

TOWN OF SUPERIOR  
ORDINANCE NO. O-3  
SERIES 2020

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR AUTHORIZING THE ISSUANCE OF THE TOWN'S OPEN SPACE SALES AND USE TAX REVENUE BONDS IN THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$5,325,000; PROVIDING FOR THE USE OF THE BOND PROCEEDS TO PAY OR REIMBURSE THE TOWN FOR THE COSTS OF ACQUIRING OPEN SPACE PROPERTIES AND RIGHTS; PROVIDING FOR THE PAYMENT OF THE BONDS FROM THE OPEN SPACE SALES AND USE TAX REVENUES OF THE TOWN AND MAKING CERTAIN COVENANTS IN CONNECTION THEREWITH; PROVIDING FOR THE FORM, PAYMENT, AND OTHER DETAILS IN CONNECTION WITH THE BONDS; AND AUTHORIZING THE EXECUTION OF OTHER AGREEMENTS AND DOCUMENTS IN CONNECTION WITH THE BONDS.

WHEREAS, the Town of Superior, Colorado (the "Town"), is a statutory town and political subdivision of the State of Colorado, duly organized and operating under the constitution and laws of the State; and

WHEREAS, the Town is authorized by Title 29, Article 2, Part 1, C.R.S., to adopt a municipal sales or use tax, or both, by ordinance, subject to the requirement that such tax be approved at an election, and

WHEREAS, subject to the approval of the registered electors of the Town, the Town may, in anticipation of the collection of sales or use tax revenues, issue revenue bonds payable from such revenues for the purpose of financing capital improvements; and

WHEREAS, at an election of the qualified electors of the Town, duly called and held on November 6, 2001 (the "2001 Election"), in accordance with law and pursuant to due notice, a majority of those qualified to vote and voting at the 2001 Election voted in favor of the imposition of a 0.3% sales and use tax increase for open space purposes, the question relating thereto being as follows:

SHALL TOWN OF SUPERIOR TAXES BE INCREASED (\$400,000 IN THE FIRST FULL FISCAL YEAR) BY INCREASING THE SALES AND USE TAX 0.3 PERCENT COMMENCING ON JANUARY 1, 2002, WITH THE REVENUES FROM SUCH INCREASE TO BE DEPOSITED IN A SPECIAL FUND TO BE USED FOR PAYING INCENTIVES FOR CREATING AND MAINTAINING ADDITIONAL OPEN SPACE WITHIN

COMMERCIAL DEVELOPMENTS AND TO CREATE, ENHANCE OR EXPAND BUFFERS BETWEEN COMMERCIAL AND RESIDENTIAL AREAS OR MAIN THOROUGHFARES AND RESIDENTIAL AREAS AND TO CREATE, ENHANCE OR EXPAND WILDLIFE CORRIDORS OR ANY OTHER OPEN SPACE ACQUISITIONS AND ANY EXPENSES RELATED THERETO FOR OPEN SPACE TO SERVE THE RESIDENTS OF THE TOWN OF SUPERIOR, ANY OF WHICH INCENTIVES OR ACQUISITIONS MAY BE FINANCED BY MULTIPLE FISCAL YEAR FINANCIAL OBLIGATIONS, AND SHALL SUCH REVENUES BE COLLECTED AND SPENT BY THE TOWN WITHOUT REGARD TO ANY SPENDING, REVENUE-RAISING, OR OTHER LIMITATION INCLUDING ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

**WHEREAS**, the returns of the 2001 Election were duly canvassed and the result thereof duly declared; and

**WHEREAS**, pursuant to the 2001 Election, the Town adopted Ordinance No. 0-26, Series 2001, which provided for the 0.3% sales and use tax approved at the 2001 Election (the "Open Space Sales and Use Tax"), and provided for the use of the proceeds thereof as provided in the 2001 Election; and

**WHEREAS**, at an election of the Town, duly called and held on November 1, 2005 (the "2005 Election"), a majority of those qualified to vote and voting at the 2005 Election voted in favor of the issuance of indebtedness to be payable from the Open Space Sales and Use Tax, the ballot question being as follows:

SHALL TOWN OF SUPERIOR DEBT BE INCREASED \$12,000,000 WITH A REPAYMENT COST OF \$22,500,000, AS A MAXIMUM WITHOUT ANY INCREASE OF ANY EXISTING TAXES OR IMPOSING ANY NEW TAX, IN ORDER TO: PRESERVE OPEN SPACE AND NATURAL AREAS INCLUDING LAND ALONG CREEKS, STREAMS AND RIVERS, WILDLIFE HABITAT, SCENIC VIEWS, RIDGELINES AND VISTAS, AND TO PROVIDE NEW WALKING, HIKING AND BIKING TRAILS, WITH ALL EXPENDITURES BEING FIRST SUBMITTED TO THE OPEN SPACE ADVISORY COMMITTEE FOR A RECOMMENDATION TO THE BOARD OF TRUSTEES, AND SUBJECT TO AN ANNUAL AUDIT, AS SET FORTH IN TOWN RESOLUTION NO. R-36, SERIES 2001, INCLUDING AS AMENDED BY TOWN RESOLUTION NO. R-13, SERIES 2004, SUCH BONDS TO BE PAYABLE FROM THE OPEN SPACE SALES AND USE TAX APPROVED AT AN ELECTION HELD WITHIN THE TOWN IN NOVEMBER 2001, TO BE ISSUED, DATED AND SOLD AT SUCH TIME OR TIMES AND IN SUCH MANNER AND TO CONTAIN SUCH TERMS (NOT INCONSISTENT HEREWITH) AS THE BOARD OF TRUSTEES OF THE TOWN MAY DETERMINE, INCLUDING PROVISIONS FOR REDEMPTION OF THE DEBT PRIOR TO MATURITY WITH OR WITHOUT PAYMENT OF A REDEMPTION PREMIUM IN SUCH

AMOUNT AS MAY BE DETERMINED BY THE TOWN; AND SHALL THE REVENUE CHANGES CAUSED BY THE COLLECTION AND SPENDING OF THE PROCEEDS OF SUCH BONDS, ANY EARNINGS FROM THE INVESTMENT OF SUCH PROCEEDS, AND ALL REVENUES FROM THE OPEN SPACE TAX BE COLLECTED, PLEDGED, AND SPENT WITHOUT LIMITATION AND WITHOUT LIMITING THE COLLECTION AND SPENDING OF ANY OTHER REVENUES OR FUNDS BY THE TOWN UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

**WHEREAS**, the returns of the 2005 Election were duly canvassed and the result thereof duly declared; and

**WHEREAS**, pursuant to the authority conferred at the 2005 Election, the Town previously issued its Open Space Sales and Use Tax Revenue Bonds, Series 2006, in the original aggregate principal amount of \$6,675,000 (the "2006 Bonds"); and

**WHEREAS**, pursuant to Article X, Section 20(4) of the Colorado Constitution, refunding bonds may be issued without voter approval in advance if issued at a lower interest rate than the refunded bonds; and

**WHEREAS**, the Town executed and delivered a Loan Agreement dated as of April 16, 2015, as amended (the "2015 Loan Agreement") between UMB Bank, n.a., as lender (the "2015 Lender"), and the Town, and a bond (the "2015 Bond") issued pursuant to the 2015 Loan Agreement, to evidence a loan from the 2015 Lender to the Town in the aggregate principal amount of \$3,550,000 (the "2015 Loan"), and the Town applied the proceeds thereof to refund all of the outstanding 2006 Bonds; and

**WHEREAS**, the 2015 Loan was issued at a lower interest rate than the 2006 Bonds and did not require electoral approval; and

**WHEREAS**, the 2015 Bond is secured by an irrevocable lien on the Pledged Revenues (as such term is defined herein), including the Open Space Sales and Use Tax; and

**WHEREAS**, the Town is current in its payment of principal and interest on the 2015 Bond; and

**WHEREAS**, the Board of Trustees of the Town (the "Board") has determined and hereby determines that it is necessary and in the best interest of the Town to acquire certain open space properties and property rights, the debt for which was authorized at the 2005 Election (the "Project"), and that for such purpose there shall be issued the Town's Open Space Sales and Use Tax

Revenue Bonds, Series 2020, in the maximum aggregate principal amount of \$5,325,000 (the "Bonds"), to be payable solely from the Pledged Revenues and certain funds and accounts pledged hereunder; and

**WHEREAS**, the Bonds will constitute an irrevocable lien on the Pledged Revenues on a parity with the 2015 Bond and any Parity Lien Obligations hereafter issued; and

**WHEREAS**, the Board expects to receive a proposal from Stifel, Nicolaus & Company, Incorporated (the "Underwriter"), to purchase the Bonds upon the terms and conditions set forth in a Bond Purchase Agreement; and

**WHEREAS**, none of the members of the Board have any potential conflicting interests in connection with the authorization, issuance, or sale of the Bonds, or the use of the proceeds thereof; and

**WHEREAS**, there has been filed with the Town Clerk the forms of: (i) the Paying Agent Agreement, (ii) the Continuing Disclosure Certificate, (iii) the Bond Purchase Agreement, and (iv) the Preliminary Official Statement (all as defined hereafter); and

**WHEREAS**, the Board desires to authorize the issuance and sale of the Bonds and the execution of the foregoing documents.

**NOW BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, as follows:**

**Section 1. Definitions.** As used herein, the following capitalized terms shall have the respective meanings set forth below, unless the context indicates otherwise.

Authorized Denominations: the amount of \$5,000 or any integral multiple thereof.

Beneficial Owner: any person for which a Participant acquires an interest in the Bonds.

Board: the Board of Trustees of the Town.

Bond Fund: the "Open Space Sales and Use Tax Revenue Bonds, Series 2020, Bond Fund" established by the provisions of this Ordinance for the purpose of paying the principal of, premium, if any, and interest on the Bonds, including the Interest Account and the Principal Account.

Bond Insurance Policy: a municipal bond insurance policy or financial guaranty insurance policy, if any, issued by the Bond Insurer guaranteeing the payment when due of the principal of and interest on the Bonds, if set forth in the Sale Certificate. In the event that it is determined in the Sale Certificate that the Bonds will not be secured by a Bond Insurance Policy, all references herein to the Bond Insurance Policy shall be of no force and effect.

Bond Insurer: the provider, if any, of the Bond Insurance Policy, or any successor thereto, if set forth in the Sale Certificate. If it is determined in the Sale Certificate that the Bonds will not be secured by a Bond Insurance Policy, then all references herein to the Bond Insurer shall be of no force and effect.

Bond Purchase Agreement: the agreement between the Town and the Underwriter concerning the purchase of the Bonds by the Underwriter.

Bond Year: the period commencing June 2 of any calendar year and ending June 1 of the following calendar year.

Bonds: the Open Space Sales and Use Tax Revenue Bonds, Series 2020, issued in the maximum aggregate principal amount of \$5,325,000, as authorized by this Ordinance.

Business Day: a day of the year, other than a Saturday or Sunday, other than a day on which commercial banks located in the city in which the principal corporate trust office of the Paying Agent is located are required or authorized to remain closed and other than a day on which the New York Stock Exchange is closed.

Cede: Cede & Co., the nominee of DTC as record owner of the Bonds, or any successor nominee of DTC with respect to the Bonds.

Combined Maximum Annual Principal and Interest Requirements: with regard to any one or more particular issues of bonds, notes, contracts, or other obligations, the maximum annual payments of principal of and interest on all of said obligations (excluding redemption premiums) to become due during any Fiscal Year while such obligations are outstanding; provided that (i) such computation shall assume the redemption and payment of obligations subject to mandatory redemption, but shall be made without regard to any right of optional redemption which has not been exercised; (ii) such computation shall be made without regard to any right of acceleration of any obligations unless at the time

of the computation such obligations have been accelerated thereunder; and (iii) for obligations which bear a variable interest rate, such computation shall be made upon the assumption that the obligations bear a rate 2% higher than the rate then borne by such obligations.

Continuing Disclosure Certificate: the Continuing Disclosure Certificate for the Bonds executed by the Town.

Costs of Issuance Fund: the Costs of Issuance Fund created pursuant to this Ordinance, which shall be held and administered by the Paying Agent pursuant to the provisions of the Paying Agent Agreement.

C.R.S.: the Colorado Revised Statutes, as amended. and supplemented as of the date hereof.

Depository: any securities depository as the Town may provide and appoint, in accordance with the guidelines of the Securities and Exchange Commission, which shall act as securities depository for the Bonds.

DTC: the Depository Trust Company, New York, New York, and its successors and assigns.

Event of Default: any one or more of the events of default set forth in Section 25 hereof .

Federal Securities: bills, certificates of indebtedness, notes, or bonds which are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States of America.

Finance Director: the Finance Director of the Town.

Fiscal Year: the twelve-month period commencing on the first day of January of any calendar year and ending on the last day of December of the same calendar year, or any other twelve month period which the Town or other appropriate authority hereafter may establish as the Town's fiscal year.

Interest Payment Date: June 1 and December 1 of each year, commencing on the date set forth in the Sale Certificate.

Interest Account: an account of the Bond Fund established by the provisions hereof for the purpose of paying the interest on the Bonds.

Mayor: the Mayor of the Town.

Official Statement: the Official Statement delivered in connection with the original issuance and sale of the Bonds.

Open Space Sales and Use Tax: the 0.3% sales and use tax imposed by the Town pursuant to the 2001 Election and Town Ordinance No. 0-26, Series 2001.

Open Space Sales and Use Tax Capital Improvement Fund: the fund of the Town designated as the "Open Space Sales and Use Tax Capital Improvement Fund" established by the provisions of the ordinance authorizing the issuance of the 2006 Bonds and continued under the 2015 Loan Agreement and hereunder.

Ordinance: this Ordinance which authorizes the issuance of the Bonds, including any amendments properly made hereto.

Owner: the registered owner of any Bond, as shown by the registration books maintained by the Paying Agent.

Parity Lien Obligations: any bonds, notes, certificates, contracts, or other similar obligations issued or executed by the Town payable in whole or in part from the Pledged Revenues and having a lien thereon on a parity with the lien of the Bonds.

Participants: any broker-dealer, bank, or other financial institution from time to time for which DTC or another Depository holds the Bonds.

Paying Agent: UMB Bank, n.a., Denver, Colorado, or its successor, which shall perform the function of paying agent, registrar and transfer agent with respect to the Bonds.

Paying Agent Agreement: the agreement between the Town and the Paying Agent concerning the registration, transfer, exchange, and payment of the Bonds.

Permitted Investments: shall mean any investment or deposit the Town is permitted to make under then-applicable law, subject to such agreements or covenants, if any, as may be made by the Town in connection with the issuance of any Bond Insurance Policy.

Pledged Revenues:

The term "Pledged Revenues" includes the following:

- (a) revenues derived from the Open Space Sales and Use Tax, including investment income thereon;

(b) any additional legally available taxes (other than general ad valorem taxes), funds or revenues which the Board hereafter pledges to the payment of the Bonds or any Parity Lien Obligations; and

(c) the proceeds derived by the Town from any legally available tax or taxes or fees (other than general ad valorem taxes) which replace or supersede the Town's Open Space Sales and Use Tax, regardless of whether such taxes or fees are imposed by the Town, the State or any other political subdivision thereof.

The term "Pledged Revenues" does not include the following:

(a) any amounts determined, pursuant to the Sales and Use Tax Ordinance and other applicable law, to be subject to valid claims for refunds;

(b) amounts in or required to be paid into any rebate fund or account for the Bonds, the 2015 Bond, or any Parity Lien Obligations;

(c) moneys retained by the Town for costs of collection, administration and enforcement of the Open Space Sales and Use Tax;

(d) amounts lawfully withheld by retailers;

(e) the proceeds of any increase in such Open Space Sales and Use Tax which may be approved in the future unless expressly pledged to the payment of the Bond by the Board;

(f) any other sales or use taxes of the Town, other than the Open Space Sales and Use Tax, unless expressly pledged to the payment of the Bonds by the Board; or

(g) incremental sales taxes which are pledged to the payment of obligations issued pursuant to an urban renewal plan as defined in Section 31-25-103(9), C.R.S., a plan of development as defined in Section 31-25-802(6.4), C.R.S., or a value capture plan as defined in Section 43-4-508, C.R.S.

Preliminary Official Statement: the Preliminary Official Statement related to the Bonds.



Principal Account: an account of the Bond Fund established by the provisions hereof for the purpose of paying the principal of the Bonds.

Project: the acquisition of certain open space properties, property rights, and other open space capital improvements, the debt for which was authorized at the 2005 Election, and which is being financed or reimbursed with the net proceeds of the Bonds.

Record Date: the fifteenth (15th) day of the calendar month next preceding each Interest Payment Date.

Reserve Fund Requirement: the amount set forth in the Sale Certificate which is to be maintained in the Reserve Fund, if any.

Reserve Fund: any Reserve Fund established to secure the payment of the principal of and interest on all or any portion of the Bonds in accordance with the provisions of the Sale Certificate and Section 21 hereof. If a Reserve Fund is created in the Sale Certificate, the terms and provisions of the Sale Certificate relating to the Reserve Fund shall be incorporated herein as if set forth herein. If a Reserve Fund is not created in the Sale Certificate, all references herein to the Reserve Fund and Reserve Fund Requirement shall be of no force and effect.

Reserve Fund Insurance Policy: any insurance policy, surety bond, irrevocable letter of credit or similar instrument deposited in or credited to the Reserve Fund in lieu of or in partial substitution for moneys on deposit therein.

Sales and Use Tax Ordinance: Articles IV and V of the Town of Superior Municipal Code.

Sale Certificate: a certificate executed by the Mayor, the Town Manager or the Finance Director, dated on or before the date of delivery of the Bonds, setting forth the determinations that may be delegated to such officials pursuant to Section 11-57-205(1) of the Supplemental Act.

Special Record Date: the record date for determining Bond ownership for purposes of paying defaulted interest, as such date may be determined pursuant to this Ordinance.

Subordinate Lien Obligations: bonds, notes, certificates, warrants, contracts or other financial obligations or securities issued or executed by the Town payable from a lien

on the Pledged Revenues which is subordinate or junior to the lien of the Bonds.

Supplemental Act: the "Supplemental Public Securities Act," being Title 11, Article 57, Part 2, C.R.S.

Surety Provider: the Bond Insurer or any other entity issuing a Reserve Fund Insurance Policy with respect to the Bonds, if any.

Tax Code: the Internal Revenue Code of 1986, as amended to the date of issuance of the Bonds.

Tax Compliance Certificate: the tax compliance certificate executed by the Town in connection with the initial issuance of the Bonds, as it may from time to time be modified pursuant to its terms.

Term Bonds: Bonds that are payable on or before their specified maturing dates from sinking fund payments established for that purpose and calculated to retire such Bonds on or before their specified maturity dates.

Town: the Town of Superior, Colorado.

Town Clerk: the Town Clerk of the Town or, in his or her absence, the deputy Town Clerk of the Town.

Town Manager: the Town Manager of the Town or, in his or her absence, the Assistant Town Manager of the Town.

Underwriter: Stifel, Nicolaus & Company, Incorporated, the original purchasers of the Bonds.

2001 Election: the election held within the Town on November 6, 2001, which approved the imposition of the Open Space Sales and Use Tax.

2005 Election: the election held within the Town on November 1, 2005, which approved the issuance of bonds and other obligations payable from the Open Space Sales and Use Tax.

2015 Bond: the bond evidencing the Town's obligation to repay the 2015 Loan.

2015 Debt Service Fund: the Open Space Debt Service Fund held and administered by the Town in order to pay debt service on the 2015 Loan in accordance with the terms of the 2015 Loan Agreement.

2015 Lender: UMB Bank, n.a., as the lender under the 2015 Loan.

2015 Loan: the loan from the 2015 Lender to the Town originally issued in the aggregate principal amount of \$3,550,000 in accordance with the 2015 Loan Agreement.

2015 Loan Agreement: the loan agreement by and between the Town and the 2015 Lender, dated as of April 16, 2015, as amended.

**Section 2. Finding of Best Interest; Ratification and Approval of Prior Actions.** The Board hereby finds and determines, pursuant to the Constitution and the laws of the State, that the issuance of the Bonds and the acquisition of the Project and the payment or reimbursement of the costs of such acquisition, pursuant to the terms set forth in this Ordinance and the Sale Certificate, are necessary, convenient, and in furtherance of the Town's public purposes and are in the best interests of the Town and the Board hereby authorizes and approves the same. All actions heretofore taken by the officers of the Town and the members of the Board, not inconsistent with the provisions of this Ordinance, relating to the authorization, sale, issuance, and delivery of the Bonds, and the acquisition of the Project are hereby ratified, approved, and confirmed.

**Section 3. Authorization;** . In accordance with the Constitution of the State of Colorado; §29-2-112, C.R.S., the Supplemental Act, the 2015 Election, and all other laws of the State of Colorado thereunto enabling, there shall be issued the Town's "Open Space Sales and Use Tax Revenue Bonds, Series 2020," in the maximum aggregate principal amount of \$5,325,000, for the purpose of paying or reimbursing the Town for the costs of acquiring the Project, and paying the costs of issuing the Bonds.

The Town hereby elects to apply all of the provisions of the Supplemental Act to the Bonds, except that it shall not apply Section 11-57-211 thereof. The Bonds shall recite that they are issued under the authority of Title 11, Article 57, Part 2, C.R.S. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of the Bonds after their delivery for value.

The Bonds shall recite that they are issued under the authority of §29-2-112, C.R.S. Such recital shall conclusively impart full compliance with all of the provisions of such Section, and all Bonds issued containing such recital shall be

incontestable for any causes whatsoever after their delivery for value.

**Section 4. Delegated Authority and Parameters.**

Pursuant to §11-57-205 of the Supplemental Act, the Board hereby delegates to each of the Mayor, the Town Manager or the Finance Director the independent authority to make any determination delegable pursuant to §11-57-205(1)(a-i) C.R.S. in relation to the Bonds, and to execute a sale certificate (the "Sale Certificate") setting forth such determinations, subject to the following parameters and restrictions:

(a) the net effective interest rate on the Bonds shall not exceed 5.00%;

(b) the aggregate principal amount of the Bonds shall not exceed \$5,325,000;

(c) the maximum annual repayment cost of the Bonds combined with the maximum annual repayment cost of the 2015 Bond, and the total repayment cost of the Bonds, when combined with the total repayment cost of the 2006 Bonds and the total repayment cost of the 2015 Bond, shall not exceed the amounts authorized in the 2005 Election ballot question and the notice of election sent to the voters in connection with the 2005 Election;

(d) the net purchase price of the Bonds shall not be less than 100% of the original aggregate principal amount of the Bonds;

(e) the Bonds shall mature no later than December 1, 2040.

Pursuant to §11-57-205 of the Supplemental Act, the Board hereby delegates to each of the Mayor, the Town Manager or the Finance Director the independent authority to select the purchaser of the Bonds, to sign a contract for the purchase of the Bonds or to accept a binding bid for the Bonds and to execute any agreement or agreements in connection therewith (including the Bond Purchase Agreement presented to the Board).

The Mayor, the Town Manager or the Finance Director are hereby independently authorized to determine if obtaining municipal bond insurance for all or a portion of the Bonds is in the best interests of the Town, and if so, to select a Bond Insurer to issue a Bond Insurance Policy, execute a commitment relating to the same and execute any related documents or

agreements required by such commitment. The Mayor, the Town Manager or the Finance Director are hereby independently authorized to determine if the Bonds shall be secured by a Reserve Fund and whether obtaining a Reserve Fund Insurance Policy to fund the Reserve Fund is in the best interests of the Town, and if so, to select a Surety Provider to issue a Reserve Fund Insurance Policy and execute any related documents or agreements required by such commitment.

The delegation set forth in this Section 4 shall be effective for one year following the date hereof.

**Section 5. Special Obligations.** The principal of and interest on the Bonds shall be payable solely from the Pledged Revenues and from amounts on deposit in the Open Space Sales and Use Tax Capital Improvement Fund, the Bond Fund and the Reserve Fund, if any, as provided herein. The Town hereby irrevocably pledges the Pledged Revenues and amounts on deposit in the Open Space Sales and Use Tax Capital Improvement Fund, the Bond Fund and the Reserve Fund, on the terms provided herein, to the payment of the principal of and interest on the Bonds. The payment of the principal of and interest on the Bond is secured by an irrevocable lien (but not necessarily an exclusive lien) on the Pledged Revenues on a parity with the 2015 Bond and any Parity Lien Obligations hereafter issued. Amounts on deposit in the Bond Fund and the Reserve Fund shall secure the payment of the Bonds, but shall not secure the payment of the 2015 Bond or any Parity Lien Obligations hereafter issued unless otherwise provided in the Sale Certificate or in the documents authorizing such Parity Lien Obligations.

The Owner of the Bonds may not look to any general or other revenue of the Town, any ad valorem property taxes levied or collected by the Town for the payment of the principal of and interest on the Bonds, and the Bonds shall not constitute a debt or an indebtedness of the Town within the meaning of any constitutional or statutory provision or limitation; nor shall they be considered or held to be general obligations of the Town. None of the covenants, agreements, representations and warranties contained herein or in the Bonds shall ever impose or be construed as imposing any liability, obligation or charge against the Town (except to the extent of the Pledged Revenues) or its general credit, payable out of its general funds or out of any funds derived from ad valorem property taxation. The payment of the Bonds is not secured by an encumbrance, mortgage or other pledge of any property, except the Pledged Revenues as provided herein, nor is the payment secured by the full faith and credit of the Town.

The creation, perfection, enforcement, and priority of the pledge of revenues to secure or pay the Bonds shall be governed by §11-57-208 of the Supplemental Act and this Ordinance. The Pledged Revenues shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge on the Pledged Revenues shall be on a parity with the 2015 Bond and any other Parity Lien Obligations hereafter issued, and shall have priority over any and all other obligations and liabilities of the Town. The lien of such pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against the Town irrespective of whether such persons have notice of such liens.

**Section 6. Bond Details.** The Bonds shall be issued only as fully registered Bonds without coupons in Authorized Denominations. Unless the Town shall otherwise direct, the registered Bonds shall be numbered separately from 1, with the number of each Bond preceded by "R-."

The Bonds shall be dated as of the date of their delivery. The Bonds shall mature on June 1, in the years and amounts and be subject to prior redemption as set forth herein and in the Sale Certificate. The Bonds shall bear interest from the most recent Interest Payment Date to which interest has been paid, or if no interest has been paid, from their date until their respective maturities (or prior redemption) at the rates set forth in the Sale Certificate.

Interest on the Bonds shall be calculated on the basis of a 360-day year of twelve 30-day months, payable semiannually on each June 1 and December 1, commencing on the date provided in the Sale Certificate.

**Section 7. Payment of Bonds; Paying Agent.** The principal of, premium, if any, and final interest payment on each Bond shall be payable at the principal corporate trust office of the Paying Agent, or at such other office as the Paying Agent directs in writing to the Owners of the Bonds, or at the principal office of its successor, upon presentation and surrender of the Bond. Payment of interest on any Bond (other than the final interest payment) shall be made to the Owner thereof by the Paying Agent on or before each Interest Payment Date (or, if such Interest Payment Date is not a Business Day, on or before the next succeeding Business Day), to such Owner at his or her address as it appears on the registration records kept by the Paying Agent on the Record Date; but any such interest not so timely paid or duly provided for shall cease to be payable to the person who is the

Owner thereof at the close of business on the Record Date and shall be payable to the person who is the Owner thereof at the close of business on a Special Record Date for the payment of any such defaulted interest. Such Special Record Date and the date fixed for payment of such defaulted interest shall be fixed by the Paying Agent whenever moneys become available for payment of the defaulted interest, and notice of the Special Record Date shall be given to the Owners not less than ten days prior to the Special Record Date by first-class mail to each such Owner as shown on the Paying Agent's registration books on a date selected by the Paying Agent, stating the date of the Special Record Date and the date fixed for the payment of such defaulted interest. The Paying Agent may make payments of interest on any Bond by such alternative means as may be mutually agreed to between the Owner of such Bond and the Paying Agent. If any Bond is not paid upon its presentation and surrender at or after its maturity or prior redemption, interest shall continue at its stated simple interest rate per annum until the principal thereof is paid in full. All such payments shall be made in lawful money of the United States of America.

Notwithstanding anything herein to the contrary, the Town shall not be obligated to pay more than the amount permitted by law and its electoral authorization in repayment of the Bonds, including all payments of principal, premium, if any, and interest, and all Bonds will be deemed defeased and no longer outstanding upon the payment by the Town of such amount.

**Section 8. Prior Redemption.**

(a) The Bonds shall be subject to redemption at the option of the Town from any legally available funds on the dates, at the prices, and in the manner set forth in the Sale Certificate.

(b) The Term Bonds, if any, shall be subject to mandatory sinking fund redemption at the times, in the amounts and at the prices provided in the Sale Certificate.

On or before the thirtieth day prior to each such sinking fund payment date, the Paying Agent shall proceed to call the Term Bonds, if any, as provided in the Sale Certificate (or any Term Bond or Term Bonds issued to replace such Term Bonds) for redemption from the sinking fund on the next June 1, and give notice of such call without further instruction or notice from the Town.

At its option, to be exercised on or before the sixtieth day next preceding each such sinking fund Redemption Date, the Town may (a) deliver to the Paying Agent for cancellation Term Bonds subject to mandatory sinking fund redemption on such date in an aggregate principal amount desired or (b) receive a credit in respect of its sinking fund redemption obligation for any Term Bonds of the maturity and interest rate subject to mandatory sinking fund redemption on such date, which prior to said date have been redeemed (otherwise than through the operation of the sinking fund) and canceled by the Paying Agent and not theretofore applied as a credit against any sinking fund redemption obligation. Each Term Bond so delivered or previously redeemed will be credited by the Paying Agent at the principal amount thereof against the obligation of the Town on such sinking fund date and such sinking fund obligation will be accordingly reduced. The Town will on or before the sixtieth day next preceding each sinking fund Redemption Date furnish the Paying Agent with its certificate indicating whether or not and to what extent the provisions of (a) and (b) of the preceding sentence are to be availed with respect to such sinking fund payment. Failure of the Town to deliver such certificate shall not affect the Paying Agent's duty to give notice of sinking fund redemption as provided in this paragraph.

(c) In the case of Bonds of a denomination larger than \$5,000, a portion of such Bond (\$5,000 or any integral multiple thereof) may be redeemed, in which case the Paying Agent shall, without charge to the owner of such Bond, authenticate and issue a replacement Bond or Bonds for the unredeemed portion thereof.

(d) Unless waived in writing by the Owner of a Bond to be redeemed, notice of redemption shall be given by the Paying Agent in the name of the Town by mailing such notice at least thirty days and not more than sixty days prior to the redemption date, by first-class mail, postage prepaid, to the Owners of the Bonds to be redeemed at their addresses as shown on the registration records, or in the event that the Bonds to be redeemed are registered in the name of DTC, such notice may, in the alternative, be given by electronic means in accordance with the requirements of DTC. Notwithstanding the foregoing, the Paying Agent may provide notice of redemption by such alternative means as may be mutually agreed to between the Owner of the Bonds and the Paying Agent. Failure to give such notice to the Owner of any Bond, or any defect therein, shall not affect the validity of the proceedings for the redemption of any other Bonds. All such notices of redemption shall be dated and shall state: (i) the redemption date, (ii) the redemption price, (iii) if less than all outstanding Bonds are to be redeemed, the identification (and, in



the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (iv) that on the redemption date the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date, and (v) if applicable, the place where such Bonds are to be surrendered for payment of the redemption price. Except as provided below, after such notice has been given in the manner provided herein, the Bond or Bonds called for redemption shall become due and payable on the designated redemption date, and upon presentation thereof the Town shall pay the Bond or Bonds called for redemption. Installments of interest due on the redemption date shall be payable as provided in this Ordinance for the payment of interest. A certificate by the Paying Agent that a notice of redemption has been given as herein set forth shall be conclusive and receipt by the Owner of a notice of redemption shall not be a condition precedent to the redemption of that Bond. Unless waived by the Paying Agent, the Town agrees to provide the Paying Agent with not less than 10 days' notice of any prior redemption.

Notwithstanding the provisions of this Section, any notice of redemption shall either (a) contain a statement that the redemption is conditioned upon the receipt by the Paying Agent on or before the redemption date of funds sufficient to pay the redemption price of the Bonds so called for redemption, and that if such funds are not available, such redemption shall be cancelled by written notice to the Owners of the Bonds called for redemption in the same manner as the original redemption notice was given, or (b) be given only if funds sufficient to pay the redemption price of the Bonds so called for redemption are on deposit in the applicable fund or account.

(e) All Bonds surrendered for redemption pursuant to the provisions of this Section shall be canceled by the Paying Agent in accordance with its customary practices and applicable retention laws and shall not be reissued.

**Section 9.        Book-Entry System.**

(a) Notwithstanding any contrary provision of this Ordinance, the Bonds initially shall be evidenced by one Bond for each maturity and interest rate in denominations equal to the aggregate principal amount of the Bonds of the same maturity and interest rate. Such initially delivered Bonds shall be registered in the name of "Cede & Co." as nominee for DTC. The Bonds may not thereafter be transferred or exchanged except:

(i) to any successor of The Depository Trust Company or its nominee, which successor must be both a "clearing corporation" as defined in Section 4-8-102(a)(5), C.R.S. and a qualified and registered "clearing agency" under Section 17A of the Securities Exchange Act of 1934, as amended; or

(ii) upon the resignation of The Depository Trust Company or a successor or new depository institution under clause (i) or this clause (ii) of this paragraph (a), or a determination by the Board that The Depository Trust Company or such successor or a new depository institution is no longer able to carry out its functions, and the designation by the Board of another depository institution acceptable to the Board and to the depository then holding the Bonds, which new depository must be both a "clearing corporation" as defined in Section 4-8-102(a)(5), C.R.S. and a qualified and registered "clearing agency" under Section 17A of the Securities Exchange Act of 1934, as amended, to carry out the functions of The Depository Trust Company or such successor new depository institution; or

(iii) upon the resignation of The Depository Trust Company or a successor or new depository institution under clause (i) above or designation of a new depository institution pursuant to clause (ii) above, or a determination of the Board that The Depository Trust Company or such successor or depository institution is no longer able to carry out its functions, and the failure by the Board, after reasonable investigation, to locate another depository institution under clause (ii) to carry out such depository institution functions.

(b) In the case of a transfer to a successor of The Depository Trust Company or its nominee as referred to in clause (i) or (ii) of paragraph (a) hereof, upon receipt of the outstanding Bonds by the Paying Agent together with written instructions for transfer satisfactory to the Paying Agent, a new Bond for each maturity and interest rate of the Bonds then outstanding shall be issued to such successor or new depository, as the case may be, or its nominee, as is specified in such written transfer instructions. In the case of a resignation or determination under clause (iii) of paragraph (a) hereof and the failure after reasonable investigation to locate another qualified depository institution for the Bonds as provided in clause (iii) of paragraph (a) hereof, and upon receipt of the outstanding Bonds

by the Paying Agent, together with written instructions for transfer satisfactory to the Paying Agent, new Bonds shall be issued in authorized denominations as provided in this Ordinance, and registered in the names of such Persons as are requested in such written transfer instructions; however, the Paying Agent shall not be required to deliver such new Bonds within a period of less than 60 days from the date of receipt of such written transfer instructions.

(c) The Town and the Paying Agent shall be entitled to treat the Owner of any Bond as the absolute owner thereof for all purposes hereof and any applicable laws, notwithstanding any notice to the contrary received by any or all of them and the Town and the Paying Agent shall have no responsibility for transmitting payments or notices to the beneficial owners of the Bonds held by The Depository Trust Company or any successor or new depository named pursuant to paragraph (a) hereof.

(d) The Town and the Paying Agent shall endeavor to cooperate with The Depository Trust Company or any successor or new depository named pursuant to clause (i) or (ii) of paragraph (a) hereof in effectuating payment of the principal amount of the Bonds upon maturity or prior redemption by arranging for payment in such a manner that funds representing such payments are available to the depository on the date they are due.

(e) Upon any partial redemption of any maturity and interest rate of the Bonds, Cede & Co. (or its successor) in its discretion may request the Town to issue and authenticate a new Bond or shall make an appropriate notation on the Bond indicating the date and amount of prepayment, except in the case of final maturity, in which case the Bond must be presented to the Paying Agent prior to payment. The records of the Paying Agent shall govern in the case of any dispute as to the amount of any partial prepayment made to Cede & Co. (or its successor).

**Section 10. Form and Execution of Bonds.** The Bonds shall be executed with the facsimile or manual signature of the Mayor of the Town, sealed with a facsimile or manual impression of the seal of the Town, and attested by the facsimile or manual signature of the Town Clerk. Should any officer whose facsimile or manual signature appears on the Bonds cease to be such officer before delivery of the Bonds to a purchaser, such facsimile or manual signature shall nevertheless be valid and sufficient for all purposes.

The Bonds shall be in substantially the form set forth as Exhibit A hereto, and by this reference made a part hereof,

with such omissions, insertions, endorsements and variations as may be required by the circumstances, be required or permitted by this Ordinance or the Sale Certificate or necessary or appropriate to conform to the rules and requirements of any governmental authority or any usage or requirement of law with respect thereto.

**Section 11. Authentication.** No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication on such Bond substantially in the form herein set forth shall have been duly executed by the Paying Agent, and such executed certificate of the Paying Agent upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Ordinance. The Paying Agent's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer or signatory of the Paying Agent, but it shall not be necessary that the same officer or signatory sign the certificate of authentication on all of the Bonds issued hereunder.

**Section 12. Delivery of Bonds.** Upon the payment of the purchase price set forth in the Bond Purchase Agreement, the Town shall execute the Bonds and deliver them to the Paying Agent, and the Paying Agent shall authenticate the Bonds and deliver them to the purchasers thereof or to a Depository, as directed by the Town and the Underwriter in accordance with the Bond Purchase Agreement.

**Section 13. Registration, Exchange, and Transfer of Bonds; Persons Treated as Owners.** The Paying Agent shall maintain the books of the Town for the registration of ownership of each Bond as provided in this Ordinance. Bonds may be exchanged at the principal office of the Paying Agent for a like aggregate principal amount of Bonds of the same maturity bearing the same interest rate of other Authorized Denominations. Bonds may be transferred upon the registration books upon delivery of the Bonds to the Paying Agent, accompanied by a written instrument or instruments of transfer in form and with guaranty of signature satisfactory to the Paying Agent, duly executed by the Owner of the Bonds to be transferred or his attorney-in-fact or legal representative, containing written instructions as to the details of the transfer of such Bonds, along with the social security number or federal employer identification number of such transferee. No transfer of any Bond shall be effective until entered on the registration books.

In all cases of the transfer of a Bond, the Paying Agent shall enter the transfer of ownership in the registration books

and shall authenticate and deliver in the name of the transferee or transferees a new fully registered Bond or Bonds of Authorized Denominations of the same maturity and interest rate for the aggregate principal amount which the registered owner is entitled to receive at the earliest practicable time. The Paying Agent shall charge the owner of the Bond for every such transfer or exchange an amount sufficient to reimburse it for its reasonable fees and for any tax or other governmental charge required to be paid with respect to such transfer or exchange.

The Town and Paying Agent shall not be required to issue or transfer any Bonds: (a) during a period beginning at the close of business on the Record Date and ending at the opening of business on the first Business Day following the ensuing Interest Payment Date, or (b) during the period beginning at the opening of business on a date forty-five (45) days prior to the date of any redemption of Bonds and ending at the opening of business on the first Business Day following the day on which the applicable notice of redemption is mailed. The Paying Agent shall not be required to transfer any Bonds selected or called for redemption, in whole or in part.

New Bonds delivered upon any transfer or exchange shall be valid obligations of the Town, evidencing the same obligation as the Bonds surrendered, shall be secured by this Ordinance, and shall be entitled to all of the security and benefits hereof to the same extent as the Bonds surrendered.

The Town and the Paying Agent may deem and treat the registered Owner of any Bond as the absolute owner thereof for all purposes (whether or not such Bond shall be overdue), and any notice to the contrary shall not be binding upon the Town or the Paying Agent.

**Section 14. Cancellation of Bonds.** Whenever any Bond shall be delivered to the Paying Agent for cancellation pursuant to this Ordinance and upon payment of the principal amount and interest represented thereby, or whenever any Bond shall be delivered to the Paying Agent for transfer or exchange pursuant to the provisions hereof, such Bond shall be cancelled by the Paying Agent in accordance with the customary practices of the Paying Agent and applicable retention laws.

**Section 15. Lost Bonds.** Any Bond that is lost, stolen, destroyed, or mutilated may be replaced by the Paying Agent in accordance with and subject to the limitations of applicable law. The applicant for any such replacement Bond shall post such security, pay such costs, and present such proof of

ownership and loss as may be required by applicable law, or in the absence of specific requirements, as may be required by the Paying Agent.

**Section 16. Disposition and Investment of Proceeds.**

The Bonds shall be issued and sold to pay or reimburse the Town for the acquisition of the Project and to pay the costs of issuance of the Bonds. Neither the Underwriter nor any subsequent Owners of the Bonds shall be responsible for the application or disposal by the Town or any of its officers of the funds derived from the sale thereof.

All or any portion of the Bond proceeds may be temporarily invested or reinvested by the Town, pending such use, in securities or obligations which are Permitted Investments.

**Section 17. Creation of Funds and Accounts.**

(a) The Open Space Sales and Use Tax Capital Improvement Fund heretofore created is hereby continued.

(b) The Bond Fund, which shall include the Interest Account and the Principal Account, is hereby created and established and shall be maintained by the Town in accordance with the provisions of this Ordinance.

(c) The Reserve Fund is hereby created and established and shall be maintained by the Town in accordance with the provisions of this Ordinance.

(d) The Costs of Issuance Fund is hereby created and established with the Paying Agent and shall be maintained and applied in accordance with the Paying Agent Agreement.

**Section 18. Initial Credits.** Immediately upon issuance of the Bonds and from the proceeds thereof, and after payment of the Underwriter's discount, the Town shall make the following credits:

(a) to the Reserve Fund, if any, the amount of the Reserve Fund Requirement as set forth in the Sale Certificate;

(b) to the Costs of Issuance Fund, the amount set forth in the Sale Certificate; and

(c) to the Town, the amount set forth in the Sale Certificate to pay or reimburse the Town for acquiring the Project.

**Section 19. Open Space Sales and Use Tax Capital Improvement Fund.** The Town shall credit to the Open Space Sales and Use Tax Capital Improvement Fund held and administered by the Town all revenue derived from the Open Space Sales and Use Tax immediately upon receipt. Thereafter, the Town shall apply the Pledged Revenues on deposit in such fund each month in the following order of priority. For purposes of the following, when credits to more than one fund, account, or purpose are required at any single priority level, such credits shall rank *pari passu* with each other.

(a) FIRST: To the credit of the 2015 Debt Service Fund the amounts required by the 2015 Loan Agreement, to the credit of the Bond Fund established herein the amounts required to pay the principal of and interest on the Bonds, and to the credit of any other fund or account established for the payment of the principal of and interest on any Parity Lien Obligations, in the amounts required by the ordinance or other documents pursuant to which the Parity Lien Obligations are issued.

(b) SECOND: To the credit of any sinking fund, reserve fund, or similar fund or account established in connection with the Bonds, the 2015 Bond, or any Parity Lien Obligations, in the amounts required by the ordinance or other documents pursuant to which Parity Lien Obligations are issued.

(c) THIRD: To the credit of any other fund or account hereafter established for the payment of the principal of and interest on Subordinate Lien Obligations, including any sinking fund, reserve fund, or similar fund or account established therefor, in the amounts required by the ordinance or other documents pursuant to which the Subordinate Lien Obligations are issued.

(d) FOURTH: To the credit of any other fund as may be designated by the Town, to be used for any lawful purpose, any Pledged Revenues remaining after the payments and accumulations set forth in FIRST through THIRD hereof.

**Section 20. Bond Fund.** Moneys in the Bond Fund shall be used solely for the purpose of paying the principal of, premium if any, and interest on the Bonds. The Town covenants to deposit to the Bond Fund, from the Pledged Revenues on deposit in the Open Space Sales and Use Tax Capital Improvement Fund, the following amounts:

(a) Monthly, on or before the twenty-fifth (25th) day of each month, commencing on or before the twenty-fifth (25th) day of the month immediately succeeding the issuance of the Bonds, and contemporaneously with any amounts due and owing on the 2015 Bond and any other Parity Lien Obligations, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the next maturing installment of interest on the Bonds.

(b) Monthly, on or before the twenty-fifth (25th) day of each month, commencing on or before the twenty-fifth (25th) day of the month immediately succeeding the issuance of the Bonds, and contemporaneously with any amounts due and owing on the 2015 Bond and any other Parity Lien Obligations, or commencing on or before any date one year prior to the first Principal Payment Date, whichever is later, an amount in equal monthly installments necessary, together with any moneys therein and available therefor to pay the next maturing installment of principal on the Bond.

The moneys in the Bond Fund shall be used only to pay principal, premium, if any, and interest on the Bonds. The Town shall transfer to the Paying Agent on or before any Interest Payment Date or Principal Payment Date such amounts as are due and owing on the Bonds in accordance with the Paying Agent Agreement.

**Section 21. Reserve Fund.** A Reserve Fund to secure the payment of the principal of and interest on the Bonds may be established pursuant to the Sale Certificate. In the event that a Reserve Fund is established, the following provisions shall apply. In the event that no Reserve Fund is established in the Sale Certificate, all references herein to the Reserve Fund and the Reserve Fund Requirement shall be of no force and effect.

In satisfaction of the Reserve Fund Requirement, upon delivery of the Bonds or at such time as required by the Sale Certificate, either proceeds of the Bonds, cash or a Reserve Fund Insurance Policy in the amount of the Reserve Fund Requirement being provided by a Surety Provider shall be deposited in the Reserve Fund. The proceeds of the Bonds, cash or a Reserve Fund Insurance Policy shall be credited to Reserve Fund as provided in the Sale Certificate. Any Reserve Fund Insurance Policy shall be held by the Paying Agent. Any Reserve Fund Insurance Policy deposited to the credit of the Reserve Fund shall be valued at the amount available to be drawn or otherwise paid pursuant to such Reserve Fund Insurance Policy at the time of calculation. The Paying Agent shall maintain adequate records as to the amount available to be drawn at any time under the Reserve Fund Insurance Policy and as to the amounts, of which it has knowledge, of any



policy costs paid and owing to the Surety Provider. Such records shall be open to inspection and verification by the Surety Provider during business hours of the Paying Agent.

After the payments or deposits required by Section 19(a) have been made or provided for, and concurrently with any payments required to be made pursuant to the 2015 Loan Agreement or any ordinances or other documents authorizing any Parity Lien Obligations with respect to any reserve funds which may be, but are not required to be, established thereby and concurrently with any repayment or similar obligations payable to any surety provider issuing any reserve fund insurance policy with respect to any Parity Lien Obligations, from any moneys remaining in the Open Space Sales and Use Tax Capital Improvement Fund there shall be credited to the Reserve Fund monthly, commencing on the first day of the month next succeeding each date on which the moneys accounted for in the Reserve Fund for any reason are less than the Reserve Fund Requirement, such amounts in substantially equal monthly payments on the first day of each month to re-accumulate the Reserve Fund Requirement by not more than 12 such monthly payments. If a Reserve Fund Insurance Policy is on deposit in the Reserve Fund to fund all or a part of the Reserve Fund Requirement, the amounts payable into the Reserve Fund pursuant to the immediately preceding sentence shall be paid by the Town first to the Surety Provider to reimburse it for policy costs due and owing and second to replenish cash in the Reserve Fund. If there are insufficient Pledged Revenues to comply with the requirements of the first sentence of this paragraph, available Net Pledged Revenues shall be credited or paid to the Reserve Fund and to reserve funds which may be established by any ordinances or other documents authorizing any Parity Lien Obligations (or to the Surety Provider or any other surety provider issuing any reserve fund insurance policy with respect to any Parity Lien Obligations) pro rata, based upon the aggregate principal amount of the Bonds and any such Parity Lien Obligations then Outstanding. If there are insufficient Pledged Revenues to comply with the requirements of the first sentence of this paragraph and more than one Reserve Fund Insurance Policy is on deposit in the Reserve Fund, available Net Pledged Revenues credited to or paid to the Reserve Fund shall be applied to reimburse the Surety Provider and any other surety provider providing a Reserve Fund Insurance Policy pro rata, based upon the original amount available to be drawn on each.

The Reserve Fund Requirement shall be accumulated and, if necessary, re-accumulated from time to time, in the Reserve Fund from Pledged Revenues, except to the extent other moneys are credited to the Reserve Fund, and maintained as a continuing reserve to be used to prevent deficiencies in the payment of the

debt service requirements of the Bonds Outstanding from time to time from the failure to deposit into the Bond Fund sufficient moneys to pay such debt service requirements as the same accrue and become due. Moneys on deposit in the Reserve Fund may also be applied to the prior redemption or defeasance of all or a portion of the Bonds and to the last principal payments due on the Bonds.

No payment need be made into the Reserve Fund at any time so long as the moneys and/or the Reserve Fund Insurance Policy therein equal not less than the Reserve Fund Requirement and there are no policy costs due and owing. Unless otherwise provided in the Sale Certificate, the Reserve Fund Requirement shall be re-calculated upon (i) any principal payment on the Bonds, whether at stated maturity or upon redemption, or (ii) the prior redemption or defeasance of all or a portion of the Bonds.

The Town may at any time substitute (a) cash or Permitted Investments for a Reserve Fund Insurance Policy or (b) a Reserve Fund Insurance Policy for cash or Permitted Investments, so long as the amount on deposit in the Reserve Fund after such substitution is at least equal to the Reserve Fund Requirement. Notwithstanding the foregoing, no Reserve Fund Insurance Policy shall be deposited by the Town in the Reserve Fund for such substitution unless the Town has received an opinion of Bond Counsel to the effect that such substitution and the intended use by the Town of the cash or Permitted Investments to be released from the Reserve Fund will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds.

Moneys credited to the Reserve Fund may be invested or deposited in securities or obligations which are Permitted Investments. So long as the amount of the Reserve Fund is equal to the Reserve Fund Requirement, all interest income from the investment or reinvestment of moneys credited to the Reserve Fund shall be credited to the Interest Account and/or the Principal Account, as may be determined by the Town; provided that if the amount of the Reserve Fund is less than the Reserve Fund Requirement, then such interest income shall be credited to the Reserve Fund.

**Section 22. Additional Covenants and Agreements.** The Town hereby further irrevocably covenants and agrees with each and every Owner that so long as any of the Bonds remain outstanding:

(a) The Town will not amend or repeal the Sales and Use Tax Ordinance in any way that would materially adversely affect the amount of Open Space Sales and Use Tax revenues which would

otherwise be collected. However, nothing herein shall prevent the Town from amending the Sales and Use Tax Ordinance, in order to make changes in the administration, collection, or enforcement of such Open Space Sales and Use Taxes, provided that such changes would not materially adversely affect the Owners.

(b) The Town will administer, enforce, and collect, or cause to be administered, enforced, and collected, the Open Space Sales and Use Tax, and it shall take such necessary action to collect delinquent payments as shall be authorized by the Sales and Use Tax Ordinance, and in accordance with law.

(c) The Town will keep such books and records showing the proceeds of the Open Space Sales and Use Tax, in which complete entries shall be made in accordance with standard principles of accounting, and the Owners shall have the right at all reasonable times to inspect the records and accounts relating to the collection and receipt of such Open Space Sales and Use Taxes, as permitted by law. The Town shall also maintain books and records relating to the funds and accounts maintained by the Town hereunder, and any Owner shall have the right at all reasonable times to inspect the records and accounts relating to such funds and accounts.

(d) The Town will, at least once a year, cause an audit to be performed of the records relating to the collection and receipt of the Open Space Sales and Use Tax which may be performed as a part of the Town's general annual audit which may be made part of and included within the general audit of the Town, and made at the same time as the general audit.

(e) In the event the Open Space Sales and Use Tax of the Town is replaced and superseded by a state-collected, locally-shared sales and use tax or taxes, or are replaced and superseded in some other manner from some other source or sources, the revenue derived by the Town from said replacement source or sources, shall be administered hereunder in substantially the same manner and as to substantially the same extent as the Pledged Revenues. From and after the date of said replacement, the Bonds and any Parity Lien Obligations shall have a lien, but not necessarily an exclusive such lien, upon such replacement revenues to the same extent as the lien on the Pledged Revenues.

(f) At any and all times the Town shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge, deliver and file or record all and every such further instruments, acts, deeds, conveyances, assignments, transfers, other documents and assurances as may be reasonably necessary or desirable for the

better assuring, conveying, granting, assigning and confirming all and singular the rights, the Pledged Revenues and other moneys and accounts hereby pledged or assigned, or intended so to be, or which the Town may hereafter become bound to pledge or to assign, or as may be reasonable and required to carry out the purposes of this Ordinance and to comply with any instrument of the Town amendatory thereof, or supplemental thereto. The Town, acting by and through its officers, or otherwise, shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Pledged Revenues and other moneys and accounts pledged hereunder and all the rights of every Owner of any Bond hereunder against all claims and demands of all Persons whomsoever.

(g) The Town shall comply with the provisions of the Continuing Disclosure Certificate. Any failure by the Town to perform in accordance with this Section shall not constitute an Event of Default under this Ordinance, and the rights and remedies provided by this Ordinance upon the occurrence of an Event of Default shall not apply to any such failure. The Paying Agent shall not have any power or duty to enforce this provision. No Owner of a Bond shall be entitled to damages for the Town's non-compliance with its obligations under this provision.

(h) The Town covenants that it will not take any action or omit to take any action with respect to the Bonds, the proceeds thereof, any other funds of the Town or any facilities financed with the proceeds of the Bonds if such action or omission (i) would cause the interest on the Bonds to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Tax Code, (ii) would cause interest on the Bonds to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code, or (iii) would cause interest on the Bond to lose its exclusion from Colorado taxable income or Colorado alternative minimum taxable income under present Colorado law. The foregoing covenant shall remain in full force and effect notwithstanding the payment in full or defeasance of the Bond until the date on which all obligations of the Town in fulfilling the above covenant under the Tax Code have been met. The Town specifically covenants to comply with the provisions and procedures of the Tax Compliance Certificate.

**Section 23. Additional Obligations.**

(a) No additional bonds, notes, interim securities, or other obligations shall be issued payable from the Pledged Revenues and having a lien thereon which is superior to the lien of the Bonds.

(b) The Town may issue Parity Lien Obligations only if the following conditions are met, as of the date of issuance of the Parity Lien Obligations:

(i) The Town is current in the payment of principal and interest on the Bonds and any outstanding Parity Lien Obligations, and

(ii) Except as hereinafter provided in the case of Parity Lien Obligations issued for the purpose of refunding less than all of the Bonds, the 2015 Bond, and other Parity Lien Obligations then outstanding, the Pledged Revenues collected or received by the Town in any 12 consecutive months out of the last 18 months immediately preceding the issuance or incurrence of such Parity Lien Obligations are sufficient to pay an amount representing not less than 150% of the Combined Maximum Annual Debt Service Requirements on the Bonds, the 2015 Bond, and any outstanding Parity Lien Obligations and the proposed Parity Lien Obligations. In the event that the Open Space Sales and Use Tax has been increased during the preceding or current fiscal year and if such increase is pledged to pay the Bonds, the 2015 Bond, any existing Parity Lien Obligations, and the proposed Parity Lien Obligations, then the Pledged Revenues for the applicable 12 month period may be adjusted by applying the new percentage to the amount of Open Space Sales and Use Taxes actually collected during such 12 month period, for the purpose of determining compliance with clause (ii) of this subsection. A written certification by the Finance Director that the requirements of clause (ii) of this subsection have been met shall be conclusively presumed to be accurate in determining the right of the Town to authorize, issue, sell and deliver the proposed Parity Lien Obligations. In the case of additional Parity Lien Obligations issued for the purpose of refunding less than all of the Bonds, the 2015 Bond, and all Parity Lien Obligations then outstanding, compliance with this subsection (ii) shall not be required so long as the debt service requirements payable on the Bonds, the 2015 Bond, and all other Parity Lien Obligations outstanding after the issuance of such Additional Parity Lien Obligations in each Bond Year does not exceed the debt service requirements

payable on the Bonds, the 2015 Bond, and all Parity Lien Obligations outstanding prior to the issuance of such Parity Lien Obligations in each Bond Year.

(c) So long as no Event of Default shall have occurred and be continuing hereunder, the Town may issue Subordinate Lien Obligations without the consent of the Owners of the Bonds. In addition, nothing herein shall prevent the Town from issuing obligations payable from sources other than the Pledged Revenues.

**Section 24. Defeasance.** When all principal, interest, and premiums, if any, in connection with the Bonds have been duly paid, the pledge and lien and all obligations of the Town hereunder shall thereby be discharged and the Bonds shall no longer be deemed to be outstanding within the meaning of this Ordinance. There shall be deemed to be such due payment when the Town has placed in escrow or in trust with a commercial bank exercising trust powers, or with the Paying Agent, an amount sufficient (including the known minimum yield from Federal Securities in which such amount may be initially invested) to meet all requirements of principal, interest, and premiums, if any, as the same become due to their final maturities or upon designated prior redemption dates. The Federal Securities in any such escrow shall not be subject to redemption or prepayment at the option of the issuer, and shall become due at or prior to the respective times on which the proceeds thereof shall be needed, in accordance with a schedule established and agreed upon between the Town and such bank at the time of the creation of the escrow, or the Federal Securities shall be subject to redemption at the option of the holders thereof to assure such availability as so needed to meet such schedule. The sufficiency of any such escrow funded with Federal Securities shall be determined by a certified public accountant.

**Section 25. Events of Default.** The occurrence or existence of any one or more of the following events shall be an Event of Default hereunder:

(a) payment of the principal of any Bond is not made by the Town when due;

(b) payment of the interest on any Bond is not made by the Town when due;

(c) the Town defaults in the performance of any other of its covenants in this Ordinance (other than the Town's covenant to comply with the Continuing Disclosure Certificate as set forth in Section 22(g) hereof), and such default continues for thirty

(30) days after written notice specifying such default and requiring the same to be remedied is given to the Town by the Owners of twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding; or

(d) the Town files a petition under the federal bankruptcy laws or other applicable bankruptcy laws seeking to adjust the obligations represented by the Bonds.

**Section 26. Remedies for Events of Default.** Upon the occurrence and continuance of an Event of Default, the Owner of any Bond, or a trustee therefor, may protect and enforce the rights of any Owner by proper legal or equitable remedy deemed most effectual including mandamus, specific performance of any covenants, injunctive relief, or requiring the Board to act as if it were the trustee of an express trust, or any combination of such remedies; provided, however, that acceleration of the Bonds shall not be an available remedy hereunder. All proceedings shall be maintained for the equal benefit and protection of all Owners. The failure of any Owner to proceed does not relieve the Town or any person of any liability for failure to perform any duty hereunder. The foregoing rights are in addition to any other right, and the exercise of any right by any Owner shall not be deemed a waiver of any other right.

**Section 27. Amendments Not Requiring Consent of Owners.** The Town may, without the consent of or notice to the Owners, adopt amendments or supplements to this Ordinance, which amendments or supplements shall thereafter form a part hereof, for any one or more of the following purposes:

(a) to cure any ambiguity, to cure, correct, or supplement any formal defect or omission or inconsistent provision contained in this Ordinance, to make any provision necessary or desirable due to a change in law, to make any provisions with respect to matters arising under this Ordinance, or to make any provisions for any other purpose, if such provisions are necessary or desirable and do not materially adversely affect the interests of the Owners of the Bonds;

(b) to subject to this Ordinance or pledge to the payment of the Bonds additional revenues, properties, or collateral; and

(c) to grant or confer upon the Owners any additional rights, remedies, powers, or authority that may be lawfully granted to or conferred upon the Owners.

**Section 28. Amendments Requiring Consent of Owners.**

(a) Except for amendatory or supplemental ordinances adopted pursuant to Section 27 hereof, and except as provided in paragraph (b) of this Section 28, the Owners of not less than a majority in aggregate principal amount of the Bonds then outstanding shall have the right, from time to time, to consent to and approve the adoption by the Town of such ordinances amendatory or supplemental hereto as shall be deemed necessary or desirable by the Town for the purpose of modifying, altering, amending, adding to, or rescinding, in any particular, any of the terms or provisions contained in this Ordinance.

(b) Notwithstanding the foregoing or any provisions to the contrary contained herein, the consent of all of the Owners of the Bonds affected thereby shall be required with respect to any of the following amendments to this Ordinance:

(i) a change in the terms of the maturity of any Bond, in the principal amount of any Bond or the rate of interest thereon, or in the terms of prior redemption of any Bond;

(ii) an impairment of the right of the Owners to institute suit for the enforcement of any payment of the principal of, premium if any, or interest on the Bonds when due;

(iii) the creation of a lien upon the Pledged Revenues ranking prior to the lien of the Bonds;

(iv) a privilege or priority of any Bond or any premium or interest payment over any other Bond or premium or interest payment; or

(v) a reduction in the percentage in principal amount of the Bonds the consent of whose Owners is required for any such amendatory or supplemental ordinance.

(c) If at any time the Town shall desire to adopt an amendatory or supplemental ordinance for any of the purposes of this Section, the Town shall cause notice of the proposed adoption of such amendatory or supplemental ordinance to be given by mailing such notice by certified or registered first-class mail to each Owner of a Bond to the address shown on the registration books of the Paying Agent, or in the event that the Bonds are registered in the name of DTC, such notice may, in the alternative, be given by electronic means in accordance with the



requirements of DTC, at least thirty (30) days prior to the proposed date of adoption of any such amendatory or supplemental ordinance. Such notice shall briefly set forth the nature of the proposed amendatory or supplemental ordinance and shall state that copies thereof are on file at the offices of the Town or some other suitable location for inspection by all Owners. If, within sixty (60) days or such longer period as shall be prescribed by the Town following the giving of such notice, the Owners of not less than the required percentage in aggregate principal amount of the Bonds then outstanding at the time of the execution of any such amendatory or supplemental ordinance shall have consented to and approved the execution thereof as herein provided, no Owner of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the adoption and effectiveness thereof, or to enjoin or restrain the Town from adopting the same or from taking any action pursuant to the provisions thereof.

**Section 29. Effect of Amendment.** Upon the execution of any amendatory or supplemental ordinance pursuant to this Ordinance, this Ordinance shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties, and obligations under this Ordinance of the Town, the Paying Agent, the Paying Agent, and all Owners of Bonds then outstanding shall thereafter be determined, exercised, and enforced hereunder, subject in all respects to such modifications and amendments.

**Section 30. Provisions Related to Bond Insurance.** If the Sale Certificate provides that the Bonds will be insured by a Bond Insurance Policy, the following provisions shall apply notwithstanding anything to the contrary in this Ordinance:

(a) Except as hereafter provided, the Bond Insurer is hereby deemed to be the sole holder of the Bonds insured by it for the purpose of exercising any voting right or privilege or giving any consent or direction or taking any other action that the holders of the Bonds insured by it are entitled to take including matters pertaining to amendments to this Ordinance, defaults and remedies. Notwithstanding the foregoing, the Bond Insurer shall not be deemed to be the owner of the Bonds for purposes of consenting to any amendments to the Ordinance set forth in Section 28(b) hereof.

(b) The Bond Insurer is hereby deemed to be a third party beneficiary to this Ordinance.

(c) Amounts paid by the Bond Insurer under the Bond Insurance Policy shall not be deemed paid for purposes of this Ordinance and shall remain Outstanding and continue to be due and owing until paid by the Town in accordance with this Ordinance. This Ordinance shall not be discharged unless all amounts due or to become due to the Bond Insurer have been paid in full or duly provided for.

(d) The Bond Insurer shall, to the extent it makes any payment of principal of or interest on the Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Bond Insurance Policy.

(e) At the time that the Town or the Paying Agent is required to give any notice hereunder to the Owners (other than a notice of mandatory sinking fund redemption), like notice shall be given to the Bond Insurer. The Town shall also give notice to the Bond Insurer of any proposed amendment of this Ordinance pursuant to Section 27 hereof.

(f) The rights of the Bond Insurer to direct or consent to Town or bondholder actions under this Ordinance shall be suspended during any period in which the Bond Insurer is in default in its payment obligations under the Bond Insurance Policy (except to the extent of amounts previously paid by the Bond Insurer and due and owing to the Bond Insurer) and shall be of no force or effect in the event the Bond Insurance Policy is no longer in effect or the Bond Insurer asserts that the Bond Insurance Policy is not in effect or the Bond Insurer shall have provided written notice that it waives such rights.

**Section 31. Removal or Resignation of Paying Agent; Successors.** The Paying Agent may resign or be removed by the Town at any time with or without cause. In the event of the removal or resignation of the Paying Agent, the Town shall appoint a successor as soon thereafter as may be practicable, and in such event, shall give written notice thereof to each Owner by mailing to the addresses shown on the registration books for the Bonds. Any successor Paying Agent shall:

- (a) be a trust company or bank in good standing located in or incorporated under the laws of the State of Colorado;
- (b) be duly authorized to exercise trust powers;
- (c) be subject to examination by a federal or state authority; and

(d) maintain a reported capital and surplus of not less than fifty million dollars (\$50,000,000).

**Section 32. Authorization to Execute Documents.** The Mayor and Town Clerk shall, and they are hereby authorized and directed to take, all actions necessary or appropriate to effectuate the provisions of this Ordinance, including, but not limited to, the execution of the Paying Agent Agreement and the Continuing Disclosure Certificate in substantially the forms presented to the Board, provided that such documents may be completed, corrected or revised as deemed necessary by the parties thereto in order to carry out the purposes of this Ordinance and to comply with the provisions of the Sale Certificate.

The Town Clerk is hereby authorized and directed to attest all signatures and acts of any official of the Town in connection with the matters authorized by this Ordinance and to place the seal of the Town on any document authorized and approved by this Ordinance. The Mayor, the Town Clerk, the Town Manager, the Finance Director and other employees and officials of the Town are hereby authorized and directed to execute and deliver for and on behalf of the Town any and all additional certificates, documents, instruments and other papers (collectively, the "Authorized Documents"), and to perform all other acts that they may deem necessary or appropriate in order to implement and carry out the transactions and other matters authorized by this Ordinance, including without limitation any financial guaranty agreement required by the provider of any insurance policy or reserve fund insurance policy related to the Bonds. The approval hereby given to the various documents referred to above includes an approval of such additional details therein as may be necessary and appropriate for their completion, deletions therefrom and additions thereto as deemed necessary by the parties thereto in order to carry out the purposes of this Ordinance and to comply with the terms of the Sale Certificate. The execution of any document or instrument by the appropriate officers of the Town herein authorized shall be conclusive evidence of the approval by the Town of such document or instrument in accordance with the terms hereof.

In the event the Mayor, Town Clerk, Town Manager, Finance Director or other employee or official of the Town that is authorized or directed to execute any agreement, document, certificate, instrument or other paper in accordance with this Ordinance (collectively, the "Authorized Documents") is not able to be physically present to manually sign any such Authorized Document, such individual or individuals are hereby authorized to execute Authorized Documents electronically via facsimile or email

signature. Any electronic signature so affixed to any Authorized Document shall carry the full legal force and effect of any original, handwritten signature. This provision is made pursuant to Article 71.3 of Title 24, C.R.S., also known as the Uniform Electronic Transactions Act.

**Section 33. Sale of Bonds.** The Bonds shall be sold by negotiated sale to the Underwriter, or such other entity as determined by the Mayor, Town Manager or Finance Director as set forth in the Sale Certificate. It is hereby determined that a sale of the Bonds pursuant to a negotiated sale is to the best advantage of the Town.

**Section 34. Official Statement.** The preparation, distribution and use of the Preliminary Official Statement for use in connection with the offering and sale of the Bonds is hereby authorized, ratified, approved and confirmed. The Preliminary Official Statement is hereby deemed by the Board to be final as of its date within the meaning of Rule 15c2-12(b)(1) of the U.S. Securities and Exchange Commission. The Mayor, Town Manager and the Finance Director are each independently authorized to prepare or cause to be prepared, and the Mayor is authorized and directed to approve, on behalf of the Town, and execute a final Official Statement for use in connection with the offering and sale of the Bonds in substantially the form of the Preliminary Official Statement, but with such amendments, additions and deletions as are in accordance with the facts and not inconsistent herewith. The execution of a final Official Statement by the Mayor shall be conclusively deemed to evidence the approval of the form and contents thereof by the Town.

**Section 35. Costs and Expenses.** All costs and expenses incurred in connection with the issuance and payment of the Bonds, including without limitation all expenses related to the issuance of any Bond Insurance Policy, shall be paid either from the proceeds of the Bonds on deposit in the Costs of Issuance Fund or from legally available moneys of the Town, or from a combination thereof, and such moneys are hereby appropriated for that purpose.

**Section 36. Intent to Reimburse Expenditures.** The Town intends to reimburse certain capital expenditures incurred by the Town in connection with the acquisition of the Project prior to the receipt of any proceeds of the Bonds. The Town shall not use reimbursed moneys for purposes prohibited by Treasury Regulation §1.150-2(h). This Section is intended to be a declaration of "official intent" to reimburse expenditures within the meaning of Treasury Regulation §1.150- 2.

**Section 37. No Recourse against Officers and Agents.**

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

**Section 38. Limitation of Actions.** Pursuant to §11-57-212, C.R.S., no legal or equitable action brought with respect to any legislative acts or proceedings in connection with the authorization or issuance of the Bonds shall be commenced more than thirty days after the authorization of the Bonds.

**Section 39. Business Days.** If the date for making any payment or performing any action hereunder shall is not a Business Day, such payment may be made or act performed on the next succeeding Business Day.

**Section 40. Ordinance Irrepealable.** After any of the Bonds have been issued, this Ordinance shall constitute a contract between the Owners and the Town and shall be and remain irrepealable until the Bonds and the interest accruing thereon shall have been fully paid, satisfied, and discharged, as herein provided.

**Section 41. Severability.** If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one or part or parts be declared unconstitutional or invalid.

**Section 42. Repealer.** All acts, orders, bylaws and resolutions of the Town, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed to the extent only of such inconsistency or conflict.


**Section 43. Safety.** This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 44. Effective Date. This Ordinance shall take effect thirty (30) days after its final publication.

INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED this 13<sup>th</sup> day of April, 2020.

  
\_\_\_\_\_  
Clint Folsom, Mayor

ATTEST:

  
\_\_\_\_\_  
Phyllis L. Hardin, Town Clerk

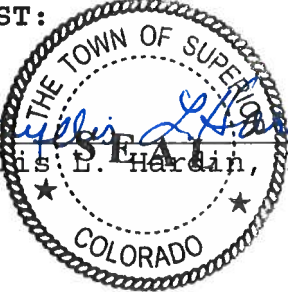


EXHIBIT A

[Form of Bond]

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the issuer or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R- \_\_\_\_\_

\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF COLORADO  
COUNTY OF BOULDER

TOWN OF SUPERIOR  
OPEN SPACE SALES AND USE TAX REVENUE BOND,  
SERIES 2020

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>ORIGINAL DATE</u>	<u>CUSIP</u>
_____ %	JUNE 1, _____		

REGISTERED OWNER:

PRINCIPAL AMOUNT:

The Town of Superior, in the County of Boulder and State of Colorado (the "Town"), a statutory town duly organized and operating under the constitution and laws of the State of Colorado, for value received, hereby promises to pay to the Registered Owner (specified above), or registered assigns, solely from the special funds provided therefor, as hereinafter set forth, the Principal Amount (specified above), in lawful money of the United States of America, on the Maturity Date (specified above), with interest thereon from the Original Date (specified above), or the interest payment date to which interest has been paid next preceding the date hereof, whichever is later, to the Maturity Date, except if redeemed prior thereto, at the per annum Interest Rate (specified above), computed on the basis of a 360-day year consisting of twelve (12) months of thirty (30) days each, payable semiannually on the first day of June and the first

day of December of each year, commencing on \_\_\_\_\_ 1, 2020, or the first such date after the date hereof, whichever is later, in the manner provided herein. If upon presentation at maturity payment of the Principal Sum is not made as provided herein, interest continues at the Interest Rate until the Principal Sum is paid in full.

This Bond is one of an authorized series of Bonds issued pursuant to an Ordinance of the Board of Trustees of the Town adopted on \_\_\_\_\_, 2020 (the "Ordinance") and a Sale Certificate (the "Sale Certificate") executed by an authorized officer of the Town prior to the delivery of the Bonds. This Bond bears interest, matures, is payable, is subject to redemption and is transferable as provided in the Ordinance and the Sale Certificate. To the extent not defined herein, terms used herein are used as defined in the Ordinance and the Sale Certificate.

This Bond is one of a series aggregating \$ \_\_\_\_\_ par value, all of like date, tenor, and effect except as to number, principal amount, interest rate, and date of maturity, issued by the Town for the purpose of paying the costs of the acquisition of certain open space properties, property rights, and other open space capital improvements, by virtue of and in full conformity with the Constitution of the State of Colorado; §29-2-112, C.R.S.; Title 11, Article 57, Part 2, C.R.S.; the 2005 Election, and all other laws of the State of Colorado thereunto enabling, and pursuant to the duly adopted Ordinance. This Bond is issued under the specific authority of §29-2-112, C.R.S., and pursuant to such section, this recital shall conclusively impart full compliance with all of the provisions of such section, and all Bonds issued containing this recital shall be incontestable for any cause whatsoever after their delivery for value. In addition, pursuant to §11-57-210, C.R.S., the recital that the Bonds are issued pursuant to Title 11, Article 57, Part 2, C.R.S., shall be conclusive evidence of the validity and the regularity of the issuance of the Bonds after their delivery for value.

The principal of and interest on this Bond are payable only from the Pledged Revenues, and from amounts on deposit in the Open Space Sales and Use Tax Capital Improvement Fund, the Bond Fund and Reserve Fund all as more particularly set forth in the Ordinance. This Bond constitutes a lien (but not necessarily an exclusive lien) on the Pledged Revenues on a parity with the 2015 Bond and any Parity Lien Obligations to be issued in the future, if any.

This Bond does not constitute an indebtedness of the Town within the meaning of any constitutional or statutory debt



limitation or provision. This Bond, and the interest thereon, are payable solely from the Pledged Revenues and the funds and accounts pledged pursuant to the Ordinance and this Bond does not constitute a debt within the meaning of any constitutional or statutory limitation, and shall not be considered or held to be a general obligation of the Town.

Reference is made to the Ordinance for the provisions, among others, with respect to the custody and application of the proceeds of the Bonds, the receipt and disposition of the Pledged Revenues, the nature and extent of the security, the terms and conditions under which additional bonds payable from the Pledged Revenues may be issued, the rights, duties and obligations of the Town, the rights of the Owners of the Bonds, the events of defaults and remedies, the circumstances under which this Bond is no longer Outstanding, the ability to amend the Ordinance; and by the acceptance of this Bond the Owner assents to all provisions of the Ordinance.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the authorizing Ordinance until the certificate of authentication hereon shall have been signed by the Paying Agent.

It is further hereby recited, certified, and warranted that all the requirements of law have been complied with fully by the proper officers of the Town in issuing this Bond.

IN TESTIMONY WHEREOF, the Board of Trustees of the Town of Superior has caused this Bond to be signed by the facsimile signature of the Mayor of the Town, sealed with a facsimile of the seal of the Town, and attested by the facsimile signature of the Town Clerk thereof, all as of \_\_\_\_\_, 2020.

(S E A L)

**TOWN OF SUPERIOR, COLORADO**

By: \_\_\_\_\_  
Mayor

ATTESTED:

By: \_\_\_\_\_  
Town Clerk

[Form of Paying Agent's Certificate of Authentication]

**CERTIFICATE OF AUTHENTICATION**

This Bond is one of the Bonds of the issue described in the within mentioned Ordinance.

Date of Registration and Authentication: **UMB BANK, n.a.**  
Denver, Colorado, as paying agent

---

Authorized Signatory

[Form of Assignment]  
ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints to transfer the within Bond on the records kept for the registration thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_  
\_\_\_\_\_

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within Bond in every particular, without alteration or enlargement or any change whatever. The signature must be guaranteed by an eligible guarantor institution as defined in 17 CFR § 240.17 ad-15(a)(2).

Signature Guaranteed by a Member:  
of the Medallion Signature Program

\_\_\_\_\_

Address of Transferee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Social Security or other  
identification number of transferee:

\_\_\_\_\_

(End of Form of Assignment)

[End of Form of Bond]