of such funds as may be available for redemption pursuant to this Indenture (which, in certain cases as set forth above may be less than the full principal amount of the Outstanding Certificates and accrued interest thereon to the redemption date), interest on the Certificates or portions thereof thus called shall no longer accrue after the date fixed for redemption. Payments in full redemption shall be accompanied by a written designation prepared by the Trustee stating the portions of the payment representing principal, interest, and premium, if any.

**ARTICLE 5  
INVESTMENTS**

**Section 5.01 Investment of Moneys.** The Trustee shall be entitled to assume that any investment which is purchased pursuant to the terms of this Indenture is a Permitted Investment. All moneys held as part of the Base Rentals Fund, the Reserve Fund, the Costs of Execution and Delivery Fund, the Rebate Fund, the Construction Fund, or any other fund or account created hereunder (other than any defeasance escrow fund or account) shall be deposited or invested and reinvested by the Trustee, at the written direction of the City, in Permitted Investments; provided, however, that the Trustee shall make no deposits or investments of any fund or account created hereunder which shall interfere with or prevent withdrawals for the purpose for which the moneys so deposited or invested were placed in trust hereunder or for payment of the Certificates at or before maturity or interest thereon as required hereunder. The Trustee may make any and all such deposits or investments through its own investment department or the investment department of any bank or trust company under common control with the Trustee. Except as otherwise provided in Sections 3.04, 3.05, and 3.07 hereof, deposits or investments shall at all times be a part of the fund or account from which the moneys used to acquire such deposits or investments shall have come, and all income and profits on such deposits or investments shall be credited to, and losses thereon shall be charged against, such fund or account. The Trustee shall sell and reduce to cash a sufficient amount of such deposits or investments whenever the cash balance in the Base Rentals Fund is insufficient to pay the principal of and interest on the Certificates when due, or whenever the cash balance in any fund or account created hereunder is insufficient to satisfy the purposes of such fund or account.

For purposes of rebate compliance, the Trustee shall track investments allocated to the Reserve Fund which are purchased with proceeds of different series of Certificates or investment income therefrom.

The Trustee hereby agrees to secure and retain the documentation with respect to investments of moneys in the funds and accounts created under this Indenture as required by and as described in the Tax Certificate.

The Trustee shall have no liability or responsibility for any loss or for failure to maximize earnings resulting from any investment made in accordance with the provisions of this Article 5.

The Trustee may transfer investments from any Fund or Account to any other Fund or Account in lieu of cash when a transfer is required or permitted by the provisions of this Indenture.

**Section 5.02 Method of Valuation and Frequency of Valuation.** In computing the amount in any fund or account (except defeasance escrows), Permitted Investments shall be valued at the market price, exclusive of accrued interest. With respect to all funds and accounts (except defeasance escrows, and except as otherwise provided in the Tax Certificate with respect to the Rebate Fund), valuation shall occur as of December 31 of each year. The Reserve Fund, to the extent it remains cash-funded, shall also be valued as of December 31 of each year, except in the event of a withdrawal from the Reserve Fund, whereupon it shall be valued immediately after such withdrawal.



**ARTICLE 6**  
**DEFEASANCE AND DISCHARGE**

**Section 6.01 Defeasance and Discharge.**

(a) When the principal or redemption price (as the case may be) of, and interest on, all the Certificates executed and delivered hereunder have been paid or provision has been made for payment of the same (or, in the case of redemption of the Certificates pursuant to Section 4.03 of this Indenture, if full or partial payment of the Certificates and interest thereon is made as provided in Section 4.03 of this Indenture), together with the compensation of the Trustee and all other sums payable hereunder relating to the Certificates, then the right, title and interest of the Trustee in and to the Trust Estate and all covenants, agreements and other obligations of the Trustee to the Owners shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Trustee shall (1) release this Indenture and the Lease, (2) shall execute such documents to evidence such releases as may be reasonably required by the City, (3) release the Ground Lease and transfer and convey the Trustee's leasehold interest in the Leased Property to the City as provided by Article 12 of the Lease, and (4) turn over to the City all balances then held by the Trustee in the Funds or Accounts hereunder except for amounts held in the Rebate Fund or any defeasance escrow accounts. If payment or provision therefor is made with respect to less than all of the Certificates, the particular Certificates (or portion thereof) for which provision for payment shall have been considered made shall be selected by the City.

(b) Provision for the payment of all or a portion of the Certificates shall be deemed to have been made when the Trustee holds in the Base Rentals Fund, or there is on deposit in a separate escrow account or trust account, (1) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with Federal Securities) in an amount sufficient to make all payments specified above, or (2) Federal Securities maturing on or before the date or dates when the payments specified above shall become due, the principal amount of which and the interest thereon, when due, is or will be, in the aggregate, sufficient without reinvestment to make all such payments, or (3) any combination of such cash and such Federal Securities the amounts of which and interest thereon, when due, are or will be, in the aggregate, sufficient without reinvestment to make all such payments. Prior to any discharge of this Indenture pursuant to this Section or the defeasance of any Certificates pursuant to this Section becoming effective, there shall have been delivered to the Trustee a verification report from a certified public accountant verifying the sufficiency of the deposit described in this subsection (b) of this Section 6.01.

(c) In the case of the 2010B Certificates, the City is obligated to contribute additional securities or monies to the escrow or trust if necessary to provide sufficient amounts to satisfy the payment obligations on the 2010B Certificates.

(d) Neither the Federal Securities nor the moneys deposited in the Base Rentals Fund or separate escrow account or trust account pursuant to this Section shall be withdrawn or used for any purpose other than, and shall be segregated and held in trust for, the payment of the principal of, premium, if any, and interest on the Certificates or portions thereof; provided, however, that other Federal Securities and moneys may be substituted for the Federal Securities and moneys so deposited prior to their use for such purpose.

(e) Whenever moneys or Federal Securities shall be deposited with the Trustee or a separate escrow agent for the payment or redemption of any Certificates more than forty-five (45) days prior to the date that such Certificates are to mature or be redeemed, the Trustee shall mail a notice stating that such moneys or Federal Securities have been deposited and identifying the Certificates for the payment of which such moneys or Federal Securities are being held, to all Owners of Certificates for the payment of which such moneys or Federal Securities are being held, or if such Certificates are registered in the name of the Depository, such notice may be sent, in the alternative, by electronic means in accordance with the regulations of the Depository.

**ARTICLE 7**  
**EVENTS OF INDENTURE DEFAULT AND REMEDIES**

**Section 7.01 Events of Indenture Default Defined.** Each of the following shall be an Event of Indenture Default:

- (a) the occurrence of an Event of Nonappropriation; or
- (b) the occurrence of an Event of Lease Default.

Upon the occurrence of any Event of Indenture Default, the Trustee shall give notice thereof to the Owners of the Certificates. The Trustee shall waive any Event of Nonappropriation which is cured by the City within thirty (30) days of the receipt of notice by the Trustee as provided by Section 4.1 of the Lease, 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. The Trustee may waive any Event of Nonappropriation which is cured by the City within a reasonable time with the procedure described in the preceding sentence.

**Section 7.02 Remedies.** If any Event of Indenture Default occurs and is continuing, the Trustee may enforce for the benefit of the Owners of the Certificates each and every right of the Trustee as the lessee under the Ground Lease and the lessor under the Lease. In exercising such rights of the Trustee and the rights given the Trustee under this Article 7 and Article 8, the Trustee may take such action as, in the judgment of the Trustee, a prudent person would exercise or use in the circumstances or the conduct of his or her own affairs, including calling the Certificates for redemption prior to their maturity in the manner and subject to the provisions of Section 4.06 hereof and exercising the Lease Remedies provided in the Lease.

**Section 7.03 Legal Proceedings by Trustee.** If any Event of Indenture Default has occurred and is continuing, the Trustee in its discretion may, and upon the written request of the Owners of a majority in aggregate principal amount of all Outstanding Certificates and receipt of indemnity to its satisfaction, shall, in its capacity of Trustee hereunder:

- (a) By mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Owners of the Certificates, including enforcing any rights of the Trustee in respect of the Trustee's leasehold interest in the Leased Property, its rights as lessor under the Lease and as lessee under the Ground Lease, and its rights under this Indenture and to enforce the provisions of this Indenture and any collateral rights hereunder for the benefit of the Owners of the Certificates; or
- (b) By action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of Certificates; or
- (c) Take any other action at law or in equity that may appear necessary or desirable to enforce the rights of the Owners of Certificates.

**Section 7.04 Discontinuance of Proceedings by Trustee.** If any proceeding commenced by the Trustee on account of any Event of Indenture Default is discontinued or is

determined adversely to the Trustee, then the Owners of Certificates shall be restored to their former positions and rights hereunder as though no such proceeding had been commenced.

**Section 7.05 Owners of Certificates May Direct Proceedings.** The Owners of a majority in aggregate principal amount of Outstanding Certificates shall have the right, after furnishing indemnity satisfactory to the Trustee, to direct the method and place of conducting all remedial proceedings by the Trustee hereunder, provided that such direction shall not be in conflict with any rule of law or with this Indenture or unduly prejudice the rights of minority Owners of Certificates, in the determination of the Trustee.

**Section 7.06 Limitations on Actions by Owners of Certificates.** No Owner of Certificates shall have any right to pursue any remedy hereunder unless:

- (a) the Trustee shall have been given written notice of an Event of Indenture Default;
- (b) the Owners of at least a majority in aggregate principal amount of all Outstanding Certificates shall have requested the Trustee, in writing, to exercise the powers hereinabove granted to or pursue such remedy in its or their name or names;
- (c) the Trustee shall have been offered indemnity satisfactory to it against fees, costs, expenses and liabilities; and
- (d) the Trustee shall have failed to comply with such request within a reasonable time.

Notwithstanding the foregoing provisions of this Section or any other provision of this Indenture, the obligation of the Trustee shall be absolute and unconditional to pay hereunder, but solely from the Revenues pledged under this Indenture, the principal of, premium, if any, and interest on the Certificates to the respective Owners thereof on the respective due dates thereof, and nothing herein shall affect or impair the right of action, which is absolute and unconditional, of such Owners to enforce such payment.

**Section 7.07 Trustee May Enforce Rights Without Possession of Certificates.** All rights under this Indenture and the Certificates may be enforced by the Trustee without the possession of any Certificates or the production thereof at the trial or other proceedings relative thereto, and any proceeding instituted by the Trustee shall be brought in its name for the ratable benefit of the Owners of the Certificates.

**Section 7.08 Remedies Not Exclusive.** Subject to any express limitations contained herein, no remedy herein conferred is intended to be exclusive of any other remedy or remedies, and each remedy is in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

**Section 7.09 Delays and Omissions Not to Impair Rights.** No delays or omissions in respect of exercising any right or power accruing upon any default shall impair such right or power or be a waiver of such default, and every remedy given by this Article 7 may be exercised from time to time and as often as may be deemed expedient.

**Section 7.10 Application of Moneys in Event of Indenture Default.** Any moneys received, collected or held by the Trustee following an Indenture Event of Default (except for moneys held in the Rebate Fund and any defeasance escrow fund or account) shall be applied in the following order:

(a) To the payment of the reasonable costs of the Trustee, including, but not limited to, its counsel fees, and disbursements of the Trustee, and the payment of its reasonable compensation, including any amounts remaining unpaid;

(b) To the payment of interest then owing on the Certificates, and in case such moneys shall be insufficient to pay the same in full, then to the payment of interest ratably, without preference or priority of one over another or of any installment of interest over any other installment of interest; and

(c) To the payment of principal or redemption price (as the case may be) then owing on the Certificates, and in case such moneys shall be insufficient to pay the same in full, then to the payment of principal or redemption price ratably, without preference or priority of one Certificate over another.

The surplus, if any, shall be paid to the City.

**ARTICLE 8  
CONCERNING THE TRUSTEE**

**Section 8.01 Duties of the Trustee.**

(a) The Trustee hereby accepts the provisions of the Ground Lease, the Lease and this Indenture and accepts the trusts imposed upon it by this Indenture and agrees to perform said trusts, but only upon and subject to the express terms and conditions set forth in the Ground Lease, the Lease and this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee.

(b) The Trustee hereby covenants for the benefit of the Owners of the Certificates that the Trustee will observe and comply with its obligations under the Ground Lease, the Lease and this Indenture.

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

(d) Before taking any action hereunder the Trustee may require that satisfactory indemnity be furnished to it by the Certificate Owners for the reimbursement of all costs and expenses which it may incur and to protect it against all liability, including, but not limited to, any liability arising directly or indirectly under any federal, state or local statute, rule, law or ordinance related to the protection of the environment or hazardous substances, except liability which may result from its negligence or willful default, by reason of any action so taken.

**Section 8.02 Liability of Trustee; Trustee's Use of Agents.**

(a) The Trustee shall be liable only for its own negligence or willful misconduct. However, the Trustee shall not be liable for any error of judgment made in good faith, provided the Trustee was not negligent in ascertaining the pertinent facts.

(b) The Trustee may exercise any powers under this Indenture and perform any duties required of it through attorneys, agents, officers or employees, and shall be entitled to the advice of counsel concerning all matters involving the Trustee's duties hereunder. The Trustee may act upon the opinion or advice of any attorney engaged by the Trustee in the exercise of reasonable care without liability for any loss or damage resulting from any action or omission taken in good faith reliance upon that opinion or advice. The Trustee shall not be liable for any loss or damage resulting from any action or omission taken by its agents, officers and employees to whom discretion or authority hereunder has been delegated by the Trustee, provided the Trustee was not negligent in its selection of or delegation to the agent, officer or employee.

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

(d) The Trustee shall not be personally liable for any debts contracted or for damages to persons or to personal property injured or damaged, or for salaries or nonfulfillment of contracts during any period in which it may be in possession of or managing the Leased Property.

(e) The Trustee shall not be liable for actions taken at the direction of Owners pursuant to the provisions of Article 7.

(f) Any person hired by the Trustee to enforce Lease Remedies shall be considered the Trustee's agent for the purposes of this Section.

(g) The Trustee shall not be responsible for any recital herein or in the Certificates (except in respect to the execution of the Certificates on behalf of the Trustee), or for the recording or rerecording, filing or refiling of the Ground Lease, the Lease or this Indenture or of any supplements thereto or hereto or instruments of further assurance, or collecting any insurance moneys, or for the sufficiency of the security for the Certificates issued hereunder or intended to be secured hereby, or for the value of or title to the Leased Property, and the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements on the part of the City, except as provided herein; but the Trustee may require of the City full information and advice as to the performance of the covenants, conditions and agreements aforesaid. The Trustee shall have no obligation to perform any of the duties of the City under the Ground Lease or the Lease; and the Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with this Indenture.

(h) The Trustee shall not be accountable for the use of any proceeds of any Certificates authenticated and delivered to the Underwriter hereunder.

(i) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate signed on behalf of the City by the City Representative or such other person as may be designated for such purpose by ordinance or resolution of the Council, as sufficient evidence of the facts therein contained, and, prior to the occurrence of a default of which the Trustee has been notified as provided in Section 8.05 hereof or of which by said paragraph it is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(j) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust in the manner and for the purposes for which they were received but need not be segregated from other funds except to the extent required by this Indenture or law. The Trustee shall not be under any liability for interest on any moneys received hereunder except that the Trustee is responsible for investing moneys in funds held hereunder in compliance with the provisions of the Tax Certificate, and complying with the written investment direction of the City.

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

(l) Notwithstanding anything in this Indenture contained, the Trustee shall have the right, but shall not be required, to demand in respect of the execution and delivery of any Certificates, the withdrawal of any cash, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the City to the execution and delivery of any Certificates, the withdrawal of any cash, or the taking of any other action by the Trustee.

(m) Notwithstanding any other provision hereof, the Trustee shall not be required to advance any of its own funds in the performance of its obligations hereunder unless it has received assurances from the Owners of the Certificates or indemnity from the Owners of the Certificates satisfactory to it that it will be repaid.

(n) The Trustee shall have no responsibility with respect to any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the Certificates except to the extent that such statement was provided by the Trustee.

**Section 8.03 Representations and Covenants of Trustee.** The Trustee represents, warrants and covenants as follows:

(a) So long as no Event of Indenture Default has occurred and is then continuing or existing, except as specifically provided in the Ground Lease or the 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) the Lease or the Ground Lease, (ii) the Base Rentals, other Revenues and collateral, security interests and attendant rights and obligations which may be derived under the Lease or the Ground Lease and/or (iii) the Leased Property and any reversion therein or any of its other rights under the Lease or the Ground Lease or assign, pledge, mortgage, encumber or grant a security interest in its right, title and interest in, to and under the Lease or the Ground Lease or the Leased Property except for Permitted Encumbrances.

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

(c) To the Trustee's knowledge, there is no litigation or proceeding pending against the Trustee affecting the right of the Trustee to execute the Lease and the Ground Lease or to execute this 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 this Indenture is executed and delivered.



(d) The Trustee covenants and agrees to comply with any applicable requirements for the Trustee set forth in the Tax Certificate as directed by the City.

**Section 8.04 Compensation.** During the Lease Term, the Trustee shall be entitled to payment and reimbursement for its reasonable fees for its services rendered hereunder as and when the same become due and all expenses reasonably and necessarily made or incurred by the Trustee in connection with such services as and when the same become due, as provided in Section 6.2 of the Lease.

**Section 8.05 Notice of Default; Right to Investigate.** The Trustee shall, within thirty (30) days after it receives notice thereof, give written notice by first class mail to the Owners of the Certificates of all Events of Indenture Default known to the Trustee and send a copy of such notice to the City, unless such defaults have been remedied. The Trustee shall not be deemed to have notice of any Event of Indenture Default unless it has actual knowledge thereof or has been notified in writing of such Event of Indenture Default by the City or the owners of at least 25% in aggregate principal amount of the Outstanding Certificates. The Trustee may, however, at any time request the City to provide full information as to the performance of any covenant under the Lease; and, if information satisfactory to it is not forthcoming, the Trustee may make or cause to be made an investigation into any matter related to the Ground Lease, the Lease and the Leased Property.

**Section 8.06 Obligation to Act on Defaults.** If any Event of Indenture Default shall have occurred and be continuing of which the Trustee has actual knowledge or notice, the Trustee shall exercise such of the rights and remedies vested in it by this Indenture and shall use the same degree of care in their exercise as a prudent person would exercise or use in the circumstances in the conduct of his or her own affairs; provided, that if in the opinion of the Trustee such action may tend to involve expense or liability, it shall not be obligated to take such action unless it is furnished with indemnity satisfactory to it.

**Section 8.07 Reliance on Requisition, etc.** The Trustee may act on any written requisition, resolution, notice, telegram, request, consent, waiver, certificate, statement, affidavit, voucher, bond, or other paper or document which it in good faith believes to be genuine and to have been passed or signed by the proper persons or to have been prepared and furnished pursuant to any of the provisions of this Indenture; and the Trustee shall be under no duty to make any investigation as to any statement contained in any such instrument, but may accept the same as conclusive evidence of the accuracy of such statement.

The Trustee shall be entitled to rely upon opinions of Counsel and shall not be responsible for any loss or damage resulting from reliance in good faith thereon, except for its own negligence or willful misconduct.

**Section 8.08 Trustee May Own Certificates.** The Trustee may in good faith buy, sell, own and hold any of the Certificates and may join in any action which any Owner may be entitled to take with like effect as if the Trustee were not the party to this Indenture. The Trustee may also engage in or be interested in any financial or other transaction with the City provided that if the Trustee determines that any such relation is in conflict with its duties under this Indenture, it shall eliminate the conflict or resign as Trustee.

**Section 8.09 Construction of Ambiguous Provisions.** The Trustee may construe any ambiguous or inconsistent provisions of this Indenture, and any such construction by the Trustee shall be binding upon the Owners. In construing any such provision, the Trustee will be entitled to rely upon opinions of Counsel and will not be responsible for any loss or damage resulting from reliance in good faith thereon, except for its own negligence or misconduct.

**Section 8.10 Resignation of Trustee.** The Trustee may resign and be discharged of the trusts created by this Indenture by written resignation filed with the City not less than sixty (60) days before the date when it is to take effect; provided notice of such resignation is mailed by registered or certified mail to the Owner of each Outstanding Certificate at the address shown on the registration books. Such resignation shall take effect only upon the appointment of a successor Trustee. If no successor Trustee is appointed within sixty (60) days following the date designated for the resignation of the Trustee, the resigning Trustee may apply to a court of competent jurisdiction to appoint a successor Trustee. The rights of the Trustee to be held harmless, to insurance proceeds, or to other amounts due arising prior to the date of such resignation shall survive resignation.

**Section 8.11 Removal of Trustee.** Any Trustee hereunder may be removed at any time, after payment of all outstanding fees and expenses of the Trustee being so removed, by the City or by the Owners of a majority in aggregate principal amount of the Certificates then Outstanding, upon written notice being filed with the Trustee, the City and the Owner of each Outstanding Certificate at the address shown on the registration books. Such removal shall take effect only upon the appointment of a successor Trustee. The rights of the Trustee to be held harmless, to insurance proceeds or to other amounts due arising prior to the date of such removal shall survive removal.

**Section 8.12 Appointment of Successor Trustee.** If the Trustee or any successor trustee resigns or is removed or dissolved, or if its property or business is taken under the control of any State or federal court or administrative body, a vacancy shall forthwith exist in the office of the Trustee, and the City shall appoint a successor and shall cause a notice of such appointment to be mailed by registered or certified mail to the Owners of all Outstanding Certificates at the address shown on the registration books. If the City fails to make such appointment within thirty (30) days after the date notice of resignation is filed, the Owners of a majority in aggregate principal amount of the Certificates then Outstanding may do so. If the Owners have failed to make such appointment within sixty (60) days after the date notice of resignation is filed, the Trustee may petition a court of competent jurisdiction to make such appointment.

**Section 8.13 Qualification of Successor.** Any successor trustee shall be a national or State bank with trust powers or a bank and trust company or a trust company, in each case having capital and surplus of at least \$50,000,000, if there be one able and willing to accept the trust on reasonable and customary terms.

**Section 8.14 Instruments of Succession.** Any successor trustee shall execute, acknowledge and deliver to the City an instrument accepting such appointment under the Indenture; and thereupon such successor trustee, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and

obligations of its predecessor in the trust under the Indenture, with like effect as if originally named Trustee herein. The Trustee ceasing to act under the Indenture shall pay over to the successor trustee all moneys held by it under the Indenture; and, upon request of the successor Trustee ceasing to act shall execute and deliver an instrument transferring to the successor trustee all the estates, properties, rights, powers and trusts under this Indenture of the Trustee ceasing to act.

**Section 8.15 Merger of Trustee.** Any corporation into which any Trustee hereunder may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which any Trustee hereunder shall be a party, shall be the successor trustee under this Indenture, without the execution or filing of any paper or any further act on the part of the parties hereto, anything herein to the contrary notwithstanding.

**Section 8.16 Intervention by Trustee.** In any judicial proceeding to which the Trustee or the City is a party and which in the opinion of the Trustee and its Counsel has a substantial bearing on the interests of Owners of the Certificates, the Trustee may intervene on behalf of the Owners and shall do so if requested in writing by the Owners of at least 25% in aggregate principal amount of Outstanding Certificates and furnished indemnity. The rights and obligations of the Trustee under this Section are subject to the approval of a court of competent jurisdiction.

**Section 8.17 Books and Record of the Trustee; Trustee Record Keeping.** The Trustee shall keep such books and records relating to the Ground Lease and the Lease and Funds and Accounts created under this Indenture as shall be consistent with industry practice and make such books and records available for inspection by the City, at all reasonable times and for six years following the discharge of this Indenture according to Article 6 hereof.

**Section 8.18 Environmental Matters.** Any real property or interest in real property constituting any portion of the Trust Estate shall be subject to the following provisions:

(a) The Trustee's responsibilities for any interest in real property constituting any portion of the Trust Estate, prior to an Event of Indenture Default, shall be performed as Trustee on behalf of the Owners of the Certificates without any duty to monitor or investigate whether the real property constituting any portion of the Trust Estate complies with environmental laws or is subject to any Hazardous Substance.

(b) Following an Event of Indenture Default, if the Trustee determines that the release, threatened release, use, generation, treatment, storage or disposal of any Hazardous Substance on, under or about real property constituting any portion of the Trust Estate gives rise to any liability or potential liability under any federal, State, local or common law, or devalues or threatens to devalue such real property, the Trustee may take whatever action is deemed necessary by the Trustee to address the threatened or actual releases of Hazardous Substances, or to bring about or maintain such real property's compliance with federal, State or local environmental laws and regulations. The costs incurred for any remedial action shall be paid as an expense of the Trust Estate and, if necessary, may be used as the basis of a first lien on assets of the Trust Estate to the extent permitted by law.

**ARTICLE 9  
SUPPLEMENTAL INDENTURES AND  
AMENDMENTS OF THE LEASE AND SITE LEASE**

**Section 9.01 Supplemental Indentures and Amendments Not Requiring Certificate Owners' Consent.** The Trustee may, with the written consent of the City, but without the consent of or notice to the Owners, enter into such indentures or agreements supplemental hereto, for any one or more or all of the following purposes:

- (a) to grant additional powers or rights to the Trustee;
- (b) to make any amendments necessary or desirable to obtain or maintain a rating from any Rating Agency rating the Certificates;
- (c) to authorize the execution and delivery of Additional Certificates for the purposes and under the conditions set forth in Section 2.08 hereof;
- (d) in order to preserve or protect the excludability from gross income for federal income tax purposes of the interest portion of the Base Rentals allocable to the 2010A Certificates;
- (e) to maintain the status of the 2010B Certificates as qualified Build America Bonds under Section 54AA of the Tax Code; or
- (f) for any purpose not inconsistent with the terms of this Indenture or to cure any ambiguity, or to correct or supplement any provision contained herein which may be defective or inconsistent with any other provisions contained herein or to make such other amendments to the Indenture which do not materially adversely affect the interests of the Owners of the Certificates.

**Section 9.02 Supplemental Indentures and Amendments Requiring Certificate Owners' Consent.**

- (a) Exclusive of supplemental indentures and amendments covered by Section 9.01 hereof, the written consent of the City and the consent of the owners of a majority in aggregate principal amount of the Certificates then Outstanding, shall be required for any indenture or indentures supplemental hereto.
- (b) Notwithstanding the foregoing, without the consent of the owners of all the Certificates at the time Outstanding nothing herein contained shall permit, or be construed as permitting:
  - (i) A change in the terms of redemption or maturity of the principal amount of or the interest on any Outstanding Certificate, or a reduction in the principal amount of or premium payable upon any redemption of any Outstanding Certificate or the rate of interest thereon, without the consent of the owner of such Certificate;

(ii) The deprivation of the owner of any Certificate then Outstanding of the lien created by this Indenture (other than as originally permitted hereby) without the consent of the Owner of such Certificate;

(iii) A privilege or priority of any Certificate or Certificates over any other Certificate or Certificates (except with respect to the possible subordination of Additional Certificates); or

(iv) A reduction in the aggregate principal amount of the Certificates required for consent to such supplemental indenture.

If at any time the City shall request the Trustee to enter into a supplemental indenture which requires the consent of the Certificate Owners as provided herein, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be mailed to the registered owners of the Certificates at the addresses last shown on the registration records of the Trustee. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the principal corporate trust office of the Trustee for inspection by all Certificate Owners. If, within 60 days or such longer period as shall be prescribed by the City following the mailing of such notice, the required consents have been furnished to the Trustee as herein provided, no Certificate Owner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Corporation from executing the same or from taking any action pursuant to the provisions thereof.

**Section 9.03 Amendment of the Lease and the Ground Lease.**

(a) The Trustee and the City shall have the right to amend the Lease and the Ground Lease, without the consent of or notice to the Owners of the Certificates, for one or more of the following purposes:

(1) to add covenants of the Trustee or the City or to grant additional powers or rights to the Trustee;

(2) to make any amendments necessary or desirable to obtain or maintain a rating from any Rating Agency of the Certificates;

(3) in order to more precisely identify the Leased Property, including any substitutions, additions or modifications to the Leased Property as the case may be, as may be authorized under the Ground Lease and the Lease;

(4) to make additions to the Leased Property, amend the schedule of Base Rentals and make all other amendments necessary for the execution and delivery of Additional Certificates in accordance with Section 2.08 hereof;

(5) in order to preserve or protect the excludability from gross income for federal income tax purposes of the interest portion of the Base Rentals allocable to the 2010A Certificates;

(6) to maintain the status of the 2010B Certificates as qualified Build America Bonds under Section 54AA of the Tax Code; or

(7) for any purpose not inconsistent with the terms of this Indenture or to cure any ambiguity or to correct or supplement any provision contained therein or in any amendment thereto which may be defective or inconsistent with any other provision contained therein or herein or in any amendment thereto or to make such other amendments to the Lease or the Ground Lease which do not materially adversely affect the interests of the Owners of the Certificates.

(b) If the Trustee or the City proposes to amend the Lease or the Ground Lease in such a way as would materially adversely affect the interests of the Owners of the Certificates, the Trustee shall notify the Owners of the Certificates of the proposed amendment and may consent thereto only with the consent of the Owners of a majority in aggregate principal amount of the Outstanding Certificates; provided, that the Trustee shall not, without the unanimous consent of the Owners of all Certificates, consent to any amendment which would (1) decrease the amounts payable in respect of the Lease, or (2) change the Base Rentals Payment Dates or (3) change any of the prepayment provisions of the Lease.

**Section 9.04 Notice to Rating Agencies.** The Trustee shall mail a notice of any amendment or supplement to this Indenture, the Lease or the Ground Lease to any Rating Agency then rating the Certificates.

**ARTICLE 10  
MISCELLANEOUS**

**Section 10.01 Evidence of Signature of Owners and Ownership of Certificates.** Any request, consent or other instrument which the Indenture may require or permit to be signed and executed by the Owners may be in one or more instruments of similar tenor, and shall be signed or executed by such Owners in person or by their attorneys appointed in writing. Proof of the execution of any such instrument or of an instrument appointing any such attorney, or the ownership of Certificates shall be sufficient (except as otherwise herein expressly provided) if made in the following manner, but the Trustee may, nevertheless, in its discretion require further or other proof in cases where it deems the same desirable:

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

(b) The fact of the owning by any person of Certificates and the amounts and numbers of such Certificates, and the date of the owning of the same, may be proved by a certificate executed by any trust company, bank or bankers, wherever situated, stating that at the date thereof the party named therein did exhibit to an officer of such trust company or bank or to such bankers, as the property of such party, the Certificates therein mentioned, if such certificate shall be deemed by the Trustee to be satisfactory. The Trustee may, in its discretion, require evidence that such Certificates have been deposited with a bank, bankers or trust company before taking any action based on such ownership. In lieu of the foregoing the Trustee may accept other proofs of the foregoing as it shall deem appropriate.

Any request or consent of the owner of any Certificate shall be conclusive upon and shall bind all future owners of such Certificate and of any Certificate issued upon the transfer or exchange of such Certificate in respect of anything done or suffered to be done by the City, the Trustee in accordance therewith, whether or not notation of such consent or request is made upon any such Certificate.

**Section 10.02 Inspection of the Leased Property.** Under the Lease, the Trustee and its duly authorized agents (a) have the right, but not the duty, on reasonable notice to the City, 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 (b) are permitted, but has no obligation, at all reasonable times, to examine the books, records, reports and other papers of the City with respect to the Leased Property.

**Section 10.03 Parties Interested Herein.** Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person other than the City, the Trustee and the Owners, any right, remedy or claim under or by reason of this Indenture or any covenant, condition or stipulation of this Indenture; and all the covenants, stipulations, promises and agreements in this Indenture contained by and on behalf of the Trustee shall be for the sole and exclusive benefit of the City, the Trustee, and the Owners.

**Section 10.04 Titles, Headings, Etc.** The titles and headings of the articles, sections and subdivisions of this Indenture have been inserted for convenience of reference only and shall in no way modify or restrict any of the terms or provisions of this Indenture.

**Section 10.05 Severability.** In the event any provision of this Indenture shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Indenture.

**Section 10.06 Governing Law.** This Indenture shall be governed and construed in accordance with the laws of the State of Colorado.

**Section 10.07 Execution in Counterparts.** This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 10.08 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,

Zions First National Bank  
1001 17th Street, Suite 1050  
Denver, CO 80202  
Attention: Corporate Trust Department

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

**Section 10.09 Successors and Assigns.** All the covenants, promises and agreements in this Indenture contained by or on behalf of the Trustee shall bind and inure to the benefit of its successors and assigns, whether so expressed or not.

**Section 10.10 Payments Due on Saturdays, Sundays and 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 the Indenture, 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 the Indenture.

**Section 10.11 Undertaking to Provide Ongoing Disclosure.** The City has covenanted in Section 11.6 of the Lease to comply with the terms of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Indenture, failure by the City to comply with the Continuing Disclosure Certificate shall not be considered an Event of Indenture Default and the rights and remedies provided by this Indenture upon the occurrence of an Event of Indenture Default shall not apply to any such failure. The Continuing Disclosure Certificate shall be enforceable only by specific performance by any Owner of the applicable Certificate as further described therein. The Trustee shall have no power or duty to enforce the obligations of the City under the Continuing Disclosure Certificate.



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

ZIONS FIRST NATIONAL BANK,  
as Trustee

By: \_\_\_\_\_  
Vice President

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of October, 2010,  
by Casey Gunning, a Vice President of Zions First National Bank, as Trustee.

Witness my hand and official seal.

My commission expires:

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

**EXHIBIT A**  
**FORM OF 2010A CERTIFICATES**

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Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation (“DTC”), to the Trustee for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

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**TAX-EXEMPT CERTIFICATE OF PARTICIPATION,  
SERIES 2010A**

**Evidencing Proportionate Interests in the Base Rentals and other Revenues under  
a Lease Purchase Agreement dated as of October 15, 2010,  
between Zions First National Bank, solely in its capacity as  
trustee under the Indenture, as lessor, and  
CITY OF GRAND JUNCTION, COLORADO, as lessee**

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

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Dated Date</u>	<u>CUSIP Number</u>
%	_____ 1, 20__	October __, 2010	

Registered Owner: CEDE & CO.

Principal Amount: THOUSAND DOLLARS

THIS CERTIFIES THAT the Registered Owner (specified above), or registered assigns, as the Registered Owner (the “Owner”) of this Certificate of Participation, together with all other Tax-Exempt Certificates of Participation, Series 2010A, in the original aggregate principal amount of \$\_\_\_\_\_ (the “2010A Certificates”), and the Taxable Certificates of Participation (Direct Pay Build America Bonds), Series 2010B, in the original aggregate principal amount of \$\_\_\_\_\_ (the “2010B Certificates” and together with the 2010A Certificates, the “2010 Certificates”), is the Owner of a proportionate interest in the right to receive certain designated Revenues, including Base Rentals, under and as defined in the Lease Purchase Agreement, dated as of October \_\_, 2010 (the “Lease”), between Zions First National Bank, Denver, Colorado, as trustee (the “Trustee”), as lessor, and the City of Grand Junction, Colorado (the “City”), as lessee, and the Indenture of Trust, dated as of October 15, 2010 (the “Indenture”), by the Trustee.

All terms capitalized but not defined herein shall have the meanings given to them in the Indenture.

Under the Ground Lease, certain Leased Property described therein (the "Leased Property") has been leased by the City, as lessor, to the Trustee, as lessee. Under the Lease, the Leased Property has been leased back by the Trustee, as lessor, to the City, as lessee, and the City has agreed to pay directly to the Trustee Base Rentals in consideration of the City's right to possess and use the Leased Property. Certain Revenues, including Base Rentals, are required under the Indenture to be distributed by the Trustee for the payment of the 2010 Certificates and interest thereon. The Lease is subject to annual appropriation, non-renewal and, in turn, termination by the City.

This 2010A Certificate has been executed and delivered pursuant to the terms of the Indenture. Reference is hereby made to the Ground Lease, the Lease and the Indenture (copies of which are on file in the offices of the Trustee) for a description of the terms on which the 2010A Certificates are delivered, and the rights thereunder of the Owners of the 2010A Certificates, the rights, duties and immunities of the Trustee and the rights and obligations of the City under the Ground Lease and the Lease, to all of the provisions of which Ground Lease, Lease and Indenture the Owner of this 2010A Certificate, by acceptance hereof, assents and agrees.

Additional Certificates may be executed and delivered pursuant to the Indenture without consent of or notice to the owners of the 2010 Certificates and upon the satisfaction of certain conditions and limitations. Such Additional Certificates, together with the 2010 Certificates, are referred to herein as the "Certificates." Additional Certificates will evidence interests in rights to receive Revenues, including Base Rentals, without preference, priority or distinction of any Certificates, including the 2010 Certificates, over any others, however, insurance and other credit facilities may be applicable only to particular series of Certificates or portions thereof.

To the extent and in the manner permitted by the terms of the Indenture, the provisions of the Indenture may be amended by the Trustee with the written consent of the Owners of a majority in aggregate principal amount of the Certificates outstanding, and may be amended without such consent under certain circumstances described in the Indenture but in no event such that the interests of the Owners of the Certificates are materially adversely affected, provided that no such amendment is to impair the right of any Owner to receive in any case such Owner's proportionate share of any payment of Revenues in accordance with the terms of such Owner's Certificate.

THE OWNER OF THIS 2010A CERTIFICATE IS ENTITLED TO RECEIVE, SUBJECT TO THE TERMS OF THE LEASE, THE PRINCIPAL AMOUNT (SPECIFIED ABOVE), ON THE MATURITY DATE (SPECIFIED ABOVE), AND IS ENTITLED TO RECEIVE INTEREST ON THE PRINCIPAL AMOUNT AT THE INTEREST RATE (SPECIFIED ABOVE). The interest hereon is payable at the interest rate from the Dated Date (specified above) on \_\_\_\_\_, 2010, and semiannually thereafter on \_\_\_\_\_ and \_\_\_\_\_ in each year (the "Interest Payment Dates") and thereafter (A) from the Execution Date (specified below), if this 2010A Certificate is executed on an Interest Payment Date or (B) from the last preceding Interest Payment Date to which interest has been paid in all other cases, until the

Principal Amount is paid as set forth herein. Interest is to be calculated on the basis of a 360-day year consisting of twelve 30-day months.

THIS 2010A CERTIFICATE IS PAYABLE SOLELY FROM THE BASE RENTALS PAYABLE TO THE TRUSTEE PURSUANT TO THE LEASE AND OTHER REVENUES AS DEFINED IN THE INDENTURE. NEITHER THE LEASE, THIS 2010A CERTIFICATE, THE CERTIFICATES, INCLUDING THE 2010 CERTIFICATES, OR THE OBLIGATION OF THE CITY TO PAY BASE RENTALS OR ADDITIONAL RENTALS CONSTITUTES A GENERAL OBLIGATION OR OTHER INDEBTEDNESS OF THE CITY OR A MULTIPLE FISCAL YEAR DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION WHATSOEVER OF THE CITY, WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION. NEITHER THE LEASE NOR THE CERTIFICATES, INCLUDING THE 2010 CERTIFICATES, HAVE DIRECTLY OR INDIRECTLY OBLIGATED THE CITY TO MAKE ANY PAYMENTS BEYOND THOSE APPROPRIATED FOR THE CITY'S THEN CURRENT FISCAL YEAR.

As long as Cede & Co., as the nominee for The Depository Trust Company, New York, New York ("DTC") is the Owner hereof, the Principal Amount or redemption price hereof and interest hereon are payable by wire transfer as directed by DTC in writing to the Trustee. If not executed and delivered in book-entry form, the Principal Amount or redemption price hereof and interest hereon are payable by check or draft mailed to the Owner at its address last appearing on the registration books maintained by the Trustee or, in the case of Owners of \$1,000,000 or more in aggregate principal amount of the 2010 Certificates, by wire transfer of funds to a bank account designated by the Owner in written instructions furnished to the Trustee.

Interest hereon is payable to the Owner, as shown on the registration books kept by the Trustee as of the close of business on the "regular record date," which is the 15th day of the calendar month immediately preceding the month of the Interest Payment Date (or the Business Day immediately preceding such 15th day, if such 15th day is not a Business Day) or on a "special record date" established in accordance with the Indenture. The Trustee may treat the Owner of this 2010A Certificates appearing on the registration books maintained by the Trustee as the absolute owner hereof for all purposes and is not to be affected by any notice to the contrary. The Principal Amount or redemption price hereof and interest hereon are payable in lawful money of the United States of America.

This 2010A Certificate is transferable by the Owner hereof, in person or by his attorney duly authorized in writing, on the registration books kept at the corporate trust office of the Trustee. Upon such transfer, a new fully registered 2010A Certificate of the same maturity, of authorized denomination or denominations, for the same aggregate principal amount, will be executed and delivered to the transferee in exchange for this 2010A Certificate, all upon payment of the charges and subject to the terms and conditions set forth in the Indenture. The Trustee may deem and treat the person in whose name this 2010A Certificate is registered as the absolute owner hereof, whether or not this 2010A Certificate shall be overdue, for the purpose of receiving payment and for all other purposes, and neither the City nor the Trustee shall be affected by any notice to the contrary.

### Redemption Provisions.

*Optional Redemption.* The 2010A Certificates maturing on and before \_\_\_\_\_, 20\_\_ are not subject to redemption prior to maturity. The 2010A Certificates maturing on and after \_\_\_\_\_, 20\_\_ are subject to redemption prior to maturity, at the option of the City, in whole or in part from any maturity, and by lot (giving proportionate weight to 2010A Certificates in denominations larger than \$5,000) within a maturity in such manner as the Trustee may determine, on \_\_\_\_\_, 20\_\_, and on any date thereafter, at a redemption price equal to the principal amount so redeemed plus accrued interest to the redemption date without a redemption premium.

*Extraordinary Mandatory Redemption.* If the Lease is terminated by reason of the occurrence of (a) an Event of Nonappropriation, or (b) an Event of Lease Default, or (c) the Trustee, at the direction of the City, fails to repair or replace the Leased Property if: (1) the Leased Property is damaged or destroyed in whole or in part by fire or other casualty; (2) title to, or the temporary or permanent use of, the Leased Property, or any portion thereof, has been taken by eminent domain by any governmental body; (3) breach of warranty or any material defect with respect to the Leased Property becomes apparent; or (4) title to or the use of all or any portion of the Leased Property is lost by reason of a defect in title thereto, and the Net Proceeds (as defined in the Lease) of any insurance, performance bond or condemnation award, or Net Proceeds received as a consequence of defaults under contracts relating to the Leased Property, made available by reason of such occurrences, are insufficient to pay in full, the cost of repairing or replacing the Leased Property and the City does not appropriate sufficient funds for such purpose or cause the Lease to be amended in order that Additional Certificates may be executed and delivered pursuant to the Indenture for such purpose, the Certificates, including the 2010A Certificates, are required to be called for redemption. If called for redemption, as described herein, the Certificates are to be redeemed in whole on such date or dates as the Trustee may determine, for a redemption price equal to the principal amount thereof, plus accrued interest to the redemption date (subject to the availability of funds as described below).

If the Net Proceeds, including the Net Proceeds from the exercise of any Lease Remedy under the Lease, otherwise received and other moneys then available under the Indenture are insufficient to pay in full the principal of and accrued interest on all Outstanding Certificates, the Trustee may, or at the request of the Owners of a majority in aggregate principal amount of the Certificates Outstanding, and upon indemnification as to costs and expenses as provided in the Indenture, without any further demand or notice, is to exercise all or any combination of Lease Remedies as provided in the Lease and the Certificates are to be redeemed by the Trustee from the Net Proceeds resulting from the exercise of such Lease Remedies and all other moneys, if any, then on hand and being held by the Trustee for the Owners of the Certificates.

If the Net Proceeds resulting from the exercise of such Lease Remedies and other moneys are insufficient to redeem the Certificates at 100% of the principal amount thereof plus interest accrued to the redemption date, then such Net Proceeds resulting from the exercise of such Lease Remedies and other moneys are to be allocated proportionately among the Certificates, according to the principal amount thereof Outstanding. In the event that such Net Proceeds resulting from the exercise of such Lease Remedies and other moneys are in excess of the amount required to redeem the Certificates at 100% of the principal amount thereof plus interest

accrued to the redemption date, then such excess moneys are to be paid to the City as an overpayment of the Purchase Option Price in respect of the Leased Property. Prior to any distribution of the Net Proceeds resulting from the exercise of any of such remedies, the Trustee is entitled to payment of its reasonable and customary fees for all services rendered in connection with such disposition, as well as reimbursement for all reasonable costs and expenses, including attorneys' fees, incurred thereby, from proceeds resulting from the exercise of such Lease Remedies and other moneys.

IF THE CERTIFICATES, INCLUDING THE 2010A CERTIFICATES, ARE REDEEMED FOR AN AMOUNT LESS THAN THE AGGREGATE PRINCIPAL AMOUNT THEREOF PLUS INTEREST ACCRUED TO THE REDEMPTION DATE, SUCH PARTIAL PAYMENT IS DEEMED TO CONSTITUTE A REDEMPTION IN FULL OF THE CERTIFICATES, AND UPON SUCH A PARTIAL PAYMENT NO OWNER OF SUCH CERTIFICATES, INCLUDING THE 2010A CERTIFICATES, SHALL HAVE ANY FURTHER CLAIM FOR PAYMENT AGAINST THE TRUSTEE OR THE CITY.

*Partial Redemption.* The Certificates shall be prepaid only in integral multiples of \$5,000. The Trustee shall treat any Certificate of denomination greater than \$5,000 as representing that number of separate Certificates each of the denomination of \$5,000 as can be obtained by dividing the actual principal amount of such Certificate by \$5,000. Upon surrender of any Certificate for redemption in part, the Trustee shall execute and deliver to the Owner thereof, at no expense of the Owner, a new Certificate or Certificates of Authorized Denominations in an aggregate principal amount equal to the unredeemed portion of the Certificates so surrendered.

*Notice of Redemption.* Whenever Certificates are to be redeemed under any provision of the Indenture, the Trustee shall, not less than thirty (30) and not more than sixty (60) days prior to the redemption date (except for any Extraordinary Mandatory Redemption, which notice shall be immediate), mail notice of redemption to all Owners of all Certificates to be redeemed at their registered addresses, by first class mail, postage prepaid, or in the event that the Certificates to be redeemed are registered in the name of the Depository, such notice may, in the alternative, be given by electronic means in accordance with the requirements of the Depository. In addition, the Trustee shall at all reasonable times make available to the City and any Certificate Owner, including the Depository, if applicable, information as to Certificates which have been redeemed or called for redemption. Any notice of redemption shall: (a) identify the Certificates to be redeemed; (b) specify the redemption date and the redemption price; (c) (in the event of any optional redemption) state that the City has given notice of its intent to exercise its option to purchase or prepay Base Rentals under the Lease; (d) state that such redemption is subject to the deposit of the funds related to such option by the City on or before the stated redemption date; and (e) state that on the redemption date the Certificates called for redemption will be payable at the principal corporate trust office of the Trustee and that from that date interest will cease to accrue. The Trustee may use "CUSIP" numbers in notices of redemption as a convenience to Certificate Owners, provided that any such notice shall state that no representation is made as to the correctness of such numbers either as printed on the Certificates or as contained in any notice of redemption and that reliance may be placed only on the identification numbers containing the prefix established pursuant to this Indenture.

This 2010A Certificate is issued under the authority of Part 2 of Article 57, Title 11, Colorado Revised Statutes (the "Supplemental Act"). Pursuant to Section 11-57-210 of the Supplemental Act, such recital shall be conclusive evidence of the validity and the regularity of the issuance of this 2010A Certificate after its delivery for value.

This 2010A Certificate is issued with the intent that the laws of the State of Colorado shall govern its legality, validity, enforceability and construction. This 2010A Certificate is authorized and issued under the authority of and in full conformity with the Constitution of the State of Colorado and all other laws of the State of Colorado thereunto enabling.

This 2010A Certificate shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Lease or the Indenture, until executed by the Trustee.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all things, conditions and acts required by the Constitution and the statutes of the State and the Indenture to exist, to have happened and to have been performed precedent to and the execution and delivery of this 2010A Certificate, do exist, have happened and have been performed in due time, form and manner, as required by law.

IN WITNESS WHEREOF, this 2010A Certificate has been executed with the manual signature of an authorized representative of the Trustee.

Execution Date: \_\_\_\_\_, \_\_\_\_\_ ZIONS FIRST NATIONAL BANK, as Trustee

By: \_\_\_\_\_  
Vice President



(Form of Assignment)

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

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

Signature Guaranteed:

\_\_\_\_\_  
NOTICE: Signature(s) should be guaranteed by a guarantor institution participating in the Securities Transfer Agents Medallion Program or in such other guarantee program acceptable to the Trustee.

\_\_\_\_\_  
NOTICE: The Assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Certificate in every particular without alteration or any change whatever.

(End Form of 2010A Certificates)

**EXHIBIT B  
FORM OF 2010B CERTIFICATES**

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Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Trustee for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

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**TAXABLE CERTIFICATE OF PARTICIPATION  
(DIRECT PAY BUILD AMERICA BONDS)  
SERIES 2010B**

**Evidencing Proportionate Interests in the Base Rentals and other Revenues under  
a Lease Purchase Agreement dated as of October 15, 2010,  
between Zions First National Bank, solely in its capacity as  
trustee under the Indenture, as lessor, and  
CITY OF GRAND JUNCTION, COLORADO, as lessee**

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

Interest Rate	<u>Maturity Date</u>	<u>Dated Date</u>	<u>CUSIP Number</u>
%	_____ 1, 20__	October __, 2010	

Registered Owner: CEDE & CO.

Principal Amount: THOUSAND DOLLARS

THIS CERTIFIES THAT the Registered Owner (specified above), or registered assigns, as the Registered Owner (the "Owner") of this Taxable Certificate of Participation, together with all other Taxable Certificates of Participation (Direct Pay Build America Bonds), Series 2010B, in the original aggregate principal amount of \$ \_\_\_\_\_ (the "2010B Certificates"), and the Tax-Exempt Certificates of Participation, Series 2010A, in the original aggregate principal amount of \$ \_\_\_\_\_ (the "2010A Certificates" and together with the 2010B Certificates, the "2010 Certificates"), is the Owner of a proportionate interest in the right to receive certain designated Revenues, including Base Rentals, under and as defined in the Lease Purchase Agreement, dated as of October \_\_, 2010 (the "Lease"), between Zions First National Bank, Denver, Colorado, as

Trustee (the "Trustee"), as lessor, and the City of Grand Junction, Colorado (the "City"), as lessee, and the Indenture of Trust, dated as of October \_\_, 2010 (the "Indenture"), by the Trustee. All terms capitalized but not defined herein shall have the meanings given to them in the Indenture.

Under the Ground Lease, certain Leased Property described therein (the "Leased Property") has been leased by the City, as lessor, to the Trustee, as lessee. Under the Lease, the Leased Property has been leased back by the Trustee, as lessor, to the City, as lessee, and the City has agreed to pay directly to the Trustee Base Rentals in consideration of the City's right to possess and use the Leased Property. Certain Revenues, including Base Rentals, are required under the Indenture to be distributed by the Trustee for the payment of the 2010 Certificates and interest thereon. The Lease is subject to annual appropriation, non-renewal and, in turn, termination by the City.

This 2010B Certificate has been executed and delivered pursuant to the terms of the Indenture. Reference is hereby made to the Ground Lease, the Lease and the Indenture (copies of which are on file in the offices of the Trustee) for a description of the terms on which the 2010B Certificates are delivered, and the rights thereunder of the Owners of the 2010B Certificates, the rights, duties and immunities of the Trustee and the rights and obligations of the City under the Ground Lease and the Lease, to all of the provisions of which Ground Lease, Lease and Indenture the Owner of this 2010B Certificate, by acceptance hereof, assents and agrees.

Additional Certificates may be executed and delivered pursuant to the Indenture without consent of or notice to the owners of the 2010 Certificates and upon the satisfaction of certain conditions and limitations. Such Additional Certificates, together with the 2010 Certificates, are referred to herein as the "Certificates." Additional Certificates will evidence interests in rights to receive Revenues, including Base Rentals, without preference, priority or distinction of any Certificates, including the 2010 Certificates, over any others, however, insurance and other credit facilities may be applicable only to particular series of Certificates or portions thereof.

To the extent and in the manner permitted by the terms of the Indenture, the provisions of the Indenture may be amended by the Trustee with the written consent of the Owners of a majority in aggregate principal amount of the Certificates outstanding, and may be amended without such consent under certain circumstances described in the Indenture but in no event such that the interests of the Owners of the Certificates are materially adversely affected, provided that no such amendment is to impair the right of any Owner to receive in any case such Owner's proportionate share of any payment of Revenues in accordance with the terms of such Owner's Certificate.

THE OWNER OF THIS 2010B CERTIFICATE IS ENTITLED TO RECEIVE, SUBJECT TO THE TERMS OF THE LEASE, THE PRINCIPAL AMOUNT (SPECIFIED ABOVE), ON THE MATURITY DATE (SPECIFIED ABOVE), AND IS ENTITLED TO RECEIVE INTEREST ON THE PRINCIPAL AMOUNT AT THE INTEREST RATE (SPECIFIED ABOVE). The interest hereon is payable at the interest rate from the Dated Date (specified above) on \_\_\_\_\_, 2010, and semiannually thereafter on \_\_\_\_\_ and \_\_\_\_\_ in each year (the "Interest Payment Dates") and thereafter (A) from the Execution Date (specified

below), if this 2010B Certificate is executed on an Interest Payment Date or (B) from the last preceding Interest Payment Date to which interest has been paid in all other cases, until the Principal Amount is paid as set forth herein. Interest is to be calculated on the basis of a 360-day year consisting of twelve 30-day months.

THIS 2010B CERTIFICATE IS PAYABLE SOLELY FROM THE BASE RENTALS PAYABLE TO THE TRUSTEE PURSUANT TO THE LEASE AND OTHER REVENUES AS DEFINED IN THE INDENTURE. NEITHER THE LEASE, THIS 2010B CERTIFICATE, THE CERTIFICATES, INCLUDING THE 2010 CERTIFICATES, OR THE OBLIGATION OF THE CITY TO PAY BASE RENTALS OR ADDITIONAL RENTALS CONSTITUTES A GENERAL OBLIGATION OR OTHER INDEBTEDNESS OF THE CITY OR A MULTIPLE FISCAL YEAR DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION WHATSOEVER OF THE CITY, WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION. NEITHER THE LEASE NOR THE CERTIFICATES, INCLUDING THE 2010 CERTIFICATES, HAVE DIRECTLY OR INDIRECTLY OBLIGATED THE CITY TO MAKE ANY PAYMENTS BEYOND THOSE APPROPRIATED FOR THE CITY'S THEN CURRENT FISCAL YEAR.

As long as Cede & Co., as the nominee for The Depository Trust Company, New York, New York ("DTC") is the Owner hereof, the Principal Amount or redemption price hereof and interest hereon are payable by wire transfer as directed by DTC in writing to the Trustee. If not executed and delivered in book-entry form, the Principal Amount or redemption price hereof and interest hereon are payable by check or draft mailed to the Owner at its address last appearing on the registration books maintained by the Trustee or, in the case of Owners of \$1,000,000 or more in aggregate principal amount of the 2010 Certificates, by wire transfer of funds to a bank account designated by the Owner in written instructions furnished to the Trustee.

Interest hereon is payable to the Owner, as shown on the registration books kept by the Trustee as of the close of business on the "regular record date," which is the 15th day of the calendar month immediately preceding the month of the Interest Payment Date (or the Business Day immediately preceding such 15th day, if such 15th day is not a Business Day) or on a "special record date" established in accordance with the Indenture. The Trustee may treat the Owner of this 2010B Certificates appearing on the registration books maintained by the Trustee as the absolute owner hereof for all purposes and is not to be affected by any notice to the contrary. The Principal Amount or redemption price hereof and interest hereon are payable in lawful money of the United States of America.

This 2010B Certificate is transferable by the Owner hereof, in person or by his attorney duly authorized in writing, on the registration books kept at the corporate trust office of the Trustee. Upon such transfer, a new fully registered 2010B Certificate of the same maturity, of authorized denomination or denominations, for the same aggregate principal amount, will be executed and delivered to the transferee in exchange for this 2010B Certificate, all upon payment of the charges and subject to the terms and conditions set forth in the Indenture. The Trustee may deem and treat the person in whose name this 2010B Certificate is registered as the absolute owner hereof, whether or not this 2010B Certificate shall be overdue, for the purpose of receiving payment and for all other purposes, and neither the City nor the Trustee shall be affected by any notice to the contrary.

### Redemption Provisions.

*Optional Redemption.* The 2010B Certificates maturing on and before \_\_\_\_\_, 20\_\_ are not subject to redemption prior to maturity. The 2010B Certificates maturing on and after \_\_\_\_\_, 20\_\_ are subject to redemption prior to maturity, at the option of the City, in whole or in part from any maturity, and by lot (giving proportionate weight to 2010B Certificates in denominations larger than \$5,000) within a maturity in such manner as the Trustee may determine, on \_\_\_\_\_, 20\_\_, and on any date thereafter, at a redemption price equal to the principal amount so redeemed plus accrued interest to the redemption date without a redemption premium.

If the Lease is terminated by reason of the occurrence of (a) an Event of Nonappropriation, or (b) an Event of Lease Default, or (c) the Trustee, at the direction of the City, fails to repair or replace the Leased Property if: (1) the Leased Property is damaged or destroyed in whole or in part by fire or other casualty; (2) title to, or the temporary or permanent use of, the Leased Property, or any portion thereof, has been taken by eminent domain by any governmental body; (3) breach of warranty or any material defect with respect to the Leased Property becomes apparent; or (4) title to or the use of all or any portion of the Leased Property is lost by reason of a defect in title thereto, and the Net Proceeds (as defined in the Lease) of any insurance, performance bond or condemnation award, or Net Proceeds received as a consequence of defaults under contracts relating to the Leased Property, made available by reason of such occurrences, are insufficient to pay in full, the cost of repairing or replacing the Leased Property and the City does not appropriate sufficient funds for such purpose or cause the Lease to be amended in order that Additional Certificates may be executed and delivered pursuant to the Indenture for such purpose, the Certificates, including the 2010A Certificates, are required to be called for redemption. If called for redemption, as described herein, the Certificates are to be redeemed in whole on such date or dates as the Trustee may determine, for a redemption price equal to the principal amount thereof, plus accrued interest to the redemption date (subject to the availability of funds as described below).

If the Net Proceeds, including the Net Proceeds from the exercise of any Lease Remedy under the Lease, otherwise received and other moneys then available under the Indenture are insufficient to pay in full the principal of and accrued interest on all Outstanding Certificates, the Trustee may, or at the request of the Owners of a majority in aggregate principal amount of the Certificates Outstanding, and upon indemnification as to costs and expenses as provided in the Indenture, without any further demand or notice, is to exercise all or any combination of Lease Remedies as provided in the Lease and the Certificates are to be redeemed by the Trustee from the Net Proceeds resulting from the exercise of such Lease Remedies and all other moneys, if any, then on hand and being held by the Trustee for the Owners of the Certificates.

If the Net Proceeds resulting from the exercise of such Lease Remedies and other moneys are insufficient to redeem the Certificates at 100% of the principal amount thereof plus interest accrued to the redemption date, then such Net Proceeds resulting from the exercise of such Lease Remedies and other moneys are to be allocated proportionately among the Certificates, according to the principal amount thereof Outstanding. In the event that such Net Proceeds resulting from the exercise of such Lease Remedies and other moneys are in excess of the amount required to redeem the Certificates at 100% of the principal amount thereof plus interest

accrued to the redemption date, then such excess moneys are to be paid to the City as an overpayment of the Purchase Option Price in respect of the Leased Property. Prior to any distribution of the Net Proceeds resulting from the exercise of any of such remedies, the Trustee is entitled to payment of its reasonable and customary fees for all services rendered in connection with such disposition, as well as reimbursement for all reasonable costs and expenses, including attorneys' fees, incurred thereby, from proceeds resulting from the exercise of such Lease Remedies and other moneys.

IF THE CERTIFICATES, INCLUDING THE 2010B CERTIFICATES, ARE REDEEMED FOR AN AMOUNT LESS THAN THE AGGREGATE PRINCIPAL AMOUNT THEREOF PLUS INTEREST ACCRUED TO THE REDEMPTION DATE, SUCH PARTIAL PAYMENT IS DEEMED TO CONSTITUTE A REDEMPTION IN FULL OF THE CERTIFICATES, AND UPON SUCH A PARTIAL PAYMENT NO OWNER OF SUCH CERTIFICATES, INCLUDING THE 2010B CERTIFICATES, SHALL HAVE ANY FURTHER CLAIM FOR PAYMENT AGAINST THE TRUSTEE OR THE CITY.

*Extraordinary Optional Redemption.* From the date of execution and delivery of the 2010B Certificates up to, but not including, the first optional redemption date of the 2010B Certificates, the 2010B Certificates are subject to extraordinary redemption prior to their respective maturities, at the option of the City, upon the occurrence of an Extraordinary Event from any source of available funds, in whole or in part (and by lot within a maturity) from such maturities as are selected by the City at the "Make-Whole Prepayment Price." The "Make-Whole Prepayment Price" means the amount equal to the greater of the following:(a) the issue price of the 2010B Certificates to be redeemed set forth in the Certificate Purchase Agreement (but not less than 100% of the principal amount of such 2010B Certificates); or

(b) the sum of the present value of the remaining scheduled payments of debt service on the 2010B Certificates to be redeemed to the maturity date of such 2010B Certificates, not including any portion of those payments of interest accrued and unpaid as of the date on which the 2010B Certificates are to be redeemed, discounted to the date on which the 2010B Certificates are to be redeemed on a semi-annual basis, assuming a 360-day year containing twelve 30-day months, at the Treasury Rate, plus 100 basis points; plus, in each case, accrued interest on the 2010B Certificates to be redeemed to the redemption date.

For purpose of determining the Make-Whole Prepayment Price, the following definitions apply:

"Treasury Rate" means, with respect to any redemption date for a particular 2010B Certificate, the yield to maturity as of such redemption date of United State Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the redemption date (excluding inflation-indexed securities) (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the redemption date to the maturity date of the 2010B Certificates to be redeemed; provided, however that if the period from the redemption date to the maturity date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year shall be used.

The City shall notify the Trustee of the Make-Whole Prepayment Price, and advise the Trustee whether it was determined pursuant to subsection (a) or (b) above.

*Partial Redemption.* If less than all of the 2010B Certificates are to be redeemed, the 2010B Certificates are to be redeemed only in integral multiples of \$5,000. The Trustee is to treat any 2010B Certificates of denomination greater than \$5,000 as representing that number of separate 2010B Certificates each of the denomination of \$5,000 as can be obtained by dividing the actual principal amount of such 2010B Certificates by \$5,000. Upon surrender of any 2010 Certificates for redemption in part, the Trustee is to execute and deliver to the Owner thereof, at no expense of the Owner, a new 2010B Certificate or 2010B Certificates of authorized denominations in an aggregate principal amount equal to the unredeemed portion of the 2010 Certificates so surrendered.

*Notice of Redemption.* Whenever Certificates are to be redeemed under any provision of the Indenture, the Trustee shall, not less than thirty (30) and not more than sixty (60) days prior to the redemption date (except for any Extraordinary Mandatory Redemption, which notice shall be immediate), mail notice of redemption to all Owners of all Certificates to be redeemed at their registered addresses, by first class mail, postage prepaid, or in the event that the Certificates to be redeemed are registered in the name of the Depository, such notice may, in the alternative, be given by electronic means in accordance with the requirements of the Depository. In addition, the Trustee shall at all reasonable times make available to the City and any Certificate Owner, including the Depository, if applicable, information as to Certificates which have been redeemed or called for redemption. Any notice of redemption shall: (a) identify the Certificates to be redeemed; (b) specify the redemption date and the redemption price; (c) (in the event of any optional redemption) state that the City has given notice of its intent to exercise its option to purchase or prepay Base Rentals under the Lease; (d) state that such redemption is subject to the deposit of the funds related to such option by the City on or before the stated redemption date; and (e) state that on the redemption date the Certificates called for redemption will be payable at the principal corporate trust office of the Trustee and that from that date interest will cease to accrue. The Trustee may use "CUSIP" numbers in notices of redemption as a convenience to Certificate Owners, provided that any such notice shall state that no representation is made as to the correctness of such numbers either as printed on the Certificates or as contained in any notice of redemption and that reliance may be placed only on the identification numbers containing the prefix established pursuant to this Indenture.

This 2010B Certificate is issued under the authority of Part 2 of Article 57, Title 11, Colorado Revised Statutes (the "Supplemental Act"). Pursuant to Section 11-57-210 of the Supplemental Act, such recital shall be conclusive evidence of the validity and the regularity of the issuance of this 2010B Certificate after its delivery for value. This 2010B Certificate is also issued pursuant to the Colorado Recovery and Reinvestment Finance Act of 2010, Part 1 of Article 59.7 of Title 11, Colorado Revised Statutes.

The City has designated this 2010B Certificate as a Build America Bond pursuant to Section 54AA of the Internal Revenue Code of 1986, as amended (the "Code"). Interest on this 2010B Certificate is included in gross income for federal income tax purposes under Section 103 of the Code.

This 2010B Certificate is issued with the intent that the laws of the State of Colorado shall govern its legality, validity, enforceability and construction. This 2010B Certificate is authorized and issued under the authority of and in full conformity with the Constitution of the State of Colorado and all other laws of the State of Colorado thereunto enabling.

This 2010B Certificate shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Lease or the Indenture, until executed by the Trustee.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all things, conditions and acts required by the Constitution and the statutes of the State and the Indenture to exist, to have happened and to have been performed precedent to and the execution and delivery of this 2010B Certificate, do exist, have happened and have been performed in due time, form and manner, as required by law.

IN WITNESS WHEREOF, this 2010B Certificate has been executed with the manual signature of an authorized representative of the Trustee.



Execution Date: \_\_\_\_\_, \_\_\_\_\_ ZIONS FIRST NATIONAL BANK, as Trustee

By: \_\_\_\_\_  
Vice President

(Form of Assignment)

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

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

Signature Guaranteed:

\_\_\_\_\_  
NOTICE: Signature(s) should be guaranteed by a guarantor institution participating in the Securities Transfer Agents Medallion Program or in such other guarantee program acceptable to the Trustee.

\_\_\_\_\_  
NOTICE: The Assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Certificate in every particular without alteration or any change whatever.

(End Form of 2010B Certificates)

**CITY OF GRAND JUNCTION, COLORADO  
CONTINUING DISCLOSURE CERTIFICATE**

This Continuing Disclosure Certificate (this "Disclosure Certificate") is executed and delivered by the City of Grand Junction, Colorado (the "City"), in connection with its authorization, execution and delivery of a Lease Purchase Agreement, dated as of October 15, 2010 (the "Lease"), between Zions First National Bank, solely in its capacity as trustee under the Indenture described herein (the "Trustee"), as lessor, and the City, as lessee, and the execution and delivery of the Tax-Exempt Certificates of Participation, Series 2010A (the "2010A Certificates"), and the Taxable Certificates of Participation (Direct Pay Build America Bonds), Series 2010B (the "2010B Certificates," and collectively with the 2010A Certificates, the "2010 Certificates"), evidencing proportionate interests in the base rentals and other revenues under the Lease. The 2010 Certificates are being executed and delivered pursuant to an Indenture of Trust, dated as of October 15, 2010 (the "Indenture"), by the Trustee. The City covenants and agrees as follows:

SECTION 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the City for the benefit of the holders and beneficial owners of the 2010 Certificates and in order to assist the Participating Underwriter in complying with Rule 15c2-12(b)(5) of the Securities and Exchange Commission (the "SEC").

SECTION 2. Definitions. In addition to the definitions set forth in the Indenture or parenthetically defined herein, which apply to any capitalized terms used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"Dissemination Agent" shall mean, initially, the City, or any successor Dissemination Agent designated in writing by the City and which has filed with the City a written acceptance of such designation.

"Material Events" shall mean any of the events listed in Section 5 of this Disclosure Certificate.

"MSRB" shall mean the Municipal Securities Rulemaking Board. As of the date hereof, the MSRB's required method of filing is electronically via its Electronic Municipal Market Access (EMMA) system available on the Internet at <http://emma.msrb.org>.

"Participating Underwriter" shall mean the original underwriter of the 2010 Certificates required to comply with the Rule in connection with an offering of the 2010 Certificates.

"Rule" shall mean Rule 15c2-12(b)(5) adopted by the SEC under the Securities Exchange Act of 1934, as the same may be amended from time to time.

SECTION 3. Provision of Annual Reports.

(a) The City shall, or shall cause the Dissemination Agent to, not later than nine (9) months following the end of the City's Fiscal Year of each year, commencing nine (9) months following the end of the City's Fiscal Year ending December 31, 2010, provide to the MSRB in an electronic format as prescribed by the MSRB, an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than five (5) business days prior to said date, the City shall provide the Annual Report to the Dissemination Agent (if other than the City). The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report.

(b) If the City is unable to provide to the MSRB an Annual Report by the date required in subsection (a) of this Section, the City shall send or cause to be sent a notice in substantially the form attached as Exhibit A to the MSRB.

(c) The Dissemination Agent shall:

(i) determine each year prior to the date for providing the Annual Report the appropriate electronic format prescribed by the MSRB;

(ii) if the Dissemination Agent is other than the City, send written notice to the City at least 45 days prior to the date the Annual Report is due stating that the Annual Report is due as provided in Section 3(a) hereof; and

(iii) if the Dissemination Agent is other than the City, file a report with the City certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, stating the date it was provided and listing all the entities to which it was provided.

SECTION 4. Content of Annual Reports. The City's Annual Report shall contain or incorporate by reference the following:

(a) A copy of its annual financial statements prepared in accordance with generally accepted accounting principles audited by a firm of certified public accountants. If audited annual financial statements are not available by the time specified in Section 3(a) above, unaudited financial statements will be provided as part of the Annual Report and audited financial statements will be provided when and if available.

(b) An update of the type of information identified in Exhibit B hereto, which is contained in the tables in the Official Statement with respect to the 2010 Certificates.

Any or all of the items listed above may be incorporated by reference from other documents, including official statements of debt issues of the City or related public entities, which are available to the public on the MSRB's Internet Website or filed with the SEC. The City shall clearly identify each such document incorporated by reference.

SECTION 5. Reporting of Material Events. The City shall provide or cause to be provided, in a timely manner, notice of any of the following events with respect to the 2010 Certificates, if such event is material, to the MSRB:

- (a) principal and interest payment delinquencies;
- (b) non-payment related defaults;
- (c) unscheduled draws on debt service reserves reflecting financial difficulties;
- (d) unscheduled draws on credit enhancements reflecting financial difficulties;
- (e) substitution of credit or liquidity providers or their failure to perform;
- (f) adverse tax opinions or events affecting the tax-exempt status of the 2010B Certificates;
- (g) modifications to rights of 2010 Certificate holders;
- (h) 2010 Certificate calls;
- (i) Defeasances;
- (j) Release, substitution or sale of property securing repayment of the 2010 Certificates; or
- (k) Rating changes.

SECTION 6. Identifying Information. All documents provided to the MSRB pursuant to this Disclosure Certificate shall be accompanied by identifying information as prescribed by the MSRB.

SECTION 7. Termination of Reporting Obligation. The City's obligations under this Disclosure Certificate shall terminate upon the earliest of: (a) the date of legal defeasance, prior redemption or payment in full of all of the 2010 Certificates; (b) the date that the City shall no longer constitute an "obligated person" within the meaning of the Rule; or (c) the date on which those portions of the Rule which require this written undertaking are held to be invalid by a court of competent jurisdiction in a non-appealable action, have been repealed retroactively or otherwise do not apply to the 2010 Certificates.

SECTION 8. Dissemination Agent. The City may, from time to time, appoint or engage a Dissemination Agent to assist the City in carrying out its obligations under this Disclosure Certificate, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent.

SECTION 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the City may amend this Disclosure Certificate and may waive any provision hereof, without the consent of the holders and beneficial owners of the 2010 Certificates, if such amendment or waiver does not, in and of itself, cause the undertakings herein (or action of any Participating Underwriter in reliance on the undertakings herein) to violate the Rule, but taking into account any subsequent change in or official interpretation of the Rule. The City will provide notice of such amendment to the MSRB.

SECTION 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the City from disseminating any other information, using the means

of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Material Event, in addition to that which is required by this Disclosure Certificate. If the City chooses to include any information in any Annual Report or notice of occurrence of a Material Event in addition to that which is specifically required by this Disclosure Certificate, the City shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Material Event.

SECTION 11. Default. In the event of a failure of the City to comply with any provision of this Disclosure Certificate, any holder or beneficial owner of the 2010 Certificates may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an Event of Lease Default, and the sole remedy under this Disclosure Certificate in the event of any failure of the City to comply with this Disclosure Certificate shall be an action to compel performance.

SECTION 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriter and the holders and beneficial owners from time to time of the 2010 Certificates, and shall create no rights in any other person or entity.

[The remainder of this page intentionally left blank.]

DATED: October \_\_, 2010.

CITY OF GRAND JUNCTION, COLORADO

By: \_\_\_\_\_  
President of the City Council

**EXHIBIT A**

**NOTICE TO MUNICIPAL SECURITIES RULEMAKING BOARD  
OF FAILURE TO FILE ANNUAL REPORT**

Name: City of Grand Junction, Colorado (the "City").

Name of Issue: Tax-Exempt Certificates of Participation, Series 2010A and Taxable Certificates of Participation (Direct Pay Build America Bonds), Series 2010B, Evidencing Proportionate Interests in the Right to Receive Base Rentals and Other Revenues Under a Lease Purchase Agreement between Zions First National Bank, as lessor, and the City, as lessee.

CUSIP:

Date of Issuance: October \_\_, 2010.

NOTICE IS HEREBY GIVEN that the City has not provided an Annual Report with respect to the 2010 Certificates as required by Section 11.6 of the Lease Purchase Agreement, dated as of October 15, 2010, and the Continuing Disclosure Certificate executed on October \_\_, 2010 by the City. The City anticipates that the Annual Report will be filed by \_\_\_\_\_, 20\_\_.

Dated: \_\_\_\_\_, 20\_\_

CITY OF GRAND JUNCTION, COLORADO

By: \_\_\_\_\_  
Title: \_\_\_\_\_



**EXHIBIT B**

**INDEX OF OFFICIAL STATEMENT TABLES TO BE UPDATED**

(See page iv. of the Official Statement for the 2010 Certificates)



Date: August 18, 2010  
Author: Brian Rusche  
Title/ Phone Ext: x. 4058  
Proposed Schedule: Notice of Intent to Annex on August 30, 2010  
2nd Reading  
(if applicable): October 18, 2010

Attach 4

**Setting a Hearing on the Annexation of the Cris-Mar Enclave, Located North and East of 29 Road and F Road**

**CITY COUNCIL AGENDA ITEM**

<b>Subject:</b> Annexation of the Cris-Mar Enclave - Located North and East of 29 Road and F Road
<b>File #:</b> ANX-2010-110
<b>Presenters Name &amp; Title:</b> Brian Rusche, Senior Planner

**Executive Summary:**

A request to annex 108.62 acres of enclaved property, located north and east of 29 Road and F Road. The Cris-Mar Enclave consists of 265 parcels, along with 21.94 acres of public right-of-way.

Under the 1998 Persigo Agreement with Mesa County, the City is required to annex all enclaved areas within five (5) years. The Cris-Mar Enclave has been enclaved since March 2, 2005.

**How this item relates to the Comprehensive Plan Goals and Policies:**

**Goal 1:** To implement the Comprehensive Plan in a consistent manner between the City, Mesa County, and other service providers.

Annexation of this enclave will create consistent land use jurisdiction and allow for efficient provision of municipal services to existing neighborhoods.

**Action Requested/Recommendation:**

Adopt a Resolution of Intent to Annex the Cris-Mar Enclave, Introduction of the Proposed Ordinance and Set a Hearing for October 18, 2010.

**Board or Committee Recommendation:** The Zone of Annexation is scheduled for the Planning Commission on September 14, 2010.

**Financial Impact/Budget:** The provision of municipal services will be consistent with other developed neighborhoods in the City. Property tax levies and municipal sales/use taxes will be collected within the enclaved area upon annexation.

**Legal issues:** Pursuant to C.R.S. 31-12-106(1.1)(b), an Annexation Transition Committee has been formed, with the appropriate representation, to serve as a means of communication between the City, County, and persons within the enclave.

**Other issues:** A Neighborhood Meeting was held on August 19, 2010 with the residents of the enclaved area.

**Previously presented or discussed:** No

**Background, Analysis and Options:** See attached.

**Attachments:**

1. Staff report/Background information
2. Annexation Summary
3. Annexation Map
4. Future Land Use Map
5. Blended Residential Map
6. Existing City Zoning Map
7. Existing County Zoning Map
8. Resolution
9. Ordinance

<i>STAFF REPORT / BACKGROUND INFORMATION</i>		
<b>Location:</b>		North and east of 29 Road and F Road
<b>Applicant:</b>		City of Grand Junction
<b>Existing Land Use:</b>		Residential
<b>Proposed Land Use:</b>		Residential
<b>Surrounding Land Use:</b>	<b>North</b>	Residential
	<b>South</b>	Residential
	<b>East</b>	Residential
	<b>West</b>	Residential / Commercial
<b>Existing Zoning:</b>		County RSF-R (Residential Single Family Rural) County RSF-4 (Residential Single Family 4 du/ac) County RMF-5 (Residential Multifamily 5 du/ac) County PUD (Planned Unit Development)
<b>Proposed Zoning:</b>		R-5 (Residential 5 du/ac)
<b>Surrounding</b>	<b>North</b>	R-5 (Residential 5 du/ac)

<b>Zoning:</b>	<b>South</b>	PD (Planned Development) R-4 (Residential 4 du/ac)		
	<b>East</b>	PD (Planned Development) R-5 (Residential 5 du/ac)		
	<b>West</b>	PD (Planned Development) R-5 (Residential 5 du/ac)		
<b>Future Land Use Designation:</b>		Residential Medium (4-8 du/ac)		
<b>Zoning within density range?</b>		X	<b>Yes</b>	<b>No</b>

This annexation area consists of 108.62 acres, including 21.94 acres of public right-of-way. Under the 1998 Persigo Agreement with Mesa County the City is to annex all Enclave areas within five (5) years. State law allows a municipality to annex enclave areas unilaterally after they have been enclaved for a period of three (3) years. The Cris-Mar Enclave has been enclaved since March 2, 2005.

The following annexation and zoning schedule is being proposed:

<b>CRIS-MAR ENCLAVE ANNEXATION SCHEDULE</b>	
8/30/2010	Notice of Intent to Annex (30 Day Notice), Exercising Land Use
9/14/2010	Planning Commission considers Zone of Annexation
10/4/2010	Introduction of a Proposed Ordinance on Zoning by City Council
10/18/2010	Public Hearing on Annexation and Zoning by City Council
11/19/2010	Effective date of Annexation and Zoning



<b>CRIS-MAR ENCLAVE ANNEXATION SUMMARY</b>	
<b>File Number:</b>	ANX-2010-110
<b>Location:</b>	North and east of 29 Road and F Road
<b>Tax ID Number(s):</b>	Multiple
<b># of Parcels:</b>	265
<b>Estimated Population:</b>	676
<b># of Parcels (owner occupied):</b>	225
<b># of Dwelling Units:</b>	260
<b>Acres land annexed:</b>	108.62 acres
<b>Developable Acres Remaining:</b>	86.68 acres
<b>Right-of-way in Annexation:</b>	21.94 acres

<b>Previous County Zoning:</b>		County RSF-R (Residential Single Family Rural) County RSF-4 (Residential Single Family 4 du/ac) County RMF-5 (Residential Multifamily 5 du/ac) County PUD (Planned Unit Development)
<b>Proposed City Zoning:</b>		R-5 (Residential 5 du/ac)
<b>Current Land Use:</b>		Residential
<b>Future Land Use:</b>		Residential
<b>Values (excluding tax exempt property):</b>	<b>Assessed:</b>	\$4,674,340
	<b>Actual:</b>	\$58,479,460
<b>Address Ranges:</b>		Multiple
<b>Special Districts:</b>	<b>Water:</b>	Ute Water Conservancy District
	<b>Sewer:</b>	Central Grand Valley Sanitation District
	<b>Fire:</b>	Grand Junction Rural Fire District
	<b>Drainage:</b>	Grand Valley Drainage District
	<b>School:</b>	Mesa County Valley School District #51
	<b>Irrigation:</b>	Palisade Irrigation District



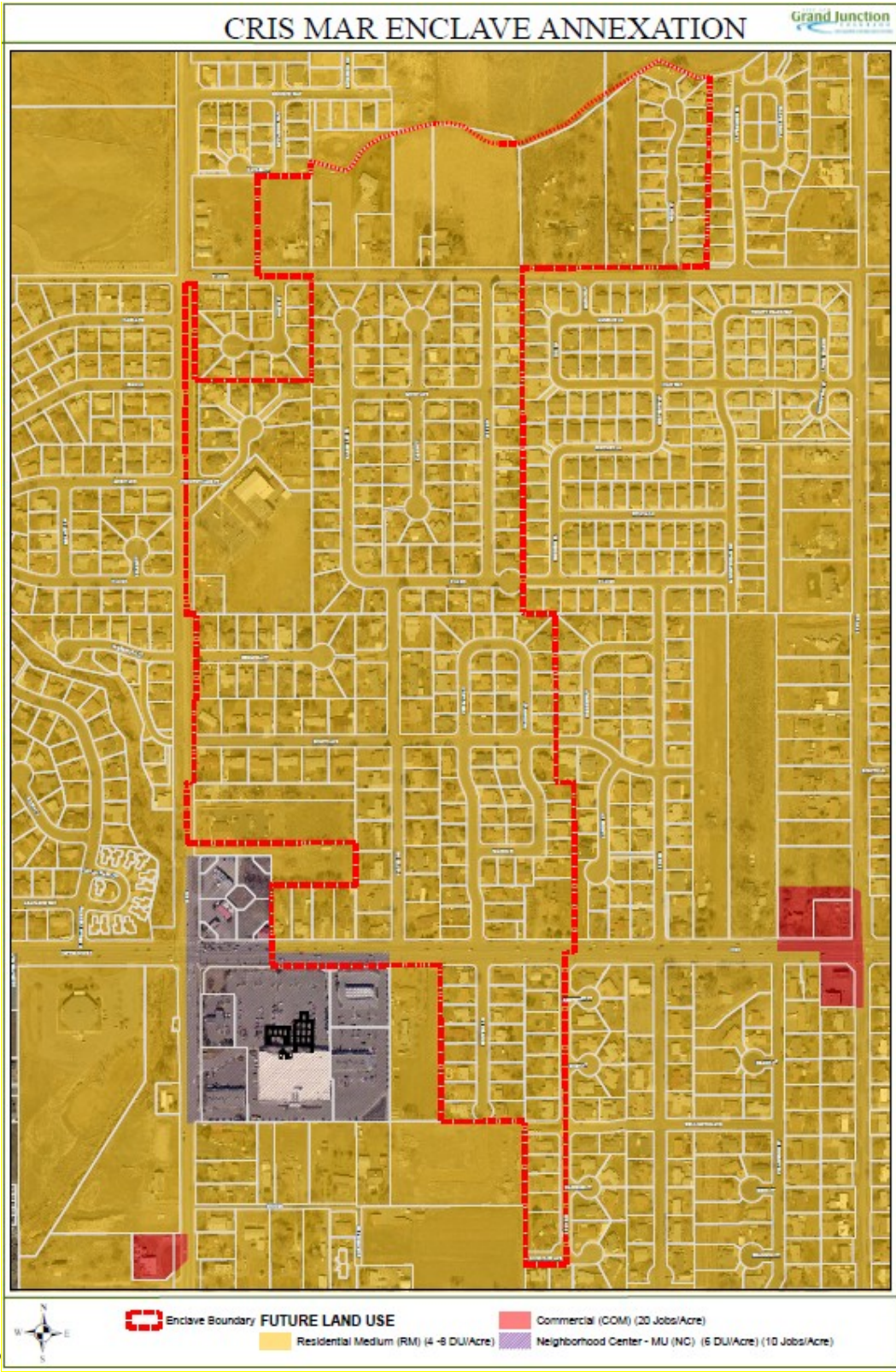
ANNEXATION MAP  
CRIS MAR ENCLAVE ANNEXATION



-  Grand Junction City Limits
-  Enclave Boundary

# FUTURE LAND USE

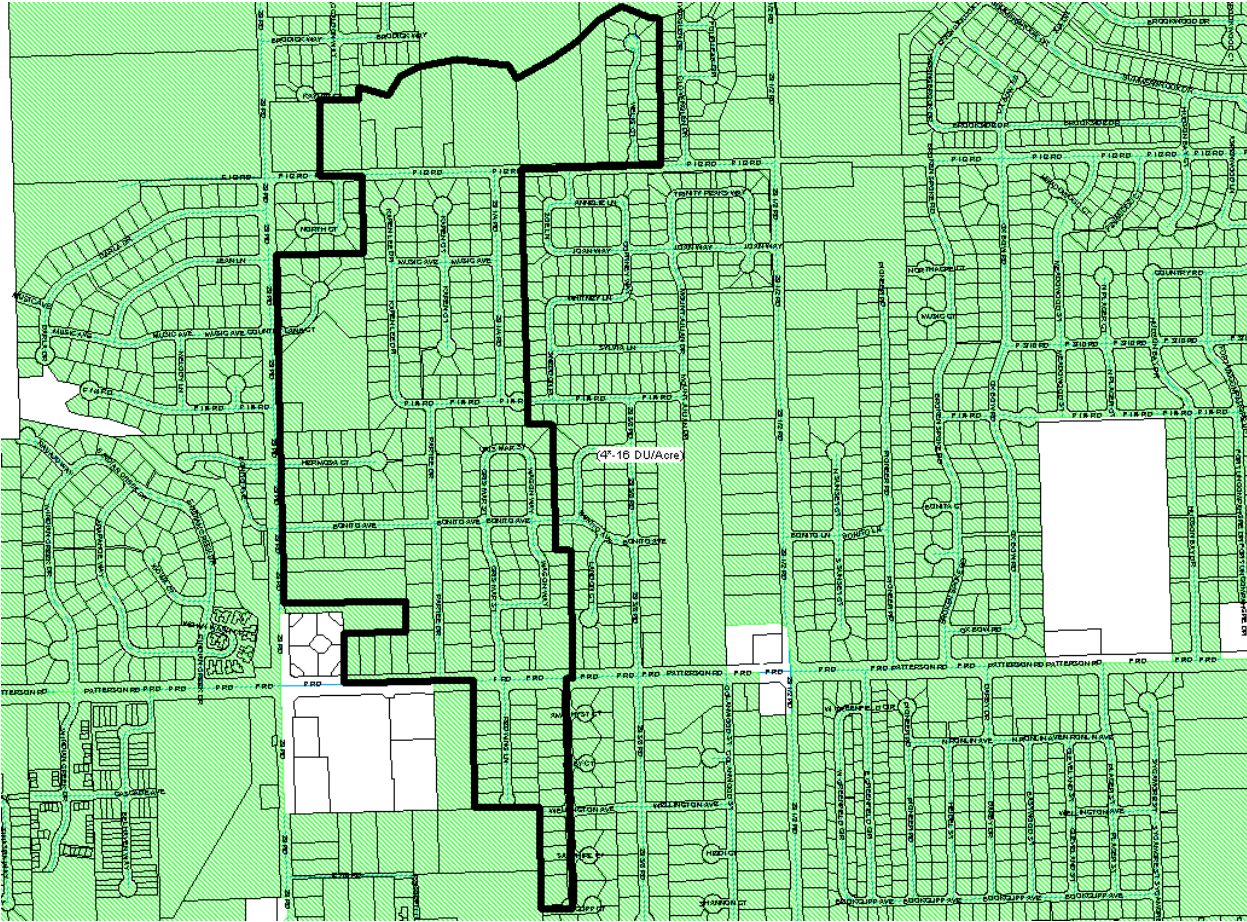
## CRIS MAR ENCLAVE ANNEXATION



MAP

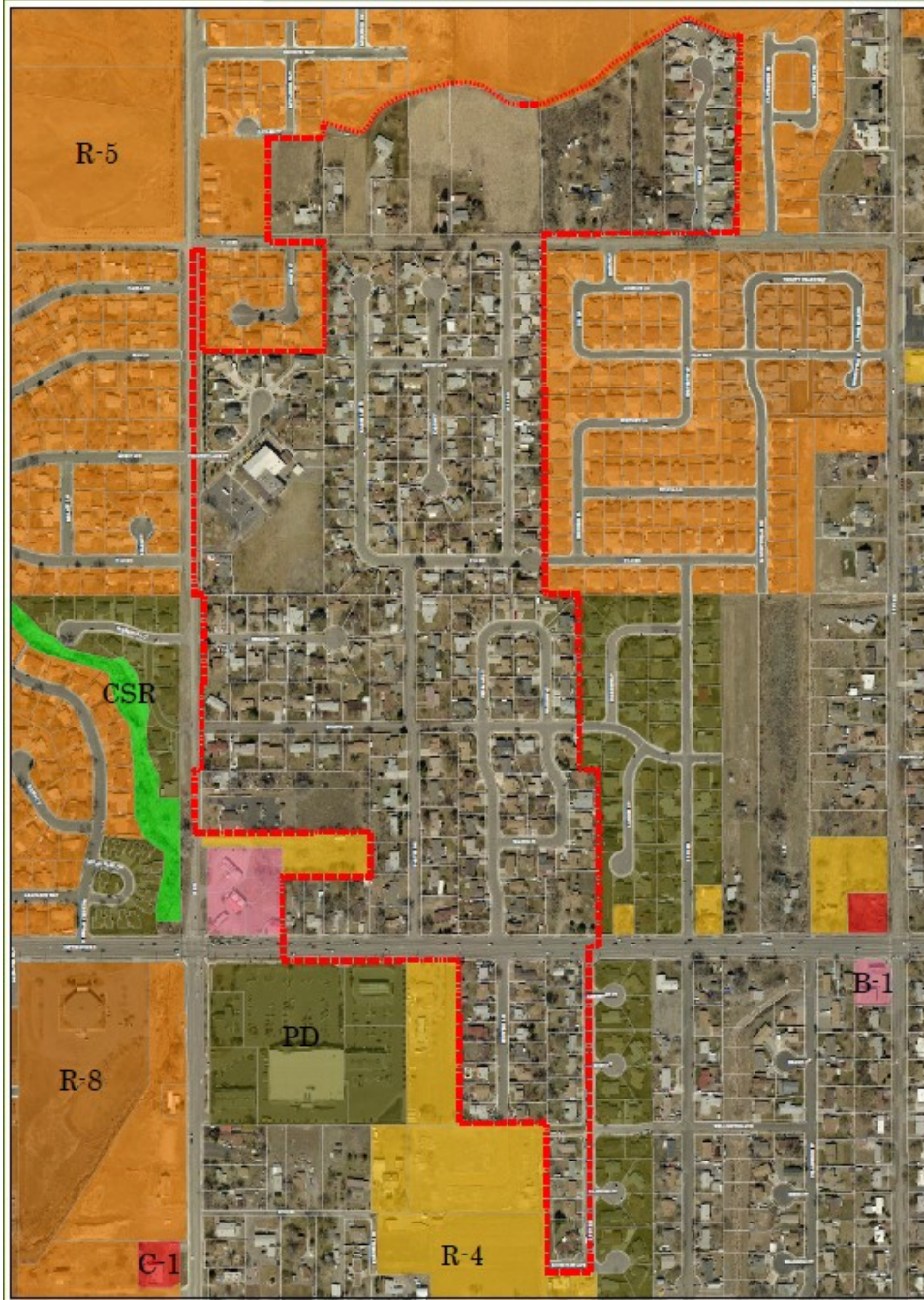


BLENDING RESIDENTIAL MAP



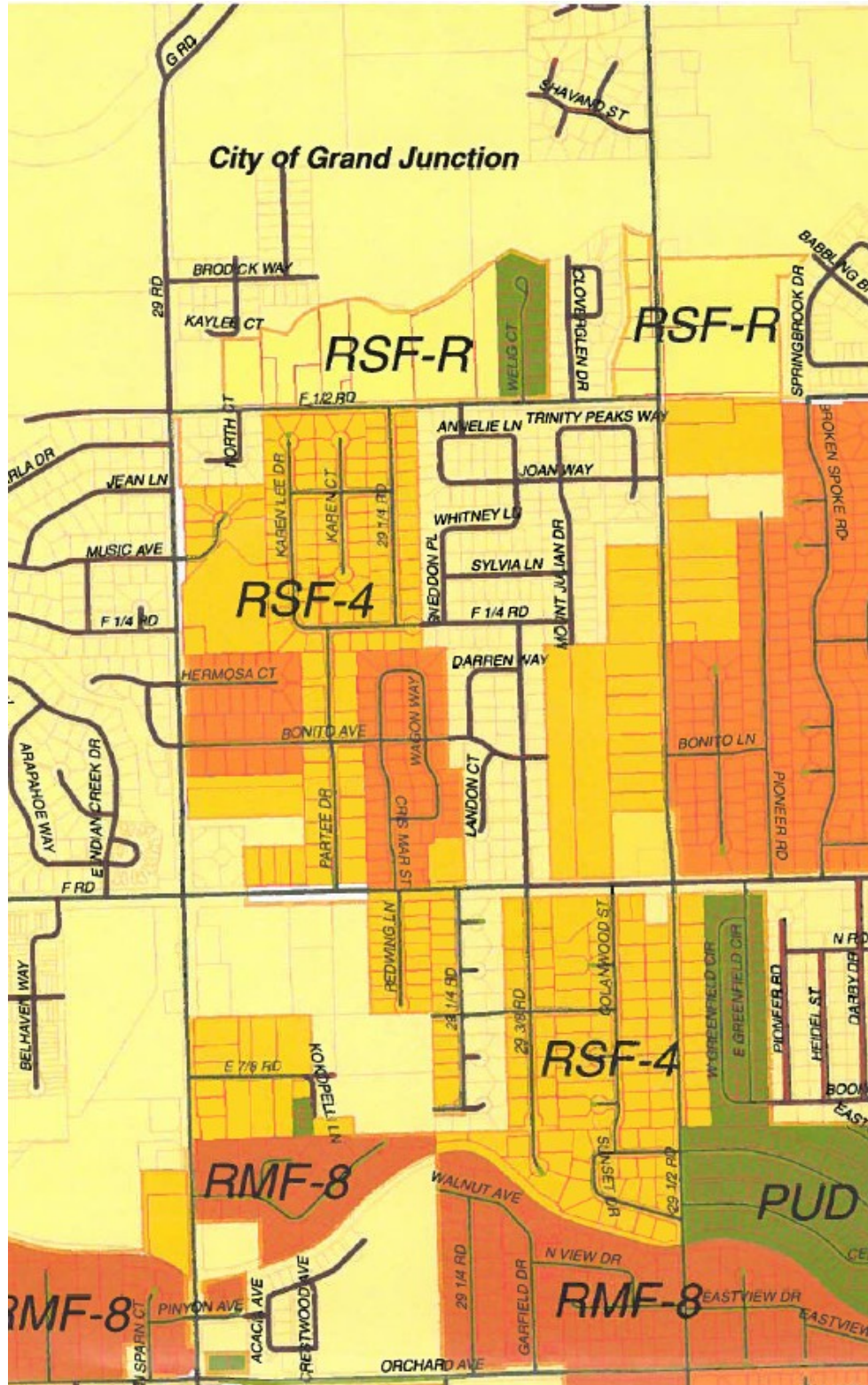
Blended Map indicates 4-16 du/ac for the enclave

EXISTING CITY ZONING MAP  
CRIS MAR ENCLAVE ANNEXATION



Enclave Boundary	C-1	PD	R-5
B-1	CSR	R-4	R-8

EXISTING COUNTY ZONING MAP



(ORANGE AREAS NOT DESIGNATED OTHERWISE ARE RMF-5)

**NOTICE OF INTENT  
ON PROPOSED ANNEXATION OF LANDS  
TO THE CITY OF GRAND JUNCTION, COLORADO**

**NOTICE IS HEREBY GIVEN** that at a regular meeting of the City Council of the City of Grand Junction, Colorado, held on the 30th of August, 2010, the following Resolution was adopted:

**CITY OF GRAND JUNCTION, COLORADO**

**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION OF THE CITY OF GRAND JUNCTION  
GIVING NOTICE THAT A TRACT OF LAND KNOWN AS**

**CRIS-MAR ENCLAVE**

**LOCATED NORTH AND EAST OF 29 ROAD AND F ROAD**

**CONSISTING OF APPROXIMATELY 108.62 ACRES**

**WILL BE CONSIDERED FOR ANNEXATION  
TO THE CITY OF GRAND JUNCTION, COLORADO**

**AND EXERCISING LAND USE CONTROL**

WHEREAS, on the 30<sup>th</sup> day of August, 2010, the Public Works and Planning Director filed with the City Clerk of the City of Grand Junction, Colorado, a request that the City Council of the City of Grand Junction commence proceedings to annex to the City of Grand Junction a certain tract of land in the County of Mesa, State of Colorado, commonly known as the Cris-Mar Enclave and more particularly described as follows:

**CRIS-MAR ENCLAVE ANNEXATION**

A certain enclaved parcel of land lying in the West-Half (W 1/2) of Section 5 and the Northwest Quarter (NW 1/4) of Section 8, all in Township One South, Range One East of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

ALL of the enclaved lands bounded by the following City of Grand Junction Annexations:

1. Cloverglenn Annexation, Ordinance No. 3727, recorded in Book 3853, Page 663, Public Records of Mesa County, Colorado
2. Darla Jean Annexations No. 1 and No. 2, Ordinance No. 2774, recorded in Book 2103, Page 772, Public Records of Mesa County, Colorado
3. Marchun Annexation No. 1, Ordinance No. 3556, recorded in Book 3456, Page 155, Public Records of Mesa County, Colorado
4. Marchun Annexation No. 2, Ordinance No. 3557, recorded in Book 3456, Page 158, Public Records of Mesa County, Colorado and
5. North Meadows Annexation, Ordinance No. 2564, recorded in Book 1888, Page 794, Public Records of Mesa County, Colorado.

CONTAINING 4,731,473 Square Feet or 108.62 Acres, more or less, as described.

WHEREAS, the area proposed to be annexed is entirely contained within the boundaries of the City of Grand Junction and said area has been so surrounded for a period of not less than three (3) years, pursuant to C.R.S. 31-12-106(1);

WHEREAS, pursuant to C.R.S. 31-12-106(1.1)(b), an Annexation Transition Committee has been duly created and hereby exists for the purposes set forth in C.R.S. 31-12-106(1.1)(c). The Committee contact is as follows:

City of Grand Junction  
Public Works & Planning Department  
Attn: Brian Rusche, Senior Planner  
250 N. 5<sup>th</sup> Street  
Grand Junction, CO 81501  
(970) 256-4058  
[brianr@gjcity.org](mailto:brianr@gjcity.org)

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:

1. That the City Clerk of the City of Grand Junction is hereby directed to give notice of the City Council's intent to annex the aforementioned area, pursuant to the Municipal Annexation Act of 1965. The City Clerk is also directed to give notice of the existence of the Annexation Transition Committee, including contact information.
2. That the ordinance annexing the subject area was introduced and given first reading on this 30<sup>th</sup> day of August, 2010, with a second reading and public hearing on the proposed annexation ordinance to be held on the 18<sup>th</sup> day of October, 2010, in the City Hall auditorium, located at 250 North 5<sup>th</sup> Street, City of Grand Junction, Colorado, at 7:00 PM.
3. Pursuant to the State's Annexation Act, the City Council determines that the City may now, and hereby does, exercise jurisdiction over land use issues in the said territory. Requests for building permits, subdivision approvals and zoning approvals shall, as of this date, be submitted to the Public Works and Planning Department of the City.

ADOPTED the \_\_\_ day of \_\_\_\_\_, 2010.

Attest:

---

President of the Council

---

City Clerk

**NOTICE IS FURTHER GIVEN** that a hearing will be held in accordance with the Resolution on the date and at the time and place set forth in the Resolution.

---

City Clerk

DATES PUBLISHED
September 1, 2010
September 8, 2010
September 15, 2010
September 22, 2010



**CITY OF GRAND JUNCTION, COLORADO**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE ANNEXING TERRITORY TO THE  
CITY OF GRAND JUNCTION, COLORADO**

**CRIS-MAR ENCLAVE ANNEXATION**

**LOCATED NORTH AND EAST OF 29 ROAD AND F ROAD**

**CONSISTING OF APPROXIMATELY 108.62 ACRES**

WHEREAS, on the 30<sup>th</sup> day of August, 2010, the City Council of the City of Grand Junction gave notice that they will consider for annexation to the City of Grand Junction the following described territory, commonly known as the Cris-Mar Enclave; and

WHEREAS, a hearing and second reading on the proposed annexation ordinance was duly held after proper notice on the 18<sup>th</sup> day of October, 2010; and

WHEREAS, the area proposed to be annexed is entirely contained within the boundaries of the City of Grand Junction and said area has been so surrounded for a period of not less than three (3) years, pursuant to C.R.S. 31-12-106(1); and

WHEREAS, the requirements of Section 30, Article II of the Colorado Constitution have been met, specifically that the area is entirely surrounded by the annexing municipality.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

That the property situate in Mesa County, Colorado, and described to wit:

**CRIS-MAR ENCLAVE ANNEXATION**

A certain enclaved parcel of land lying in the West-Half (W 1/2) of Section 5 and the Northwest Quarter (NW 1/4) of Section 8, all in Township One South, Range One East of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

ALL of the enclaved lands bounded by the following City of Grand Junction Annexations:

1. Cloverglenn Annexation, Ordinance No. 3727, recorded in Book 3853, Page 663, Public Records of Mesa County, Colorado

2. Darla Jean Annexations No. 1 and No. 2, Ordinance No. 2774, recorded in Book 2103, Page 772, Public Records of Mesa County, Colorado
3. Marchun Annexation No. 1, Ordinance No. 3556, recorded in Book 3456, Page 155, Public Records of Mesa County, Colorado
4. Marchun Annexation No. 2, Ordinance No. 3557, recorded in Book 3456, Page 158, Public Records of Mesa County, Colorado and
5. North Meadows Annexation, Ordinance No. 2564, recorded in Book 1888, Page 794, Public Records of Mesa County, Colorado.

CONTAINING 4,731,473 Square Feet or 108.62 Acres, more or less, as described.

Be and is hereby annexed to the City of Grand Junction, Colorado.

INTRODUCED on first reading on the \_\_\_\_ day of \_\_\_\_\_, 2010 and ordered published.

ADOPTED on second reading the \_\_\_\_ day of \_\_\_\_\_, 2010.

Attest:

\_\_\_\_\_  
President of the Council

\_\_\_\_\_  
City Clerk



Date: August 11, 2010  
 Author: Scott D. Peterson  
 Title/ Phone Ext: Senior Planner/1447  
 Proposed Schedule: August 30, 2010  
 2nd Reading: September 13, 2010

Attach 5

**Setting a Hearing on the St. Martin’s Place Veteran’s Housing Rezone, Located at 415 S. 3<sup>rd</sup> Street**

**CITY COUNCIL AGENDA ITEM**

<b>Subject:</b> St. Martin’s Place Veteran’s Housing Rezone - Located at 415 S. 3 <sup>rd</sup> Street
<b>File #:</b> RZ-2010-073
<b>Presenters Name &amp; Title:</b> Scott D. Peterson, Senior Planner

**Executive Summary:**

Request to rezone 0.28 acres located at 415 S. 3<sup>rd</sup> Street from C-1, (Light Commercial) to B-2, (Downtown Business) zone district in anticipation of developing the properties for multi-family dwelling units for homeless veterans.

**How this item relates to the Comprehensive Plan Goals and Policies:**

By the continued support of development in the downtown area of the City Center into a vibrant and growing area with housing to meet the needs of a variety of incomes, along with the preservation and appropriate reuse of existing properties. The proposed request meets with Goals 4, 5 and 6 of the Comprehensive Plan.

**Goal 4:** Support the continued development of the downtown area of the City Center into a vibrant and growing area with jobs, housing and tourist attractions.

**Goal 5:** To provide a broader mix of housing types in the community to meet the needs of a variety of incomes, family types and life stages.

**Goal 6:** Land Use decisions will encourage preservation and appropriate reuse.

**Action Requested/Recommendation:**

Introduce a Proposed Ordinance and Set a Public Hearing for September 13, 2010.

**Board or Committee Recommendation:**

The Planning Commission recommended approval of the requested rezone at their August 10, 2010 meeting.

**Background, Analysis and Options:**

See attached Staff Report.

**Financial Impact/Budget:**

N/A.

**Legal issues:**

N/A.

**Other issues:**

None.

**Previously presented or discussed:**

N/A.

**Attachments:**

Site Location Map / Aerial Photo Map  
Comprehensive Plan Map / Existing City Zoning Map  
Proposed Ordinance

BACKGROUND INFORMATION				
<b>Location:</b>		415 S. 3 <sup>rd</sup> Street		
<b>Applicants:</b>		Grand Valley Catholic Outreach, Inc., Owner		
<b>Existing Land Use:</b>		Vacant lots		
<b>Proposed Land Use:</b>		Multi-family residential development (24 dwelling units for homeless veteran's)		
<b>Surrounding Land Use:</b>	<b>North</b>	Single-family residential		
	<b>South</b>	Vacant lots		
	<b>East</b>	Single-family residential/Commercial		
	<b>West</b>	Single-family residential		
<b>Existing Zoning:</b>		C-1, (Light Commercial)		
<b>Proposed Zoning:</b>		B-2, (Downtown Business)		
<b>Surrounding Zoning:</b>	<b>North</b>	B-2, (Downtown Business)		
	<b>South</b>	C-2, (General Commercial)		
	<b>East</b>	C-1, (Light Commercial)		
	<b>West</b>	C-1, (Light Commercial)		
<b>Future Land Use Designation:</b>		Downtown Mixed Use		
<b>Zoning within density range?</b>		X	Yes	No

### 1. Background:

The existing properties (Lots 13, 14, 15 and 16, Block 145, City of Grand Junction - 0.28 acres) are located at the southwest corner of Pitkin Avenue and S. 3<sup>rd</sup> Street and are currently vacant. Previously, the property contained four (4) single-family detached structures that were demolished by the applicant, Grand Valley Catholic Outreach Inc., in anticipation of developing the properties for multi-family dwelling units for homeless veterans (24 units total – 1 bedroom each). Proposed residential density would be 86 dwelling units an acre.

The existing C-1 (Light Commercial) zoning district does allow multi-family development but only up to 24 dwelling units an acre. The applicant wishes to rezone to B-2 (Downtown Business), which has no maximum residential density requirement and no building setback requirements for principal structures. The proposed B-2 zone is compatible with land uses in the surrounding area.

The applicant held a Neighborhood Meeting on May 19, 2010 however no property owners from the adjacent neighborhood attended. Project Manager did receive verbal comment from a neighboring businessman concerning the lack of off-street parking for

the proposed development, however, this issue will be formally addressed at the time of Site Plan Review application for the project.

**2. Title 21, Section 02.140 of the Grand Junction Municipal Code:**

Zone requests must meet all of the following criteria for approval:

(1) Subsequent events have invalidated the original premise and findings; and/or

Response: The Comprehensive Plan's Goal #4 states: "Support the continued development of the downtown area of the City Center into a vibrant and growing area with jobs, housing and tourist attractions."

This area is designated on the Comprehensive Plan Map as Downtown Mixed Use. Rezoning the property to B-2 will allow the applicant to develop a multi-family housing development that would exceed 24 dwelling units/acre and provide much needed housing for the community's homeless veterans, thereby supporting Goal #4 of the Comprehensive Plan.

(2) The character and/or condition of the area has changed such that the amendment is consistent with the Plan; and/or

Response: The Comprehensive Plan designation of Downtown Mixed Use encourages the proposed B-2 zoning and therefore the request is consistent with the Comprehensive Plan. The Comprehensive Plan reflects changes in the character of the downtown area for increased residential densities.

(3) Public and community facilities are adequate to serve the type and scope of land use proposed; and/or

Response: There are adequate public and community facilities existing in the area of the proposed rezone request. The proposed development is within walking distance of services offered by Grand Valley Catholic Outreach, grocery/convenience stores and downtown area merchants.

(4) An inadequate supply of suitably designated land is available in the community, as defined by the presiding body, to accommodate the proposed land use; and/or

Response: This is a proposed re-use of existing properties that contained four (4) single-family detached homes, adding more density to the properties, as encouraged by the Downtown Mixed Use designation of the Comprehensive Plan. The proposed rezone also provides needed housing for part of the area's homeless population.

(5) The community or area, as defined by the presiding body, will derive benefits from the proposed amendment.

Response: The community will derive benefits from the proposed rezone by supporting residential development in the downtown area with housing for our area's homeless veterans.

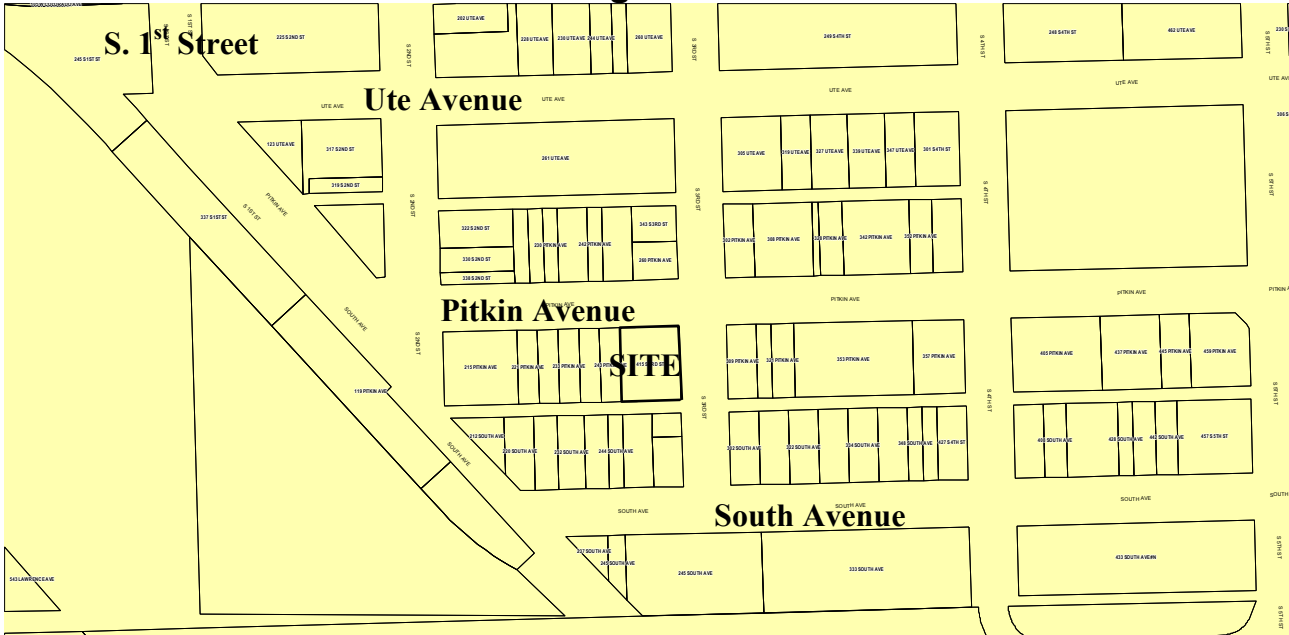
Alternatives: In addition to the zoning that the petitioner has requested, the following zone districts would also be consistent with the Comprehensive Plan designation for the subject property.

- a. Existing – C-1, (Light Commercial)
- b. R-16, (Residential – 16 du/ac)
- c. R-24, (Residential – 24 du/ac)
- d. MXR, (Mixed Use Residential)
- e. MXG, (Mixed Use General)
- f. MXS, (Mixed Use Shopfront)

The Planning Commission recommends a B-2 zone designation and does not recommend C-1, R-16, R-24, MXR, MXG or MXS. If the City Council chooses to approve one of the alternative zone designations, specific alternative findings must be made as to why the City Council is approving an alternative zone designation.

# Site Location Map

Figure 1



# Aerial Photo Map

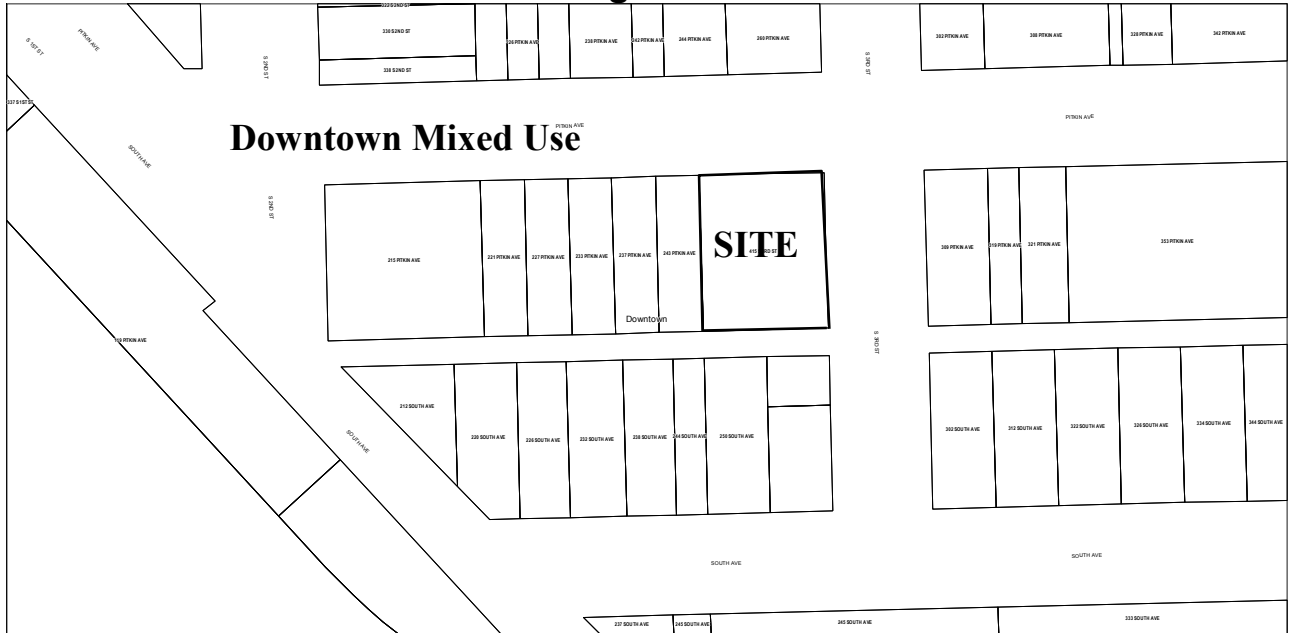
Figure 2





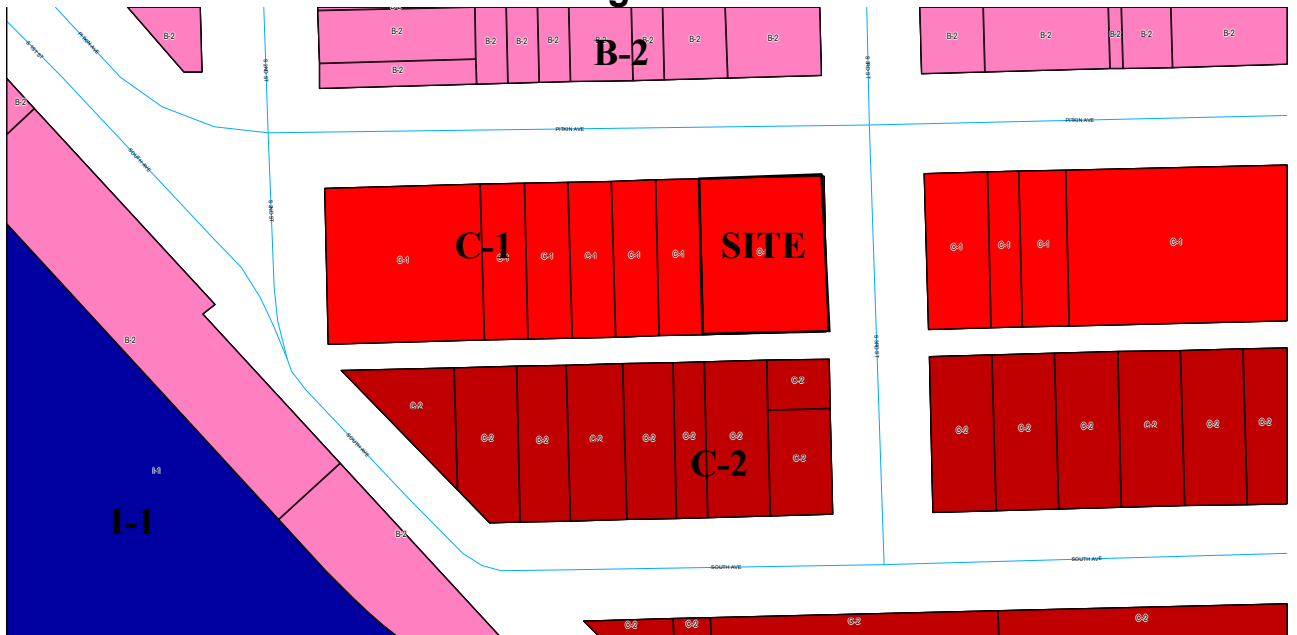
# Comprehensive Plan

## Figure 3



# Existing City Zoning

## Figure 4



**CITY OF GRAND JUNCTION, COLORADO**

**ORDINANCE NO.**

**AN ORDINANCE REZONING ST. MARTIN'S PLACE VETERAN'S HOUSING FROM  
C-1 (LIGHT COMMERCIAL) TO B-2 (DOWNTOWN BUSINESS)**

**LOCATED AT 415 S 3<sup>rd</sup> STREET**

Recitals.

After public notice and public hearing as required by the Grand Junction Zoning and Development Code, the Grand Junction Planning Commission recommended approval of rezoning St. Martin's Place Veteran's Housing properties from C-1 (Light Commercial) to the B-2 (Downtown Business) zone district for the following reasons:

The zone district meets the recommended land use category as shown on the future land use map of the Comprehensive Plan, Downtown Mixed Use and the Comprehensive Plan's goals and policies and/or is generally compatible with appropriate land uses located in the surrounding area.

After the public notice and public hearing before the Grand Junction City Council, City Council finds that the B-2 zone district to be established.

The Planning Commission and City Council find that the B-2 zoning is in conformance with the stated criteria of Title 21 Section 02.140 of the Grand Junction Municipal Code.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION  
THAT:**

The following property shall be rezoned B-2 (Downtown Business).

Lots 13, 14, 15 and 16, Block 145, City of Grand Junction

Also identified as Tax Parcel 2945-143-37-027

Introduced on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2010 and ordered published.

Adopted on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor



Date: August 19, 2010  
Author: Kristen Ashbeck  
Title/ Phone Ext: Senior Planner  
x1491  
Proposed Schedule: Approval  
8/30/10; Execute agreements  
following approval  
2nd Reading NA

Attach 6

**CDBG Subrecipient Contracts for Funds and Projects with the Comm. Dev. Block Grant (CDBG) 2010 Program Year**

**CITY COUNCIL AGENDA ITEM**

<b>Subject:</b> CDBG Subrecipient Contracts for Funds and Projects within the Community Development Block Grant (CDBG) 2010 Program Year
<b>File # (if applicable):</b> CDBG 2010-04; 2010-07; and 2010-09
<b>Presenters Name &amp; Title:</b> Kristen Ashbeck, Senior Planner/CDBG Administrator

**Executive Summary:**

The Subrecipient Contracts formalize the City’s award of a total of \$96,725 to various non-profit organizations allocated from the City’s 2010 CDBG Program as previously approved by Council.

**How this action item meets City Council Comprehensive Plan Goals and Policies:**

The projects funded through the 2010 CDBG grant year allocation will include steps towards the City’s Comprehensive Plan Goals as listed below:

**Goal 12:** Goods and Services that Enhance a Healthy, Diverse Economy:

The CDBG projects discussed below provide services that enhance our community including improved services for youth and homeless persons.

**Action Requested/Recommendation:**

Authorize the City Manager to Sign the Subrecipient Contracts with Mesa Youth Services, Inc. (Partners – Western Colorado Conservation Corps), Homeward Bound of the Grand Valley, and Grand Valley Catholic Outreach for the City’s 2010 Program Year Funds.

**Board or Committee Recommendation:** NA

**Background, Analysis and Options:**

CDBG 2010-04 Western Colorado Conservation Corps (WCCC) of Partners Van Purchase: CDBG funds will be used to purchase a 12 passenger van that will transport youth from the WCCC program office to and from service projects that will generate revenue for the Corps program.

CDBG 2010-07 Homeless Shelter Remodel: CDBG funds will be used to make safety and energy use improvements to the existing Community Homeless Shelter building.

CDBG 2010-09 Grand Valley Catholic Outreach (GVCO) Soup Kitchen Remodel: CDBG funds will be used to replace the roof on the existing building used by GVCO for its main program office and soup kitchen.

**Financial Impact/Budget:** 2010 CDBG Program Year Funds

**Legal issues:** NA

**Other issues:** None

**Previously presented or discussed:**

City Council discussed and approved the allocation of CDBG funding to these projects at its May 17, 2010 meeting.

**Attachments:**

1. Exhibit A, Subrecipient Contract – Mesa Youth Services, Inc. (Partners Western Colorado Conservation Corps)
2. Exhibit A, Subrecipient Contract – HomewardBound of the Grand Valley
3. Exhibit A, Subrecipient Contract – Grand Valley Catholic Outreach

**2010 SUBRECIPIENT CONTRACT FOR  
CITY OF GRAND JUNCTION  
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS  
WITH MESA YOUTH SERVICES, INC. dba MESA COUNTY PARTNERS**

**EXHIBIT "A"  
SCOPE OF SERVICES**

1. The City agrees to pay subject to the Subrecipient Agreement Mesa Youth Services, \$17,000 from its 2010 Program Year CDBG Entitlement Funds for purchase of a large capacity passenger van. Mesa Youth Services, Inc. dba Mesa County Partners operates the Western Colorado Conservation Corps program located at 2818-1/2 North Avenue. CDBG funds will assist with purchase of a 12-15 passenger van that will be used to transport youth to and from conservation-based service projects in the surrounding area.
2. Partners certifies that it will meet the CDBG National Objective of low/moderate limited clientele benefit for transportation and youth services (570.201(e)). It shall meet this objective by providing the above-referenced services to low/moderate income persons/youth in Grand Junction, Colorado.
3. The entire project consists of purchase of a 12-15 passenger van for the use and benefit of the Western Colorado Conservation Corps program. It is understood that the City's grant of \$17,000 in CDBG funds shall be used only for the purchase of the van. Costs associated with any other elements of the Partners programs shall be paid for by other funding sources obtained by Partners. Partners shall provide a copy of evidence of liability insurance for the vehicle with the first subrecipient drawdown request.
4. This project shall commence upon the full and proper execution of the 2010 Subrecipient Agreement and the completion of all appropriate environmental, Code, permit review approval and compliance. The project shall be completed on or before June 1, 2011.
5. The budget for the entire project is as follows:

<u>Amount</u>	<u>Source of Funds</u>
\$17,000	City CDBG*
\$ 6,000	Partners
\$ 4,000	Local Dealer Contribution

\* The City will grant \$17,000 towards the purchase of a van. If cost exceeds grant amount, the balance will be paid for with other funds secured by Partners.

6. Partners estimates that it will transport 130 youth participating in the Western Colorado Conservation Corps program on approximately 250 days during a typical month/year.
7. The City of Grand Junction shall monitor and evaluate the progress and performance of Partners to assure that the terms of this agreement are being satisfactorily met in accordance with City

and other applicable monitoring and evaluating criteria and standards. Partners shall cooperate with the City relating to monitoring, evaluation and inspection and compliance.

8. Partners shall provide quarterly financial and performance reports to the City. Reports shall describe the progress of the project, what activities have occurred, what activities are still planned, financial status, compliance with National Objectives and other information as may be required by the City. A final report shall also be submitted once the project is completed.
9. During a period of five (5) years following the date of completion of the project the use or planned use of the property improved may not change unless the City determines the new use meets one of the National Objectives of the CDBG Program, and Partners provides affected citizens with reasonable notice and an opportunity to comment on any proposed changes. If Partners decides, after consultation with affected citizens that it is appropriate to change the use of the property to a use which the City determines does not qualify in meeting a CDBG National Objective, Partners must reimburse the City a prorated share of the City's \$17,000 CDBG contribution. At the end of the five-year period following the project closeout date and thereafter, no City restrictions on use of the property shall be in effect.
10. Partners understands that the funds described in the Agreement are received by the City of Grand Junction from the US Department of Housing and Urban Development under the Community Development Block Grant Program. Partners shall meet all City of Grand Junction and federal requirements for receiving Community Development Block Grant funds, whether or not such requirements are specifically listed in this Agreement. Partners shall provide the City of Grand Junction with documentation establishing that all local and federal CDBG requirements have been met.
11. A blanket fidelity bond equal to cash advances as referenced in Paragraph V.(E) will not be required as long as no cash advances are made and payment is on a reimbursement basis.
12. A formal project notice will be sent to Partners once all funds are expended and a final report is received.

**2010 SUBRECIPIENT CONTRACT FOR  
CITY OF GRAND JUNCTION COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS  
WITH HOMEWARDBOUND OF THE GRAND VALLEY**

**EXHIBIT "A"  
SCOPE OF SERVICES**

1. The City agrees to pay the Subrecipient, subject to the subrecipient agreement, \$6,000 from its 2010 Program Year CDBG Entitlement Funds for repairs and improvements to the Community Homeless Shelter located at 2853 North Avenue in Grand Junction, Colorado ("Property" or "the Property"). The general purpose of the project is to make safety and energy use improvements including replacement of the fire sprinkler system gauges, installing a new walk-in cooler and professional cleaning of the HVAC system.
2. The Subrecipient certifies that it will meet the CDBG National Objective of low/moderate income clientele benefit (570.208(a)). It shall meet this objective by providing the above-referenced services to low/moderate income and homeless persons in Grand Junction, Colorado. In addition, this project meets CDBG eligibility requirements under section 570.201(e), Public Services.
3. The project consists of capital construction/improvement to the building at 2853 North Avenue. HomewardBound operates the Community Homeless Shelter at this location. Because plans to expand the shelter have been withdrawn, there are urgent and critical capital repairs/improvements needed for the existing building in order to continue operating a safe and healthful shelter including: replace fire sprinkler system gauges; install a new walk-in cooler; and professional cleaning of the HVAC system. The property is owned by HomewardBound of the Grand Valley, which will continue to operate the facility. It is understood that the City's grant of \$6,000 in CDBG funds shall be used only for the improvements described in this agreement. Costs associated with any other elements of the project or costs above the grant amount shall be paid for by other funding sources obtained by the Subrecipient.
4. This project shall commence upon the full and proper execution of the 2010 Subrecipient Agreement and the completion of all appropriate environmental, Code, State and Local permit review and approval and compliance. The project shall be completed by December 31, 2011.
5. The project budget for the improvements to be funded with CDBG is as listed below.

• Update Fire Sprinkler Gauges	\$ 580
• Install Walk-In Cooler	\$14,000
• HVAC System Cleaning	\$ 2,000
TOTAL PROJECT COST	\$ 16,580 *
- \*Maximum CDBG contribution shall be \$6,000. Balance provided by HomewardBound.
6. The Community Homeless Shelter provided services to 1,063 unduplicated persons in 2009 and this number is expected to increase to approximately 1,200 persons in 2010-2011.

7. The City shall monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this agreement are met in accordance with City and other applicable monitoring and evaluating criteria and standards. The Subrecipient shall cooperate with the City relating to monitoring, evaluation and inspection and compliance.
8. The Subrecipient shall provide quarterly financial and performance reports to the City. Reports shall describe the progress of the project, what activities have occurred, what activities are still planned, financial status, compliance with National Objectives and other information as may be required by the City. A final report shall also be submitted when the project is completed.
9. During a period of five (5) years following the date of completion of the project the use of the Property improved may not change unless: A) the City determines the new use meets one of the National Objectives of the CDBG Program, and B) the Subrecipient provides affected citizens with reasonable notice and an opportunity to comment on any proposed changes. If the Subrecipient decides, after consultation with affected citizens that it is appropriate to change the use of the Property to a use which the City determines does not qualify in meeting a CDBG National Objective, the Subrecipient must reimburse the City a prorated share of the City's \$6,000 CDBG contribution. At the end of the five-year period following the project closeout date and thereafter, no City restrictions under this agreement on use of the Property shall be in effect.
10. The Subrecipient understands that the funds described in the Agreement are received by the City from the US Department of Housing and Urban Development under the Community Development Block Grant Program. The Subrecipient shall meet all City and federal requirements for receiving Community Development Block Grant funds, whether or not such requirements are specifically listed in this Agreement. The Subrecipient shall provide the City with documentation establishing that all local and federal CDBG requirements have been met.
11. A blanket fidelity bond equal to cash advances as referenced in Paragraph V.(E) will not be required as long as no cash advances are made and payment is on a reimbursement basis.
13. A formal project notice will be sent to the Subrecipient once all funds are expended and a final report is received.



**2010 SUBRECIPIENT CONTRACT FOR  
CITY OF GRAND JUNCTION  
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS  
WITH  
GRAND VALLEY CATHOLIC OUTREACH**

**EXHIBIT "A"  
SCOPE OF SERVICES**

8. The City agrees to pay the Subrecipient, subject to the subrecipient agreement, \$73,725.00 from its 2010 Program Year CDBG Entitlement Funds for the remodeling of the program office and soup kitchen located at 245 South 1<sup>st</sup> Street in Grand Junction, Colorado (“Property” or “the Property”). The general purpose of the project is to replace the roof and install a new cooling system on the main program office and soup kitchen building. The primary outreach services housed in the building include the soup kitchen, the food and clothing bank and financial aid services.
2. The Subrecipient certifies that it will meet the CDBG National Objective of low/moderate income clientele benefit (570.208(a)). It shall meet this objective by providing the above-referenced services to low/moderate income and homeless persons in Grand Junction, Colorado. In addition, this project meets CDBG eligibility requirements under section 570.201(e), Public Services.
3. The project consists of capital construction/improvement to the building at 245 South 1<sup>st</sup> Street. The flat roof on the building has been repaired numerous times and has exceeded its serviceable life. In addition, GVCO recently conducted an energy audit of the facility which demonstrated that a more energy-efficient cooling system and additional insulation would benefit the facility.  
The property is owned by Grand Valley Catholic Outreach, which will continue to operate the facility. It is understood that the City's grant of \$73,825 in CDBG funds shall be used only for the interior improvements described in this agreement. Costs associated with any other elements of the project or costs above the grant amount shall be paid for by other funding sources obtained by the Subrecipient.
4. This project shall commence upon the full and proper execution of the 2010 Subrecipient Agreement and the completion of all appropriate environmental, Code, State and Local permit review and approval and compliance. The project shall be completed on or before December 31, 2011.
5. The project budget for the improvements to the 245 South 1<sup>st</sup> Street facility to be funded with CDBG is as listed below.

• Roof Replacement		\$95,000
• Commercial Size Swamp Cooler	\$ 3,725	
TOTAL PROJECT COST		\$98,725*

\*Maximum CDBG contribution shall be \$73,725. Balance provided by GVCO/other sources.
6. The GVCO facility served 81,337 persons in 2009-2010 and expects the number to increase to

85,404 in 2011 and beyond.

7. The City shall monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this agreement are met in accordance with City and other applicable monitoring and evaluating criteria and standards. The Subrecipient shall cooperate with the City relating to monitoring, evaluation and inspection and compliance.
10. The Subrecipient shall provide quarterly financial and performance reports to the City. Reports shall describe the progress of the project, what activities have occurred, what activities are still planned, financial status, compliance with National Objectives and other information as may be required by the City. A final report shall also be submitted when the project is completed.
11. During a period of five (5) years following the date of completion of the project the use of the Property improved may not change unless: A) the City determines the new use meets one of the National Objectives of the CDBG Program, and B) the Subrecipient provides affected citizens with reasonable notice and an opportunity to comment on any proposed changes. If the Subrecipient decides, after consultation with affected citizens that it is appropriate to change the use of the Property to a use which the City determines does not qualify in meeting a CDBG National Objective, the Subrecipient must reimburse the City a prorated share of the City's \$73,725 CDBG contribution. At the end of the five-year period following the project closeout date and thereafter, no City restrictions under this agreement on use of the Property shall be in effect.
10. The Subrecipient understands that the funds described in the Agreement are received by the City from the US Department of Housing and Urban Development under the Community Development Block Grant Program. The Subrecipient shall meet all City and federal requirements for receiving Community Development Block Grant funds, whether or not such requirements are specifically listed in this Agreement. The Subrecipient shall provide the City with documentation establishing that all local and federal CDBG requirements have been met.
11. A blanket fidelity bond equal to cash advances as referenced in Paragraph V.(E) will not be required as long as no cash advances are made and payment is on a reimbursement basis.
14. A formal project notice will be sent to the Subrecipient once all funds are expended and a final report is received.



Date: 8/23/2010  
 Author: Jodi Romero  
 Title/ Phone Ext: 1515  
 Proposed Schedule: \_\_\_\_\_  
August 30, 2010  
 2nd Reading  
 (if applicable): \_\_\_\_\_

Attach 7

**Assignment of the City’s 2010 Private Activity Bond Allocation to the Colorado Housing and Finance Authority**

**CITY COUNCIL AGENDA ITEM**

<b>Subject:</b> Assignment of the City’s 2010 Private Activity Bond Allocation to the Colorado Housing and Finance Authority
<b>File # (if applicable):</b>
<b>Presenters Name &amp; Title:</b> Jay Valentine, Assistant Financial Operations Manager

**Executive Summary:**

Request approval to assign the City’s 2010 Private Activity Bond (PAB) Allocation to the Colorado Housing and Finance Authority (CHFA) for the purpose of providing single-family mortgage loans to low and moderate income persons and families. The amount of this assignment would be “banked” towards a future partnership with CHFA for a multi-family rental housing project serving low and middle income families.

**How this item relates to the Comprehensive Plan Goals and Policies:**

**Goal 5:** To provide a broader mix of housing types in the community to meet the needs of a variety of incomes, family types and life stages.

Assigning the City’s PAB allocation to CHFA creates additional resources for CHFA to provide the financing necessary for low to middle income individuals and families to attain housing who may otherwise not be able to.

**Action Requested/Recommendation:**

Adopt the Proposed Resolution Assigning the City’s 2010 Private Activity Bond Allocation to the Colorado Housing and Finance Authority and Authorizes the City Manager to Execute the Assignment

**Board or Committee Recommendation:**

At this time the Grand Junction Housing Authority does not have a project that they would like to use the City’s PAB allocation towards, and therefore concurs with the recommendation to assign to CHFA.

**Background, Analysis and Options:**

Each year the State of Colorado allocates the authority to issue tax exempt Private Activity Bonds (PABs) directly to local governments whose population warrants an allocation of \$1 million or more. PABs may be used for housing projects and certain types of eligible development (ie. small manufacturing). If the local government does not have a designated use of the PABs (by September 15th of each year), they are required to either turn back the funds for Statewide use or assign the allocation to another issuer.

Since 1997, the City has been receiving a direct allocation of PABs and for the majority of those years the City Council has exercised the option of assigning the allocation to CHFA. For the last five years, CHFA's activity in Grand Junction has totaled over \$91.2 million in loans to low and moderate income families and often first time home buyers.

The City does not have a qualifying project for this year's allocation and therefore in order to have the greatest assurance that the City's PAB allocation will continue to be used in the community, it is staff's recommendation that the City again assign its 2010 PAB allocation to CHFA.

**Financial Impact/Budget:**

Private Activity Bonds are simply an authorization by the State of Colorado that allows the City to issue tax exempt bonds on behalf of a qualified project; therefore assignment of the City's bond allocation does not impact the budget. The City's 2010 Allocation amount is \$2,483,505.

**Legal issues:**

None

**Other issues:**

None

**Previously presented or discussed:**

None

**Attachments:**

Proposed Resolution  
Assignment Document

**CITY OF GRAND JUNCTION, COLORADO**

**RESOLUTION NO. \_\_\_\_\_ -10**

**A RESOLUTION AUTHORIZING ASSIGNMENT TO THE COLORADO HOUSING AND FINANCE AUTHORITY OF A PRIVATE ACTIVITY BOND ALLOCATION OF THE CITY OF GRAND JUNCTION PURSUANT TO THE COLORADO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT**

RECITALS

The City of Grand Junction (the "City") is authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families.

The Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may be issued in the State to provide such mortgage loans and for certain other purposes.

Pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among the Colorado Housing and Finance Authority (the "Authority") and other governmental units in the State, and further providing for the assignment of such allocations from such other governmental units to the Authority.

Pursuant to an allocation under Section 24-32-1706 of the Allocation Act, City has an allocation of the 2010 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to September 10, 2010 ("2010 Allocation")

The City has determined that, in order to increase the availability of adequate affordable housing for low and moderate-income persons and families within the City and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the 2010 Allocation.

The City has also determined that the 2010 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Authority to issue Private Activity Bonds for the purpose of providing single-family mortgage loans to low and moderate-income persons and families.

The City Council of the City has determined to assign \$2,483,505 of its 2010 Allocation to the Authority, which assignment is to be evidenced by an Assignment of Allocation between the City and the Authority (the "Assignment of Allocation").

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City Grand Junction that:

1. The assignment to the Authority of \$2,483,505 of the City's 2010 Allocation be and hereby is approved.
2. The form and substance of the Assignment of Allocation is hereby approved. Furthermore, the City Manager, in consultation with the City Attorney, is hereby authorized to make such technical variations, additions or deletions in or to such Assignment of Allocation as she deems necessary or appropriate and not inconsistent with this Resolution.
3. The City Manager is authorized to execute and deliver the Assignment of Allocation on behalf of the City and to take such other steps or actions as may be necessary, useful or convenient to effect the aforesaid assignment in accordance with the terms and intent of this Resolution.
4. If any section, paragraph, clause or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this resolution.
5. This Resolution shall be in full force and effect upon its passage and approval or as otherwise required by home rule charter.

PASSED, ADOPTED AND APPROVED this \_\_\_\_ day of August, 2010.

\_\_\_\_\_  
Teresa Coons, President of the Council

ATTEST:

\_\_\_\_\_  
Stephanie Tuin, City Clerk

## ASSIGNMENT OF ALLOCATION

This Assignment of Allocation (the "Assignment"), dated this 1<sup>st</sup> day of September, 2010, is between the City of Grand Junction (the "Assignor") and the Colorado Housing and Finance Authority (the "Assignee").

### WITNESSETH:

WHEREAS, the Assignor and the Assignee are authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families; and

WHEREAS, per Resolution No. 72-09, the City Council of the Assignor has determined to assign to the Assignee \$2,483,505 of its 2010 Allocation, and the Assignee has agreed to accept such assignment, which is to be evidenced by this Assignment.

NOW, THEREFORE, in consideration of the premises and the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. The Assignor hereby assigns to the Assignee \$2,483,505 of its 2010 Allocation, subject to the terms and conditions contained herein. The Assignor represents that it has received no monetary consideration for said assignment.

2. The Assignee hereby accepts the assignment to it by the Assignor of \$2,483,505 of Assignor's 2010 Allocation, subject to the terms and conditions contained herein. The Assignee agrees to use its best efforts to issue and sell Revenue Bonds, in one or more series, and to make proceeds of such Revenue Bonds available from time to time during the period of two (2) years from the date of this Assignment for the purchase of mortgage loans in at least the aggregate amount of \$2,483,505 to finance multi-family rental housing projects located in the City of Grand Junction. Unless otherwise agreed to in writing, the mortgage loans will be subject to all applicable current requirements of Assignee's mortgage revenue bond program, including Assignee's income and purchase price limits.

3. The Assignor hereby consents to the election by the Assignee, if the Assignee in its discretion so decides, to treat all or any portion of the assignment set forth herein as an allocation for a project with a carryforward purpose.

4. The Assignor and Assignee each agree that it will take such further action and adopt such further proceedings as may be required to implement the terms of this Assignment.

5. Nothing contained in this Assignment shall obligate the Assignee to finance any particular multiple family rental housing project located in the City of Grand Junction.

6. This Assignment is effective upon execution and is irrevocable.

IN WITNESS WHEREOF, the parties hereto have duly executed this Assignment on the date first written above.

**CITY OF GRAND JUNCTION**

[S E A L]

By: \_\_\_\_\_  
Laurie M. Kadrich  
Title: City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

**COLORADO HOUSING AND FINANCE  
AUTHORITY**

[S E A L]

By: \_\_\_\_\_  
Executive Director

ATTEST:

By: \_\_\_\_\_  
Assistant Secretary





Date: August 17, 2010

Author: Scott Hockins

Title/ Phone Ext: Purchasing  
Supervisor, 1484

Proposed Schedule: \_\_\_\_\_

Monday, August 30, 2010

2nd Reading

Attach 8

**Downtown Uplift 500 and 600 Block Breezeway  
Construction Contract**

**CITY COUNCIL AGENDA ITEM**

<b>Subject:</b> Downtown Uplift 500 and 600 Block Breezeway Construction Contract
<b>File # (if applicable):</b>
<b>Presenters Name &amp; Title:</b> Tim Moore, Pubic Works & Planning Director Jay Valentine, Assistant Financial Operations Manager

**Executive Summary:**

This contract consists of a complete reconstruction of the Main Street 500 and 600 block breezeways including installation of new electrical panels to feed electricity to Main Street, new pedestrian lighting, construction of new plant beds, curb, gutter, and stucco wall surfacing. This is a prelude to the larger Downtown Uplift Main Street Phase II reconstruction project that is scheduled to continue in January 2011.

**How this item relates to the Comprehensive Plan Goals and Policies:**

This Downtown Uplift project supports the following Goals from the Comprehensive plan:

**Goal 4:** Support the continued development of the downtown area of the City Center into a vibrant and growing area with jobs, housing and tourist attractions.

Reinvestment in the infrastructure of Main Street is an essential component of continued development in the downtown area. The design has specifically addressed the varying economic and social needs for the core of the City by incorporating greater accessibility for all community members, family-friendly features, high-quality amenities, and intentional focus on the needs and desires of merchants and property owners.

**Goal 9:** Develop a well-balanced transportation system that supports automobile, local transit, pedestrian, bicycle, air, and freight movement while protecting air, water and natural resources.

This project supports the ongoing Strategic Downtown Master Plan, while adhering to the City of Grand Junction's Transportation Engineering Design Standards and guidelines. This project will continue to maintain mobility to the traveling public as well as direct access to the Downtown Area by improving the "walkability" from the parking lots on both the north and south sides of Main Street.

**Goal 10:** Develop a system of regional, neighborhood and community parks protecting open space corridors for recreation, transportation and environmental purposes.

Reconstruction of the breezeways will update these pedestrian corridors, complete with sitting and gathering areas. These improvements are necessary this fall to stub utilities through the pedestrian corridors for the Phase II construction scheduled for January to June 2011. These improvements combined with a year-round schedule of promotions and special events will boost the energy and economic vigor of our community and region.

**Action Requested/Recommendation:**

Authorize the City Purchasing Division to Sign a Construction Contract for the Downtown Uplift Main Street 500 and 600 Block Breezeway Project with Martinez Western in the Amount of \$184,336.80.

**Board or Committee Recommendation:**

The Downtown Development Authority Board met on Thursday August 26, 2010 and endorsed the staff recommendation to go with Martinez Western.

**Background, Analysis and Options:**

This project will be completed ahead of Phase II Downtown Uplift Project in order to assure pedestrian access from rear parking lots during construction of Phase II which is slated for construction January through June 2011. The breezeway located in the 500 block and the west breezeway located in the 600 block will be reconstructed to match the theme of the Downtown Uplift Project. New Planting beds will be installed, all new colored concrete will replace the existing walking surface, an updated irrigation system will be installed to replace the antiquated system, and new pedestrian lighting will be installed to help the walking pedestrians at night. In addition, the electrical panels will be installed as part of this project and the conduit will be stubbed out to the Main Street side to help for the Phase II portion of the Uplift Project.

A formal solicitation was advertised in the Daily Sentinel and sent to a source list of contractors including the Western Colorado Contractors Association (WCCA). Five

bids for were received. Martinez Western, Rifle, Colorado was the apparent low bidder with a bid of \$184,336.80.

The following bids were received on August 17, 2010:

<b>COMPANY</b>	<b>LOCATION</b>	<b>AMOUNT</b>
Martinez Western Constructors, Inc.	Grand Junction, CO	\$184,336.80
Vista Paving	Grand Junction, CO	\$204,744.55
Clarke & Co., Inc	Grand Junction, CO	\$210,115.00
Asset Engineering	Grand Junction, CO	\$237,277.10
Vostatek Construction	Clifton, CO	\$269,549.76

Martinez Western Constructors, Inc. is a Rifle, Colorado based company having been at their present location for the last fifteen years. They also have a local office in Grand Junction and currently employ eleven full-time people between the two offices. Martinez Western Constructors, Inc. specializes in general contracting and construction management.

This project is scheduled to be completed by mid November 2010.

**Financial Impact/Budget:**

The Downtown Development Authority board has authorized funds for the reconstruction of Main Street. The total expected cost of the combined project is \$184,336.80. Sufficient funds for this component, Main Street 500 and 600 Block Breezeway (\$210,000), have been approved in the 2010 Downtown Development Authority budget.

**Legal issues:**

N/A

**Other issues:**

N/A

**Previously presented or discussed:**

August 26, 2010 – Downtown Development Authority Board

**Attachments:**

N/A



Date: August 10, 2010  
 Author: Susan J. Hyatt  
 Title/ Phone Ext: Senior Buyer/  
1513  
 Proposed Schedule: Aug  
30, 2010  
 2nd Reading  
 (if applicable): \_\_\_\_\_

Attach 9  
**Contract Award for the Outsourcing of Printing and Mailing Services for Utility Bills**

**CITY COUNCIL AGENDA ITEM**

<b>Subject:</b> Contract Award for the Outsourcing of Printing and Mailing Services for Utility Bills
<b>File # (if applicable):</b>
<b>Presenters Name &amp; Title:</b> Jim Finlayson, Information Technology Manager Jay Valentine, Assistant Financial Operations Manager

**Executive Summary:**

In an effort to move toward a more cost effective and efficient method of distributing utility bills, Staff is requesting the printing and mailing of utility bills be outsourced. Outsourcing of utility bills will result in costs savings for the City. The Customer Service Division will provide an electronic file to the vendor who will print the information and mail invoices directly to individual customers.

**How this item relates to the Comprehensive Plan Goals and Policies:**

**Goal 12:** *Being a regional provider of goods and services the City and County will sustain, develop and enhance a healthy, diverse economy.*

This award will save the City an estimated \$34,600 annually which will help the Water, Sewer, Trash and Irrigation organizations continue to provide cost effective services.

**Action Requested/Recommendation:**

Authorize the Purchasing Division to Award a Contract to The Master’s Touch, LLC of Spokane, Washington in the Amount of \$167,565 for Printing and Mailing Services with the note that the actual contract amount may vary depending on discount postage rates available.

**Board or Committee Recommendation:**

N/A

**Background, Analysis and Options:**

The Information Technology Division currently prints utility bills for the Customer Service Division using existing staff and a specially configured high speed printer. The printed invoices are then sent to a mail handling facility for folding, stuffing and mailing. The current printer has reached the end of its useful life, is experiencing significant downtime and repair calls, and will be very expensive to replace. As part of the investigation process for a new printer, Staff also looked at the feasibility of outsourcing the complete printing and mailing function. The preliminary analysis indicated that the City could expect to recognize significant cost savings by outsourcing the function.

A Request for Proposal (RFP) was developed and sent to 205 companies/firms capable of providing printing and/or mailing services. Of those 205 companies, 14 responsive and responsible offers were received.

The responses were evaluated by representatives from Information Technology, Customer Service and Purchasing. Of those fourteen, the evaluation team narrowed the list to three. The results are as follows listed in order of dollar amount. One local vendor submitted a proposal but was not chosen for the short list due to their lack of demonstrated printing capacity and proposed fees, which were approximately \$65,000 higher than the lowest offer.

<b>Company</b>	<b>City/State</b>	<b>Dollar Amount</b>
The Master's Touch, LLC	Spokane, WA	\$167,565
Level One, LLC	Malvern, PA	\$173,828
Infosend, Inc.	Fullerton, CA	\$179,724

The short list was determined using seven criteria. The selected vendor proposals showed that the vendor had the necessary resources and required skills, demonstrated capability, business integrity, understanding of the project and objectives, favorable references, and that their proposal was responsive to the requirements of the RFP. The Master's Touch has been determined to be the best overall value.

**Financial Impact/Budget:**

Using cost figures from the current processes, which includes labor, printer, printing supplies, mail handling and postage, it is estimated that the City will save approximately \$34,600 by outsourcing these services to the selected vendor. Budgeted funds exist in the Water, Sewer, Trash and Irrigation Funds to pay for these services.

**Legal issues:**

N/A

**Other issues:**

N/A

**Previously presented or discussed:**

N/A

**Attachments:**

N/A



Date: August 17, 2010

Author: Scott Hockins

Title/ Phone Ext: Purchasing  
Supervisor, 1484

Proposed Schedule: \_\_\_\_\_

Monday, August 30, 2010

2nd Reading

Attach 10

**Contract Revision for Compressed Natural Gas  
Fast-Fill Station**

**CITY COUNCIL AGENDA ITEM**

<b>Subject:</b> Contract Revision for Compressed Natural Gas Fast-Fill Station
<b>File # (if applicable):</b>
<b>Presenters Name &amp; Title:</b> Jay Valentine, Assistant Financial Operations Manager

**Executive Summary:**

This contract revision will provide the design and infrastructure for a new Fast-Fill addition to the Compressed Natural Gas (CNG) Fueling Station approved by City Council on August 2, 2010. This Fast-Fill addition will provide a fueling point for public and private vehicles utilizing the CNG technology.

**How this item relates to the Comprehensive Plan Goals and Policies:**

The CNG Fast-Fill Station project supports the following Goals from the Comprehensive plan:

**Goal 9:** Develop a well-balanced transportation system that supports automobile, local transit, pedestrian, bicycle, air, and freight movement while protecting air, water and natural resources.

CNG Fuel is a clean and economically sound alternative to diesel fuels currently used by some of the City’s larger fleet vehicles. Providing an opportunity for CNG fueling provides an alternative for other public, or private, fleet managers that may see the benefit of using this clean fuel alternative.

**Goal 12:** Being a regional provider of goods and services the City and County will sustain, develop and enhance a healthy, diverse economy.

This second phase of the CNG project will involve construction of a Fast-Fill Station that may be utilized by both public and private patrons, or the City would have the opportunity to enter into a private/public venture for CNG fueling. This option for alternative fuel will help to promote use of clean fuels in the local/regional area that over time will result in improving air quality in the valley.

**Action Requested/Recommendation:**

Authorize the City Purchasing Division to Sign a Contract Revision for the CNG Fast-Fill Station Project with Gas Energy Systems, Inc. in the Amount of \$223,115.

**Board or Committee Recommendation:**

N/A

**Background, Analysis and Options:**

The City of Grand Junction has been exploring alternatives to provide a CNG fuel option for several years. This effort started with Staff exploring possible uses for the methane gas generated as a bi-product of treating sewage at the Persigo Wastewater Treatment Plant. Staff evaluated cost benefits realized with provision of the CNG fuel alternative and determined it advantageous to establish a market for CNG fuel prior to committing to a specific use at the Waste Water Plant. Staff looked to Xcel Energy as a source of natural gas at the Municipal Services Campus for the current operation of the fueling station.

This phase of the fueling station project will result in construction of two Fast-Fill pumps and the related infrastructure to provide on demand fuel. This will give both public and private vehicles the opportunity to use CNG as an alternative to diesel or gasoline. These two pumps will be in addition to the ten Slow-Fill stations approved by Council in early August.

This project is scheduled to be completed by late November 2010.

**Financial Impact/Budget:**

Funds to complete the CNG Fast-Fill project are being made available through a donation from Encana Natural Gas, Inc. (\$150,000) and through a grant from the Governor's Energy Office (\$122,000) totaling \$272,000.

**Legal issues:**

N/A

**Other issues:**

N/A

**Previously presented or discussed:**

The Slow-Fill CNG Station was approved by Council on August 2, 2010.



**Attachments:** None