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**LEASE PURCHASE AGREEMENT**

between

**BANC OF AMERICA PUBLIC CAPITAL CORP,**  
as Lessor,

and

**ARAPAHOE COUNTY, COLORADO,**  
as Lessee

Dated May 19, 2011

Atn to:

FIRST AMERICAN  
1125 17TH STE 750

DENVER, CO 80202

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## **LEASE PURCHASE AGREEMENT**

**THIS LEASE PURCHASE AGREEMENT** dated as of May 19, 2011 (this "Lease"), between **BANC OF AMERICA PUBLIC CAPITAL CORP**, a Kansas corporation (the "Bank"), as lessor, and **ARAPAHOE COUNTY, COLORADO** (the "County"), a body corporate and politic of the State of Colorado duly organized and existing under the laws of the State of Colorado (the "State"), as lessee;

### **WITNESSETH:**

WHEREAS, the County is a duly and regularly created, organized and existing body corporate and politic of the State, existing as such under the Constitution and statutes of the State; and

WHEREAS, the County is authorized by Section 30-11-101(b) and (c), Colorado Revised Statutes, as amended, to purchase and hold real and personal property and to lease the same either as lessee or lessor; and

WHEREAS, the County is authorized by Section 30-11-104.1, Colorado Revised Statutes, as amended, to enter into lease purchase agreements in order to provide for financing of any county building or equipment used, or to be used, for governmental purposes; and

WHEREAS, in order to finance the costs of acquiring and improving an office building complex within the County for use by several County agencies, the Board of County Commissioners (the "Board") of the County has determined that the County shall demise to the Bank a leasehold interest in the real property described in Exhibit A hereto and improvements thereon (whether existing now or hereafter) (collectively, the "Leased Property") pursuant to the Site Lease, and sublease the Leased Property back from the Bank pursuant to this Lease between the Bank, as sublessor, and the County, as sublessee; and

WHEREAS, by entering into the Site Lease and this Lease with respect to the Leased Property, the County can have the immediate use of the Leased Property but pay the cost of its acquisition on a deferred basis; and

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

WHEREAS, the financing of the Financed Project (as hereafter defined), and the execution, performance and delivery of the Site Lease, this Lease and the Escrow Agreement and the Purchase Agreement (defined herein), have been authorized, approved and directed by the Board by a resolution or resolutions duly passed and adopted by the Board;

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

## ARTICLE I

### DEFINITIONS

**Section 1.01. Terms Defined in Preamble and Recitals.** The following terms shall have the meanings set forth in the preamble and recitals hereto:

Bank	Lease
Board	State
County	

**Section 1.02. Additional Definitions.** The following additional terms shall have the meanings specified below:

*“Additional Rentals”* means the cost of all (a) reasonable expenses and fees of the Bank related to the performance of the provisions of this Lease related to the Leased Property, or otherwise incurred at the request of the County, (b) taxes, if any, insurance premiums, utility charges, maintenance, upkeep, repair, improvement and replacement in respect of the Leased Property, and (c) all other charges and costs which the County assumes or agrees to pay hereunder (together with all interest and penalties that may accrue thereon) in the event that the County shall fail to pay the same. Additional Rentals do not include Base Rentals.

*“Authorized Officer of the County”* means any person authorized by resolution of the Board to perform any act or execute any document.

*“Base Rentals”* means the payments payable by the County during the Lease Term pursuant to Section 6.02 of this Lease and as set forth in Exhibit B, as it may be amended hereunder from time to time, which constitute the payments payable by the County for and in consideration of the right to use the Leased Property during the Lease Term.

*“Base Rental Payment Dates”* means the first day of each month of each Fiscal Year during the Lease Term.

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

*“Code”* means the Internal Revenue Code of 1986, as amended.

*“Counsel”* means an attorney at law or law firm (who may be counsel for the Bank or the County) who is satisfactory to both the County and the Bank.

*“Escrow Agent”* means UMB Bank, n.a., and any successor thereto, acting as escrow agent pursuant to the Escrow Agreement.

“*Escrow Agreement*” means the Escrow Agreement, dated as of May 19, 2011, by and among the County, the Bank and the Escrow Agent.

“*Event of Default*” means one or more events of default as defined in Section 13.01 of this Lease.

“*Event of Nonappropriation*” means a termination of this Lease by the County, determined by the County’s failure for any reason, to duly enact by the last day of each Fiscal Year an appropriation resolution for the ensuing Fiscal Year which includes (a) by specific line item reference amounts authorized and directed to be used to pay all Base Rentals and (b) sufficient amounts to pay such Additional Rentals as are estimated to become due, as provided in Section 6.06 of this Lease. The term also includes the giving of notice under Section 4.01 of this Lease of the County’s intention to terminate and the occurrence of an event described in Section 6.06 of this Lease relating to the failure by the County to appropriate amounts due as Additional Rentals in excess of the amounts estimated to become due.

“*Financed Project*” means the acquisition and improvement of the Leased Property by the County, and the payment of the costs of execution and delivery of the Site Lease and this Lease with funds from the Bank Rental Payment received under the Site Lease.

“*Fiscal Year*” means the fiscal or budget year of the County.

“*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 County.

“*Insurance Consultant*” means an independent person or firm acceptable to the County experienced in providing the specific type of insurance in question and capable of making an evaluation of the actuarial risk of loss from the types of events customarily covered by such insurance policies.

“*Lease Balance*” means, as of any date, the Remaining Lease Balance shown in Exhibit B hereto as of the last preceding Base Rental Payment Date, together with any installments of the principal component of Base Rentals which have previously come due and remain unpaid.

“*Lease Rate*” means 4.50% per annum.

“*Lease Remedy*” or “*Lease Remedies*” means any or all remedial steps provided in Section 13.02 of this Lease whenever an Event of Default hereunder has happened and is continuing.

“*Lease Term*” means the time during which the County is the lessee of the Leased Property under this Lease, including the Original Term and all Renewal Terms as provided in and subject to Article IV and Sections 6.01, 6.02 and 6.06 of this Lease; certain provisions of this Lease survive the termination of the Lease Term, as provided in Section 4.02 of this Lease.

“*Leased Property*” means the real property described in Exhibit A attached hereto and any improvements located thereon (whether existing now or hereafter).

“*Net Proceeds*” when used with respect to any performance or payment bond proceeds, 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 contract relating to the Leased Property or proceeds from any Lease Remedy, means the amount remaining after deducting from such proceeds (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 payments due to the Bank.

“*Original Term*” means the portion of the Lease Term that terminates on December 31, 2011.

“*Opinion of Counsel*” means a written opinion of legal counsel.

“*Permitted Encumbrances*” means those items listed in Exhibit C hereto.

“*Project Fund*” means the fund to be held and administered by the Escrow Agent and applied to the Financed Project pursuant to the Escrow Agreement.

“*Purchase Agreement*” means the Purchase Agreement with respect to the Leased Property, dated as of April 20, 2011, between the County and ATC Realty Three, LLC.

“*Purchase Option Price*” means the amount payable, at the option of the County, for the purpose of terminating this Lease with respect to the Leased Property and purchasing the interest of the Lessor in the Leased Property pursuant to Article XI of this Lease. The Purchase Option Price shall consist of the Remaining Lease Balance shown in Exhibit B hereto as of the last Base Rental Payment Date preceding the termination of this Lease, plus the interest component of Base Rentals accrued through the date of such termination.

“*Renewal Term*” means any optional renewal of the Lease Term for the next Fiscal Year by the County, as provided in Article IV of this Lease.

“*Revenues*” means (a) all amounts payable by or on behalf of the County with respect to the Leased Property pursuant to this Lease including, but not limited to, all Base Rentals, Purchase Option Prices and Net Proceeds, but not including Additional Rentals; and (b) all other revenues derived from this Lease, excluding Additional Rentals.

“*Site Lease*” means the Site Lease dated of even date herewith, whereby the County demises to the Bank a leasehold interest in real property upon which the Leased Property is located and the fixtures, permanent improvements and structures located or to be located thereon.

“*Tax Compliance Certificate*” means the certificate delivered by the County as of the date of execution and delivery of this Lease, containing statements as to facts and expectations which are material for purposes of the excludability of the interest component of Base Rentals from gross income under the Code.



## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES

**Section 2.01. Representations, Covenants and Warranties of the County.** The County represents, covenants and warrants as follows:

(a) The County is a body corporate and politic of the State, duly organized and existing under the laws of the State. The County is authorized to enter into the transactions contemplated by the Site Lease, this Lease, the Escrow Agreement and the Purchase Agreement and to carry out its obligations under this Lease, the Escrow Agreement and the Purchase Agreement. The County has duly authorized and approved the execution and delivery of this Lease and the Site Lease.

(b) The Financed Project is necessary, convenient, in furtherance of and will at all times be used in connection with the County's governmental and proprietary purposes and functions and is in the best interests of the citizens of the County, and no material portion of the Financed Project will be used directly or indirectly in any trade or business carried on by any person other than a political subdivision or governmental unit of the State.

(c) Neither the execution and delivery of the Site Lease, this Lease, the Escrow Agreement or the Purchase Agreement, nor the fulfillment of or compliance with the terms and conditions of this Lease, the Site Lease, the Escrow Agreement and the Purchase Agreement, 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 County is now a party or by which the County or its property is bound, or violates any statute, regulation, rule, order of any court having jurisdiction, judgment or administrative order applicable to the County, 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 County, except for Permitted Encumbrances.

(d) There is no litigation or proceeding pending or threatened against the County or any other person affecting the right of the County to execute this Lease, the Site Lease, the Escrow Agreement or the Purchase Agreement, or the ability of the County to make the payments required hereunder or to otherwise comply with the obligations contained herein.

(e) With respect to the Leased Property, (i) no dangerous, toxic or hazardous pollutants, contaminants, chemicals, waste, materials or substances, as defined in or governed by the provisions of any federal, state or local law, statute, code, ordinance, regulation, requirement or rule relating thereto (collectively, "Environmental Regulations"), and also including urea-formaldehyde, polychlorinated biphenyls, asbestos, asbestos containing materials, nuclear fuel or waste, radioactive materials, explosives, carcinogens and petroleum products, or any other waste, material, substance, pollutant or contaminant which would subject the owner of the Leased Property to any

damages, penalties or liabilities under any applicable Environmental Regulation (collectively, "Hazardous Substances") are now or, to the best knowledge of the County, after due inquiry, have been stored, located, generated, produced, processed, treated, transported, incorporated, discharged, emitted, released, deposited or disposed of in, upon, under, over or from the Leased Property in violation of any Environmental Regulation; (ii) no threat exists of a discharge, release or emission of a Hazardous Substance upon or from the Leased Property into the environment; (iii) the Leased Property has not been used as or for a mine, landfill, a dump or other disposal facility, industrial or manufacturing facility, or a gasoline service station; (iv) no underground storage tank is located at the Leased Property or has previously been located therein but has been removed therefrom; (v) no violation of any Environmental Regulation now exists relating to the Leased Property, no notice of any such violation or any alleged violation thereof has been issued or given by any governmental entity or agency, and there is not now any investigation or report involving the Leased Property by any governmental entity or agency which in any way relates to Hazardous Substances; (vi) no person, party or private or governmental agency or entity has given any notice of or asserted any claim, cause of action, penalty, cost or demand for payment or compensation, whether or not involving any injury or threatened injury to human health, the environment or natural resources, resulting or allegedly resulting from any activity or event described in (i) above; (vii) there are not now any actions, suits, proceedings or damage settlements relating in any way to Hazardous Substances, in, upon, under, over or from the Leased Property; (viii) the Leased Property is not listed in the United States Environmental Protection Agency's National Priorities List of Hazardous Waste Sites or any other list of Hazardous Substance sites maintained by any federal, state or local governmental agency; and (ix) the Leased Property is not subject to any lien or claim for lien or threat of a lien in favor of any governmental entity or agency as a result of any release or threatened release of any Hazardous Substance.

(f) The County has experienced no material change in its financial condition since December 31, 2010.

(g) The County has never failed to appropriate or defaulted in any material respect under any of its payment or performance obligations or covenants, either under any municipal lease of the same general nature as this Lease, or under any of its bonds, notes or other obligations of indebtedness for which its revenues or general credit are pledged.

(h) The County has acquired title to the Leased Property within the time and in the manner permitted by the Site Lease, this Lease, the Escrow Agreement and the Purchase Agreement.

**Section 2.02. Representations and Covenants of the Bank.** The Bank represents and covenants as follows:

(a) The Bank has all requisite power to acquire legal interests in the Leased Property and to execute, deliver, enter into and perform the transactions contemplated by this Lease and the Site Lease and to carry out its obligations under this Lease and the Site

Lease, and has duly executed and delivered the Site Lease, as lessee, and this Lease, as lessor.

(b) Except as expressly provided in this Lease, the Bank will not, except to its successors by merger or its affiliates, pledge or assign its right, title or interest in and to any of its rights under this Lease, or assign, pledge, mortgage, encumber or grant a security interest in its right, title or interest in, to or under this Lease or the Leased Property. The Bank represents that neither the Lease nor any interest therein will be transferred or resold except in compliance with Section 15.05 hereof.

(c) Except as specifically provided in this Lease and the Site Lease, the Bank will not assign its rights or delegate its obligations under this Lease or the Site Lease to any other person so as to impair or violate the representations, covenants and warranties contained in this Section 2.02.

(d) There is no litigation or proceeding pending or threatened against the Bank or any other person affecting the right of the Bank to execute this Lease or the Site Lease and to perform its obligations hereunder and thereunder.

(e) The Bank acknowledges that the obligations of the County under this Lease are payable solely from the Revenues under this Lease and shall not constitute or give rise to a general obligation or multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the County within the meaning of any constitutional or statutory provision or limitation nor a mandatory charge or requirement against the County in any ensuing Fiscal Year beyond any Fiscal Year during which this Lease shall be in effect. The Bank further acknowledges that the County may elect not to renew this Lease by declining to budget and appropriate funds sufficient to meet its next Fiscal Year's Base Rentals and Additional Rentals, and that the acts of budgeting and appropriating funds are legislative acts and, as such, are solely within the discretion of the Board.

### **ARTICLE III**

#### **LEASE OF LEASED PROPERTY**

The Bank demises and leases its leasehold interest in the Leased Property to the County, and the County leases the Bank's leasehold interest in the Leased Property from the Bank, in accordance with the provisions of this Lease, subject only to Permitted Encumbrances, to have and to hold for the Lease Term.

### **ARTICLE IV**

#### **LEASE TERM**

**Section 4.01. Duration of Lease Term; County's Annual Right to Renew Lease.** The Lease Term shall commence as of the date hereof and continue through the last day of the current Fiscal Year of the County. Subject to the provisions of Section 4.02 hereof, the Lease Term may be renewed at the end of the Original Term and at the end of each renewal term

thereafter for a term of twelve months coinciding with the next succeeding Fiscal Year of the County. The County shall have the right to annually renew the Lease Term unless (a) the County gives written notice to the Bank not less than 30 days prior to the end of the Original Term or the then current Renewal Term of the County's intention not to renew this Lease at the end of the Original Term or the then current Renewal Term, or (b) an Event of Nonappropriation shall have occurred with respect to a Renewal Term occurring after the Original Term or any then current Renewal Term. The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Original Term, except for the amount of Base Rentals and Additional Rentals to be paid during such Renewal Term. The Lease Term, including the Original Term and all Renewal Terms, does not exceed the weighted average useful life of the Leased Property or the Financed Project.

Except as otherwise provided in Section 4.02 hereof, the exercise of the County's annual option to renew this Lease shall be conclusively determined by whether or not the Board has, on or before the last day of each Fiscal Year, duly enacted an appropriation resolution for the ensuing Fiscal Year which includes (a) sufficient amounts (based upon the County's detailed budget document as it then exists) authorized and directed to be used to pay all the Base Rentals and (b) sufficient amounts (based upon such budget document) to pay such Additional Rentals as are estimated to become due, all as further provided in Section 6.02 of this Lease. The officer of the County at any time charged with the responsibility of formulating budget proposals is hereby directed to include in the annual budget proposals submitted to the Board, items for all payments required under this Lease for the ensuing Fiscal Year, until such time (if any) as the Board has determined not to renew this Lease; it being the intention of the Board that any decision to renew or not to renew this Lease shall be made solely by the Board and not by any other official of the County. Said officer shall also include in said budget proposal the total amount to be expended by the County during the ensuing Fiscal Year for payment obligations under all lease-purchase agreements involving real property, including this Lease; the total maximum payment liability of the County under all lease-purchase agreements involving real property, including this Lease, over the entire terms of such agreements, including all optional renewal terms; the total amount to be expended by the County during the ensuing Fiscal Year for payment obligations under all lease-purchase agreements other than those involving real property; and the total maximum payment liability of the County under all lease-purchase agreements other than those involving real property, over the entire term of such agreements, including all optional renewal terms. The County shall, in any event, promptly furnish the Bank with copies of its appropriation resolution within seven days after passage and its final annual budget within seven days after the final budget is adopted. If such appropriation measure is not adopted, the County shall notify the Bank in writing as provided in Section 6.06 hereof.

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

- (a) the last day of any Fiscal Year during which there has occurred an Event of Nonappropriation pursuant to Section 4.01 and Article VI of this Lease (provided that the Lease Term will be deemed to have been renewed and, therefore, not terminated if the Event of Nonappropriation is cured as provided in Section 6.06 hereof); or

(b) the conveyance or release of all of the Leased Property to the County upon payment of the Purchase Option Price or all Base Rentals and Additional Rentals as provided in Section 11.02(a) and (b) of this Lease; or

(c) an Event of Default and termination of this Lease under Article XIII of this Lease.

An election not to renew the Lease Term shall terminate all unaccrued obligations of the County under this Lease, and shall terminate the County's rights of possession under this Lease at the end of the last day of the Fiscal Year for which this Lease shall be in effect (except to the extent of the holdover provisions of Section 13.02(d)(i) hereof, and except for any conveyance pursuant to Article XI of this Lease). Except for an event described in subparagraph (b) above, upon termination of this Lease, the County agrees to vacate or surrender possession of the Leased Property to the Bank or its assigns for the remaining term of the Site Lease.

## ARTICLE V

### ENJOYMENT OF LEASED PROPERTY

The Bank hereby covenants that the County shall during the Lease Term peaceably and quietly have, hold and enjoy the Leased Property without suit, trouble or hindrance from the Bank, except as expressly required or permitted by this Lease. The Bank shall, at the request and cost of the County, and, to the extent permitted by law, indemnification of the Bank, join and cooperate fully in any legal action in which the County 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.

The County also hereby consents to the inspection by the Bank of all books, accounts and records maintained by the County with respect to the Leased Property and this Lease.

## ARTICLE VI

### PAYMENTS BY THE COUNTY

**Section 6.01. Payments to Be Made From Currently Budgeted Expenditures of the County.** The County and the Bank acknowledge and agree that the Base Rentals and Additional Rentals hereunder during the Original Term and all Renewal Terms, if any, shall be paid from then currently budgeted expenditures of the County, using any legally available funds of the County. The County's obligations to pay Base Rentals, Additional Rentals or any other payments provided for under this Lease during the Original Term and all of the Renewal Terms, if any, shall be subject to the County's annual right to renew this Lease (as further provided in Article IV and Sections 6.02 and 6.06 hereof), and shall not constitute a mandatory charge, requirement or liability in any ensuing Fiscal Year beyond the then current Fiscal Year. No provision of this Lease shall be construed or interpreted as a delegation of governmental powers or as creating indebtedness or a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of the County within the meaning of any constitutional or statutory debt limitation, including without limitation, Article XI, Sections 1, 2 and 6, and Article X,

Section 20, of the Colorado Constitution. This Lease shall not directly or indirectly obligate the County to make any payments of Base Rentals or Additional Rental or any other amounts provided for under this Lease beyond the funds legally available to the County and budgeted and appropriated for its then current Fiscal Year. The County shall be under no obligation whatsoever to exercise its option to purchase the Bank'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 County moneys, nor shall any provision of this Lease restrict the future issuance of any bonds or obligations of the County payable from any class or source of moneys of the County.

**Section 6.02. Base Rentals and Additional Rentals.**

(a) The County shall pay all Base Rentals directly to the Bank during the Original Term and all Renewal Terms, on the Base Rental Payment Dates and in the "Total Base Rentals" amounts set forth in Exhibit B, attached hereto and made a part hereof, as it may be amended from time to time hereunder.

(b) The County may, on any Base Rental Payment Date on or after July 1, 2021, pay the then applicable Purchase Option Price related to the Leased Property for the purpose of terminating this Lease and the Site Lease and purchasing the Bank's leasehold interest in the Leased Property, as further provided in Article XI of this Lease. The County shall give the Bank notice of its intention to exercise its option not less than 30 days in advance of the date of exercise and shall deposit with the Bank on or prior to a Base Rental Payment Date an amount equal to the Purchase Option Price.

(c) The County shall pay Additional Rentals during the Original Term and all Renewal Terms, if any, as herein provided. All Additional Rentals shall be paid by the County on a timely basis directly to the person or entity to which such Additional Rentals are owed. If the County's estimates of Additional Rentals for any Fiscal Year are not itemized in the budget required to be furnished to the Bank under Section 4.01 of this Lease, the County shall furnish an itemization of such estimated Additional Rentals to the Bank on or before the last day of such Fiscal Year.

**Section 6.03. Interest Component.** A portion of each payment of Base Rentals is paid as, and represents payment of, interest, and Exhibit B hereto, as it may be amended from time to time hereunder, sets forth the interest component of each payment of Base Rentals.

**Section 6.04. Manner of Payment.** The Base Rentals and, if paid, the Purchase Option Price, shall be paid by the County by certified funds or other method of payment acceptable to the Bank in lawful money of the United States of America to the Bank, if by mail, to: Banc of America Public Capital Corp, P.O. Box 100918, Atlanta, GA 30384-0918, Attention: Contracts Administration; and if by wire, to: Bank of America, ABA/Routing # 0260-0959-3, Bank Address: 100 N. Tryon St., Charlotte, NC, Beneficiary Name: Banc of America Public Capital Corp, Account # 12339-03984, REF: LEASE & INVOICE NUMBER. The obligation of the County to pay the Base Rentals and Additional Rentals, during the Original Term and each Renewal Term, shall be absolute and unconditional, payable from all legally available sources, and payment of the Base Rentals and Additional Rentals shall not be abated through accident or unforeseen circumstances, or 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 Bank to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Lease, it being the intention of the parties that the payments required by this Lease will be paid in full when due without any delay or diminution whatsoever, subject only to the special and limited nature of the County's obligation to make payments hereunder as set forth in Section 6.01 above, and further subject to the County's rights under Section 8.04 hereof. Notwithstanding any dispute between the County and Bank, the County shall, during the Original Term and all Renewal Terms, make all payments of Base Rentals and Additional Rentals when due and shall not withhold any Base Rentals or Additional Rentals pending final resolution of such dispute (except to the extent permitted by Sections 7.02 and 8.04 hereof with respect to certain Additional Rentals), nor shall the County 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 Bank shall affect the County's obligation to pay all Base Rentals and Additional Rentals (except to the extent provided by Sections 7.02 and 8.04 hereof with respect to certain Additional Rentals), during the Lease Term.

**Section 6.05. Expression of County's Need for the Leased Property.** As of the date of this Lease, the County declares its current need for the Leased Property, that the leasing of the Leased Property is beneficial to the County, and that the Leased Property is necessary and essential to the County's purpose and operations. It is hereby declared to be the present intention and expectation of the Board that this Lease will be renewed annually until the Leased Property is acquired by the County pursuant to this Lease; but this declaration shall not be construed as contractually obligating or otherwise binding the County or any Board following the end of the Original Term.

**Section 6.06. Nonappropriation.** In the event that the Board shall not specifically budget and appropriate, on or before the last day of each Fiscal Year, moneys to pay all Base Rentals and the reasonably estimated Additional Rentals coming due for the next ensuing Fiscal Year as provided in Section 4.01 hereof and this Article, an Event of Nonappropriation shall be deemed to have occurred, subject, however, to each of the following provisions:

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

(b) The Bank shall waive any Event of Nonappropriation which is cured by the County by the tenth Business Day of the Fiscal Year in respect of which the Event of Nonappropriation has occurred.

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

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

Notwithstanding any provision to the contrary herein, if an Event of Nonappropriation occurs, the County's rights to occupy and possess the Leased Property under this Lease shall terminate at the end of the last day of the Fiscal Year for which this Lease shall be in effect, and the County shall not be obligated to make payment of the Base Rentals, Additional Rentals or any other payments provided for herein which accrue after the end of the last day of the Fiscal Year for which this Lease shall be in effect; provided, however, that, subject to the limitations of Sections 6.01 and 13.03 hereof, the County shall continue to be liable for holdover rent equal to the Base Rentals and Additional Rentals allocable to any period during which the County shall continue to occupy, use or retain possession of the Leased Property, beginning with the first day of the Fiscal Year in respect of which the Event of Nonappropriation occurs. The County shall in all events vacate or surrender possession of the Leased Property by the tenth Business Day of the Fiscal Year in respect of which the Event of Nonappropriation has occurred.

After the tenth Business Day of the Fiscal Year with respect to which an Event of Nonappropriation has occurred, the Bank may proceed to exercise all or any Lease Remedies. All property, funds and rights acquired by the Bank upon the termination of this Lease by reason of an Event of Nonappropriation as provided herein, less any moneys, including, without limitation, holdover rent, due and owing to the Bank, shall be held by the Bank.

## ARTICLE VII

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

**Section 7.01. Title to the Leased Property.** The County has acquired title to the real estate and improvements included in the Leased Property financed with the Bank Rental Payment. Title to the Leased Property shall remain in the County, subject to the Site Lease and this Lease.

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

**Section 7.02. No Encumbrance, Mortgage or Pledge of Leased Property.** Except as may be permitted by this Lease, the County shall not permit any mechanic's or other lien to remain against the Leased Property; provided that, if the County shall first notify the Bank of the intention of the County to do so, the County 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 Bank shall notify the County that, in the Opinion of Counsel, by



nonpayment of any such items the Bank'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 County 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 Bank will cooperate fully with the County in any such contest, upon the request and at the expense of the County. Except as may be permitted by this Lease, the Bank 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 County and the Bank shall promptly, at their own respective expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance or claim not excepted above which each shall respectively have created, incurred, or suffered to exist.

## **ARTICLE VIII**

### **MAINTENANCE; TAXES; INSURANCE AND OTHER CHARGES**

**Section 8.01. Maintenance of the Leased Property by the County.** The County agrees that at all times during the Lease Term the County will maintain, preserve and keep all portions of the Leased Property or cause the Leased Property to be maintained, preserved and kept, in good order and condition, and that the County will from time to time make or cause to be made all necessary and proper repairs, except as otherwise provided in Sections 9.02 and 10.03 of this Lease. The Bank shall not have any responsibility for such maintenance or repairs or for the making of any additions, modifications or replacements to the Leased Property.

**Section 8.02. Modification of the Leased Property, Installation of Furnishings and Machinery of the County.** The County shall have the privilege of making substitutions, additions, modifications and improvements to any portion of the Leased Property, at its own cost and expense; and the same shall be included in the leasehold interest of the Bank, subject to this Lease shall be included under the terms of this Lease and the Site Lease; 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 or proprietary functions of the County (except to the extent of subleasing permitted under Section 12.01 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 making such substitutions, additions, modifications and improvements.

The County may also, from time to time in its sole discretion and at its own expense, install machinery, equipment, and other tangible personal property in or on any Leased Property. All such machinery, equipment, and other tangible personal property shall remain the sole property of the County in which the Bank shall have not any interest; provided, however, that any such machinery, equipment, and other tangible personal property which becomes permanently affixed to any Leased Property shall be included in the Leased Property pursuant to the Site Lease and this Lease, in the event the Bank shall reasonably determine that the Leased Property would be materially damaged or impaired by the removal of such machinery, equipment, or other tangible personal property.

**Section 8.03. Reserved.**

**Section 8.04. 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 County shall pay the amount of all such taxes, assessments and governmental charges when 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 County shall be obligated to provide for Additional Rentals only for such installments as are required to be paid during the ensuing Fiscal Year. Except for Permitted Encumbrances, the County shall not allow any liens for taxes, assessments or governmental charges to exist 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 Bank), or the rentals and revenues derived therefrom or hereunder, except that nothing herein shall prevent the County from contesting in good faith any such taxes, assessments or governmental charges, unless, in an Opinion of Counsel, the interest of the Bank in the Leased Property would thereby be impaired. The County shall also pay as Additional Rentals, as the same respectively become due, all utility and other charges incurred in the maintenance and upkeep of the Leased Property.

**Section 8.05. Provisions Regarding Liability, Property and Worker's Compensation Insurance.** Upon the delivery and acceptance of the Leased Property as provided in this Lease, the County shall, at its own expense, cause casualty and property insurance to be carried and maintained with respect to the Leased Property in an amount equal to the greater of the remaining Lease Balance or the replacement cost of the Leased Property. Such insurance policy may have a deductible clause in an amount not to exceed \$100,000 or such greater amount as is approved in writing by the Bank. The County may, in its discretion, insure the Leased Property under blanket insurance policies which insure not only the Leased Property, but other property as well, as long as such blanket insurance policies otherwise comply with the requirements hereof. Any property damage insurance policy required by this Section 8.05 shall be so written or endorsed as to show the Bank as an additional insured. In the event that improvements are constructed upon the Leased Property, any property damage insurance policy required by this Section 8.05 shall be so written or endorsed as to show the Bank as loss payee and/or additional insured, and to make losses exceeding \$100,000, if any, payable to the County and the Bank, as their respective interests may appear.

Upon the execution and delivery of this Lease, the County shall, at its own expense, cause public liability insurance, including blanket contractual liability or specific contractual liability insurance for this Lease and public officials' errors and omissions coverage, to be carried and maintained with respect to the activities to be undertaken by the County and its officers, officials, agents and employees in connection with the use and possession of the Leased Property. All such policies (other than errors and omissions) shall show the County and all officers and employees thereof, and the Bank as additional insureds. Such coverage shall be in amounts not less than the limits of liability per occurrence set by the Colorado Governmental Immunity Act as the same may from time to time be amended, to a \$1,000,000 annual aggregate, for claims to which the defense of sovereign immunity applies. The public liability insurance required by this Section 9.05 may be by blanket insurance policy or policies.

With the Bank's prior consent, which consent shall not be unreasonably withheld, the County may insure against similar risks by self-insurance, the County, at its election and in accordance with the standards of the State relating thereto, may in lieu of obtaining policies for casualty and property, and public liability insurance coverage as required by this Section 8.05 provide one or more such coverages by a self-insurance fund so long as the County provides an annual certification to the Bank that the reserves therein are adequate as determined by, in the case of casualty, property, public liability and workers' compensation insurance, the County's risk manager or Insurance Consultant.

Each property and liability insurance policy provided for in this Section 8.05 shall contain a provision to the effect that the insurance company shall not cancel the policy or modify it materially and adversely to the interests of the Bank without first giving written notice thereof to the Bank in accordance with policy provisions, but not less than 30 days in advance of such cancellation or modification. In the event that the County has received such notice of cancellation or modification, it shall as soon as practicable furnish to the Bank a certificate evidencing a new insurance policy replacing the cancelled or modified policy and effective on or before the effective date of such cancellation or modification.

The County shall provide a certificate of insurance for all insurance policies required under this Section 8.05 or certificates of insurance with appropriate endorsements attached, evidencing that the Bank has been named as loss payee and/or additional insured and that the sixty-day notice of cancellation provision is in effect.

**Section 8.06. Reserved.**

**Section 8.07. Granting of Easements.** As long as no Event of Nonappropriation or Event of Default shall have happened and be continuing, the Bank shall at any time or times, but only upon the written request and at the expense of the County, grant or join in the granting of easements, licenses, rights-of-way (including the dedication of public highways) and other rights or privileges in the nature of easements with respect to any property or rights included in this Lease, free from this Lease and any security interest or other encumbrance created hereunder or thereunder, and the Bank shall release or join in the release of existing easements, licenses, rights-of-way, and other rights and privileges with respect to such property or rights, with or without consideration, and shall 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; and (b) a written application signed by an Authorized Officer of the County requesting the execution of such instrument by the Bank and stating that such grant or release will not impair the effective use or interfere with the operation of the Leased Property.

**ARTICLE IX**

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

**Section 9.01. 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 County or the Bank 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, firm or corporation acting under governmental authority; or (c) 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 County shall be obligated to continue to pay the amounts specified in Section 6.02 of this Lease (subject to Section 6.01 hereof).

**Section 9.02. Obligation of the County to Repair and Replace the Leased Property.**

The County and, to the extent such Net Proceeds are within their control, the Bank, shall cause the Net Proceeds of any insurance policies, performance bonds or condemnation awards to be deposited in a separate trust fund held by the Bank or, at the Bank's option, an independent escrow agent appointed at the County's expense. Subject to the receipt of the certificate required by the preceding sentence, all Net Proceeds so deposited shall be applied to the prompt repair, restoration, modification, improvement or replacement of the Leased Property by the County upon receipt of requisitions acceptable to the Bank signed by an Authorized Officer of the County stating with respect to each payment to be made; (a) the requisition number; (b) the name and address of the person, firm or corporation to whom payment is due; (c) the amount to be paid; and (d) that each obligation mentioned therein has been properly incurred, is a proper charge against the separate trust fund and has not been the basis of any previous withdrawal and specifying in reasonable detail the nature of the obligation, accompanied by a bill or a statement of account for such obligation.

**Section 9.03. Insufficiency of Net Proceeds.** If the Net Proceeds (plus any amounts withheld from such Net Proceeds by reason of any deductible clause) shall be insufficient to pay in full the cost of any repair, restoration, modification, improvement or replacement of the Leased Property required under Section 9.02 of this Lease, the County may elect to:

(a) complete the work or replace such Leased Property (or portion thereof) with similar property acceptable to the Bank and having a value equal to or in excess of the value of such Leased Property or portion thereof and pay as Additional Rentals, to the extent amounts for Additional Rentals which have been specifically appropriated by the County are available for payment of such cost, any cost in excess of the amount of the Net Proceeds, and the County agrees that, if by reason of any such insufficiency of the Net Proceeds, the County shall make any payments pursuant to the provisions of this Section 9.03(a), the County shall not be entitled to any reimbursement therefor from the Bank, nor shall the County be entitled to any diminution of the Base Rentals and Additional Rentals payable under Section 6.02 of this Lease; or

(b) apply the Net Proceeds to the payment of the Purchase Option Price in accordance with Article XI of this Lease. In the event of an insufficiency of the Net Proceeds for such purpose, the County shall, subject to the limitations of Section 6.01 hereof, pay such amounts as may be necessary to equal that portion of the Purchase Option Price which is attributed to the Leased Property for which the Net Proceeds have been received (as certified to the Bank by the County); and in the event the Net Proceeds shall exceed such portion of the Purchase Option Price, such excess shall be retained by the County; or

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

The above referenced election shall be made by the County within 90 days of the occurrence of an event specified in Section 9.01 of this Lease.

If the County elects to replace the Leased Property with similar property pursuant to subparagraph (a) above, the County shall give notice thereof to Bank prior to such substitution.

**Section 9.04. Cooperation of the Bank.** At the expense of the County, the Bank shall cooperate fully with the County in filing any proof of loss with respect to any insurance policy or performance bond covering the events described in Section 9.01 of this Lease and 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 enforcement of all warranties relating to the Leased Property. In no event shall the Bank voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim, performance or payment bond claim, prospective or pending condemnation proceeding, or any portion thereof without the written consent of the County.

**Section 9.05. Condemnation by the County.** The County agrees that, to the extent permitted by law, in the event it brings an eminent domain or condemnation proceeding with respect to all or any portion of the Leased Property, the fair market value of the condemned portion of the Leased Property shall be not less than the Purchase Option Price.

## ARTICLE X

### DISCLAIMER OF WARRANTIES; OTHER COVENANTS

**Section 10.01. Disclaimer of Warranties.** THE BANK DOES 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 COUNTY HEREBY ACKNOWLEDGES AND DECLARES THAT, FOR SO LONG AS THE COUNTY HAS NOT VACATED AND SURRENDERED THE LEASED PROPERTY, THE COUNTY IS SOLELY RESPONSIBLE FOR THE USE, IMPROVEMENT, EQUIPPING, MAINTENANCE AND OPERATION OF THE LEASED PROPERTY, AND THAT THE BANK DOES NOT HAVE ANY RESPONSIBILITY THEREFOR. For the purpose of enabling the County to discharge such responsibility, the Bank appoints the County as its attorney in fact solely for the purpose of constructing, improving, equipping, maintaining and operating the Leased Property, and asserting and enforcing, at the sole cost and expense of the County, all constructor's or manufacturer's warranties and guaranties, express or implied, with respect to the Leased Property, as well as any claims or rights the Bank may have in respect of the Leased Property against any manufacturer, supplier, contractor or other person. In no event shall the Bank 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 County of any item, product or service provided for herein.

**Section 10.02. Further Assurances and Corrective Instruments.** The Bank and the County 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 10.03. Compliance With Requirements.** During the Lease Term, the County and the Bank shall observe and comply promptly to the extent possible with all current and future orders of all courts having jurisdiction over the Leased Property or any portion thereof, provided that the County or the Bank may contest or appeal such orders so long as they are in compliance with such orders, and all current and future requirements of all insurance companies writing policies covering the Leased Property or any portion thereof, during the contest or appeal period.

**Section 10.04. Tax Covenant of County.** The County shall not take or omit to take any action with respect to the Base Rentals or any other funds or property of the County, or use or permit others to use the Leased Property in any manner that would cause the interest component of Base Rentals to be included in gross income for federal income tax purposes or to be an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations (except, with respect to corporations, as such interest is required to be taken into account in determining "adjusted net book income" for the purpose of computing the alternative minimum tax imposed on such corporations). In furtherance of this covenant, the County agrees to comply with the procedures and requirements set forth in the Tax Compliance Certificate. The covenants in this Section shall survive the termination of this Lease and remain in full force and effect, notwithstanding termination of the Lease, until such covenants have been performed.

**Section 10.05. Acquisition of Title to the Leased Property.** The County covenants that it will use the amount paid to it by the Bank pursuant to Section 3 of the Site Lease solely for the payment of the costs of the Financed Project. In particular, the County covenants and agrees that it will use the funds so received from the Bank to pay the costs of execution and delivery of this Lease, the Site Lease and the Escrow Agreement and reimburse itself for payments properly made pursuant to a duly adopted resolution of the County for costs of acquiring the Leased Property, incurred prior to the date hereof. In connection with the Financed Project, the County shall at its expense obtain a standard ALTA leasehold title policy insuring the leasehold interest of the Bank in the Leased Property in an amount equal to \$9,650,000.

**Section 10.06. Immunity and Indemnification.** In the exercise of the rights of the Bank by its employees and agents under this Lease, including (without limiting the foregoing) the application of moneys and the investment of funds, the Bank shall not be accountable to the County for any action taken or omitted with respect to this Lease by it or its employees and agents reasonably believed by it or them to be authorized or within the discretion or rights or powers conferred under this Lease. The Bank and its employees and agents shall be protected in its or their actions taken in reliance upon any paper or documents believed by it or them to be genuine and consistent with their rights or powers under this Lease, and it or they may

conclusively rely upon the advice of Counsel and may (but need not) require further evidence of any fact or matter before taking any action. No recourse shall be had by the County for any claims based on the provisions of this Lease against any employee or agent of the Bank alleging personal liability on the part of such person.

To the extent permitted by law, the County shall indemnify the Bank and any of its employees or agents and save them harmless against any liability resulting from acts or omissions of the County in connection with any acts taken pursuant to this Lease (other than the decision to appropriate or not appropriate rentals annually pursuant to Sections 6.01 and 6.06 hereof) as it relates to the County and the Leased Property. To the extent permitted by law, the County shall also indemnify the Bank and its employees or agents against all claims arising from: (a) the conduct, management, operation or use of, or from any work or thing done on, the Leased Property during the Lease Term; (b) any condition of the Leased Property during the Lease Term; and (c) any act of negligence of the County or of any of its agents, contractors or employees or any violation of law by the County or breach of any covenant or warranty (except in relation to the decision to appropriate or not appropriate rentals pursuant to Sections 6.01 and 6.06 hereof) of the County hereunder. Subject to the limitations of Section 6.01 hereof and to the extent permitted by law, the County shall indemnify and save the Bank and its employees and agents harmless from any such claims arising as aforesaid or in connection with any action or proceeding brought thereon and, upon notice from the Bank or any of its employees or agents, shall defend the Bank and its employees and agents in any such action or proceeding.

**Section 10.07. Access To Leased Property.** The County agrees that the Bank and its authorized representatives shall have the right at all reasonable times and upon prior notice to examine and inspect the Leased Property and the County's books and records with respect thereto. The County further agrees that the Bank and any such representative shall have such rights of access to the Leased Property as may be reasonably necessary to cause the proper maintenance of the Leased Property in the event of failure by the County to perform its obligations under this Lease.

**Section 10.08. Audited Financial Statements.** The County shall notify the Bank, annually, within 240 days after the close of the County's Fiscal Year, but in no event prior to their acceptance by the Board, that the County's audited financial statements have been posted on the County's website at [www.co.arapahoe.co.us](http://www.co.arapahoe.co.us) under the Finance Department. Also, during the Lease Term, the County covenants and agrees to notify the Bank, as soon as practical when it is available, that the County's final annual budget for each fiscal year has been posted on the County's website and agrees to provide the Bank other County financial information the Bank may reasonably request from time to time.

**Section 10.09. Environmental Covenant.** The County shall not store, locate, generate, produce, process, treat, transport, incorporate, discharge, emit, release, deposit or dispose of any Hazardous Substance in, upon, under, over or from the Leased Property in violation of any Environmental Regulation, shall not permit any Hazardous Substance to be stored, located, generated, produced, processed, treated, transported, incorporated, discharged, emitted, released, deposited, disposed of or to escape therein, thereupon, thereunder, thereover or therefrom in violation of any Environmental Regulation, shall cause all Hazardous Substances to be properly removed therefrom and properly disposed of in accordance with all applicable Environmental

Regulations, shall not install or permit to be installed any underground storage tank therein or thereunder in violation of any Environmental Regulation and shall comply with all other Environmental Regulations which are applicable to the Leased Property.

In the event any Hazardous Substance is found upon, under, over or from the Leased Property in violation of any Environmental Regulation or if any lien or claim for lien in favor of any governmental entity or agency as a result of any release of any Hazardous Substance is threatened, the County, at its sole cost and expense, shall, within ten days of such finding, deliver written notice thereof to the Bank and shall promptly remove such Hazardous Substances and prevent the imposition of any liens against the Leased Property for the cleanup of any Hazardous Materials. Such removal shall be conducted and completed in compliance with all applicable federal, state and local laws, regulations, rules, ordinances and policies in accordance with the orders and directives of all federal, state and local governmental authorities.

To the extent permitted by law, the County further agrees to reimburse the Bank for any and all claims, demands, judgments, penalties, liabilities, costs, damages and expenses, including court costs and attorneys' fees directly or indirectly incurred by the Bank in any action against or involving the Bank, resulting from any breach of the foregoing covenants or the representations and warranties in Section 2.01(e) hereof, or from the discovery of any Hazardous Substance, in, upon, under or over, or emanating from, the Leased Property.

The representations and warranties in Section 2.01(e) hereof and the covenants of this Section 10.09 shall be deemed to be for the benefit of the Bank and any successors and assigns of the Bank permitted hereunder.

## ARTICLE XI

### PURCHASE AND CONVEYANCE OF THE LEASED PROPERTY

**Section 11.01. Purchase Option.** The County shall have the option to purchase the interest of the Bank in the Leased Property and all improvements and terminate this Lease, but only if it is not then in default under this Lease. The County may exercise its option on any Base Rental Payment Date by complying with one of the conditions set forth in Section 11.02. The County shall give the Bank notice of its intention to exercise its option not less than 30 days in advance of the date of exercise. If the County shall have given notice to the Bank of its intention to purchase the Leased Property, but shall not have deposited the amounts with the Bank on the date specified in such notice, the County shall continue to pay Base Rentals as if no such notice had been given.

**Section 11.02. Conveyance or Release of the Leased Property.** The Bank shall transfer and convey or release the Leased Property to the County in the manner provided for in Section 11.03 of this Lease; provided, however, that prior to such transfer and conveyance, either:

- (a) on any Base Rental Payment Date on or after July 1, 2021 the County shall have paid the then applicable Purchase Option Price; or



(b) no Event of Default shall have occurred and be continuing, and the County shall have paid all Base Rentals set forth in Exhibit B hereto and all then current Additional Rentals required to be paid hereunder, in which case the Bank shall transfer and convey the Leased Property to the County.

The County is hereby granted the option to terminate this Lease and to purchase the interest of the Bank in the Leased Property upon payment by the County in compliance with paragraph (a) or (b) of this Section 11.02, of the then applicable Purchase Option Price. It is the intent of this Section to provide for and allow the release of the Leased Property shown on Exhibit A subject to this Lease if the County has fulfilled all payment obligations with respect hereto and is not then in default hereunder. There shall be deemed to be such payment in full if the County shall deposit in escrow or in trust in advance of July 1, 2021, in the manner contemplated by Section 11 56 109, Colorado Revised Statutes, funds or securities sufficient to pay all Base Rentals to and including July 1, 2021, and to pay the Purchase Option Price on such date; provided, however, that if such deposit in escrow or in trust has been made in advance of July 1, 2021, the following requirements are met: (a) any securities in the escrow shall be non-callable U.S. backed instruments maturing not later than the date or dates the funds will be required to make the Base Rental payments hereunder without re-investment; (b) receipt of an opinion or report of an independent certified public accountant certifying the sufficiency of the escrow deposit if the escrow is funded in whole or in part with securities; (c) receipt of an opinion of nationally recognized bond counsel that the tax-exempt status of the interest component of Base Rental payments hereunder is not adversely affected by the defeasance; (d) the County agrees to make up any deficiency as rent in the event of a shortfall in the funds or securities being held in the escrow; and (e) the escrow agent must be acceptable to the Bank.

**Section 11.03. Manner of Release.** At the closing of any purchase or other conveyance of the Bank's interest in the Leased Property pursuant to Section 11.02 of this Lease, the Bank shall execute and deliver to the County a Release of Site Lease and Lease, releasing all of the Bank's leasehold interest in the Leased Property, as it then exists, to the County subject to the following: (a) Permitted Encumbrances; (b) all liens, encumbrances and restrictions created or suffered to exist by the Bank as required or permitted by this Lease; and (c) any lien or encumbrance created by action of the County.

## ARTICLE XII

### ASSIGNMENT, SUBLEASING AND USE BY COUNTY

**Section 12.01. Assignment and Subleasing of the Lease.** This Lease may not be assigned by the County for any reason other than to a successor by operation of law. However, the Leased Property may be subleased to any other person or entity, as a whole or in part, by the County, with the prior written consent of the Bank, subject, however, to each of the following conditions:

(a) this Lease, and the obligations of the County hereunder, shall, at all times during the Lease Term remain obligations of the County subject to Section 6.01 of this Lease, and the County shall maintain its obligations to the Bank, notwithstanding any sublease, such sublease shall be subject and subordinate to this Lease Agreement;

(b) the County shall furnish or cause to be furnished to the Bank a copy of any sublease agreement; and

(c) no sublease by the County shall violate the Constitution or laws of the State.

(d) no sublease by the County shall result in a violation of the covenants provided in Section 10.04 hereof or the Tax Compliance Certificate.

## ARTICLE XIII

### EVENTS OF DEFAULT AND REMEDIES

**Section 13.01. Events of Default Defined.** Each of the following shall be an “Event of Default” under this Lease:

(a) failure by the County to pay, on or before the date due, any Base Rentals or Additional Rentals during the Lease Term;

(b) failure by the County to vacate or surrender possession of the Leased Property by the tenth Business Day of the Fiscal Year in respect of which an Event of Nonappropriation has occurred;

(c) material misrepresentation of any representation or statement made by the County to the Bank;

(d) failure by the County to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder or under any certificates executed and delivered by the County in connection with the execution and delivery of this Lease, 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 County by the Bank, unless the Bank 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 Bank shall not withhold its consent to an extension of such time if corrective action is instituted by the County within the applicable period and diligently pursued until the default is corrected. Such consent by the Bank shall not be unreasonably withheld; or

(e) the County (i) files a petition or application seeking reorganization, arrangement under federal bankruptcy law, or other debtor relief under the laws of the State or (ii) is the subject of such a petition or application which is not contested by the County.

The foregoing provisions of this Section 13.01 are subject to the following limitations: (a) the County shall be obligated to pay the Base Rentals and Additional Rentals only during the Original Term or current Renewal Term, except as otherwise expressly provided in this Lease; and (b) if, by reason of Force Majeure, the County 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 County

contained in Article VI of this Lease, the County shall not be deemed in default during the continuance of such inability. The County agrees, however, to remedy, as promptly as legally and reasonably possible, the cause or causes preventing the County from carrying out its agreement; provided that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the County.

**Section 13.02. Remedies on Default.** Whenever any Event of Default referred to in Section 13.01 of this Lease shall have happened and be continuing, the Bank, without any further demand or notice, may take one or any combination of the following remedial steps:

(a) The Bank may terminate the Lease Term and give notice to the County to vacate and surrender possession of the Leased Property within ten Business Days of such notice.

(b) The Bank may proceed to foreclose through the courts on or otherwise sell, trade-in, repossess or liquidate the County's interest in the Leased Property, or any part thereof in any lawful manner; provided, however, that the Bank may not recover from the County any deficiency which may exist following the liquidation of the County's interest in the Leased Property in excess of Base Rentals and Additional Rentals for the then current Fiscal Year and in excess of amounts payable under subparagraph (d) of this Section 13.02.

(c) The Bank may lease or sublease the Leased Property or any portion thereof or sell any interest the Bank has in the Leased Property.

(d) The Bank may recover from the County:

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

(ii) Base Rentals and Additional Rentals which would otherwise have been payable by the County hereunder during the remainder, after the County vacates and surrenders possession of the Leased Property, of the Fiscal Year in which such Event of Default occurs.

(e) The Bank 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.

**Section 13.03. Limitations on Remedies.** A judgment requiring a payment of money may be entered against the County by reason of an Event of Default only as to the County's liabilities described in paragraph (d) of Section 13.02 of this Lease. A judgment requiring a payment of money may be entered against the County by reason of an Event of Nonappropriation only to the extent that the County fails to vacate and surrender possession of the Leased Property as required by Section 6.06 of this Lease, and only as to the liabilities described in paragraph (d)(i) of Section 13.02 of this Lease.

**Section 13.04. No Remedy Exclusive.** Subject to Section 13.03 hereof, no remedy herein conferred upon or reserved to the Bank 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 or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Bank to exercise any remedy reserved in this Article XIII, it shall not be necessary to give any notice, other than such notice as may be required in this Article XIII.

**Section 13.05. Waivers.** The Bank may waive any Event of 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.

## ARTICLE XIV

### CONSTRUCTION OF THE FINANCED PROJECT

**Section 14.01. Agreement to Construct the Financed Project.** The Financed Project shall be acquired, constructed and installed by the County as provided in this Article XIV.

At the time of the execution and delivery of this Lease, the County and the Bank shall have entered into the Site Lease. The County hereby agrees that, as lessee, it will act as agent for the Bank in making all contracts, orders, receipts, writings and instructions, including all Project Contracts, with any persons, firms or corporations and in general do all things that may be necessary, requisite or proper for the construction of the Financed Project.

The County agrees to comply with all applicable federal, State and local law in connection with the making of contracts for the Financed Project. All Project Contracts shall be fully and freely assignable to the Bank. Notwithstanding anything to the contrary contained in this Lease, all Project Documents shall be made and approved by the County. The County hereby further agrees:

- (a) The County, acting on behalf of the Bank, shall cause the Financed Project to be completed as herein provided;
- (b) Title to the Financed Property shall be in the name of the County, subject to this Lease and the Site Lease;
- (c) The County, acting on behalf of the Bank, agrees to complete the Financed Project with all reasonable dispatch, and to use its best efforts to have the Financed Project completed by August 31, 2011.

So long as this Lease is in full force and effect and no Event of Nonappropriation or Event of Default shall have occurred, the County shall have full power to carry out the acts and agreements provided in this Section 14.01, and such power is granted and conferred under this

Lease to the County, and is accepted by the County and shall not be terminated or restricted by act of the Bank or the County, except as provided in this Section 14.01.

The County agrees to construct the Financed Project pursuant to this Article XIV through the application of moneys to be disbursed by the Escrow Agent pursuant to the Escrow Agreement. If for any reason the Financed Project is not completed by the date of Final Completion, there shall be no resulting liability on the part of the County or the Bank, or an Event of Default hereunder, and there shall be no diminution in or postponement of the Base Rentals and Additional Rentals required to be paid by the County and for which an appropriation has been effected by the County during the Lease Term. However, in the event that the Escrow Agent shall not receive the Certificate of Completion evidencing that the Financed Project has been completed, as required in Section 14.03 of this Lease, on or before the date of Final Completion, the Bank shall, upon 30 days written notice to the County, be authorized, but not required, to complete the remainder of any of the Financed Project from any moneys remaining in the Project Fund.

**Section 14.02. Disbursements for Costs of the Financed Project.** The Escrow Agreement provides that the Escrow Agent shall, at the direction of the County, disburse the moneys held by the Escrow Agent in the Project Fund to pay the costs of the Financed Project. Disbursements shall be made from the Project Fund by the Escrow Agent upon receipt by the Escrow Agent of requisitions meeting the requirements of the Escrow Agreement

At least 15 days prior to the commencement of construction of the Financed Project, the County shall notify the Bank thereof and shall give notice to all Contractors, subcontractors and material suppliers as required by Section 38-22-105, C.R.S., that the County's and the Bank's interests in the Financed Project are not subject to any liens. Prior to the start of any construction or installation of any future additions or improvements to the Financed Project by the County, as lessee, and throughout the period of construction and installation, the County will also, for the benefit of the County and the Bank, post in a conspicuous place on the Financed Project the notice required by Section 38-22-105, C.R.S. that the County's and the Bank's interests in the Financed Project are not subject to any liens. Notwithstanding the foregoing and subject to the provisions of Section 14.02 hereof, if a lien is established against the Financed Project, the County shall not permit such mechanic's or other lien to remain against the Financed Project for labor or materials furnished to or requested by it in connection with such future additions or improvement to the Financed Project; provided that if any such lien is established, the County shall either discharge the lien or, in good faith, contest and diligently pursue to conclusion any lien filed or established against the Financed Project and in such event the County may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom. The Bank shall cooperate with the County in the discharge or contest process.

If an Event of Nonappropriation or an Event of Default shall occur prior to the Final Completion of the Financed Project, any moneys held in the Project Fund may be utilized by the Bank to complete, repair or modify the Financed Project or may be disbursed for the payment of such charges as the Bank may determine.

Under the Escrow Agreement, the Escrow Agent is to issue its checks or drafts for each disbursement to pay costs of the Financed Project provided for herein, and the Bank is to consent to such disbursements by the Escrow Agent. The Escrow Agreement provides that (a) the Escrow Agent shall keep and maintain adequate records pertaining to the accounts in the Project Fund, (b) the Escrow Agent shall make all disbursements from the Project Fund as reasonably directed by the County with the consent of the Bank and (c) after the Financed Project has been completed and the Certificate of Completion has been filed with the Bank and the Escrow Agent as provided in Section 14.03 of this Lease, the Escrow Agent shall file an accounting thereof with the Bank and the County.

**Section 14.03. Completion of the Financed Project.** Upon the Final Completion of the Financed Project and the acceptance thereof by the County, on behalf of the Bank (which acceptance shall not be unreasonably withheld), the County shall deliver to the Escrow Agent and the Bank a Certificate of Completion.

In the event that, after the delivery of the Certificate of Completion, there remains in the Project Fund any unreserved balance, such balance shall be paid to the Bank and used, as directed by the County, to pay Base Rentals.

**Section 14.04. Title Insurance.** Concurrently with the execution and delivery of the Site Lease, the County shall provide a standard leasehold owner's title insurance policy issued to the Bank and/or its designee, or commitment therefor acceptable to the Bank, in an amount equal to no less than the original Lease Balance, insuring the Bank's interest in the Leased Property subject to Permitted Encumbrances.

**Section 14.05. Project Contracts.** The County represents that, based upon an examination of property, estimated construction and acquisition costs and the configuration of the Financed Project, the Financed Project can, to the best of the County's present knowledge, be constructed and acquired for a total cost within the amount of funds to be available in the Project Fund, together with other legally available funds and anticipated investment income. In the event that the cost of the Financed Project exceeds such amounts, either (a) the County shall make such modifications to the plans and specifications for the Financed Project as will permit the Financed Project to be acquired and constructed from the amounts available therefor or (b) the County shall pay such excess costs. If the County pays any such excess costs, it shall not be entitled to any reimbursement therefor from the Bank, 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 Default, the Bank may complete the Financed Project utilizing any moneys available therefor. 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 Default or upon the Bank's assuming control over completion of the Financed Project as provided in Section 14.01 of this Lease, and upon written notice by the Bank 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 Bank without the consent of any other person and the Bank 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 Bank. All Project Contracts shall also provide

that, upon an Event of Nonappropriation or an Event of Default and upon written notice from the Bank, the Bank may, in its full 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 in the Project Fund and only for work done prior to such termination. Upon the occurrence of an Event of Nonappropriation or an Event of Default or upon the Bank's assuming control over the implementation and completion of the Financed Project as provided in Section 14.02 hereof, and upon receipt of a written request from the Bank, the County shall assign all of its right, title, and interest in and to any or all Project Contracts to the Bank and shall deliver all Project Documents held by it to the Bank.

**Section 14.06. Project Documents.** The County shall furnish to the Bank, but the Bank shall have no duty to review, copies of the Project Documents as soon after the commencement of the Lease Term as such Project Documents shall become available to the County and from time to time thereafter. Neither the Project Documents nor any change or amendment thereto shall (a) cause the Financed 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 Financed Project (except as provided in Section 14.05 hereof); or (c) adversely affect the ability of the County to meet its obligations hereunder.

**Section 14.07. Defaults Under Project Contracts.** In the event of any material default by a contractor under a Project Contract, or in the event of a material breach of warranty with respect to any materials, workmanship, or performance, the County shall promptly proceed, either separately or in conjunction with others, to pursue diligently its remedies against such contractor and/or against each surety of any bond securing the performance of such Project Contract. 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 Escrow Agent for deposit in the Project Fund.

**Section 14.08. Performance and Payment Bonds.** The contractor under any Project Contract for construction shall be required to furnish a performance and labor and material payment bond on forms acceptable to the County and the Bank, copies of which shall be provided to the Bank, but which the Bank shall have no duty to review. Such bonds shall be made payable to the County and the Bank as their interests may appear, and shall be executed by a corporate surety licensed to transact business in the State, which such surety shall be acceptable to the Bank, and shall be in an amount at least equal to the contract price for such Project Contract, provided the bond amount does not exceed said surety's authorized capacity. If at any time during the construction of any of the Financed Project the surety on such bond shall be disqualified from doing business within the State, an alternate surety meeting the requirements set forth above and acceptable to the County shall be selected. In the event of any change order resulting in the performance of additional work in connection with the Financed Project, the amounts of such bonds shall be increased by an amount at least equal to the cost of such additional work or materials or fixtures to be incorporated in the Financed Project.

**Section 14.09. Commercial General Liability Insurance; Business Automobile Liability Insurance.** Each contractor entering into a Project Contract shall be required to procure and maintain at all times during the term of the Project Contract a business automobile

liability and a commercial general liability insurance policy in a form and by a company acceptable to and approved by the County covering all operations hereunder, including the following minimum amounts:

(a) Business automobile liability and property damage insurance in an amount of \$1,000,000 Combined Single Limit with coverage at least as broad as Insurance Services Office form CA0001 (12/93), and covering all on-site and off-site automobile operations associated with the Project Contract. If any vehicle is used to transport hazardous cargo, CA9948 or its equivalent, Broadened Coverage Endorsement, must be maintained; and

(b) Commercial general liability insurance in the amount of \$1,000,000 per occurrence, \$2,000,000 aggregate, exclusive to the Financed Project as per ISO form CG2503 or its equivalent as noted by reference on the Certificate of Insurance with coverage at least as broad as Insurance Services Office standard form CG0001 (1/96). Commercial general liability coverage shall include the County and the Bank as additional insureds with coverage at least as broad as Insurance Services Office form CG2026, with primary coverage as respects the County and the Bank. Such commercial general liability coverage shall be in the form of not less than \$2,000,000 general liability insurance and not less than \$5,000,000 umbrella coverage per claim and aggregate with a deductible of no more than \$50,000 per claim which will be the responsibility of the contractor entering into a Project Contract.

Section 8.05 of this Lease sets forth the obligations of the County to maintain certain insurance in respect of the Leased Property in the amounts and under the circumstances described therein.

**Section 14.10. Builder's Risk Insurance.** The County shall provide or cause each contractor entering into a Project Contract for the Financed Project to procure and maintain, at its own cost and expense, during the term of the applicable Project Contract and until the Financed Project is accepted and insured by the County, Builder's Risk, Marine Form, Agreed Value, Testing exclusion deleted, Flood and Surface Water exclusion deleted, Difference In Condition coverage, completed value insurance upon the Financed Project to be improved, in whole or in part, by such contractor. The policy may have a deductible clause in an amount not to exceed \$50,000 per claim. A certified copy of such insurance policy with appropriate endorsements attached shall be provided by the County to the Bank prior to commencement of construction of the Financed Project. Such insurance coverage shall be in an amount at least equal to the total contract price for such contractor's work. In the event of any change order resulting in the performance of additional work, the amount of such insurance shall be increased to include the cost of such additional work, as well as related materials and fixtures. Such builder's risk completed value insurance policy shall list as a named insured the contractor under any Project Contract all subcontractors, the County and the Bank as their respective interests may appear. No agent or employee of the County shall have the power to adjust or settle any loss with respect to the Financed Project without the prior written consent of the Bank, except that losses not exceeding \$5,000 may be adjusted or settled by the County without the Bank's consent.



Section 8.05 of this Lease sets forth the obligations of the County to maintain certain insurance in respect of the Leased Property in the amounts and under the circumstances described therein.

**Section 14.11. Worker's Compensation Insurance.** Each contractor entering into a Project Contract shall be required to procure and maintain, at its own cost and expense, worker's compensation insurance as required in the State during the term of its Project Contract, covering its employees working thereunder, which coverage shall comply with statutory limits and include \$500,000 Employer's Liability. Such insurance, if issued by a private carrier, shall contain a provision that such coverage shall not be canceled without at least 45 days prior written notice ten days prior written notice for nonpayment of premiums) to the County and the Bank. A certificate issued by the worker's compensation carrier evidencing such coverage shall be provided by the County to the Bank with respect to such contractor. Each Project Contract shall also provide that each subcontractor of any contractor who is a party to such Project Contract shall be required to furnish similar worker's compensation insurance.

The Bank shall provide or cause all insurance coverages contained herein to provide for Waiver of Subrogation and Rights of Recovery against the County, its officers, officials and employees, as their interests may appear.

The minimum insurance requirements for each of the coverages required herein shall be set forth in a Certificate of Insurance to be delivered by the County on the date this Lease is executed and delivered by the County.

All contractors entering into a Project Contract shall cause to be executed an original of the certificate of insurance form, specifying on the certificate the issuing company or companies, policy numbers and policy periods, for each required coverage. An original of the form certificate shall be executed by an authorized party before a notary in accordance with the terms of the certificate. One original of the completed and fully executed certificate shall be submitted, for approval by the County to the County prior to the execution of the Project Contract.

Each contractor entering into a Project Contract shall furnish a separate certificate on the form certificate provided for each subcontractor or subconsultant. All coverages for subcontractors or subconsultants shall be subject to all of the requirements set forth herein and in the form certificate and each subcontractor or subconsultant shall comply with all of the coverage requirements.

Each such policy and certificate shall contain valid provisions or endorsements stating "This policy will not be cancelled or materially changed or altered without first giving forty-five (45) days prior written notice thereof (ten (10) days for nonpayment of premium) to Arapahoe County, 5334 South Prince Street, Littleton, Colorado 80120-1136, Attention: Director of Finance, sent by "certified mail, return receipt requested" and "Any coverage afforded Arapahoe County as additional insured shall apply as primary insurance and any other insurance issued to the County shall apply as excess and non-contributing insurance".

All private insurers providing insurance under this Lease shall be rated A IX or better by A.M. Best.

The Net Proceeds of any performance or payment bond or insurance policy required by Sections 14.08 and 14.10 of this Lease, and any Net Proceeds received as a consequence of default under a Project Contract as provided by Section 14.07 of this Lease, shall be paid to and deposited in the Project Fund.

## ARTICLE XV

### MISCELLANEOUS

**Section 15.01. Sovereign Powers of County.** Nothing in this Lease shall be construed as diminishing, delegating, or otherwise restricting any of the sovereign powers of the County. Nothing in this Lease shall be construed to require the County to occupy and operate the Leased Property other than as lessee, or to require the County to exercise its right to purchase the Bank's leasehold interest in the Leased Property as provided in Article XI hereof.

**Section 15.02. Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when given electronically if promptly confirmed by delivery or mail in the manner provided herein, or when delivered or mailed by certified or registered mail, postage prepaid, addressed as follows: if to the County, Arapahoe County, Colorado, 5334 South Prince Street, Littleton, Colorado 80120-1136, Attention: Finance Director, with a copy to the County Attorney at the same address; if to the Bank, Banc of America Public Capital Corp, 555 California Street, 4th Floor, MAC: CA5-705-04-01, San Francisco, CA 94104, Attention: Contracts Administration. The County and the Bank may, by written notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**Section 15.03. Binding Effect.** This Lease shall inure to the benefit of and shall be binding upon the Bank and the County and their respective successors and assigns, subject, however, to the limitations contained in Article XII and Section 15.05 of this Lease.

**Section 15.04. Amendments, Changes and Modifications.** Except as otherwise provided in this Lease, this Lease may not be effectively amended, changed, modified or altered without the written consent of the parties hereto.

**Section 15.05. Assignment by Bank; Registration and Transfer.** The County shall serve as registrar for this Lease and the rights to payments hereunder. The Bank shall be the initial registered owner of rights to receive payments hereunder. If the Bank transfers its rights to receive payments as permitted under this Section, the registrar shall note on this Lease and in the records of the County the name and address of the transferee. This Lease is transferable only by notation on the registration books maintained by the registrar, and is freely transferable provided that the Bank and each assignee or transferee agrees that it shall not assign or transfer this Lease or any interest herein, except to a successor by merger or an affiliate, except where:

- (a) the transferring holder thereof shall first have complied with all applicable state and federal securities laws and regulations; and
- (b) the Lease is transferred to

- (i) a transferee who executes and delivers to the County a letter of the transferee substantially to the same effect as that delivered to the County by the Bank upon the original execution and delivery of this Lease; or
  - (ii) a transferee who qualifies as a qualified institutional Bank; or
  - (iii) a transferee who qualifies as an “accredited investor” within the meaning of Section 2(15) of the 1933 Act; or
  - (iv) a securitization Special Purpose Vehicle (“SPV”) the interests in which SPV are sold to institutional investors only; and
- (c) the transferring holder will not prepare or furnish, or cause to be prepared or furnished, any disclosure regarding the County’s finances without the prior review and written consent of the County, in the County’s sole discretion.

In connection with any transfer or sale the County may require a letter from the transferee to the effect that the transferee is one of the types of entities mentioned in paragraphs (b)(i) through (iv) of this Section 15.05, purchasing for its own account with no present view to resale or other distribution of any interest in this Lease.

**Section 15.06. Net Lease.** This Lease shall be deemed and construed to be a “triple net lease,” and the County shall, subject to Section 6.01 hereof, pay absolutely net during the Lease Term, the Base Rentals, Additional Rentals and all other payments required hereunder, free of any deductions, and without abatement, deduction or setoff (other than credits against Base Rentals expressly provided for in this Lease).

**Section 15.07. Reserved.**

**Section 15.08. 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 15.09. Severability.** In the event that any provision of this Lease, other than the requirement of the County to pay Base Rentals in accordance with Section 6.01 and the requirement of the Bank to provide quiet enjoyment of the Leased Property and to convey the Leased Property to the County under the conditions set forth in Article XI of this Lease, and the requirement that the obligation of the County to pay Base Rentals, Additional Rentals and other amounts under this Lease are subject to the limitations of Section 6.01 hereof, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 15.10. No Merger.** The Bank and the County intend that the legal doctrine of merger shall have no application to this Lease and that neither the execution and delivery of the Site Lease by the County and the Bank nor the exercise of any remedies under the Site Lease or

this Lease shall operate to terminate or extinguish the Site Lease or this Lease, except as specifically provided therein and herein.

**Section 15.11. Execution in Counterparts.** This Lease may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall constitute but one and the same Lease.

**Section 15.12. Applicable Law.** This Lease shall be governed by and construed in accordance with the laws of the State, without regard to conflict of laws principles.

**Section 15.13. 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.

[Signature Page to Lease Purchase Agreement follows]

WITNESS the due execution hereof as of the day and the year first mentioned above.

BANC OF AMERICA PUBLIC CAPITAL  
CORP, a Kansas corporation, as Lessor



By Briggett Arnold  
Name: Briggett Arnold  
Title: Authorized Agent

[SEAL]

ARAPAHOE COUNTY, COLORADO  
as Lessee

Attest:

By Nancy A. Doty  
County Clerk

By Bob Lockwood  
Chair, Board of County Commissioners

[Signature Page to Lease Purchase Agreement]

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of San Francisco }

On 5/16/11 before me, Eileen U. Harwell, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Bridgett Arnold as Authorized Agent of  
Name(s) of Signer(s)  
Bank of America Public Capital Corp, a Kansas corporation.

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Eileen U. Harwell  
Signature of Notary Public



Place Notary Seal Above

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**  
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Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**  
Top of thumb here

Signer Is Representing: \_\_\_\_\_

STATE OF COLORADO            )  
                                          ) ss.  
COUNTY OF ARAPAHOE        )

This instrument was acknowledged before me this 12th day of May, 2011, by Rod Bockenfeld, as Chair of the Board of County Commissioners of Arapahoe County, Colorado, and by Nancy A. Doty, as County Clerk of said County.

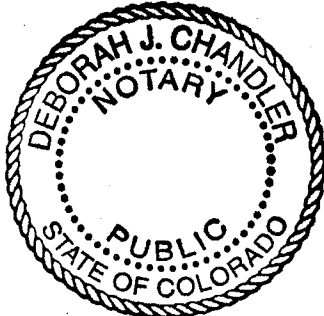
Witness my hand and official seal.

[SEAL]

Deborah J. Chandler  
Notary Public for the State of Colorado

My Commission Expires:

3/3/2013



My Commission Expires 03/03/2013

## EXHIBIT A

### DESCRIPTION OF LEASED PROPERTY

#### **Land:**

The land referred to in Schedule A is situated in the County of Arapahoe, State of Colorado and is described as follows:

#### Parcel 1:

Lot 2, Block 1, and Tract A,

South Lima Street Business Center Filing No. 1, according to the plat thereof recorded September 6, 2001 in Book 202 at Pages 71-72, at Reception No. B1151338,

EXCEPTING THEREFROM that portion conveyed in Special Warranty Deed recorded February 3, 2004 at Reception No. 84021058,

EXCEPTING THEREFROM that portion conveyed in Special Warranty Deed recorded February 27, 2007 at Reception No. B7024963,

County of Arapahoe,  
State of Colorado.

#### Parcel 2:

An easement for access and incidental purposes as set forth in the Declaration of Easement recorded September 10, 2001 at Reception No. B1153702, in the records of the office of the Clerk and Recorder of the County of Arapahoe, State of Colorado.

**Improvements:** Eight buildings and appurtenant parking lots, together with any fixtures, permanent improvements and structures located on such Land and such other improvements as may exist hereafter.



**EXHIBIT B**

**BASE RENTALS SCHEDULE**

[Please See Attached]

## Base Rentals Payment Schedule

Base Rental Payment Date	Funding Amount	Total Base Rental Payment	Interest Component	Principal Component	Remaining Balance
May-19-11	\$9,650,000.00				\$9,650,000.00
Jul-01-11		\$62,111.12	\$50,662.50	\$11,448.62	\$9,638,551.38
Aug-01-11		\$62,111.12	\$36,144.57	\$25,966.55	\$9,612,584.83
Sep-01-11		\$62,111.12	\$36,047.19	\$26,063.93	\$9,586,520.90
Oct-01-11		\$62,111.12	\$35,949.45	\$26,161.67	\$9,560,359.24
Nov-01-11		\$62,111.12	\$35,851.35	\$26,259.77	\$9,534,099.47
Dec-01-11		\$62,111.12	\$35,752.87	\$26,358.25	\$9,507,741.22
Jan-01-12		\$62,111.12	\$35,654.03	\$26,457.09	\$9,481,284.13
Feb-01-12		\$62,111.12	\$35,554.82	\$26,556.30	\$9,454,727.83
Mar-01-12		\$62,111.12	\$35,455.23	\$26,655.89	\$9,428,071.94
Apr-01-12		\$62,111.12	\$35,355.27	\$26,755.85	\$9,401,316.09
May-01-12		\$62,111.12	\$35,254.94	\$26,856.18	\$9,374,459.91
Jun-01-12		\$62,111.12	\$35,154.22	\$26,956.89	\$9,347,503.01
Jul-01-12		\$62,111.12	\$35,053.14	\$27,057.98	\$9,320,445.03
Aug-01-12		\$62,111.12	\$34,951.67	\$27,159.45	\$9,293,285.58
Sep-01-12		\$62,111.12	\$34,849.82	\$27,261.30	\$9,266,024.28
Oct-01-12		\$62,111.12	\$34,747.59	\$27,363.53	\$9,238,660.75
Nov-01-12		\$62,111.12	\$34,644.98	\$27,466.14	\$9,211,194.61
Dec-01-12		\$62,111.12	\$34,541.98	\$27,569.14	\$9,183,625.47
Jan-01-13		\$62,111.12	\$34,438.60	\$27,672.52	\$9,155,952.95
Feb-01-13		\$62,111.12	\$34,334.82	\$27,776.30	\$9,128,176.65
Mar-01-13		\$62,111.12	\$34,230.66	\$27,880.46	\$9,100,296.20
Apr-01-13		\$62,111.12	\$34,126.11	\$27,985.01	\$9,072,311.19
May-01-13		\$62,111.12	\$34,021.17	\$28,089.95	\$9,044,221.24
Jun-01-13		\$62,111.12	\$33,915.83	\$28,195.29	\$9,016,025.95
Jul-01-13		\$62,111.12	\$33,810.10	\$28,301.02	\$8,987,724.93
Aug-01-13		\$62,111.12	\$33,703.97	\$28,407.15	\$8,959,317.78
Sep-01-13		\$62,111.12	\$33,597.44	\$28,513.68	\$8,930,804.10
Oct-01-13		\$62,111.12	\$33,490.52	\$28,620.60	\$8,902,183.50
Nov-01-13		\$62,111.12	\$33,383.19	\$28,727.93	\$8,873,455.56
Dec-01-13		\$62,111.12	\$33,275.46	\$28,835.66	\$8,844,619.90
Jan-01-14		\$62,111.12	\$33,167.32	\$28,943.79	\$8,815,676.11
Feb-01-14		\$62,111.12	\$33,058.79	\$29,052.33	\$8,786,623.78
Mar-01-14		\$62,111.12	\$32,949.84	\$29,161.28	\$8,757,462.50
Apr-01-14		\$62,111.12	\$32,840.48	\$29,270.63	\$8,728,191.86
May-01-14		\$62,111.12	\$32,730.72	\$29,380.40	\$8,698,811.46
Jun-01-14		\$62,111.12	\$32,620.54	\$29,490.58	\$8,669,320.89
Jul-01-14		\$62,111.12	\$32,509.95	\$29,601.17	\$8,639,719.72
Aug-01-14		\$62,111.12	\$32,398.95	\$29,712.17	\$8,610,007.55
Sep-01-14		\$62,111.12	\$32,287.53	\$29,823.59	\$8,580,183.96
Oct-01-14		\$62,111.12	\$32,175.69	\$29,935.43	\$8,550,248.53
Nov-01-14		\$62,111.12	\$32,063.43	\$30,047.69	\$8,520,200.85
Dec-01-14		\$62,111.12	\$31,950.75	\$30,160.37	\$8,490,040.48
Jan-01-15		\$62,111.12	\$31,837.65	\$30,273.47	\$8,459,767.01
Feb-01-15		\$62,111.12	\$31,724.13	\$30,386.99	\$8,429,380.02
Mar-01-15		\$62,111.12	\$31,610.18	\$30,500.94	\$8,398,879.08
Apr-01-15		\$62,111.12	\$31,495.80	\$30,615.32	\$8,368,263.75
May-01-15		\$62,111.12	\$31,380.99	\$30,730.13	\$8,337,533.62

<b>Base Rental Payment Date</b>	<b>Funding Amount</b>	<b>Total Base Rental Payment</b>	<b>Interest Component</b>	<b>Principal Component</b>	<b>Remaining Balance</b>
Jun-01-15		\$62,111.12	\$31,265.75	\$30,845.37	\$8,306,688.26
Jul-01-15		\$62,111.12	\$31,150.08	\$30,961.04	\$8,275,727.22
Aug-01-15		\$62,111.12	\$31,033.98	\$31,077.14	\$8,244,650.08
Sep-01-15		\$62,111.12	\$30,917.44	\$31,193.68	\$8,213,456.39
Oct-01-15		\$62,111.12	\$30,800.46	\$31,310.66	\$8,182,145.74
Nov-01-15		\$62,111.12	\$30,683.05	\$31,428.07	\$8,150,717.67
Dec-01-15		\$62,111.12	\$30,565.19	\$31,545.93	\$8,119,171.74
Jan-01-16		\$62,111.12	\$30,446.89	\$31,664.22	\$8,087,507.51
Feb-01-16		\$62,111.12	\$30,328.15	\$31,782.97	\$8,055,724.55
Mar-01-16		\$62,111.12	\$30,208.97	\$31,902.15	\$8,023,822.40
Apr-01-16		\$62,111.12	\$30,089.33	\$32,021.78	\$7,991,800.61
May-01-16		\$62,111.12	\$29,969.25	\$32,141.87	\$7,959,658.74
Jun-01-16		\$62,111.12	\$29,848.72	\$32,262.40	\$7,927,396.34
Jul-01-16		\$62,111.12	\$29,727.74	\$32,383.38	\$7,895,012.96
Aug-01-16		\$62,111.12	\$29,606.30	\$32,504.82	\$7,862,508.14
Sep-01-16		\$62,111.12	\$29,484.41	\$32,626.71	\$7,829,881.43
Oct-01-16		\$62,111.12	\$29,362.06	\$32,749.06	\$7,797,132.37
Nov-01-16		\$62,111.12	\$29,239.25	\$32,871.87	\$7,764,260.49
Dec-01-16		\$62,111.12	\$29,115.98	\$32,995.14	\$7,731,265.35
Jan-01-17		\$62,111.12	\$28,992.25	\$33,118.87	\$7,698,146.48
Feb-01-17		\$62,111.12	\$28,868.05	\$33,243.07	\$7,664,903.41
Mar-01-17		\$62,111.12	\$28,743.39	\$33,367.73	\$7,631,535.68
Apr-01-17		\$62,111.12	\$28,618.26	\$33,492.86	\$7,598,042.82
May-01-17		\$62,111.12	\$28,492.66	\$33,618.46	\$7,564,424.36
Jun-01-17		\$62,111.12	\$28,366.59	\$33,744.53	\$7,530,679.83
Jul-01-17		\$62,111.12	\$28,240.05	\$33,871.07	\$7,496,808.76
Aug-01-17		\$62,111.12	\$28,113.03	\$33,998.09	\$7,462,810.67
Sep-01-17		\$62,111.12	\$27,985.54	\$34,125.58	\$7,428,685.10
Oct-01-17		\$62,111.12	\$27,857.57	\$34,253.55	\$7,394,431.55
Nov-01-17		\$62,111.12	\$27,729.12	\$34,382.00	\$7,360,049.55
Dec-01-17		\$62,111.12	\$27,600.19	\$34,510.93	\$7,325,538.61
Jan-01-18		\$62,111.12	\$27,470.77	\$34,640.35	\$7,290,898.26
Feb-01-18		\$62,111.12	\$27,340.87	\$34,770.25	\$7,256,128.01
Mar-01-18		\$62,111.12	\$27,210.48	\$34,900.64	\$7,221,227.37
Apr-01-18		\$62,111.12	\$27,079.60	\$35,031.52	\$7,186,195.86
May-01-18		\$62,111.12	\$26,948.23	\$35,162.88	\$7,151,032.97
Jun-01-18		\$62,111.12	\$26,816.37	\$35,294.75	\$7,115,738.23
Jul-01-18		\$62,111.12	\$26,684.02	\$35,427.10	\$7,080,311.13
Aug-01-18		\$62,111.12	\$26,551.17	\$35,559.95	\$7,044,751.17
Sep-01-18		\$62,111.12	\$26,417.82	\$35,693.30	\$7,009,057.87
Oct-01-18		\$62,111.12	\$26,283.97	\$35,827.15	\$6,973,230.72
Nov-01-18		\$62,111.12	\$26,149.62	\$35,961.50	\$6,937,269.22
Dec-01-18		\$62,111.12	\$26,014.76	\$36,096.36	\$6,901,172.86
Jan-01-19		\$62,111.12	\$25,879.40	\$36,231.72	\$6,864,941.14
Feb-01-19		\$62,111.12	\$25,743.53	\$36,367.59	\$6,828,573.55
Mar-01-19		\$62,111.12	\$25,607.15	\$36,503.97	\$6,792,069.58
Apr-01-19		\$62,111.12	\$25,470.26	\$36,640.86	\$6,755,428.72
May-01-19		\$62,111.12	\$25,332.86	\$36,778.26	\$6,718,650.46
Jun-01-19		\$62,111.12	\$25,194.94	\$36,916.18	\$6,681,734.28
Jul-01-19		\$62,111.12	\$25,056.50	\$37,054.62	\$6,644,679.67
Aug-01-19		\$62,111.12	\$24,917.55	\$37,193.57	\$6,607,486.10

<b>Base Rental Payment Date</b>	<b>Funding Amount</b>	<b>Total Base Rental Payment</b>	<b>Interest Component</b>	<b>Principal Component</b>	<b>Remaining Balance</b>
Sep-01-19		\$62,111.12	\$24,778.07	\$37,333.05	\$6,570,153.05
Oct-01-19		\$62,111.12	\$24,638.07	\$37,473.04	\$6,532,680.00
Nov-01-19		\$62,111.12	\$24,497.55	\$37,613.57	\$6,495,066.44
Dec-01-19		\$62,111.12	\$24,356.50	\$37,754.62	\$6,457,311.82
Jan-01-20		\$62,111.12	\$24,214.92	\$37,896.20	\$6,419,415.62
Feb-01-20		\$62,111.12	\$24,072.81	\$38,038.31	\$6,381,377.31
Mar-01-20		\$62,111.12	\$23,930.16	\$38,180.95	\$6,343,196.35
Apr-01-20		\$62,111.12	\$23,786.99	\$38,324.13	\$6,304,872.22
May-01-20		\$62,111.12	\$23,643.27	\$38,467.85	\$6,266,404.37
Jun-01-20		\$62,111.12	\$23,499.02	\$38,612.10	\$6,227,792.27
Jul-01-20		\$62,111.12	\$23,354.22	\$38,756.90	\$6,189,035.37
Aug-01-20		\$62,111.12	\$23,208.88	\$38,902.24	\$6,150,133.13
Sep-01-20		\$62,111.12	\$23,063.00	\$39,048.12	\$6,111,085.01
Oct-01-20		\$62,111.12	\$22,916.57	\$39,194.55	\$6,071,890.46
Nov-01-20		\$62,111.12	\$22,769.59	\$39,341.53	\$6,032,548.93
Dec-01-20		\$62,111.12	\$22,622.06	\$39,489.06	\$5,993,059.87
Jan-01-21		\$62,111.12	\$22,473.97	\$39,637.14	\$5,953,422.73
Feb-01-21		\$62,111.12	\$22,325.34	\$39,785.78	\$5,913,636.95
Mar-01-21		\$62,111.12	\$22,176.14	\$39,934.98	\$5,873,701.97
Apr-01-21		\$62,111.12	\$22,026.38	\$40,084.74	\$5,833,617.23
May-01-21		\$62,111.12	\$21,876.06	\$40,235.05	\$5,793,382.18
Jun-01-21		\$62,111.12	\$21,725.18	\$40,385.94	\$5,752,996.24
Jul-01-21		\$62,111.12	\$21,573.74	\$40,537.38	\$5,712,458.86
Aug-01-21		\$62,111.12	\$21,421.72	\$40,689.40	\$5,671,769.46
Sep-01-21		\$62,111.12	\$21,269.14	\$40,841.98	\$5,630,927.48
Oct-01-21		\$62,111.12	\$21,115.98	\$40,995.14	\$5,589,932.33
Nov-01-21		\$62,111.12	\$20,962.25	\$41,148.87	\$5,548,783.46
Dec-01-21		\$62,111.12	\$20,807.94	\$41,303.18	\$5,507,480.28
Jan-01-22		\$62,111.12	\$20,653.05	\$41,458.07	\$5,466,022.21
Feb-01-22		\$62,111.12	\$20,497.58	\$41,613.54	\$5,424,408.68
Mar-01-22		\$62,111.12	\$20,341.53	\$41,769.59	\$5,382,639.09
Apr-01-22		\$62,111.12	\$20,184.90	\$41,926.22	\$5,340,712.87
May-01-22		\$62,111.12	\$20,027.67	\$42,083.45	\$5,298,629.42
Jun-01-22		\$62,111.12	\$19,869.86	\$42,241.26	\$5,256,388.16
Jul-01-22		\$62,111.12	\$19,711.46	\$42,399.66	\$5,213,988.50
Aug-01-22		\$62,111.12	\$19,552.46	\$42,558.66	\$5,171,429.84
Sep-01-22		\$62,111.12	\$19,392.86	\$42,718.26	\$5,128,711.58
Oct-01-22		\$62,111.12	\$19,232.67	\$42,878.45	\$5,085,833.13
Nov-01-22		\$62,111.12	\$19,071.87	\$43,039.24	\$5,042,793.89
Dec-01-22		\$62,111.12	\$18,910.48	\$43,200.64	\$4,999,593.25
Jan-01-23		\$62,111.12	\$18,748.47	\$43,362.64	\$4,956,230.60
Feb-01-23		\$62,111.12	\$18,585.86	\$43,525.25	\$4,912,705.35
Mar-01-23		\$62,111.12	\$18,422.65	\$43,688.47	\$4,869,016.87
Apr-01-23		\$62,111.12	\$18,258.81	\$43,852.31	\$4,825,164.57
May-01-23		\$62,111.12	\$18,094.37	\$44,016.75	\$4,781,147.82
Jun-01-23		\$62,111.12	\$17,929.30	\$44,181.81	\$4,736,966.00
Jul-01-23		\$62,111.12	\$17,763.62	\$44,347.50	\$4,692,618.50
Aug-01-23		\$62,111.12	\$17,597.32	\$44,513.80	\$4,648,104.70
Sep-01-23		\$62,111.12	\$17,430.39	\$44,680.73	\$4,603,423.98
Oct-01-23		\$62,111.12	\$17,262.84	\$44,848.28	\$4,558,575.70
Nov-01-23		\$62,111.12	\$17,094.66	\$45,016.46	\$4,513,559.24

<b>Base Rental Payment Date</b>	<b>Funding Amount</b>	<b>Total Base Rental Payment</b>	<b>Interest Component</b>	<b>Principal Component</b>	<b>Remaining Balance</b>
Dec-01-23		\$62,111.12	\$16,925.85	\$45,185.27	\$4,468,373.97
Jan-01-24		\$62,111.12	\$16,756.40	\$45,354.72	\$4,423,019.25
Feb-01-24		\$62,111.12	\$16,586.32	\$45,524.80	\$4,377,494.45
Mar-01-24		\$62,111.12	\$16,415.60	\$45,695.51	\$4,331,798.94
Apr-01-24		\$62,111.12	\$16,244.25	\$45,866.87	\$4,285,932.07
May-01-24		\$62,111.12	\$16,072.25	\$46,038.87	\$4,239,893.19
Jun-01-24		\$62,111.12	\$15,899.60	\$46,211.52	\$4,193,681.67
Jul-01-24		\$62,111.12	\$15,726.31	\$46,384.81	\$4,147,296.86
Aug-01-24		\$62,111.12	\$15,552.36	\$46,558.76	\$4,100,738.11
Sep-01-24		\$62,111.12	\$15,377.77	\$46,733.35	\$4,054,004.75
Oct-01-24		\$62,111.12	\$15,202.52	\$46,908.60	\$4,007,096.15
Nov-01-24		\$62,111.12	\$15,026.61	\$47,084.51	\$3,960,011.65
Dec-01-24		\$62,111.12	\$14,850.04	\$47,261.08	\$3,912,750.57
Jan-01-25		\$62,111.12	\$14,672.81	\$47,438.30	\$3,865,312.27
Feb-01-25		\$62,111.12	\$14,494.92	\$47,616.20	\$3,817,696.07
Mar-01-25		\$62,111.12	\$14,316.36	\$47,794.76	\$3,769,901.31
Apr-01-25		\$62,111.12	\$14,137.13	\$47,973.99	\$3,721,927.32
May-01-25		\$62,111.12	\$13,957.23	\$48,153.89	\$3,673,773.43
Jun-01-25		\$62,111.12	\$13,776.65	\$48,334.47	\$3,625,438.96
Jul-01-25		\$62,111.12	\$13,595.40	\$48,515.72	\$3,576,923.24
Aug-01-25		\$62,111.12	\$13,413.46	\$48,697.66	\$3,528,225.58
Sep-01-25		\$62,111.12	\$13,230.85	\$48,880.27	\$3,479,345.31
Oct-01-25		\$62,111.12	\$13,047.54	\$49,063.57	\$3,430,281.73
Nov-01-25		\$62,111.12	\$12,863.56	\$49,247.56	\$3,381,034.17
Dec-01-25		\$62,111.12	\$12,678.88	\$49,432.24	\$3,331,601.93
Jan-01-26		\$62,111.12	\$12,493.51	\$49,617.61	\$3,281,984.32
Feb-01-26		\$62,111.12	\$12,307.44	\$49,803.68	\$3,232,180.64
Mar-01-26		\$62,111.12	\$12,120.68	\$49,990.44	\$3,182,190.20
Apr-01-26		\$62,111.12	\$11,933.21	\$50,177.91	\$3,132,012.29
May-01-26		\$62,111.12	\$11,745.05	\$50,366.07	\$3,081,646.22
Jun-01-26		\$62,111.12	\$11,556.17	\$50,554.95	\$3,031,091.28
Jul-01-26		\$62,111.12	\$11,366.59	\$50,744.53	\$2,980,346.75
Aug-01-26		\$62,111.12	\$11,176.30	\$50,934.82	\$2,929,411.93
Sep-01-26		\$62,111.12	\$10,985.29	\$51,125.82	\$2,878,286.11
Oct-01-26		\$62,111.12	\$10,793.57	\$51,317.55	\$2,826,968.56
Nov-01-26		\$62,111.12	\$10,601.13	\$51,509.99	\$2,775,458.57
Dec-01-26		\$62,111.12	\$10,407.97	\$51,703.15	\$2,723,755.42
Jan-01-27		\$62,111.12	\$10,214.08	\$51,897.04	\$2,671,858.39
Feb-01-27		\$62,111.12	\$10,019.47	\$52,091.65	\$2,619,766.74
Mar-01-27		\$62,111.12	\$9,824.13	\$52,286.99	\$2,567,479.74
Apr-01-27		\$62,111.12	\$9,628.05	\$52,483.07	\$2,514,996.67
May-01-27		\$62,111.12	\$9,431.24	\$52,679.88	\$2,462,316.79
Jun-01-27		\$62,111.12	\$9,233.69	\$52,877.43	\$2,409,439.36
Jul-01-27		\$62,111.12	\$9,035.40	\$53,075.72	\$2,356,363.64
Aug-01-27		\$62,111.12	\$8,836.36	\$53,274.76	\$2,303,088.89
Sep-01-27		\$62,111.12	\$8,636.58	\$53,474.54	\$2,249,614.35
Oct-01-27		\$62,111.12	\$8,436.05	\$53,675.07	\$2,195,939.29
Nov-01-27		\$62,111.12	\$8,234.77	\$53,876.35	\$2,142,062.94
Dec-01-27		\$62,111.12	\$8,032.74	\$54,078.38	\$2,087,984.56
Jan-01-28		\$62,111.12	\$7,829.94	\$54,281.18	\$2,033,703.38
Feb-01-28		\$62,111.12	\$7,626.39	\$54,484.73	\$1,979,218.65

<b>Base Rental Payment Date</b>	<b>Funding Amount</b>	<b>Total Base Rental Payment</b>	<b>Interest Component</b>	<b>Principal Component</b>	<b>Remaining Balance</b>
Mar-01-28		\$62,111.12	\$7,422.07	\$54,689.05	\$1,924,529.60
Apr-01-28		\$62,111.12	\$7,216.99	\$54,894.13	\$1,869,635.47
May-01-28		\$62,111.12	\$7,011.13	\$55,099.99	\$1,814,535.48
Jun-01-28		\$62,111.12	\$6,804.51	\$55,306.61	\$1,759,228.87
Jul-01-28		\$62,111.12	\$6,597.11	\$55,514.01	\$1,703,714.86
Aug-01-28		\$62,111.12	\$6,388.93	\$55,722.19	\$1,647,992.67
Sep-01-28		\$62,111.12	\$6,179.97	\$55,931.15	\$1,592,061.52
Oct-01-28		\$62,111.12	\$5,970.23	\$56,140.89	\$1,535,920.64
Nov-01-28		\$62,111.12	\$5,759.70	\$56,351.42	\$1,479,569.22
Dec-01-28		\$62,111.12	\$5,548.38	\$56,562.73	\$1,423,006.49
Jan-01-29		\$62,111.12	\$5,336.27	\$56,774.84	\$1,366,231.64
Feb-01-29		\$62,111.12	\$5,123.37	\$56,987.75	\$1,309,243.89
Mar-01-29		\$62,111.12	\$4,909.66	\$57,201.45	\$1,252,042.44
Apr-01-29		\$62,111.12	\$4,695.16	\$57,415.96	\$1,194,626.48
May-01-29		\$62,111.12	\$4,479.85	\$57,631.27	\$1,136,995.21
Jun-01-29		\$62,111.12	\$4,263.73	\$57,847.39	\$1,079,147.82
Jul-01-29		\$62,111.12	\$4,046.80	\$58,064.31	\$1,021,083.51
Aug-01-29		\$62,111.12	\$3,829.06	\$58,282.06	\$962,801.45
Sep-01-29		\$62,111.12	\$3,610.51	\$58,500.61	\$904,300.84
Oct-01-29		\$62,111.12	\$3,391.13	\$58,719.99	\$845,580.85
Nov-01-29		\$62,111.12	\$3,170.93	\$58,940.19	\$786,640.65
Dec-01-29		\$62,111.12	\$2,949.90	\$59,161.22	\$727,479.44
Jan-01-30		\$62,111.12	\$2,728.05	\$59,383.07	\$668,096.37
Feb-01-30		\$62,111.12	\$2,505.36	\$59,605.76	\$608,490.61
Mar-01-30		\$62,111.12	\$2,281.84	\$59,829.28	\$548,661.33
Apr-01-30		\$62,111.12	\$2,057.48	\$60,053.64	\$488,607.69
May-01-30		\$62,111.12	\$1,832.28	\$60,278.84	\$428,328.85
Jun-01-30		\$62,111.12	\$1,606.23	\$60,504.89	\$367,823.97
Jul-01-30		\$62,111.12	\$1,379.34	\$60,731.78	\$307,092.19
Aug-01-30		\$62,111.12	\$1,151.60	\$60,959.52	\$246,132.66
Sep-01-30		\$62,111.12	\$923.00	\$61,188.12	\$184,944.54
Oct-01-30		\$62,111.12	\$693.54	\$61,417.58	\$123,526.97
Nov-01-30		\$62,111.12	\$463.23	\$61,647.89	\$61,879.07
Dec-01-30		\$62,111.12	\$232.05	\$61,879.07	\$0.00
	----- \$9,650,000.00	----- \$14,534,001.82	----- \$4,884,001.82	----- \$9,650,000.00	

## **EXHIBIT C**

### **PERMITTED ENCUMBRANCES**

1. Any facts, rights, interests or claims which are not shown by the Public Records, but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.
2. Easements, or claims of easements, not shown by the Public Records.
3. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, and any facts which a correct survey and inspection of the Land would disclose, and which are not shown by the public records.
4. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown in the Public Records.
5. Any and all unpaid taxes, assessments and unredeemed tax sales.
6. Water rights as granted to Arapahoe Water and Sanitation District as set forth in Consent To Appropriate Water recorded March 3, 1981 in Book 3374 at Page 145.
7. An easement for communication and other facilities and incidental purposes granted to The Mountain States Telephone and Telegraph Company, a Colorado corporation, as set forth in an instrument recorded April 12, 1982 in Book 3607 at Page 736.
8. Terms, conditions, provisions, obligations, easements and agreements as set forth in the Standard Avigation and hazard Easement recorded August 23, 2001 at Reception No. B1142415.
9. Terms, conditions, provisions, obligations and agreements as set forth in the Agreement Relating to the Subdivision and Development of Lima Street Business Center Filing No. 1 Minor Subdivision recorded August 30, 2001 at Reception No. B1147688.

NOTE: Assignment and Assumption of Development Agreement recorded July 22, 2010 at Reception No. D0070299.

10. Easements and notes as set forth on the plat of South Lima Street Business Center Filing No. 1, recorded September 6, 2001 at Reception No. B1151338.
11. Terms, conditions, provisions, obligations, easements and agreements as set forth in the Declaration of Easement recorded September 10, 2001 at Reception No. B1153702.

NOTE: Quit Claim Deed (intended to release South Metro Fire Rescue's future easement obtained by the above Declaration of Easement) recorded January 4, 2008 at Reception No. B8001608.

12. Terms, conditions, provisions, obligations, easements and agreements as set forth in the Permanent Slope Easement Agreement recorded February 3, 2004 at Reception No. B4021059.
13. Terms, conditions, provisions, obligations, easements and agreements as set forth in the Permanent Slope Easement Agreement recorded February 3, 2004 at Reception No. B4021060.
14. Terms, conditions, provisions, obligations, easements and agreements as set forth in the Memorandum of Agreement recorded February 3, 2004 at Reception No. B4021063.
15. Terms, conditions, provisions, obligations and agreements as set forth in the Order Correcting the Order and Decree to Create District (The Southeast Public Improvement Metropolitan District, Arapahoe County, Colorado) recorded November 18, 2004 at Reception No. B4201315.
16. Terms, conditions, provisions, obligations and agreements as set forth in the Agreement Relating to the Development of Lima Ridge Professional Center recorded April 24, 2007 at Reception No. B7051294.

NOTE: Assignment and Assumption of Development Agreement recorded July 22, 2010 at Reception No. D0070297.

17. Terms, conditions, provisions, obligations, easements and agreements as set forth in the Public Use Easement recorded April 24, 2007 at Reception No. B7051295.
18. Terms, conditions, provisions, obligations, easements and agreements as set forth in the Uniform Easement Deed and Revocable Storm Drainage License Agreement recorded April 24, 2007 at Reception No. B7051296.
19. Terms, conditions, provisions, obligations, easements and agreements as set forth in the Line Extension Agreement Arapahoe County Water and Wastewater Authority recorded August 10, 2007 at Reception No. B7103925.

NOTE: Assignment and Assumption of Development Agreement recorded July 22, 2010 at Reception No. D0070298.

20. Terms, conditions, provisions, obligations, easements and agreements as set forth in the Easement Agreement recorded December 20, 2007 at Reception No. B7158880.
21. Terms, conditions, provisions, obligations, easements and agreements as set forth in the Easement Agreement recorded January 11, 2008 at Reception No. B8005058.
22. Terms, conditions, provisions, obligations, easements and agreements as set forth in the Permanent Easement (Storm Drainage) recorded October 28, 2009 at Reception No. B9118451.
23. Existing leases and tenancies.



24. Any loss or damage as a result of the insured transaction being set aside by reason of a court order deeming the transaction to be recharacterized as something other than a lease.