

Allison Valley Metropolitan Districts #1 & 2  
c/o Allison Valley Development Company, LLC  
1755 Telstar Drive, Suite 211  
Colorado Springs, CO 80920

August 21, 2015

City of Colorado Springs  
City Clerk's Office  
PO Box 1575  
30 S. Nevada Avenue, Suite 101  
Colorado Springs, CO 80901

Re: Allison Valley Metropolitan Districts #1 & #2 – Issuance of Debt Instrument

To Whom it May Concern;

This letter shall serve as Allison Valley Metropolitan District #2's ("District") request to the Colorado Springs City Council for approval of its initial debt financing for public improvements within its district boundaries. Per Section V.A.10. Total Debt Issuance Limitation, the issuance of all bonds or other debt instruments of the District shall be subject to the approval of the City Council. It is the intent of the District to obtain the City Council's review and approval of the proposed debt instrument to ensure compliance with the Service Plan and all applicable laws.

This initial financing is proposed to be in the amount of \$13,500,000 and the funds will be utilized for public improvements associated with the initial phased construction costs necessary to provide services to its future residents and businesses. The attached information provides pertinent information about the terms and conditions of the financing, the proposed uses of the funds, and the forecast build-out of the residential homes within the District.

The District appreciates the City Council's review of the enclosed information and will be available to discuss any questions or comments concerning this proposed financing at its convenience.

Sincerely,



Doug Quimby, President  
Allison Valley Metropolitan District #1 & #2

c. Carl F. Schueler, Comprehensive Planning Manager

Enclosure Items:  
Vectra Bank Term Sheet  
RBC Capital Markets Financial Advisor Letter  
District Residential Build-out Forecast  
District Initial Public Improvement Budget





**TERM SHEET**  
**Private Placement**  
**Allison Valley Metropolitan District No. 2**  
**Limited General Obligation**  
**Qualified Tax Exempt and Taxable Loan;**

**(Subject to Final Credit Approval / Not A Commitment)**

This Term Sheet shall serve as a guide for the general terms and structure for a Direct Purchase by Vectra Bank Colorado of a private placement of the Series 2015 Allison Valley Metropolitan District #2 Qualified Tax Exempt Limited General Obligation Loan, and a Series 2015 Allison Valley Metropolitan District #2 Taxable Loan convertible to a Qualified Tax Exempt Limited General Obligation Loan. The terms within this Term Sheet may be amended and adjusted going forward by agreement between the Parties as due diligence on the transaction is completed and new issues or concerns arise regarding covenants, structure, financial ratio levels, and Note mechanics, amortization, etc.

The terms and conditions herein remain subject to formal commitment and final negotiation of the financing documents. Therefore, the Bank shall not be liable to AVMD2 or any third party for damages or specific performance as a result of Bank's failure to close the transaction. The terms and conditions of this Term Sheet are confidential and may not be shown or disclosed by you except to those individuals who have a need to know as a result of being involved in the proposed transaction.

**I. Parties**

Issuer: Allison Valley Metropolitan District No. 2 ("AVMD2").  
Purchaser: Vectra Bank Colorado National Association (the "Bank").  
Placement Agent: RBC Capital Markets, LLC  
Issuer Counsel: Butler Snow LLP  
Bank Counsel: Kutak Rock  
Paying Agent: Zions First National Bank Trust Department, Denver  
Bank Approved Builders The Bank will preapprove Residential Builders that will be eligible for Permit Ready Lot advances which shall include; -to be determined.

**II. Series 2015 Notes**

A Note Amount: \$10,000,000  
B Note Amount: To be determined – currently estimated at \$3,500,000  
Purpose: Advances under the 2015 Notes will be available to the District for a period of three years following the respective closing dates to reimburse developer advances used for the completion of public improvements within the District.  
At expiration of the Draw Down Period of the A Note, the District may, subject to Bond Counsel Approval, transfer remaining availability to the B Note. At expiration of the Draw Down Period of the B Note, the District may or fund the balance of the note availability to a Parity Note or into a custody account maintained with the Paying Agent, and subject to availability as described in Section III.



- Tax Status: At closing, the A Note will be a Qualified Tax Exempt Obligation as described Under Section 265(b) of the Code. It is anticipated that the 2015 B Note will be a Qualified Tax Exempt Obligation when the first \$50,000 of non-origination expense funds have been advanced. Advances under B Note will be available for a period of three years following the date when the sum of non-origination expense advances equals or exceed \$50,000 to reimburse developer advances used for the completion of public improvements within the District. If, at the time the sum of the advances equal or exceed \$50,000, bond Counsel cannot deliver an opinion that the B Note is a Qualified Tax Exempt obligation; the B Note will bear interest at the Taxable Rate.
- Parity Debt: The Bank may, subject to credit approval, purchase additional series of parity loans issued by the District upon demonstration of substantial completion of the project, and assessed valuations in excess of the proformas included at underwriting. No other parity debt is permitted.
- Subordinate Debt: The District may issue fully subordinate debt upon receipt by the Bank of an opinion from Bond Counsel, in form acceptable to Bank Counsel, that the debt a) will not impact the tax status of the Bank Loans, b) the debt is fully subordinate to the Bank's tax lien and cash flow priority, and c) is fully subordinate to any restructure of the Bank loan.
- The Bank and District will negotiate a release of excess cash flow to the subordinated debt after certified assessed value is sufficient to generate ad valorem property tax and resulting specific ownership tax revenues that 1.0x coverage of maximum annual debt service, (MADs) and 1.25 x coverage of current debt service.
- Maturity: 12/01/2046. Every Five years the bank shall refix the interest rate as described in Interest Rate below.
- Amortization: The loan will pay interest semi-annually on the last day of June and December, commencing June 1<sup>st</sup>, 2016, and principal annually on December 31<sup>st</sup> approximately according to the schedule attached as Exhibit One.
- Interest Rate: The Taxable Rate shall be equal to the sum of the Des Moines Federal Home Loan Bank Long-Term, Fixed-Rate Advances Five Year Bullet Rate plus 350 basis points, currently 5.65%.
- Notes that are designated Qualified Tax Exempt Obligation as described Under Section 265(b) of the Code will accrue interest at the product of the Taxable Rate multiplied by 80%, currently 4.52%. The Tax Exempt and Taxable Rates will be recalculated at the Refix Date, December 1, 2020, and each five year anniversary thereafter.
- Additional advances shall be priced based upon the above formula at the time of advance to the Refix Date, at a spread equal to 350 basis points plus the next full year Federal Home Loan Bank Advance Rate, and adjusted for the appropriate tax treatment.
- Option Reprice: On the Refix Date, December 1, 2020, and every five year anniversary thereafter until the Loan is repaid in full, the Taxable Rate will refix at a rate equal to the Seattle Federal Home Loan Bank Long-Term, Fixed-Rate Advances Five Year Bullet Rate plus 350 basis points. The Tax Exempt rate will be equal to 80% of the Taxable Rate.
- (Five Year Federal Home Loan Bank Advance Rate (current at refix) + 350 basis points) X 80%
- Default Interest Rate: Upon a material default of the 2015 Note that remains uncured for 30 days, the 2015 Note shall accrue interest at a Default Rate, which shall not exceed a rate equal to the lesser of the Wall Street Journal Prime Rate plus 4.00%, or 18%. In



no event shall the annual and total repayment costs of the 2015 Note exceed the amount authorized by the District voters.

Commitment Fee: One percent (1.00%) of the initial principal amount of the 2015 Notes; payable on each note at closing.

Unused Facility Fee: An Unused Facility Fee equal to 30 basis points per annum on the undrawn amount of the Note shall be calculated quarterly commencing with the first full quarter 1 year after the origination, September 1<sup>st</sup> 2016 and collected December 1<sup>st</sup>, 2016, . The Unused Facility Fee will continue to be due to the Bank quarterly in arrears beginning on December 1<sup>st</sup>, 2016. Prior to the first day of each accrual period, AVMD2 may request the Bank to terminate any portion of the undrawn availability, and such extinguished availability shall no longer accrue the Unused Facility Fee.

Prepayment Fee: The Notes shall be subject to the following prepayment restrictions

- a. Commencing with closing of the Note, and upon each subsequent interest Refix Date; the Note shall not be prepaid prior to the second anniversary.
- b. Commencing with the second anniversary through the third, a prepayment equal to 1.0% of the then outstanding principal amount of the Senior Note shall be charged.
- c. Subsequent to the third anniversary the Note shall be fully pre-payable without penalty thereafter, until the next refix date.
- d. All prepayments occurring by application of Excess Revenues shall occur without penalty or restriction.

Security for the Note: The 2015 Notes shall be secured by "Pledged Revenues" consisting of; (i) an irrevocable pledge of ad valorem property tax pledge (ii) assignment of all specific ownership tax received by AVMD2 as a result of the certification by the District of the debt service mill levy, (iii) any System Development Fees which may be assessed by the District (iv) all funds held in the Paying Agent account and (v) other balances or revenues including interest income of the Debt Service Fund.

Debt Service Coverage: Debt Service Coverage shall be calculated as: pledged revenue received divided by actual debt service.

### III. Draw Availability

Closing Draw: Based upon certification of the 47 lots in Filing 1A as permit ready lots, the conversion to commercial assessment, and sale to Bank Approved Builders, an initial advance of \$758,000 less closing costs of the Notes and capitalized interest will be available at closing.

Note Availability: Additional Draws under the A Note and B Note shall be available to AVMD2 based upon the following calculations of projected assessed valuation. Quarterly, the District and Bank shall calculate the projected assessed value of the Permittable Lots, Homes under construction, and homeowner homes, based upon the actual construction and sales activity within the District. Lot and home values shall be subject to revision based upon actual sales activity within AVMD2 and comparable data from other El Paso County assessor:

Paper Plated Lots: No advance rate will be available for assessed valuation against plated lots that are not permit ready.

Permit Ready Lots: Patted lots for which all necessary infrastructure has been completed, and accepted by the City of Colorado Springs, are "Permit Ready" and are owned by the "Bank Approved Builders", Keller Homes, Windsor Ridge, Adamo Homes, and Vantage Homes shall be available for advance rate base upon the present value of projected property tax and special ownership tax at the full commercial



valuation adjusted for a 1.50x coverage ratio at the mill levy cap. The valuation of the residential lots will be limited to the lesser of one year's projected absorption or 60 lots and shall be set, subject to the full discretion of the Bank, at a price equal to the most recent actual sale within AVMD2 or the value applied by the El Paso County Assessor for similar properties.

Construction Homes:

Homes for which construction has commenced by one of the "Bank Approved Builders", Keller Homes, Windsor Ridge, Adamo Homes, and Vantage Homes, shall be available for advance rate base upon the present value of projected property tax and special ownership tax at the full residential valuation adjusted for a 1.50x coverage ratio at the mill levy cap. The valuation of the home shall be set at, subject to the full discretion of the Bank, a price equal to the most recent actual sale within AVMD2 or the value applied by the El Paso County Assessor for similar properties. The valuation of the Construction Homes shall be limited to the lesser of the actual number of homes under construction by Bank Approved Builders or 60 homes. Homes in construction for a period beyond one year from commencement shall be excluded from the Borrowing Base. Homes that have received a Certificate of Occupancy and are in active use by Bank Approved Builders shall not be subject to the one year limitation.

Commencement of Construction shall be deemed to have occurred upon the issuance of a permit inspection of foundation water proofing by the City of Colorado Springs, and confirmation of same by posting of the inspection on the City's web site.

*The proposed limitation of 60 Permit Ready Lots, and 60 Construction Homes each, will remain in place until projected revenues from Resident Homes (from actual value) exceeds 60%.*

Resident Homes:

Homes which have received a certificate of occupancy and have closed to a non-investor homeowner, shall be available for advance rate base upon the present value of projected property tax and specific ownership tax at the full residential valuation adjusted for a 1.25x coverage ratio at the mill levy cap. The valuation of the home shall be set, at the full discretion of the Bank, at a price equal to the lesser of the value the actual HUD-1 Settlement Statement, or the value applied by the El Paso County Assessor for similar properties.

**IV. Flow of Funds:**

Flow of Funds:

All pledged revenue shall be deposited directly by the El Paso County Treasurer into the Revenue Account maintained with the Paying Agent. Upon receipt by the Paying Agent, funds from the Debt Service Fund shall be applied as follows:

- I. To payment of Paying Agent fees.
- II. To the payment of all past due interest, and principal, and any other collection or other fees due the Bank under the Loan Agreement.
- III. To the Payment of all current interest and principal.
- IV. To the prepayment of principal in increments of \$5,000 or greater beginning with the final principal payment due on 12/01/2045 and continuing forward in reverse chronological order.

**V. Loan Covenants**

The following representations, warranties and covenants shall be part of the agreement to be entered into by AVMD2 and the Bank with respect to the 2015 Loan (the "2015 Loan Agreement"). Other additional covenants may be added or these may be adjusted going forward by agreement between the Parties as new issues or concerns arise regarding 2015 Loan covenants, structure, financial ratio levels, etc. 2015 Loan covenant compliance will be tested in the manner and at the times as set forth in the 2015 Loan Agreement.



Primary Reps, Warranties and Covenants:

- a. AVMD2 will execute all documentation necessary to convey to the Bank a security interest in all revenues pledged to the Development Agreement.
- b. AVMD2 shall represent and warrant to the Bank, and provide an Opinion of Enforceability from the AVMD2 Counsel, that Allison Valley Metropolitan District Board has passed all required resolutions hypothecating the Secured Revenues, and that all such assignments are binding on AVMD2.
- c. AVMD2 will not grant any lien or otherwise encumber the pledged revenues except debt which is fully subordinated to the Bank's lien and cash flow priority.
- d. Annually, no later than December 31<sup>st</sup>, AVMD2 shall certify a mill levy sufficient to meet the scheduled debt service requirement of the subsequent year, subject to statutory limitation, and provide a copy of such together with a copy of the annual budget of AVMD2.
- e. Annually, AVMD2 shall provide the Bank with copies of its unqualified annual audit not later than 210 days following the end of each fiscal year. (The Bank at its discretion may waive the Audit requirement upon receipt of all filings with the State of Colorado public district audit exception.)
- f. Within 90 days of quarter-end, AVMD2 shall submit to the Bank internal financial statements including a statement of revenues and expenses including annual budget, and a schedule of assets and liabilities including the General Fund and all sub Funds.
- g. AVMD2 shall continuously cooperate with the Bank and make a good faith effort to determine that all Pledged Revenues correctly allocated to the Debt Service Fund and subsequently paid to the Paying Agent.
- h. AVMD2 will not cooperate with nor support the conversion of any real property within the District to tax exempt status except for the completion of required public improvements.
- i. Other covenants considered standard for this type of transaction and industry to be negotiated in good faith between the Parties during the due diligence period and 2015 Note approval and documentation process.

**VI. Events of Default**

Events of Default customarily found in this type of loan to include, but not limited to:

- a. Failure of AVMD2 to pay the principal or interest on the Note when due or any other amount due and payable to the Bank under the Loan Agreement or the Financing Documents;
- b. Any pledge or other security interest pledged as Security for the loan fails to be fully enforceable with the priority required hereunder;
- c. Failure of AVMD2 to certify the annual mill levy of not less than 40 mills (30 mills for debt and 10 mills for O&M), and certify an annual budget or comply with all State Law applicable to Special Districts.
- d. Failure of AVMD2 to pay Pledged Revenues into the Debt Service Fund or cooperate with the Bank to verify same.
- e. Bankruptcy or similar issue of AVMD2 or any other entity that is party to the Financing Documents or agreements related to the Security for the proposed financing; and
- f. Any other actions or in-actions by AVMD2 that would otherwise constitute a breach of the provisions of the Loan Agreement or the Financing Documents,



including such actions or in-actions that, with the passage of time, would constitute a breach thereunder.

**VII. Conditions Precedent:**

Prior to final underwriting and the issuance of a commitment, AVMD2 shall provide to the Bank the following information:

- a. Specific schedule of all single family homes closed and sold subsequent to the last certified assessed valuation of the District.
- b. Specific schedule of all single family homes currently under construction and projection of the sales value and subsequent assessed valuation thereof
- c. Specific schedule of all single family home lots accepted by El Paso County as eligible for Permit based upon acceptance by the City of Colorado Springs of all required infrastructure improvements.
- d. Specific schedule of all single family home lots converted from Agricultural to Commercial assessment since the last certified assessed valuation of the District.
- e. Other financial and real estate disclosure reasonably required by the bank.

**VIII. Other Provisions**

Other Costs: AVMD2 will reimburse the Bank, whether or not there is a closing of the 2015 Note financing transaction, for all out-of-pocket costs including, but not limited to, outside legal fees including but not limited to Bank Counsel fees, financial advisory fees; other consulting fees, and any other reasonable costs associated with the Bank's due diligence and underwriting of this transaction.

Waiver: The 2015 Loan Agreement will contain, among other things, a provision to the effect that: except for harm arising from the Bank's willful misconduct, gross negligence or bad faith, and without waiving governmental immunity, AVMD2, to the extent allowed by law, indemnifies and agrees, to defend and hold the Bank harmless from any and all losses, costs, damages, claims and expenses of any kind suffered by or asserted against the Bank relating to claims by third parties as a result of, or arising out of, the negligence or other misconduct of AVMD2, or any claim made against AVMD2, in connection with the financing provided under the 2015 Loan Agreement and other 2015 Note financing documents. To the extent permitted by law, such indemnification and hold harmless provision will survive the termination of the 2015 Loan Agreement and financing documents and the satisfaction of AVMD2's obligations to the Bank thereunder.

Document Imaging: The Bank shall be entitled, in its sole discretion, to image all or any selection of the instruments, other loan documents, items and records governing, arising from or relating to any of Borrower's loan or loans, and may destroy or archive the paper originals. The parties hereto waive any right to insist the Bank produce paper originals, agree that such images shall be accorded the same force and effect as the paper originals, and further agree that the Bank is entitled to use such images in lieu of destroyed or archived originals for any purpose, including as admissible evidence in any demand, presentment or proceedings.

Other Conditions: Our (the Bank and AVMD2) respective obligations in connection with the 2015 Note shall be as set forth in a 2015 Loan Agreement and related financing documents. The 2015 Loan Agreement shall contain provisions for warranties, representations, legal opinions and covenants of AVMD2 and closing conditions that are customary in similar transactions and are in form and substance satisfactory to the Bank in its sole discretion.

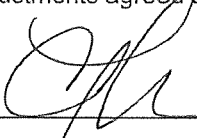
Interest & Fee Basis: All interest and fee calculations will be computed on an Actual/360-day year basis. All principal and interest shall be payable in immediately available funds.





**IX. Term Sheet Acceptance**

By signing below, we hereby accept the Terms and Conditions outlined within this Term Sheet, subject to normal adjustments agreed upon by both Parties.

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

Conrad J. Freeman  
Senior Vice President,  
Municipal Banking  
Vectra Bank Colorado

Accepted and agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Allison Valley Metropolitan District No. 2

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_



**LOAN AGREEMENT**

by and between

**ALLISON VALLEY METROPOLITAN DISTRICT NO. 2  
IN THE CITY OF COLORADO SPRINGS,, COLORADO**

and

**VECTRA BANK COLORADO, NATIONAL ASSOCIATION**  
as Bank

Relating to:

Not to exceed \$10,000,000 2015A Limited Tax General Obligation Note

Dated as of [date], 2015

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## LOAN AGREEMENT

**THIS LOAN AGREEMENT** (this “Agreement”) is made and entered into as of [date], 2015, by and between **ALLISON VALLEY METROPOLITAN DISTRICT NO. 2**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”), and **VECTRA BANK COLORADO, NATIONAL ASSOCIATION**, a national banking association, in its capacity as lender (the “Bank”).

### WITNESSETH:

WHEREAS, the District is a quasi-municipal corporation and political subdivision of the State of Colorado, duly organized and existing as a metropolitan district under the constitution and laws of the State of Colorado (all capitalized terms used and not otherwise defined herein shall have the respective meanings assigned in Article I hereof); and

WHEREAS, the District was created for the purpose of providing certain public improvements and services to and for the benefit of the properties within and without the boundaries of the District, including, but not limited to, water, storm and sanitary sewer, and street improvements and facilities, together with all necessary, incidental, and appurtenant facilities, equipment, land and easements or other interests in property (the “Public Improvements”), and maintaining and operating such improvements, all in accordance with Title 32, Article 1, C.R.S. (the “Special District Act”); and

WHEREAS, the Board of Directors of the District (the “Board”) has determined that the interests of the District and the public interest demand the design, acquisition, construction, relocation, installation and completion of certain public infrastructure and all things necessary and incidental thereto; and

WHEREAS, pursuant to Section 32-1-1101(1), C.R.S., the District is authorized to incur indebtedness for the acquisition, construction, installation or completion of any improvements or facilities to carry out the purposes of the District; and

WHEREAS, at a special election of the qualified electors of the District, to be held on November 7, 2006 (the “2006 Election”) in accordance with law and pursuant to due notice, a majority of those qualified to vote and voting at the 2006 Election voted in favor of, inter alia, the issuance by the District of debt for the purposes of financing the construction or acquisition of capital improvements; and

WHEREAS, at a special election of the qualified electors of the District, which will be held on November 3, 2015, the District is seeking authorization for debt for the purposes of financing the construction or acquisition of capital improvements which will replace the 2006 Election; and

WHEREAS, the District and Allison Valley Metropolitan District No. 1, pursuant to the Amended and Restated Consolidated Service Plan approved by the City of Colorado Springs, Colorado (the “City”) dated \_\_\_\_\_, 2015, (the “Service Plan”), are permitted to issue up to an

aggregate \$30,000,000 in debt to finance Public Improvements (as defined in the Service Plan); and

WHEREAS, it has been determined by the District that it is necessary to finance Public Improvements (the “2015A Project”) and that for such purpose, the District should authorize the incurrence of debt in the form of a loan; and

WHEREAS, the District has requested the Bank to provide financing by making available to the District a loan in the aggregate maximum principal amount of \$10,000,000 (as more particularly defined herein, the “Loan” or the “2015A Loan”); and

WHEREAS, the Bank is willing to enter into this Agreement and to make the Loan to the District pursuant to the terms and conditions stated below; and

WHEREAS, the Loan shall be payable from and secured by the Pledged Revenue as more fully set forth herein;

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the parties hereto agree as follows.

## ARTICLE I

### DEFINITIONS

Words and terms defined in the recitals hereof, as hereby supplemented and amended, shall have the same meanings herein or therein assigned to them, unless the context or use indicates another meaning or intent, and except to the extent amended by the definitions hereinafter set forth. In addition, the following terms shall have the meanings set forth herein:

“*2015A Loan*” or “*Loan*” means the not to exceed \$10,000,000 2015A limited tax general obligation loan made by the Bank to the District as evidenced by the 2015A Note and made in accordance with the terms and provisions of this Agreement.

“*2015A Note*” or “*Note*” means the Allison Valley Metropolitan District No. 2 not to exceed \$10,000,000 2015A Limited Tax General Obligation Note evidencing the 2015A Loan from the District, as maker, to the Bank, as payee.

“*Advance*” means a disbursement of proceeds of the Unfunded Portion of the Loan pursuant to the terms hereof.

“*Advance Period*” means the period commencing on the date of the Closing Date and terminating on the third anniversary of the Closing Date unless terminated or extended as provided herein.

“*Advance Termination Date*” means the earlier to occur of (a) the Full Funding Date; (b) the date which is the last day of the Advance Period or (c) a date determined by the District and provided in writing to the Bank.



“*Authorized Person*” means the President or the Secretary of the District, and also means any other individual authorized by the Board to act as an Authorized Person hereunder.

“*Authorizing Resolution*” means the resolution adopted by the Board on \_\_\_\_\_, 2015 authorizing the District to enter into the Loan and execute and deliver the Note, this Agreement, and the other Financing Documents.

“*Bank*” means Vectra Bank Colorado, National Association, a national banking association, Denver, Colorado, in its capacity as lender of the Loan.

“*Bank Qualified Tax-Exempt Rate*” means the Taxable Rate multiplied by 0.75%.

“*Business Day*” means any day of the week on which the Bank is conducting its banking operations nationally and on which day the Bank’s offices are open for business in Denver, Colorado.

“*Capitalized Interest Requirement*” means the Projected Debt Service minus amounts in the Loan Payment Fund (excluding the Capitalized Interest Account therein).

“*Closing*” means the date of the concurrent execution and delivery of the Note, this Agreement, and the other Financing Documents by the respective parties thereto and the Initial Advance in accordance with the provisions hereof.

“*Closing Date*” means date of the Closing for the Loan.

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

“*Commitment Fee*” means the fee paid by the District to the Bank set forth in Section 2.01(e) hereof.

“*C.R.S.*” means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

“*Custodial Agreement*” means the Custodial Agreement, dated as of [date], 2015, by and between the District, the Bank and the Custodian, as amended or supplemented from time to time.

“*Custodian*” means Zions First National Bank and its successors and assigns, as custodian under the Custodial Agreement.

“*Debt*” means, without duplication, all of the following obligations of the District for the payment of which the District has promised or is required to impose an ad valorem property tax levy and/or impose fees: (a) borrowed money of any kind; (b) obligations evidenced by bonds, debentures, notes or similar instruments; (c) obligations upon which interest charges are customarily paid; (d) obligations under conditional sale or other title retention agreements relating to property or assets purchased by the District; (e) obligations issued or assumed as the deferred purchase price of property or services; (f) obligations in connection with indebtedness

of others secured by (or which the holder of such indebtedness has an existing right, contingent or otherwise, to be secured by) any lien or other encumbrance on property owned or acquired by the District, whether or not the obligations secured thereby have been assumed (only to the extent of the fair market value of such asset if such indebtedness has not been assumed by the District); (g) obligations arising from guarantees made by the District; (h) obligations evidenced by capital leases; (i) obligations as an account party in respect of letters of credit and bankers' acceptances or similar obligations issued in respect of the District; and (j) obligations evidenced by any interest rate exchange agreement; provided that notwithstanding the foregoing, the term "Debt" does not include obligations issued for any purpose, the repayment of which is contingent upon the District's annual determination to appropriate moneys therefor so long as (i) such obligations are payable only to the extent the District has excess moneys on hand, (ii) such obligations are payable in any Fiscal Year only after the last scheduled payment of principal or interest on the Loan in such Fiscal Year, and (iii) the District makes no promise to impose any tax, fee, or other governmental charge for the payment of such obligations.

"*Default Interest Rate*" means a rate per annum equal to the lesser of (a) the Prime Rate plus 4% or (b) [16%].

"*District Accountant*" means \_\_\_\_\_ or any other certified public accountant identified in writing by the District.

"*Electronic Notification*" means telecopy, facsimile transmissions, email transmissions or other similar electronic means of communication providing evidence of transmission.

"*Event of Default*" has the meaning set forth in Section 7.01 hereof.

"*Financing Documents*" means this Agreement, the Note, the Authorizing Resolution, the Custodial Agreement and any other document or instrument required or stated to be delivered hereunder or thereunder, all in form and substance satisfactory to the Bank.

"*Fiscal Year*" means the 12 months commencing January 1 of any year and ending December 31 of such year.

"*Full Funding Date*" means the date on which, if at all, the aggregate amount of all Advances equals the Maximum Advance Amount.

"*General Counsel*" means Spencer Fane Britt & Browne LLP or any successor General Counsel designated in writing by the District.

"*Initial Advance*" means the Advance in the amount of \$\_\_\_\_\_ made on the Closing Date.

"*Loan Amount*" means with respect to the 2015A Loan, Ten Million and 00/100 U.S. Dollars (\$10,000,000).

"*Loan Payment Fund*" means the fund by that name established by the provisions of the Custodial Agreement to be held and administered by the Custodian pursuant to the provisions of the Custodial Agreement for the purposes set forth therein.

“*Mandatory Prepayment Fund*” means the fund by that name established by the provisions of the Custodial Agreement to be held and administered by the Custodian pursuant to the provisions of the Custodial Agreement for the purposes set forth therein.

“*Maturity Date*” means December 1, 2045.

“*Maximum Advance Amount*” means, with respect to the 2015A Note, \$10,000,000.

“*Non-Use Fee*” has the meaning set forth in Section 2.01(e) hereof.

“*Parity Debt*” means any Debt issued by the District payable from the Pledged Revenue on a parity basis with the 2015A Note.

“*Payment Date*” means June 1 and December 1 of each year, commencing June 1, 2016 and continuing through and including the Maturity Date.

“*Payment Account*” means the account as may be designated by the Bank in writing to the District and the Custodian.

“*Permitted Investments*” means any investment or deposit permissible under then applicable law for governmental entities such as the District.

“*Person*” means an individual, a corporation, a partnership, an association, a joint venture, a trust, an unincorporated organization or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

“*Placement Agent*” means RBC Capital Markets, Denver, Colorado.

“*Pledged Revenue*” means all Property Tax Revenues, all Specific Ownership Tax Revenues and all System Development Fees plus, for purposes of this Agreement, such term includes all amounts held in the funds and accounts held under the Custodial Agreement pledged under the Custodial Agreement to secure the Loan and the Note.

“*Pledged Revenue Fund*” means the fund by that name established by the provisions of the Custodial Agreement to be held and administered by the Custodian pursuant to the provisions of the Custodial Agreement for the purposes set forth in Section 3.03 hereof.

“*Prime Rate*” means a variable per annum rate of interest equal at all times to the rate of interest established and quoted by the Bank as its “Prime Rate,” “Base Rate” or “Reference Rate,” such rate to change contemporaneously with each change in such established and quoted rate, provided that it is understood that the Prime Rate shall not necessarily be representative of the rate of interest actually charged by the Bank on any loan or class of loans.

“*Projected Debt Service*” means the amount of principal and interest, if any, due and payable on the Loan through and including \_\_\_\_\_ 1, 201\_ as calculated by the Bank

“*Project Fund*” means the Project Fund established under the Custodial Agreement for the purposes set forth therein.

“*Property Tax Revenues*” means all moneys derived from the imposition of the Required Mill Levy; provided, however, that any “Property Tax Revenues” shall not include amounts collected from an operations and maintenance mill levy.

“*Quarterly Advance*” shall be the amount calculated by the District and confirmed by the Bank pursuant to the form Schedule 1 attached to Exhibit B hereto.

“*Rate Reset Date*” means December 1, 2020, and each five year anniversary of such date until the Maturity Date. If the Rate Reset Date falls on a non-Business Day, the Rate Reset Date shall be deemed to be the immediately preceding Business Day before December 1<sup>st</sup> of that year.

“*Required Mill Levy*” means:

(a) An ad valorem mill levy (a mill being equal to 1/10 of 1 cent) imposed upon all taxable property of the District each year in an amount equal to 30 mills; provided that if, on or after January 1, 2006, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement; the mill levy may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board of the District in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenue generated by the mill levy, as adjusted for changes occurring after January 1, 2006, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.; and

(b) Notwithstanding anything herein to the contrary, in no event may the Required Mill Levy be established at a mill levy which would cause the District to derive tax revenue in any year in excess of the maximum tax increases permitted by the District's electoral authorization, and if the Required Mill Levy as calculated pursuant to the foregoing would cause the amount of taxes collected in any year to exceed the maximum tax increase permitted by the District's electoral authorization, the Required Mill Levy shall be reduced to the point that such maximum tax increase is not exceeded.

“*Special District Act*” means Title 32, Article 1, C.R.S.

“*Specific Ownership Tax*” means the specific ownership tax which is collected by the county and remitted to the District pursuant to Section 42-3-107, C.R.S., or any successor statute.

“*Subordinate Debt*” means obligations of the District payable from Pledged Revenue or other revenues of the District that are junior and subordinate to the 2015A Loan and the Parity Debt.

“*Supplemental Public Securities Act*” means Title 11, Article 57, C.R.S.

“*System Development Fees*” means all fees, rates, tolls, penalties, and charges of a capital nature (excluding periodic, recurring service charges) imposed by the District or any District-owned "enterprise" under Article X, Section 20 of the Colorado Constitution, for services,

programs, or facilities furnished by the District; excluding any fees, rates or charges of a capital nature imposed upon or collected from property owned by an End User (as defined in the Service Plan); and including the revenue derived from any action to enforce the collection of System Development Fees, and the revenue derived from the sale or other disposition of property acquired by the District from any action to enforce the collection of System Development Fees.

“*Taxable Rate*” means (a) 3.50% plus (b) the five-year Federal Home Loan Bank Des Moines (or its successor in interest) Fixed Rate Advances [regular] rate as determined by the Bank of the date of any Advance or any Rate Reset Date, which is to be strictly interpreted and is not intended to serve any purpose other than providing an index to determine the interest rate on the Loan and shall mean the rate per annum quoted by the Bank based upon the rate as quoted in Bloomberg, or on the FHLB Des Moines internet website at <http://www.fhlbdm.com> or other comparable service selected by the Bank for determining the Fixed Rate Advances [regular] rate; provided, however, for any Advance made after the Initial Advance and before the first Reset Date, the rate in (b) above shall be based upon the Fixed Rate Advances [regular] rate as calculated by the Bank as of the date of such Advance for the maturity that corresponds to the term of the related Advance (such term being from the date of the Advance Date to the next Reset Date).

“*Tax Certificate*” means the tax compliance certificate prepared by Tax Counsel to be signed by the District relating to the requirements of Sections 103 and 141-150 of the Code.

“*Tax Counsel*” means Butler Snow LLP.

“*Unfunded Portion*” means, as of any date, an amount equal to the Maximum Advance Amount less the total amount of all Advances funded as of such date.

## ARTICLE II

### LOAN

#### Section 2.01. Term Loan.

(a) ***Agreement to Make Loan.*** The Bank hereby agrees to extend the Loan to the District in the aggregate principal amount of \$10,000,000 (as previously defined, the “Loan Amount”) subject to the terms and conditions of this Agreement. The Loan shall be evidenced by the 2015A Note, the form of which is set forth in Exhibit A attached hereto.

(b) ***Initial Advance.*** Subject to the terms and conditions of this Agreement, the Bank hereby agrees to extend the Initial Advance on the 2015A Loan to the District on the Closing Date in the aggregate original principal amount of \$\_\_\_\_\_ (as previously defined, the “Initial Advance”). The District shall make an Advance Request (as described in 2.01(c) below) for the Initial Advance.

(c) ***Advances.*** Subject to the terms and conditions of this Agreement, including without limitation satisfaction of the conditions set forth in Section 2.06 hereof and upon delivery to the Bank of an Advance Request in the form of Exhibit B hereto, the Bank

hereby agrees to make Advances to the District from time to time during the Advance Period (but not more than once per calendar year quarter and in amounts not less than \$250,000) in the aggregate original principal amounts not to exceed \$10,000,000 with respect to the 2015A Loan (as more particularly defined in Section 1.01 hereof, the "Maximum Advance Amount"). On the Advance Termination Date, the Unfunded Portion shall be reduced to zero.

(d) *Note.* The Loan shall be evidenced by the 2015A Note. On the Closing Date, the District shall execute and deliver the 2015A Note payable to the Bank, the form of which is set forth in Exhibit A attached hereto. With respect to each Advance funded by the Bank from time to time hereunder, the Bank shall maintain, in accordance with its usual practices, an account or accounts evidencing the indebtedness resulting from each such Advance and the amounts of principal and interest payable and paid from time to time hereunder on the Outstanding Loan Amount. In any legal action or proceeding in respect of any Advance or the Loan, the entries made in such account or accounts shall be conclusive evidence (absent manifest error) of the existence and amounts of the obligations therein recorded. The Note shall evidence the obligation of the District to pay the Loan and shall evidence the obligation of the District to pay the principal amount of each Advance funded by the Bank hereunder, as such amounts are outstanding from time to time. Each shall constitute a general obligation of the District payable from and secured by the Pledged Revenue, subject to the limitations set forth herein.

(e) *Fees.*

(i) *Payment of Commitment Fee.* The District shall pay to the Bank on or before the Closing Date a commitment fee in the amount of \$\_\_\_\_\_ (the "Commitment Fee").

(ii) *Non-Use Fee.* The District shall pay to the Bank a nonrefundable annual fee (the "Non-Use Fee") in the amount of 0.30% of the Unfunded Portion determined as of December 1<sup>st</sup> of each year, computed on the basis of a 360-day year and actual days elapsed, payable quarterly in arrears on the first Business Day of each March, June, September and December, commencing on the first Business Day of December 2016, through and including the date upon which the earlier of the following occurs (i) the Full Funding Date or (ii) the expiration or termination of the Advance Period; provided however no Non-Use Fee shall accrue before September 1, 2016.

(f) *Application of Series 2015A Loan Proceeds.* On the Closing Date, the Bank shall disburse the proceeds of the Initial Advance (minus the Commitment Fee) and any costs and expenses of the Bank in connection with the Loan and the District and the Custodian shall apply such proceeds as follows:

(i) \$\_\_\_\_\_ of the 2015A Loan proceeds will be deposited into the Costs of Issuance Account of the Project Fund and expended to pay the costs of issuance of the Loan (including \$\_\_\_\_\_ to the Placement Agent); and

(ii) \$\_\_\_\_\_ of the 2015A Loan proceeds shall be deposited into 2015A Capitalized Interest Account in the Loan Payment Fund constituting capitalized interest.

**Section 2.02. Interest Rate; Interest Payments; Principal Payments.**

(a) ***Interest Rate.*** The unpaid principal balance of the Loan will bear interest as follows:

(i) prior to the first Rate Reset Date, each Advance of the 2015A Loan shall bear interest at a rate specific to that Advance determined on the date of the Advance at a rate equal to the Bank Qualified Tax-Exempt Rate as determined by the Bank and provided by the Bank to the Custodian and District, upon which the Custodian may conclusively rely;

(ii) upon each Rate Reset Date, all Advances under the 2015A Loan shall bear interest for the ensuing five-year period at the Bank Qualified Tax-Exempt Rate as determined by the Bank on such Rate Reset Date (and provided by the Bank to the Custodian and District) upon which the Custodian may conclusively rely; and

(iii) all interest due and payable under this Agreement shall be calculated on the basis of a 360-day year and actual number of days elapsed.

(b) ***Interest Payments.***

(i) ***Semi-Annual Payments.*** Interest payments on the Loan shall be due semi-annually on each Payment Date and on the Maturity Date.

(ii) ***Default Interest Rate.*** Immediately upon the occurrence of an Event of Default or upon the Maturity Date, interest shall immediately begin to accrue and compound semi-annually on all principal amounts owing on the Loan at the Default Interest Rate for so long as such Event of Default continues and remains uncured or, if after the Maturity Date, for so long as amounts due on the Loan remain unpaid; notwithstanding the foregoing, in the case of an Event of Default pursuant to Section 7.01(o), the Loan shall bear interest at the Taxable Rate until the Maturity Date, and the Default Interest Rate thereafter.

(c) ***Principal Payments.*** Principal payments shall be made annually on December 1, 201\_\_ and each December 1 thereafter until the Maturity Date, on which Maturity Date the outstanding principal balance of the Loan shall be due and payable in full. The annual principal payment amounts shall be as set forth below.

2015A Note

Payment Date (December 1)	Principal Amount Due <sup>1</sup>
2018	
2019	
2020	
2021	
2022	
2023	
2024	
2025	
2026	
2027	
2028	
2029	
2030	
2031	
2032	
2033	
2034	
2035	
2036	
2037	
2038	
2039	
2040	
2041	
2042	
2043	
2044	
2045*	

\*Maturity Date

<sup>1</sup> Assumes no prepayments of Loan principal prior to Maturity Date.

In the event all Advances are not made as scheduled, the above-referenced principal repayment schedule shall, upon the written request of the District, be re-amortized by the Bank to approximate the debt service shown above with the shorter amortization period and such revised repayment schedule shall be delivered in writing to the Notice Parties identified in Section 8.05.

(d) **Prepayment.** For the first two years after (i) the Closing and (ii) the first two years after each Rate Reset Date, the District may not prepay the Loan. The District may prepay the Loan commencing on the 2nd anniversary of either (i) the Closing Date for the Note



(until the Rate Reset Date) or (ii) the 2nd anniversary of each Rate Reset Date and any day thereafter until the next Rate Reset Date upon 30-day notice to the Bank upon payment of principal of par plus 1% of the outstanding principal balance of the Loan; if such prepayment occurs after the 3rd anniversary of the Closing Date or any Rate Reset Date, then the District may prepay the Loan, without penalty, upon payment of the principal of par and accrued interest until the next Rate Reset Date. Notwithstanding the foregoing, to the extent funds are available in the Mandatory Prepayment Fund, such funds shall be applied by the Custodian to the prepayment of the Loan without penalty or premium pursuant to the terms and conditions set forth in Section 5 of the Custodial Agreement.

(e) ***Obligations Unconditional.*** The District's obligation to repay the Loan hereunder and all of its other obligations under this Agreement shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment which the District may have against the Bank, any Participant (as defined in Section 8.02(c)), or any other Person, including, without limitation, any defense based on the failure of any nonapplication or misapplication of the proceeds of the Loan hereunder, and irrespective of the legality, validity, regularity or enforceability of all or any of the Financing Documents, and notwithstanding any amendment or waiver of (other than an amendment or waiver signed by the Bank explicitly reciting the release or discharge of any such obligation), or any consent to, or departure from, all or any of the Financing Documents or any exchange, release, or nonperfection of any collateral securing the obligations of the District hereunder and any other circumstances or happening whatsoever, whether or not similar to any of the foregoing; provided, however, that nothing contained in this Section 2.02(e) shall abrogate or otherwise affect the rights of the District pursuant to Section 8.16 hereof.

(f) ***Waivers, Etc.*** To the full extent permitted by law: (i) the District hereby waives (A) presentment, demand, notice of demand, protest, notice of protest, notice of dishonor and notice of nonpayment; (B) to the extent the Bank is not in default hereunder, the right, if any, to the benefit of, or to direct application of, any security hypothecated to the Bank until all obligations of the District to the Bank hereunder, howsoever arising, has been paid; (C) the right to require the Bank to proceed against the District hereunder, or against any Person under any guaranty or similar arrangement, or under any agreement between the Bank and any Person or to pursue any other remedy in the Bank's power; (D) all statutes of limitation; and (E) any defense arising out of the election by the Bank to foreclose on any security by one or more non-judicial or judicial sales; (ii) the Bank may exercise any other right or remedy, even though any such election operates to impair or extinguish the District's right to repayment from, or any other right or remedy it may have against, any Person, or any security; and (iii) the District agrees that the Bank may proceed against the District or any Person directly and independently of any other, and that any forbearance, change of rate of interest, or acceptance, release or substitution of any security, guaranty, or loan or change of any term or condition thereunder or under any Financing Document (other than by mutual agreement between the District and the Bank) shall not in any way affect the liability of the District hereunder.

(g) ***Manner of Payments.*** All interest, fees, and other payments to be made hereunder by or on behalf of the District to the Bank shall be made, and shall not be considered made until received, in United States dollars from amounts in the Loan Payment Fund in

immediately available funds. The District or the Custodian shall make each payment hereunder in the manner and at the time necessary so that each such payment is received in the Loan Payment Fund not later than 12:00 p.m., Denver time, on the day when due in lawful money of the United States of America in immediately available funds. Any payment received after 12:00 p.m., Denver time, shall be deemed made on the next succeeding Business Day. All payments made hereunder by or on behalf of the District to the Bank may be applied to such amounts due hereunder and under the Financing Documents in such order as the Bank shall elect.

(h) ***Default Interest Rate; Calculation of Interest and Fees.*** All interest and fees due and payable under this Agreement shall be calculated on the basis of a 360-day year and actual number of days elapsed. Any sum due to the Bank and not paid when due and any sum due to the Bank upon the occurrence or during the continuance of any Event of Default hereunder shall bear interest and compound semi-annually at the Default Interest Rate.

(i) ***Maximum Interest Rate.*** If the interest due and payable on any obligation hereunder computed at the applicable rate as provided in Sections 2.02(a)(i) and (a)(ii) hereof is in excess of the maximum net effective interest rate of [16%] per annum under the District's voted debt authorization (the "Maximum Rate"), the difference between what would have been the interest payable on such amounts had they accrued interest at the rate provided in Sections 2.02(a)(i) and (a)(ii) and the Maximum Rate (the "Interest Differential") shall remain an obligation of the District. Notwithstanding anything herein or in the Financing Documents to the contrary, if at any time there is an Interest Differential owed to the Bank, any reduction in interest rate that would result from the application of the Maximum Rate to the Default Interest Rate, shall not reduce the rate of interest below the Maximum Rate until the total amount due has been paid to the Bank as if the applicable rate computed as provided in Section 2.02(a)(i) and (a)(ii) hereof had at all times been utilized. It is acknowledged by the Bank that the obligations of the District hereunder are limited by the District's voted debt authorization with respect to principal amount, maximum net effective interest rate of [16%] per annum, maximum repayment cost, and maximum annual tax increases, and that, notwithstanding anything herein to the contrary, the District is not authorized and is not obligating itself with respect to the foregoing obligations in excess of that which is permitted under the terms of the District's voted debt authorization.

**Section 2.03. Costs, Expenses and Taxes.** Subject to annual appropriation by the Board, the District agrees to pay all reasonable costs and expenses actually incurred by the Bank in connection with (a) the preparation, execution and delivery of this Agreement or any other documents, including the other Financing Documents, which may be delivered by any party in connection with this Agreement and the other Financing Documents; (b) the filing, recording, administration (other than normal, routine administration), enforcement, transfer, amendment, maintenance, renewal or cancellation of this Agreement and all amendments or modifications thereto (or supplements hereto), including, without limitation, the reasonable fees and out-of-pocket expenses of counsel for the Bank and independent public accountants and other outside experts retained by the Bank in connection with any of the foregoing; and (c) the fees and expenses of the Custodian or any other custodian appointed by the Bank to hold any collateral securing the obligations of the District hereunder. In addition, the District agrees to pay promptly all reasonable costs and expenses of the Bank, including, without limitation, the

actual, reasonable fees and expenses of external counsel, for (i) any and all amounts which the Bank has paid relative to the Bank's curing of any Event of Default under this Agreement or any of the Financing Documents; (ii) the enforcement of this Agreement or any of the Financing Documents; or (iii) any action or proceeding relating to a court order, injunction, or other process or decree restraining or seeking to restrain the Bank from paying any amount hereunder. Without prejudice to the survival of any other agreement of the District hereunder, the agreements and obligations contained in this Section 2.03 shall survive the payment in full of all amounts owing to the Bank hereunder.

**Section 2.04. Pledge.** The District hereby pledges, assigns and grants to the Bank a first priority security interest in the Pledged Revenue to secure its obligations to the Bank hereunder and under the other Financing Documents. The lien of the Bank on the Pledged Revenue hereunder and under the Custodial Agreement shall be subject to no other liens except those liens granted on the Pledged Revenue to the Parity Debt and the Subordinate Debt. The District represents and warrants that, except as described in this Section 2.04, the Pledged Revenue is not and shall not be subject to any other lien or encumbrance without the prior written consent of the Bank.

**Section 2.05. Conditions to Closing.** The funding by the Bank of the Loan is conditioned upon the satisfaction of each of the following:

(a) all Financing Documents and other instruments applicable to the Loan are in form and content satisfactory to the Bank and have been duly executed and delivered in form and substance satisfactory to the Bank and shall have not been modified, amended or rescinded, shall be in full force and effect on and as of the Closing Date and executed original or certified copies of each thereof shall have been delivered to the Bank;

(b) the Bank has received a certified copy of the Authorizing Resolution of the District, which shall be in form and content satisfactory to the Bank and authorize the District to obtain the Loan and perform all acts contemplated by this Agreement and all other Financing Documents, a copy of the District resolution authorizing the System Development Fees, if any, and a certified copy of all other ordinances, resolutions and proceedings taken by the District authorizing the District to obtain the Loan and the execution, delivery and performance of this Agreement and the other Financing Documents and the transactions contemplated hereunder and thereunder, together with such other certifications as to the specimen signatures of the officers of the District authorized to sign this Agreement and the other Financing Documents to be delivered by the District hereunder and as to other matters of fact as shall reasonably be requested by the Bank;

(c) the District has provided a certificate certifying that on the Closing Date each representation and warranty on the part of the District contained in this Agreement and in any other Financing Document is true and correct and no Event of Default, or event which would, with the passage of time or the giving of notice, constitute an Event of Default, has occurred and is continuing and no default exists under any other Financing Documents, or under any other agreements by and between the District and the Bank and certifying as to such other matters as the Bank might reasonably request;

(d) the Bank shall have received the opinion of Tax Counsel as to the exemption of interest on the 2015A Loan from income taxation by the United States of America and the State of Colorado standard in similar transactions and reasonably satisfactory to the Bank;

(e) all proceedings taken in connection with the transactions contemplated by this Agreement, and all instruments, authorizations and other documents applicable thereto, are satisfactory to the Bank and its counsel;

(f) the Bank shall have received an opinion of General Counsel to the District relating to due organization, due delivery and due execution of the Financing Documents standard in similar transactions and reasonably satisfactory to the Bank;

(g) the Custodian shall be Zions First National Bank;

(h) the Bank shall have received a certificate of an authorized representative of the Custodian certifying as to the authority, incumbency and specimen signatures of the authorized representatives of the Custodian and certifying as to such other matters as the Bank might reasonably request;

(i) no law, regulation, ruling or other action of the United States, the State of Colorado or any political subdivision or authority therein or thereof shall be in effect or shall have occurred, the effect of which would be to prevent the District from fulfilling its obligations under this Agreement or the other Financing Documents;

(j) all Bank counsel fees and any other fees and expenses due and payable in connection with the execution and delivery of this Agreement shall have been paid by the District upon issuance of the Loan;

(k) the Bank shall have been provided with the opportunity to review all pertinent financial information regarding the District, agreements, documents, and any other material information relating to the District or the Pledged Revenue or any other component of the collateral securing the obligations of the District hereunder;

(l) all information provided by the District to the Bank is accurate in all respects;

(m) the District is not in violation or breach of any other agreement with the Bank of any type or amount or of any third-party obligation in excess of \$10,000;

(n) evidence of a first and exclusive perfected security interest in favor of the Bank in the collateral securing the obligations of the District hereunder;

(o) the Bank shall have received such other certificates, approvals, filings, opinions and documents as shall be reasonably requested by the Bank;

(p) the District shall have received an investment letter from the Bank in a form satisfactory to the District; and

(q) all other legal matters pertaining to the execution and delivery of this Agreement and the other Financing Documents shall be reasonably satisfactory to the Bank.

**Section 2.06. Procedure for Requesting and Funding Advances.**

(a) *Conditions to Funding Advances.* Other than the Initial Advance, no Advance shall be requested by the District and the Bank shall have no obligation to honor an Advance Request except in accordance with the provisions and upon fulfillment of the terms and conditions set forth in this Agreement. The funding by the Bank of each Advance (other than the Initial Advance) is conditioned upon the satisfaction of each of the following, each of which shall be satisfactory in all respects to the Bank:

(i) *Advance Frequency.* Advance Requests may only be made during the Advance Period and shall be submitted to the Bank no more than once in any calendar quarter. Advances shall be made in amounts of \$250,000 or more.

(ii) *Representations and Warranties True; No Default.* At the time any Advance is to be made and as a result thereof, immediately thereafter, all representations and warranties of the District set forth in Article IV are true and correct as though made on the date of such Advance Request and on the date when such Advance is funded and no Event of Default hereunder has occurred and is continuing and no litigation is then pending or threatened concerning the District's authority to pledge the Pledged Revenue as provided herein, and the District shall deliver an executed certificate of an Authorized Person to such effect in connection with each Advance in substantially the form of Exhibit B.

(iii) *Payments Current.* The District shall be current on all of its obligations hereunder.

(iv) *Use of Advance Proceeds.* The District shall not use the proceeds of any Advance for any payment which is not permitted by the Code, the Special District Act or the Service Plan.

(v) *Advance Request.* The Bank shall have received an Advance Request from the District, the form of which is attached hereto as Exhibit B (each, an "Advance Request"), signed by the Authorized Person of the District and containing the calculation of the amount of such Advance requested by the District, which amount shall be based on the formula set forth in Schedule 1 of Exhibit B.

(vi) *Amount of Advance.* The amount of the requested Advance, when combined with the sum of all prior Advances made hereunder shall not exceed the Maximum Advance Amount for the Loan upon which the Advance is made. From each Advance the Bank will transfer amounts as specified in each Advance Request.

(vii) *Other Conditions Precedent to Funding Each Advance.*

(A) The District shall have provided the Bank with each Advance Request the all documentation requested by the Bank supporting calculations made on Schedule 1 of the Advance Request;

(B) No Advance shall be requested or made after the Advance Termination Date;

(C) The Bank shall have approved such Advance Request;

(D) The obligation of the Bank to make future Advances hereunder subject to the terms of this Agreement shall not have been terminated in accordance with the terms hereof;

(b) *Funding of Advances.* Provided that the conditions set forth in Section 2.06(a) above are satisfied, within 5 days of receipt by the Bank of an Advance Request signed by the Authorized Person, the Bank shall provide in writing to the District and the Custodian: (i) the latest date on which the Bank will fund such Advance if requested by the District (the "Funding Deadline"); (ii) the amount of such Advance that is to be deposited into the 2015A Capitalized Interest Account, representing the amount required to bring the balance of the Capitalized Interest Account to the Capitalized Interest Requirement, if any, after such Advance is made; and (iii) the interest rate applicable to said Advance.

### ARTICLE III

#### FUNDS AND ACCOUNTS

**Section 3.01. Acknowledgement of Funds.** Pursuant to the Custodial Agreement, the District created and established the following funds and accounts, which shall be held and administered by the Custodian in accordance with the provisions hereof:

- (a) the Pledged Revenue Fund;
- (b) the Loan Payment Fund (including a Capitalized Interest Account therein);
- (c) the Project Fund (including the 2015A Project Account and the Cost of Issuance Account therein); and
- (d) the Mandatory Prepayment Fund.

The Custodian is hereby authorized for the purpose of facilitating the administration of the Loan Agreement to create further accounts or subaccounts in any of the various funds and accounts established hereunder which are deemed necessary or desirable.

**Section 3.02. Application of Pledged Revenue.** After Closing, the District shall transfer all amounts comprising Pledged Revenue to the Custodian as soon as may be practicable after the receipt thereof for application by the Custodian in accordance with the Custodial

Agreement (to the extent Pledged Revenue are received by the District in any month, such transfer shall occur in no case less frequently than monthly and 10 days in advance of any Payment Date).

**Section 3.03. Pledged Revenue Fund.** The Pledged Revenue Fund shall be held and administered by the Custodian in accordance with the terms of the Custodial Agreement. Moneys in the Pledged Revenue Fund shall be applied by the Custodian only as set forth in the Custodial Agreement and the Pledged Revenue Fund is pledged to the payment of the Loan. The Custodian shall deposit the Pledged Revenue received from the District in the Pledged Revenue Fund as set forth in the Custodial Agreement.

**Section 3.04. Loan Payment Fund.** The Loan Payment Fund shall be held and administered by the Custodian in accordance with the terms of the Custodial Agreement. Moneys in the Loan Payment Fund (including amounts in the Capitalized Interest Account) shall be applied by the Custodian only as set forth in the Custodial Agreement and the Loan Payment Fund is pledged to the payment of the Loan.

**Section 3.05. Project Fund.** The Project Fund shall be held and administered by the Custodian in accordance with the terms of the Custodial Agreement. Moneys in the Project Fund shall be applied by the Custodian only as set forth in the Custodial Agreement and is pledged to the payment of the Loan.

**Section 3.06. Mandatory Prepayment Fund.** The Mandatory Prepayment Fund shall be held and administered by the Custodian in accordance with the terms of the Custodial Agreement. Moneys in the Mandatory Prepayment Fund shall be applied by the Custodian only as set forth in the Custodial Agreement and is pledged to the payment of the Loan.

## ARTICLE IV

### REPRESENTATIONS AND WARRANTIES OF THE DISTRICT

While any obligations hereunder or under any of the other Financing Documents are unpaid or outstanding, the District continuously represents and warrants to the Bank as follows:

**Section 4.01. Due Organization.** The District is a quasi-municipal corporation and political subdivision of the State of Colorado and a body corporate duly organized and validly existing under the laws of the State of Colorado.

**Section 4.02. Power and Authorization.** The District has all requisite power and authority to own and convey its properties and to carry on its business as now conducted and as contemplated to be conducted under the Financing Documents; to execute, deliver and to perform its obligations under this Agreement and the other Financing Documents; and to cause the execution, delivery and performance of the Financing Documents.

**Section 4.03. No Legal Bar.** To the best of the District's knowledge, the District is not in violation of any of the provisions of the laws of the State of Colorado or the United States of America or any of the provisions of any order of any court of the State of Colorado or the United

States of America which would affect its existence or its powers referred to in the preceding Section 4.02. The execution, delivery and performance by the District of this Agreement and of the other Financing Documents (a) will not violate any provision of any applicable law or regulation or of any order, writ, judgment or decree of any court, arbitrator or governmental authority; (b) will not violate any provisions of any document constituting, regulating or otherwise affecting the operations or activities of the District; and (c) will not violate any provision of, constitute a default under, or result in the creation, imposition or foreclosure of any lien, mortgage, pledge, charge, security interest or encumbrance of any kind other than liens created or imposed by the Financing Documents, on any of the revenues or other assets of the District which could have a material adverse effect on the assets, financial condition, business or operations of the District, on the District's power to cause the Financing Documents to be executed and delivered, or its ability to pay in full in a timely fashion the obligations of the District under this Agreement or the other Financing Documents.

**Section 4.04. Consents.** The District has obtained all consents, permits, licenses and approvals of, and has made all registrations and declarations with any governmental authority or regulatory body required for the execution, delivery and performance by the District of this Agreement and the other Financing Documents.

**Section 4.05. Litigation.** There is no action, suit, inquiry or investigation or proceeding to which the District is a party, at law or in equity, before or by any court, arbitrator, governmental or other board, body or official which is pending or, to the best knowledge of the District, threatened in connection with any of the transactions contemplated by this Agreement or against or affecting the assets of the District, nor, to the best knowledge of the District, is there any basis therefor, wherein an unfavorable decision, ruling or finding (a) would adversely affect the validity or enforceability of, or the authority or ability of the District to perform its obligations under, the Financing Documents; (b) would, in the reasonable opinion of the District, have a materially adverse effect on the ability of the District to conduct its business as presently conducted or as proposed or contemplated to be conducted; or (c) would adversely affect the exclusion of interest on the Loan from gross income for federal income tax purposes or the exemption of such interest from State of Colorado personal income taxes.

**Section 4.06. Enforceability.** This Agreement and each other Financing Document constitutes the legal, valid and binding obligation of the District, enforceable against the District in accordance with its terms (except as such enforceability may be limited by bankruptcy, moratorium or other similar laws affecting creditors' rights generally and provided that the application of equitable remedies is subject to the application of equitable principles).

**Section 4.07. Changes in Law.** To the best knowledge of the District, there is not pending any change of law which, if enacted or adopted could have a material adverse effect on the assets, financial condition, business or operations of the District, on the District's power to enter into this Agreement or the other Financing Documents or its ability to pay in full in a timely fashion the obligations of the District under this Agreement or the other Financing Documents.

**Section 4.08. Financial Information and Statements.** The financial statements and other information previously provided to the Bank or provided to the Bank in the future are or



will be complete and accurate and prepared in accordance with generally accepted accounting principles. There has been no material adverse change in the District's financial condition since such information was provided to the Bank.

**Section 4.09. Accuracy of Information.** All information, certificates or statements given to the Bank pursuant to this Agreement and the other Financing Documents will be true and complete when given.

**Section 4.10. Tax-Exempt Status.** To the best of the District's knowledge, the District has not taken any action or omitted to take any action, and knows of no action taken or omitted to be taken by any other Person, which action, if taken or omitted, would adversely affect the exclusion of interest on the Loan from gross income for federal income tax purposes or the exemption of such interest from State of Colorado personal income taxes.

**Section 4.11. Financing Documents.** Each representation and warranty of the District contained in any Financing Document is true and correct as of the Closing Date.

**Section 4.12. Regulations U and X.** The District is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U or X issued by the Board of Governors of the Federal Reserve System); and no proceeds of the Loan will be or have been used to extend credit to others for the purpose of purchasing or carrying any margin stock.

**Section 4.13. Default, Etc.** The District is not in default in the performance, observance, or fulfillment of any of the obligations, covenants or conditions contained in any Financing Document or other resolution, agreement or instrument to which it is a party which would have a material adverse effect on the ability of the District to perform its obligations hereunder or under the other Financing Documents, or which would affect the enforceability hereof or thereof.

**Section 4.14. Sovereign Immunity.** Except for actions that lie or would lie in tort, the District does not enjoy any rights of immunity on the grounds of sovereign immunity in respect of its obligations under this Agreement or any of the other Financing Documents.

**Section 4.15. No Filings.** No filings, recordings, registrations or other actions are necessary to create and perfect the pledges provided for herein and in the Custodial Agreement; all obligations of the District hereunder are secured by the lien and pledge provided for herein and in the Custodial Agreement; and the liens and pledges provided for herein and in the Custodial Agreement constitute valid prior liens subject to no other liens.

**Section 4.16. Outstanding Debt.** Except for this Agreement, the District has no other Debt outstanding payable from or secured by the Pledged Revenue or any portion thereof or any other component of the collateral securing the obligations of the District hereunder. The District represents and warrants that it will incur additional Debt only in accordance with the provisions of Section 5.11 of this Agreement.

**Section 4.17. Appropriation.** No portion of the Pledged Revenue or any other component of the collateral securing the obligations of the District hereunder is subject to appropriation by any other Person.

## ARTICLE V

### COVENANTS OF THE DISTRICT

While any obligations hereunder or under any of the other Financing Documents are unpaid or outstanding, the District continuously warrants and agrees as follows:

**Section 5.01. Performance of Covenants, Authority.** The District covenants that it will faithfully perform and observe at all times any and all covenants, undertakings, stipulations, and provisions contained in the Authorizing Resolution, this Agreement, the Note, the other Financing Documents and all its proceedings pertaining thereto as though such covenants, undertakings, stipulations, and provisions were set forth in full herein (for the purpose of this provision the Financing Documents shall be deemed to continue in full force and effect notwithstanding any earlier termination thereof so long as any obligation of the District under this Agreement shall be unpaid or unperformed). The District covenants that it is duly authorized under the constitution and laws of the State of Colorado, including, particularly and without limitation, the Special District Act, to issue the Loan and to execute and deliver the Note, this Agreement, and the other Financing Documents, and that all action on its part for the issuance of the Loan and the execution and delivery of the Note, this Agreement, and the other Financing Documents has been duly and effectively taken and will be duly taken as provided herein, and that the Loan, the Note, this Agreement, and the other Financing Documents are and will be valid and enforceable obligations of the District according to the terms hereof and thereof.

**Section 5.02. Laws, Permits and Obligations.** The District will comply in all material respects with all applicable laws, rules, regulations, orders and directions of any governmental authority and all agreements and obligations binding on the District, noncompliance with which would have a material adverse effect on the District, its financial condition, assets or ability to perform its obligations under this Agreement and/or the other Financing Documents; provided that the District may in good faith contest such laws, rules, regulations, orders and directions and the applicability thereof to the District to the extent that such action would not be likely to have a material adverse effect on the District's ability to perform its obligations hereunder.

#### **Section 5.03. Tax Covenants.**

(a) **Covenants.** The District covenants that it will not take any action or omit to take any action with respect to the Loan, the proceeds thereof, any other funds of the District or any facilities financed or refinanced with the proceeds of the Loan if such action or omission (i) would cause the interest on the Loan to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Code, (ii) would cause interest on the Loan to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Code except to the extent such interest is required to be included in the adjusted current earnings adjustment applicable to corporations under Section 56 of the Code in calculating corporate

alternative minimum taxable income or (iii) would cause interest on the Loan 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 Loan until the date on which all obligations of the District in fulfilling the above covenant under the Code have been met.

(b) ***Designation of Loan as Qualified Tax Exempt Obligation.*** The District hereby designates the 2015A Loan as a “qualified tax exempt obligations” within the meaning of Section 265(b)(3) of the Code. The District covenants that the aggregate face amount of all tax-exempt obligations issued by the District, together with governmental entities which derive their issuing authority from the District or are subject to substantial control by the District, shall not be more than \$10,000,000 during calendar year 2015. The District recognizes that such tax-exempt obligations include notes, leases, loans, warrants, and bonds. The District further recognizes that any bank, thrift institution, or other financial institution that owns the Loan will rely on the District’s designation of the Loan as a qualified tax-exempt obligation for the purpose of avoiding the loss of 100% of any otherwise available interest deduction attributable to such institution’s tax-exempt holdings.

**Section 5.04. Bonding and Insurance.** The District shall carry general liability coverage, workers’ compensation, public liability, and such other forms of insurance on insurable District property upon the terms and conditions, and issued by recognized insurance companies, as in the judgment of the District would ordinarily be carried by entities having similar properties of equal value, such insurance being in such amounts as will protect the District and its operations. In addition, each District official or other Person having custody of any District funds or responsible for the handling of such funds, shall be bonded or insured against theft or defalcation at all times.

**Section 5.05. Other Liabilities.** The District shall pay and discharge, when due, all of its liabilities, except when the payment thereof is being contested in good faith by appropriate procedures which will avoid financial liability and with adequate reserves provided therefor.

**Section 5.06. Proper Books and Records.** The District shall keep or cause to be kept adequate and proper records and books of account in which complete and correct entries shall be made with respect to the District, the Pledged Revenue and all of the funds and accounts established or maintained pursuant to any of the Financing Documents. The District shall (a) maintain accounting records in accordance with generally recognized and accepted principles of accounting consistently applied throughout the accounting periods involved; (b) provide the Bank with such information concerning the business affairs and financial condition (including insurance coverage) of District as the Bank may request; and (c) without request, provide the Bank with the information set forth below.

**Section 5.07. Reporting Requirements.**

(a) The District shall notify the Bank promptly of all interim litigation or administrative proceedings, threatened or pending, against the District which would, if adversely determined, in the District’s reasonable opinion, have a material effect on the District’s financial condition arising after the date hereof.

(b) The District shall provide the following to the Bank at the times and in the manner provided below:

(i) as soon as available, but not later than 210 days following the end of each Fiscal Year, the District shall furnish to the Bank its audited financial statements prepared in accordance with generally accepted accounting principles consistently applied, in reasonable detail and certified by a firm of independent certified public accountants selected by the District and satisfactory to the Bank, together with a certificate of an authorized representative of the District evidencing the District's continuing compliance with Sections 5.11, 5.12 and 5.16 and stating whether there exists on the date of such certificate any Event of Default and, if any Event of Default then exists, setting forth the details thereof and the actions which the District is taking or proposes to take with respect thereto; provided, however, to the extent that the District is exempt under Colorado law from the requirement to prepare audited financial statements, the District may satisfy the reporting requirements of this subsection (i) by delivering to the Bank written certification of its exemption from the audit requirements and a financial statement prepared by management of the District for such Fiscal Year;

(ii) as soon as available, but in no event later than 90 days after each calendar quarter's end, the District shall furnish to the Bank the District's financial statements (including a statement of all District revenues, a schedule of assets and liabilities including all District fund and accounts), the budget (with any amendments) prepared by the District Accountant for such Fiscal Year, which budget shall include as separate line items all projected Pledged Revenue expected to be received in such Fiscal Year;

(iii) promptly upon certification of the Required Mill Levy, if any, by the District to the county each year but in no event later than December 31 of each Fiscal Year, the District shall furnish to the Bank a certificate of an authorized officer of the District setting forth the amount of such Required Mill Levy so certified;

(iv) as soon as available, but in no event later than September 1 of each year, the District shall furnish to the Bank the preliminary certified "actual value" and assessed valuation of all property subject to the Required Mill Levy (including taxable property within the District and excluded property subject to the Required Mill Levy) for such calendar year;

(v) as soon as available, but in no event later than December 31 of each year, the District shall furnish to the Bank the final certified assessed valuation of all property subject to the Required Mill Levy (including taxable property within the District and excluded property subject to the Required Mill Levy), as calculated, recorded and certified by the county assessor on or before December 16 of such calendar year; and

(vi) promptly upon request of the Bank, the District shall furnish to the Bank such other reports or information regarding the collateral securing the obligations of the District hereunder or the assets, financial condition, business or operations of the District, as the Bank may reasonably request.

(c) The District shall promptly notify the Bank of any Event of Default of which the District has knowledge, setting forth the details of such Event of Default and any action which the District proposes to take with respect thereto.

(d) The District shall immediately notify the Bank of any resignation of the Custodian.

(e) The District shall notify the Bank as soon as possible after the District acquires knowledge of the occurrence of any event which, in the reasonable judgment of the District, is likely to have a material adverse effect on the financial condition of the District or affect the ability of the District to perform its obligations under this Agreement or under any other Financing Documents.

**Section 5.08. Visitation and Examination.** Unless otherwise prohibited by law, the District will permit any Person designated by the Bank to visit any of its offices to examine the District's books and financial records, and make copies thereof or extracts therefrom, and to discuss its affairs, finances and accounts with its principal officers, all at such reasonable times and as often as the Bank may reasonably request.

**Section 5.09. Further Assurances.** The District shall do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged and delivered, such indentures supplemental hereto and such further acts, instruments, and transfers as the Bank may reasonably require for the better assuring, transferring, and pledging unto the Bank the Pledged Revenue; provided, however, that the District shall not be obligated to incur in excess of nominal expenses in complying with this covenant.

**Section 5.10. Covenant to Impose Required Mill Levy.**

(a) For the purpose of paying the District's obligations under this Agreement, the District covenants to cause to be levied on all of the taxable property of the District, in addition to all other taxes, direct annual taxes in each of the years 2015 to 2044, inclusive (and, to the extent necessary to make up any overdue payments on the 2015A Note, in each year subsequent to 2044, but in no year beyond 2047 unless a later year is authorized by law, including without limitation, the Service Plan) in the amount of the Required Mill Levy. Nothing herein shall be construed to require the District to levy an ad valorem property tax in excess of the Required Mill Levy.

(b) The foregoing provisions of this Agreement are hereby declared to be the certificate of the Board to the board or boards of county commissioners of each county in which taxable real or personal property of the District is located, showing the aggregate amount of taxes to be levied from time to time, as required by law, for the purpose of the District's obligations under this Agreement.

(c) The amounts necessary to pay all of the District's obligations under this Agreement are hereby appropriated for said purposes, and such amounts as appropriate for each year shall also be included in the annual budget and the appropriation bills to be adopted and passed by the Board in each year, respectively, until the Loan has been fully paid, satisfied, and discharged.

(d) It shall be the duty of the Board, annually, at the time and in the manner provided by law for levying other District taxes, to ratify and carry out the provisions hereof with reference to the levying and collection of taxes; and the Board shall levy, certify, and collect said taxes in the manner provided by law for the purposes aforesaid.

(e) Said taxes shall be levied, assessed, collected, and enforced at the time and in the form and manner and with like interest and penalties as other general taxes in the State of Colorado, and when collected said taxes shall be paid to the District as provided by law. The Board shall take all necessary and proper steps to enforce promptly the payment of taxes levied pursuant to this Indenture.

**Section 5.11. Additional Debt.** Except for Parity Debt in an amount not to exceed \$\_\_\_\_,000,000 plus any portion of the Unfunded Portion of this Loan existing on the Advance Termination Date which is to be funded by such Parity Debt in accordance with the documents authorizing such Parity Debt, the District covenants not to issue any additional Debt which is secured by the Pledged Revenue or any portion thereof or any other component of the collateral securing the obligations of the District hereunder without the prior written consent of the Bank.

**Section 5.12. Continued Existence.** The District shall maintain its existence and shall not merge or otherwise alter its corporate structure in any manner or to any extent as might reduce the security provided for the payment of the Loan, and will continue to operate and manage the District and its facilities in an efficient and economical manner in accordance with all applicable laws, rules and regulations.

**Section 5.13. Restructuring.** In the event the Pledged Revenue is insufficient or is anticipated to be insufficient to pay the principal of and interest on the Loan when due, the District shall use its best efforts to refinance, refund, or otherwise restructure the Loan so as to avoid such a default.

**Section 5.14. District Operations.** The District shall manage its finances and day to day operations in an economical and efficient manner and in accordance with all applicable laws, rules and regulations.

**Section 5.15. Enforcement and Collection.** The District shall diligently collect all Pledged Revenue and shall take all necessary action to enforce such collection. If System Development Fees are imposed, the District shall not reduce the amount of, or impair the collection of, the System Development Fees.

**Section 5.16. Material Adverse Action.** The District shall neither take any action nor consent to any action that would materially adversely affect any portion of the Pledged Revenue or any other component of the collateral securing the obligations of the District hereunder,

including, but not limited to any efforts to convert property to a use that would exempt such property from the Required Mill Levy.

**Section 5.17. No Change in Financing Documents.** The District shall not cancel, terminate, amend, supplement, modify or waive any of the provisions of the Financing Documents to which it is party or consent to any such cancellation, termination, amendment, supplement, modification or waiver, without the prior written consent of the Bank. The District shall take no action, nor shall it cause the Custodian to take any action under any of the Financing Documents to which it is a party inconsistent with the rights of the Bank under this Agreement including, without limitation, its obligations to make payments to the Bank hereunder.

**Section 5.18. Removal or Appointment of Agents.** The Custodian shall not be removed, and no successor Custodian shall be appointed by the District without the prior written consent of the Bank.

**Section 5.19. References to Bank.** The District shall not refer to the Bank in any official statement, offering memorandum, or private placement memorandum without the Bank's prior written consent thereto.

**Section 5.20. Termination of Agreement.** So long as the District's obligations hereunder remain unpaid or unperformed, the District shall not terminate this Agreement.

**Section 5.21. Tax-Exempt/Taxable Property.** The District shall not acquire any real property for tax-exempt purposes or transfer, sell, convey or otherwise dispose of any taxable property within the District in any manner which would cause such property, following such transfer, sale, conveyance, or other disposition, to be exempt from ad valorem property taxation without the prior written consent of the Bank; provided, however, that if such acquisition is less than \$25,000 in the aggregate, then no Bank consent shall be required without the prior written consent of the Bank.

**Section 5.22. No Priority Claim.** Except as permitted by Section 5.11 hereof, the District shall not grant or permit to be granted any lien on or security interest in and to any portion of the Pledged Revenue or any other component of the collateral securing the obligations of the District hereunder.

## ARTICLE VI

### INVESTMENTS

**Section 6.01. Permitted Investments Only.** All moneys held by the Custodian in any of the funds or accounts held and administered by the Custodian under the Custodial Agreement shall be promptly invested or reinvested by the Custodian, at the written or oral request (followed by written instructions) and direction of the Authorized Person, in Permitted Investments only. The Custodian may conclusively rely on the investment direction given by the District as being a Permitted Investment.

**Section 6.02. Other Investment Requirements.** Such investments shall mature or be redeemable at the option of the owner thereof no later than the respective dates when moneys held for the credit of such fund or account will be required for the purposes intended. The Authorized Person shall direct the Custodian to, or in the absence of direction, an authorized representative of the Bank may direct the Custodian, in accordance with this Section, to invest and reinvest the moneys in any investment permitted hereby so that the maturity date, interest payment date, or date of redemption, at the option of the owner of such investment, shall coincide as nearly as practicable with the times at which money is needed to be so expended. The Custodian may make any and all such investments through its investment department. In the absence of direction from the District or the Bank, the Custodian shall purchase or invest in shares of any investment company that (a) is registered under the Investment Company Act of 1940, as amended (including both corporations and Massachusetts business trusts, and including companies for which the Custodian or Bank may provide advisory, administrative, custodial, or other services for compensation); (b) invests substantially all of its assets in short-term high-quality money-market instruments, limited to obligations issued or guaranteed by the United States; and (c) maintains a constant asset value per share subject to Colorado law.

**Section 6.03. Compliance with Tax Covenants.** Any and all such investments shall be subject to full and complete compliance at all times with the covenants and provisions of Section 5.03 hereof.

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES

**Section 7.01. Events of Default.** The occurrence of any one or more of the following events or the existence of any one or more of the following conditions shall constitute an Event of Default under this Agreement (whatever the reason for such event or condition and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree, rule, regulation or order of any court or any administrative or governmental body):

(a) the District fails to apply the Pledged Revenue as required by this Agreement and the Custodial Agreement;

(b) the District fails to impose the Required Mill Levy;

(c) (i) the District fails to observe or perform any of the covenants, agreements or conditions in Sections 5.04, 5.10, 5.11, 5.15 5.16, 5.17, 5.18, 5.20, 5.21 and 5.22 hereof or in the Authorizing Resolution; or (ii) the District fails to observe or perform any other of the covenants, agreements or conditions on the part of the District in this Agreement, the Note, or the Authorizing Resolution, and, solely in the case of this clause (ii), the District fails to remedy the same within 30 days after the Bank has provided the District with notice thereof;

(d) any representation or warranty made by the District in this Agreement or in any other Financing Document or any certificate, instrument, financial or other statement furnished by the District to the Bank, proves to have been untrue or incomplete in any material respect when made or deemed made;



(e) the occurrence and continuance of an event of default or an event of nonperformance under the Custodial Agreement or any of the other Financing Documents after the expiration of any grace period as determined by the Bank;

(f) the pledge of the collateral or any other security interest created hereunder or under the Custodial Agreement fails to be fully enforceable with the priority required hereunder or thereunder;

(g) any judgment or court order for the payment of money exceeding any applicable insurance coverage by more than \$100,000 in the aggregate is rendered against the District and the District fails to vacate, bond, stay, contest, pay or satisfy such judgment or court order for 60 days (such satisfaction shall include, but not be limited to, compliance with the provisions of §24-10-113(3) C.R.S. or §13-60-101 C.R.S.);

(h) the District shall initiate, acquiesce or consent to any proceedings to dissolve the District or to consolidate the District with other similar entities into a single entity or the District shall otherwise cease to exist;

(i) a change occurs in the financial or operating conditions of the District, or the occurrence of any other event that, in the Bank's reasonable judgment, will have a materially adverse impact on the ability of the District to generate Pledged Revenue sufficient to satisfy the District's obligations under this Agreement or its other obligations, and the District fails to cure such condition within six months after receipt by the District of written notice thereof from the Bank;

(j) (i) the District shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it or seeking to adjudicate it insolvent or a bankrupt or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts; or (B) seeking appointment of a receiver, trustee, custodian or other similar official for itself or for any substantial part of its property, or the District shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against the District any case, proceeding or other action of a nature referred to in clause (k)(i) above and the same shall remain undismissed; or (iii) there shall be commenced against the District any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its property which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal, within 60 days from the entry thereof; or (iv) the District shall take action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii) or (iii) above; or (v) the District shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due;

(k) this Agreement, the Custodial Agreement or any other Financing Document, or any material provision hereof or thereof, (i) ceases to be valid and binding on the District or is declared null and void, or the validity or enforceability thereof is contested by the District (unless being contested by the District in good faith), or the District denies it has any or

further liability under any such document to which it is a party; or (ii) any pledge or security interest created hereunder or under the Custodial Agreement fails to be fully enforceable with the priority required hereunder or thereunder;

(l) the District's auditor delivers a qualified opinion with respect to the District's status as an on-going concern;

(m) any funds or investments on deposit in, or otherwise to the credit of, any of the funds or accounts established hereunder or under the Custodial Agreement shall become subject to any writ, judgment, warrant or attachment, execution or similar process; or

(n) any determination, decision, or decree is made by the Commissioner or any District Director of the Internal Revenue Service, or by any court of competent jurisdiction, that the interest payable on the Loan is includable in the gross income for federal income tax purposes of the Bank by virtue of the occurrence of any event, including any change in the Constitution or laws of the United States of America or the State of Colorado, which results in interest payable on the Loan becoming includable in the gross income of the Bank pursuant to Section 103(b) of the Internal Revenue Code, and the rules and regulations promulgated thereunder if and so long as such determination, decision or decree is not being appealed or otherwise contested in good faith by the District.

**Section 7.02. Remedies.** Upon the occurrence and during the continuance of any Event of Default, the 2015A Loan shall bear interest at the Default Interest Rate (except in the case of an Event of Default pursuant to Section 7.01(n), in which case the 2015A Loan shall bear interest at the Taxable Rate until the Maturity Date, and the Default Interest Rate thereafter) and become immediately due and payable, and the Bank may seek recovery of all unpaid principal and interest then due. The Bank, at its option, may do any one or more of the following:

(a) exercise any and all remedies available under the Custodial Agreement; or

(b) take any other action or remedy available under the other Financing Documents or any other document, or at law or in equity.

In exercising any remedy hereunder, the Bank shall give notice to all Notice Parties listed in Section 8.05 hereof.

**Section 7.03. Notice to Bank of Default.** Notwithstanding any cure period described above, the District will immediately notify the Bank in writing (with a copy to the Custodian) when the District obtains knowledge of the occurrence of any Event of Default or any event which would, with the passage of time or the giving of notice, constitute an Event of Default.

**Section 7.04. Additional Bank Rights.** Upon the occurrence of an Event of Default the Bank may at any time (a) Setoff (as defined below), and/or (b) take such other steps to protect or preserve the Bank's interest in the Pledged Revenue.

**Section 7.05. Credit Balances; Setoff.** As additional security for the payment of the obligations described in the Financing Documents (collectively the "Obligations"), the District

hereby grants to the Bank a security interest in, a lien on and an express contractual right to set off against all depository account balances, cash and any other property of the District now or hereafter in the possession of the Bank and the right to refuse to allow withdrawals from any account (collectively, "Setoff"). The Bank may, at any time upon the occurrence of an Event of Default hereunder Setoff against the Obligations whether or not the Obligations (including future payments to be made) are then due, all without any advance or contemporaneous notice or demand of any kind to the District, such notice and demand being expressly waived.

**Section 7.06. Delay or Omission No Waiver.** No delay or omission of the Bank to exercise any right or power accruing upon any default shall exhaust or impair any such right or power or shall be construed to be a waiver of any such default, or acquiescence therein; and every power and remedy given by this Agreement may be exercised from time to time and as often as may be deemed expedient.

**Section 7.07. No Waiver of One Default To Affect Another; All Remedies Cumulative.** No waiver of any Event of Default hereunder shall extend to or affect any subsequent or any other then existing Event of Default or shall impair any rights or remedies consequent thereon. All rights and remedies of the Bank provided herein shall be cumulative and the exercise of any such right or remedy shall not affect or impair the exercise of any other right or remedy.

**Section 7.08. Other Remedies.** Nothing in this Article VII is intended to restrict the Bank's rights under any of the Financing Documents or at law or in equity, and the Bank may exercise all such rights and remedies as and when they are available.

## ARTICLE VIII

### MISCELLANEOUS

**Section 8.01. Loan Agreement and Relationship to Other Documents.** The warranties, covenants and other obligations of the District (and the rights and remedies of the Bank) that are outlined in this Agreement and the other Financing Documents are intended to supplement each other. In the event of any inconsistencies in any of the terms in the Financing Documents, all terms will be cumulative so as to give the Bank the most favorable rights set forth in the conflicting documents, except that if there is a direct conflict between any preprinted terms and specifically negotiated terms (whether included in an addendum or otherwise), the specifically negotiated terms will control.

**Section 8.02. Assignments, Participations, etc. by the Bank.** Any assignment or participation by the Bank is not subject to the District's consent, but shall be subject to Section 8.15 and Section 8.26 hereof. In connection with any such assignment or participation, the Bank may disclose to any proposed assignee or participant any information that the District discloses pursuant to this Agreement and the other Financing Documents. Any such assignment or participation is also subject to the following conditions:

(a) Subject to Section 8.15 hereof, the rights, options, powers and remedies granted in this Agreement and the other Financing Documents will extend to the Bank and to its

successors and assigns, will be binding upon the District and its successors and assigns and will be applicable hereto and to all renewals and/or extensions hereof.

(b) In addition, the Bank may collaterally assign and pledge, without the consent of the District, all or any portion of the obligations owing to it to any Federal Reserve Bank or the United States Treasury as collateral security pursuant to Regulation A of the Board of Governors of the Federal Reserve System and any Operating Circular issued by such Federal Reserve Bank; provided that any payment in respect of such assigned obligations made by the District to the Bank in accordance with the terms of this Agreement shall satisfy the District's obligations hereunder in respect of such assigned obligation to the extent of such payment. No such collateral assignment shall release the Bank from its obligations hereunder.

(c) The Bank may at any time, without the consent of the District, sell to one or more commercial banks or other Persons not affiliates of the District (a "Participant") participating interests in its rights and obligations hereunder or under the other Financing Documents; provided, however, that (i) the Bank's obligations hereunder shall remain unchanged, (ii) the Bank shall remain solely responsible for the performance of such obligations, and (iii) the participation of one or more Participants shall not reduce or alter the Bank's obligations hereunder or affect in any way the rights or obligations of the District hereunder and the District has the right to continue to deal solely with the Bank. The Bank will give notice of the sale of such participation and the name of the Participant to the District within 30 days of the date of such sale. In the case of any such participation, the Participant shall be entitled to the benefit of Sections 2.02(g) and 8.03 hereof as though it were also the Bank hereunder, and if amounts outstanding under this Agreement are due and unpaid, or has been declared or has become due and payable upon the occurrence of an Event of Default, each Participant shall be deemed to have the right of setoff in respect of its participating interest in amounts owing under this Agreement to the same extent as if the amount of its participating interest were owing directly to it as the Bank under this Agreement.

**Section 8.03. Litigation/Indemnification.** The District agrees, to the extent permitted by law and as set forth herein, to completely indemnify and hold harmless the Bank and its agents, employees, officers, directors and controlling Persons, together with any Participant and its agents, employees, officers, directors and controlling Persons (hereinafter collectively referred to in this Section 8.03 as the "Indemnitees") from and against any and all claims, damages, liabilities, settlements, judgments, losses, legal fees and costs or expenses incurred (including all reasonable fees and disbursements of the Indemnitees' legal counsel and allocated cost of in-house counsel and staff and all of the Indemnitees' reasonable travel and other out-of-pocket expenses incurred in connection with the investigation of and preparation for any such pending or threatened claims and any litigation and other proceedings arising therefrom) arising out of or based upon (a) the Loan; or (b) the holding or owning by the Bank, the Participant, or their respective nominees of any collateral securing the obligations of the District hereunder; or (c) any matters for which neither the Bank nor any Participant has any liability as set forth under Section 8.16 of this Agreement; provided, however, that the District shall not be required to indemnify the Indemnitees pursuant to Section 8.02 (c) above for any claims, damages, losses, liabilities, settlements, judgments, legal fees or costs or expenses to the extent proven to be caused by the Bank's willful or grossly negligent failure to make lawful payment

under the Loan. Nothing in this Section 8.03 is intended to limit the District's obligations contained in Article II hereof.

If any action, lawsuit or claim shall be brought or asserted against the Indemnitees in respect of which indemnity may be sought by the Indemnitees from the District under this Section 8.03, the Indemnitees shall promptly notify the District in writing, and the District shall promptly assume the defense thereof, including, but not limited to, the employment of counsel (the selection of which has been approved by the Indemnitees and such approval shall not be unreasonably withheld), the payment of all legal fees and expenses and the right to negotiate and consent to settlement; provided, however, that the District shall not settle any such action which may adversely affect the Bank without the Bank's written consent, which consent shall not be unreasonably withheld.

In the event that the Indemnitees shall be advised by counsel experienced in matters of banking or securities laws that the Indemnitees have defenses or causes of action separate from those of the District, or that there is otherwise a conflict of interest, the Indemnitees have the right to employ their own counsel ("Independent Counsel") to defend the Indemnitees against such action at the expense of the District, who shall pay all legal fees and expenses incurred by such Independent Counsel. The Indemnitees' selection of Independent Counsel shall be approved by the District, and such approval shall not be unreasonably withheld. With respect to claims against the Indemnitees defended by Independent Counsel, the Indemnitees have the right to negotiate settlement of any such claims; provided, however, that the District shall not be liable for any such settlement effected by the Indemnitees without the written consent of the District, which consent shall not be unreasonably withheld.

The obligations of the District under this Section 8.03 shall be in addition to any rights that any Indemnitee may have at common law or otherwise and shall survive the payment in full of all amounts owing to the Bank hereunder. If indemnification pursuant to this Section 8.03 shall be found to be unlawful or invalid for any reason, then the District and each Indemnitee shall to the extent lawful make contributions in payment of any liabilities incurred pursuant to the above referenced issuance, sale and distributions and statements or omissions in accordance with the respective fault of the District and each Indemnitee.

**Section 8.04. Notice of Claims Against Bank; Limitation of Certain Damages.** In order to allow the Bank to mitigate any damages to the District from the Bank's alleged breach of its duties under the Financing Documents or any other duty, if any, to the District, the District agrees to give the Bank written notice no later than 10 days after the District knows of any claim or defense it has against the Bank, whether in tort or contract, relating to any action or inaction by the Bank under the Financing Documents, or the transactions related thereto, or of any defense to payment of the obligations of the District hereunder for any reason. The requirement of providing timely notice to the Bank represents the parties' agreed-to standard of performance regarding the duty of the Bank to mitigate damages related to claims against the Bank. Notwithstanding any claim that the District may have against the Bank, and regardless of any notice the District may have given the Bank, the Bank will not be liable to the District for indirect, consequential and/or special damages arising therefrom, except those damages arising from the Bank's willful misconduct, gross negligence or bad faith. Failure by the District to give

notice to the Bank shall not waive any claims of the District but such failure shall relieve the Bank of any duty to mitigate damages prior to receiving notice.

**Section 8.05. Notices.** Notice of any record shall be deemed delivered when the record has been (a) deposited in the United States Mail, postage pre-paid; (b) received by overnight delivery service; (c) received by Electronic Notification; or (d) when personally delivered at the following addresses (the “Notice Parties”):

to District: Allison Valley Metropolitan District No. 2  
c/o \_\_\_\_\_  
Attention: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

with a copy to: Spencer Fane Britt & Browne LLP  
1700 Lincoln Street  
Suite 2000  
Denver, CO 80203  
Telephone: (303) 839-3706  
Attention: Norman F. (Rick) Kron, Esq.  
Email: [rkron@spencerfane.com](mailto:rkron@spencerfane.com)

to Bank: Vectra Bank Colorado, National Association  
2000 S. Colorado Boulevard  
Suite 2-1200  
Denver, CO 80222  
Telephone: (720) 947-8802  
Attention: Conrad Freeman  
Email: [cfreeman@vectrabank.com](mailto:cfreeman@vectrabank.com)

to Custodian: Zions First National Bank  
1001 17th Street, Suite 850  
Denver, CO 80202  
Telephone: (720) 947-7475  
Attention: David Bata  
Email: [david.bata@zionsbank.com](mailto:david.bata@zionsbank.com)

**Section 8.06. Payments.** Payments due on the Loan shall be made in lawful money of the United States. All payments may be applied by the Bank to principal, interest and other amounts due under the Note and this Agreement pursuant to the terms of the Custodial Agreement and this Agreement.

**Section 8.07. Applicable Law and Jurisdiction; Interpretation; Severability.** This Agreement and all other Financing Documents will be governed by and interpreted in accordance with the internal laws of the State of Colorado, except to the extent superseded by Federal law. Invalidity of any provisions of this Agreement will not affect any other provision. TO THE EXTENT PERMITTED BY LAW, THE DISTRICT AND THE BANK HEREBY

CONSENT TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT SITUATED IN DENVER, COLORADO, AND WAIVE ANY OBJECTIONS BASED ON *FORUM NON CONVENIENS*, WITH REGARD TO ANY ACTIONS, CLAIMS, DISPUTES OR PROCEEDINGS RELATING TO THIS AGREEMENT, THE NOTE, THE PLEDGED REVENUE, ANY OTHER FINANCING DOCUMENT, OR ANY TRANSACTIONS ARISING THEREFROM, OR ENFORCEMENT AND/OR INTERPRETATION OF ANY OF THE FOREGOING. Nothing in this Agreement will affect the Bank's rights to serve process in any manner permitted by law. This Agreement, the other Financing Documents and any amendments hereto (regardless of when executed) will be deemed effective and accepted only at the Bank's offices, and only upon the Bank's receipt of the executed originals thereof. Invalidity of any provision of this Agreement shall not affect the validity of any other provision.

**Section 8.08. Copies; Entire Agreement; Modification.** The District hereby acknowledges the receipt of a copy of this Agreement and all other Financing Documents.

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING, EXPRESSING CONSIDERATION AND SIGNED BY THE PARTIES ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. THE TERMS OF THIS AGREEMENT MAY ONLY BE CHANGED BY ANOTHER WRITTEN AGREEMENT. THIS NOTICE SHALL ALSO BE EFFECTIVE WITH RESPECT TO ALL OTHER CREDIT AGREEMENTS NOW IN EFFECT BETWEEN THE DISTRICT AND THE BANK. A MODIFICATION OF ANY OTHER CREDIT AGREEMENT NOW IN EFFECT BETWEEN THE DISTRICT AND THE BANK, WHICH OCCURS AFTER RECEIPT BY THE DISTRICT OF THIS NOTICE, MAY BE MADE ONLY BY ANOTHER WRITTEN INSTRUMENT. ORAL OR IMPLIED MODIFICATIONS TO ANY SUCH CREDIT AGREEMENT IS NOT ENFORCEABLE AND SHOULD NOT BE RELIED UPON.

**Section 8.09. Waiver of Jury Trial.** TO THE EXTENT PERMITTED BY LAW, THE DISTRICT AND THE BANK HEREBY JOINTLY AND SEVERALLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO ANY OF THE FINANCING DOCUMENTS, THE OBLIGATIONS THEREUNDER, ANY COLLATERAL SECURING THE OBLIGATIONS, OR ANY TRANSACTION ARISING THEREFROM OR CONNECTED THERETO. THE DISTRICT AND THE BANK EACH REPRESENTS TO THE OTHER THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY GIVEN.

**Section 8.10. Attachments.** All documents attached hereto, including any appendices, schedules, riders and exhibits to this Agreement, are hereby expressly incorporated by reference.

**Section 8.11. No Recourse Against Officers and Agents.** Pursuant to Section 11-57-209 of the Supplemental Public Securities Act, if a member of the Board, or any officer or agent of the District, acts in good faith in the performance of his duties as a member, officer, or agent of the Board or the District and in no other capacity, no civil recourse shall be available against such member, officer or agent for payment of the principal of and interest on the Loan. Such recourse shall not be available either directly or indirectly through the Board or

the District, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the delivery of the Note evidencing the Loan and as a part of the consideration for such transfer, the Bank and any Person purchasing or accepting the transfer of the obligation representing the Loan specifically waives any such recourse.

**Section 8.12. Conclusive Recital.** Pursuant to Section 11-57-210 of the Supplemental Public Securities Act, this Agreement is entered into pursuant to certain provisions of the Supplemental Public Securities Act. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of this Agreement after delivery for value.

**Section 8.13. Limitation of Actions.** Pursuant to Section 11-57-212 of the Supplemental Public Securities Act, no legal or equitable action brought with respect to any legislative acts or proceedings in connection with the authorization or issuance of the Loan shall be commenced more than 30 days after the authorization of the Loan.

**Section 8.14. Pledge of Revenues.** The creation, perfection, enforcement, and priority of the pledge of revenues to secure or pay the Loan provided herein shall be governed by Section 11-57-208 of the Supplemental Public Securities Act, this Agreement, the Note and the Authorizing Resolution. The amounts pledged to the payment of the Loan shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge shall have a first priority. 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 District irrespective of whether such Persons have notice of such liens.

**Section 8.15. Authorized Denominations.** No interest in the Loan may be assigned, transferred, conveyed or acquired in an amount less than \$500,000 or any integral multiple of \$1,000 in excess thereof.

**Section 8.16. No Liability.** Any action taken or omitted by the Bank under or in connection with the Financing Documents, if taken or omitted in good faith and without willful misconduct or gross negligence, shall be binding upon the District and shall not put the Bank under any resulting liability to the District. The Bank, including its agents, employees, officer's directors and controlling Persons, shall not have any liability to the District, and the District assumes all risk, responsibility and liability for (a) the form, sufficiency, correctness, validity, genuineness, falsification and legal effect of any demands and other documents, instruments and other papers relating to the Loan even if such documents, should prove to be in any or all respects invalid, insufficient, fraudulent or forged; (b) the general and particular conditions stipulated therein; (c) the good faith acts of any Person whatsoever in connection therewith; (d) failure of any Person (other than the Bank, subject to the terms and conditions hereof) to comply with the terms of the Loan; (e) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telex, telegraph, wireless or otherwise, whether or not they be in code; (f) errors in translation or errors in interpretation of technical terms; (g) for any other consequences arising from causes beyond the Bank's control; or (h) any use of which may be made of the proceeds of the Loan, except to the extent of any direct, as opposed to indirect, consequential, or special damages suffered by the District which direct damages are proven by the District to be caused by the Bank's willful or grossly negligent failure to make lawful payment under the Loan.



**Section 8.17. No Waiver; Modifications in Writing.** No failure or delay on the part of the Bank in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other right, power or remedy. The remedies provided for herein are cumulative and are not exclusive of any remedies that may be available to the Bank at law or in equity or otherwise. No amendment, modification, supplement, termination or waiver of or to any provision of this Agreement, nor consent to any departure by the District therefrom, shall be effective unless the same shall be in writing and signed by or on behalf of the Bank. Any amendment, modification or supplement of or to any provision of this Agreement, and any consent to any departure by the District from the terms of any provision of this Agreement, shall be effective only in the specific instance and for the specific purpose for which made or given. No notice to or demand on the District in any case shall entitle the District to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the Bank to any other or further action in any circumstances without notice or demand. The Bank shall notify the Custodian of each amendment to this Agreement.

**Section 8.18. Payment on Non-Business Days.** Whenever any payment hereunder shall be stated to be due on a day which is not a Business Day, such payment may be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of the amount due.

**Section 8.19. Further Assurances.** The District agrees to do such further acts and things and to execute and deliver to the Bank such additional assignments, agreements, powers and instruments as the Bank may reasonably require or deem advisable to carry into effect the purposes of this Agreement or to better assure and confirm unto the Bank its rights, powers and remedies hereunder and under the Financing Documents.

**Section 8.20. Execution in Counterparts.** This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same Agreement.

**Section 8.21. Severability.** Any provision of this Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or nonauthorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

**Section 8.22. Headings.** Article and Section headings used in this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

**Section 8.23. Waiver of Rules of Construction.** The District hereby waives any and all provisions of law to the effect that an ambiguity in a contract or agreement should be interpreted against the party responsible for its drafting.

**Section 8.24. Integration.** This Agreement is intended to be the final agreement between the parties hereto relating to the subject matter hereof and this Agreement and any

agreement, document or instrument attached hereto or referred to herein shall supersede all oral negotiations and prior writings with respect to the subject matter hereof.

**Section 8.25. No City Debt.** The debt of the District hereunder does not constitute a debt or obligation of the City of Colorado Springs in any manner. The faith and credit of the City of Colorado Springs is not be pledged for the repayment of the debt of the District hereunder.

**Section 8.26. Bank Representations.** The Bank hereby represents that it is a “depository institution” and therefore, a “financial institution” within the meaning of Section 32-1-1101(6)(a)(IV), C.R.S. The Bank is an organization that qualifies as an “accredited investor,” as defined in § 11-59-110(1)(g) C.R.S., and the Bank agrees that, without the District’s written consent, it will not assign or transfer this Loan Agreement or the Note to any person or entity which is not an “accredited investor” as defined in § 11-59-110(1)(g) C.R.S., or to any person or entity which is not a direct affiliate of the Bank (which affiliates shall mean any entity which, by virtue of majority ownership interest, controls, is controlled by, or under common control with the Bank). The Bank agrees that any assignment or transfer in violation of the foregoing shall be null and void and of no force or effect at the election of the District.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date set forth above.

**VECTRA BANK COLORADO, NATIONAL ASSOCIATION**, a national banking association

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

**ALLISON VALLEY METROPOLITAN DISTRICT NO. 2**, a quasi-municipal corporation and political subdivision of the State of Colorado

By \_\_\_\_\_

President

[SEAL]

Attest:

By \_\_\_\_\_

Secretary

**EXHIBIT A**

**FORM OF 2015A NOTE**

**THIS NOTE MAY NOT BE SOLD TRANSFERRED OR OTHERWISE DISPOSED OF EXCEPT TO PERSONS WHO HAVE DELIVERED TO THE DISTRICT WRITTEN EVIDENCE THAT SUCH TRANSFEREE IS AN "ACCREDITED INVESTOR" FOR PURPOSES OF SECTION 11-59-110(1)(g), C.R.S. AND A FINANCIAL INSTITUTION WITHIN THE MEANING OF SECTION 32-1-110(6)(A)(IV), C.R.S. OR IN DENOMINATIONS OF LESS THAN \$500,000**

**UNITED STATES OF AMERICA  
STATE OF COLORADO  
ALLISON VALLEY METROPOLITAN DISTRICT NO. 2**

**2015A LIMITED TAX GENERAL OBLIGATION NOTE**

**IN THE AGGREGATE PRINCIPAL AMOUNT OF  
NOT TO EXCEED \$10,000,000**

**Advances Not to Exceed US \$10,000,000**

**[date], 2015**

FOR VALUE RECEIVED, ALLISON VALLEY METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado, duly organized and existing as a metropolitan district under the constitution and laws of the State of Colorado (hereinafter referred to as "Maker"), promises to pay to the order of VECTRA BANK COLORADO, NATIONAL ASSOCIATION, a national banking association, its successors and assigns (hereinafter referred to as "Payee"), at the office of Payee or its agent, designee, or assignee at Vectra Bank, 2000 South Colorado Boulevard, Suite 2-1200, Denver, Colorado 80222 or at such place as Payee or its agent, designee, or assignee may from time to time designate in writing, all Advances made in an amount not to exceed the principal sum of TEN MILLION AND NO/100 DOLLARS (US \$10,000,000) (this "Note") pursuant to the terms of the Loan Agreement dated of even date herewith by and between Maker and Payee (the "Loan Agreement"), in lawful money of the United States of America.

This Note shall bear interest, be payable, and mature pursuant to the terms and provisions of the Loan Agreement. All capitalized terms used and not otherwise defined herein shall have the respective meanings ascribed in the Loan Agreement.

Amounts received by Payee under this Note shall be applied in the manner provided by the Loan Agreement. All amounts due under this Note shall be payable without setoff, counterclaim or any other deduction whatsoever by Maker.

Unless payments are made in the required amount in immediately available funds in accordance with the provisions of the Loan Agreement, remittances in payment of all or any part of the amounts due and payable hereunder shall not, regardless of any receipt or credit issued

therefor, constitute payment until the required amount is actually received by Payee in funds immediately available at the place where this Note is payable (or any other place as Payee, in Payee's sole discretion, may have established by delivery of written notice thereof to Maker) and shall be made and accepted subject to the condition that any check or draft may be handled for collection in accordance with the practice of the collecting bank or banks. Acceptance by Payee of any payment in an amount less than the amount then due shall be deemed an acceptance on account only and any unpaid amounts shall remain due hereunder, all as more particularly provided in the Loan Agreement.

In the event of nonpayment of this Note, Payee shall be entitled to all remedies under the Loan Agreement and at law or in equity, and all remedies shall be cumulative.

It is expressly stipulated and agreed to be the intent of Maker and Payee at all times to comply with applicable state law and applicable United States federal law. If the applicable law (state or federal) is ever judicially interpreted so as to render usurious any amount called for under this Note or under the Loan Agreement, or contracted for, charged, taken, reserved or received with respect to the indebtedness evidenced by this Note, then it is Maker's and Payee's express intent that all excess amounts theretofore collected by Payee be credited on the principal balance of this Note (or, if this Note has been or would thereby be paid in full, refunded to Maker), and the provisions of this Note shall immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and under the Loan Agreement. All sums paid or agreed to be paid to Payee for the use, forbearance and detention of the indebtedness evidenced hereby and by the Loan Agreement shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the rate or amount of interest on account of such indebtedness does not exceed the maximum rate permitted under applicable law from time to time in effect and applicable to the indebtedness evidenced hereby for so long as such indebtedness remains outstanding.

Maker and any endorsers, sureties or guarantors hereof jointly and severally waive presentment and demand for payment, protest and notice of protest and nonpayment, all applicable exemption rights, valuation and appraisal, notice of demand, and all other notices in connection with the delivery, acceptance, performance, default or enforcement of the payment of this Note and the bringing of suit and diligence in taking any action to collect any sums owing hereunder or in proceeding against any of the rights and collateral securing payment hereof. Maker and any surety, endorser or guarantor hereof agree (a) that the time for any payments hereunder may be extended from time to time without notice and consent; (b) to the acceptance of further collateral; (c) to the release of any existing collateral for the payment of this Note; (d) to any and all renewals, waivers or modifications that may be granted by Payee with respect to the payment or other provisions of this Note; and/or (e) that additional makers, endorsers, guarantors or sureties may become parties hereto all without notice to them and without in any manner affecting their liability under or with respect to this Note. No extension of time for the payment of this Note shall affect the liability of Maker under this Note or any endorser or

guarantor hereof even though Maker or such endorser or guarantor is not a party to such agreement.

Failure of Payee to exercise any of the options granted herein to Payee upon the happening of one or more of the events giving rise to such options shall not constitute a waiver of the right to exercise the same or any other option at any subsequent time in respect to the same or any other event. The acceptance by Payee of any payment hereunder that is less than payment in full of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the options granted herein or in the Loan Agreement to Payee at that time or at any subsequent time or nullify any prior exercise of any such option without the express written acknowledgment of Payee.

Maker (and the undersigned representative of Maker, if any) represents that Maker has full power, authority and legal right to execute, deliver and perform its obligations pursuant to this Note and this Note constitutes the legal, valid and binding obligation of Maker.

All notices or other communications required or permitted to be given hereunder shall be given in the manner and be effective as specified in the Loan Agreement, directed to the parties at their respective addresses as provided therein.

This Note is governed by and interpreted in accordance with the internal laws of the State of Colorado, except to the extent superseded by federal law. Invalidity of any provisions of this Note will not affect any other provision.

Pursuant to Section 11-57-210 of the Colorado Revised Statutes, as amended, this Note is entered into pursuant to and under the authority of certain provisions of the Supplemental Public Securities Act, being Title 11, Article 57, of the Colorado Revised Statutes, as amended. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of this Note after delivery for value and shall conclusively impart full compliance with all provisions and limitations of said statutes, and this Note shall be incontestable for any cause whatsoever after delivery for value.

Maker hereby designates the Note as a "qualified tax exempt obligation" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder. Maker covenants that the aggregate face amount of all tax exempt obligations issued by Maker, together with governmental entities which derive their issuing authority from Maker or are subject to substantial control by Maker, shall not be more than \$10,000,000 during calendar year 2015. Maker recognizes that such tax exempt obligations include notes, leases, loans, warrants, and bonds. Maker further recognizes that any bank, thrift institution, or other financial institution that owns the Note will rely on Maker's designation of this Note as a qualified tax exempt obligation for the purpose of avoiding the loss of 100% of any otherwise available interest deduction attributable to such institution's tax exempt holdings.

By acceptance of this instrument, the owner of this Note agrees and consents to all of the limitations in respect of the payment of the principal of and interest on this Note contained herein, in the resolution of the Maker authorizing the issuance of this Note and in the Service Plan for creation of the Maker dated \_\_\_\_\_, 2015.

TO THE EXTENT PERMITTED BY LAW, MAKER HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT SITUATED IN DENVER, COLORADO, AND WAIVES ANY OBJECTION BASED ON FORUM NON CONVENIENS, WITH REGARD TO ANY ACTIONS, CLAIMS, DISPUTES OR PROCEEDINGS RELATING TO THIS NOTE, THE LOAN AGREEMENT, THE PLEDGED REVENUE, ANY OTHER FINANCING DOCUMENT, OR ANY TRANSACTIONS ARISING THEREFROM, OR ENFORCEMENT AND/OR INTERPRETATION OF ANY OF THE FOREGOING.

TO THE EXTENT PERMITTED BY LAW, MAKER HEREBY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO THIS NOTE, THE LOAN AGREEMENT, OR ANY OF THE OTHER FINANCING DOCUMENTS, THE OBLIGATIONS THEREUNDER, ANY COLLATERAL SECURING THE OBLIGATIONS, OR ANY TRANSACTION ARISING THEREFROM OR CONNECTED THERETO. MAKER REPRESENTS TO PAYEE THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY GIVEN.

THE PROVISIONS OF THIS NOTE MAY BE AMENDED OR REVISED ONLY BY AN INSTRUMENT IN WRITING SIGNED BY MAKER AND PAYEE. THERE ARE NO ORAL AGREEMENTS BETWEEN MAKER AND PAYEE WITH RESPECT TO THE SUBJECT MATTER HEREOF.

**The debt of the District hereunder does not constitute a debt or obligation of the City of Colorado Springs in any manner. The faith and credit of the City of Colorado Springs is not be pledged for the repayment of the debt of the District hereunder.**

IN WITNESS WHEREOF, an authorized representative of Allison Valley Metropolitan District No. 2, as Maker, has executed this Note as of the day and year first above written.

ALLISON VALLEY METROPOLITAN  
DISTRICT NO. 2, a quasi-municipal  
corporation and political subdivision of the State  
of Colorado

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

[SEAL]

Attest:

By \_\_\_\_\_  
Secretary

**EXHIBIT B**

**FORM OF ADVANCE REQUEST**

**Allison Valley Metropolitan District No. 2  
2015A Loan Agreement**

The undersigned certifies that he/she is an Authorized Person under that certain Loan Agreement dated as of [date], 2015 (the "Agreement") by and between Allison Valley Metropolitan District No. 2 and Vectra Bank Colorado, National Association (the "Bank"). All capitalized terms used in this Advance Request ("Advance Request") shall have the respective meanings assigned in the Agreement.

The undersigned Authorized Person hereby makes a request to the Bank for an Advance on the 2015A Loan, and in support thereof states:

- (i) The amount of the Advance so requested is \$\_\_\_\_\_.
- (ii) Upon the funding of such Advance, the sum of all Advances will not exceed the Maximum Advance Amount of the 2015A Loan.
- (iii) Attached hereto is the District's calculation of Assessed Value (Schedule 1).<sup>1</sup>
- (iv) The amount on deposit in the Loan Payment Fund plus Pledged Revenues expected to be collected in this Fiscal Year are equal to not less than \$\_\_\_\_\_, which is the amount required to pay debt service on the Loan in this Fiscal Year.<sup>1</sup>
- (v) At the time the requested Advance is to be made and as a result thereof, immediately thereafter, all representations and warranties of the District set forth in Article IV of the Loan Agreement are true and correct as though made on the date hereof and will be true and correct as though made on the Advance Date and no Event of Default shall have occurred and be continuing on the date hereof and on the Advance Date and no litigation is currently pending or threatened concerning the District's authority to pledge the Pledged Revenue as provided in the Loan Agreement or the District's authority to impose the Required Mill Levy as provided in the Loan Agreement.
- (vi) The requested Advance shall be made by the Bank by wire transfer of immediately available funds to the Custodian in accordance with the instructions set forth below:

[Insert wire instructions]

- (vii) Attached hereto is Schedule 1 with sufficient detail supporting the calculation of the applicable Advance.<sup>1</sup>

---

<sup>1</sup> Items (iii), (iv) and (viii) are not required for the Initial Advance.



(viii) The Advance is requested for the purpose of paying a portion of the Project Costs (as defined in the Custodial Agreement) in the amount of \$\_\_\_\_\_ relating to the Project, providing capitalized interest in the amount of \$\_\_\_\_\_ and funding costs of issuance in the amount of \$\_\_\_\_\_. As a result of the foregoing intended uses of the proceeds of the Advance, the District has allocated its electoral authorization for indebtedness to the principal amount of the Advance as follows:

<u>Purpose</u>	<u>Amount</u>
Streets	\$
Parks and Recreation	
Water	
Sanitary Sewer	
Transportation	
Mosquito Control	
Safety Protection	
Fire Protection	
TV Relay and Translation	
Security	

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_.

ALLISON VALLEY METROPOLITAN  
DISTRICT NO. 2, a quasi-municipal  
corporation and political subdivision of the State  
of Colorado

By \_\_\_\_\_  
Authorized Person

**BANK APPROVAL**

In response to the above Advance Request, the Bank hereby agrees to advance to the District an Advance in the amount of \$\_\_\_\_\_. The Interest Rate applicable to this Advance until the next Rate Reset Date is \_\_\_\_\_%.

**APPROVED BY:**

\_\_\_\_\_  
Vectra Bank Colorado, National Association, Bank

**SCHEDULE 1**

**DISTRICT ASSESSED VALUE**

<b>YEAR</b>	<b>QUARTER</b>	<b>TOTAL AV OF FINISHED LOTS</b>	<b>TOTAL AV OF CONSTRUCTION HOMES</b>	<b>TOTAL AV OF RESIDENT HOMES</b>
	Assessed Value			
	x Required Mill Levy			
	Projected Revenue			

**ADVANCE CALCULATION**

Finished Lots (But Not to Exceed 60 Lots) Projected Revenue Divided by 1.50:			
Construction Homes (the lesser of actual homes under construction or 60 homes) Projected Revenue Divided by 1.50:			
Resident Homes Projected Revenue Divided by 1.25:	+		
Total District Projected Revenue			
District Projected Revenue x Present Value Multiple = Advance Total			
minus Prior Advances	-		
= Quarterly Advance			

For purposes of calculating Advances, the following definitions shall apply:

“*Approved Builders*” means Keller Homes, Windsor Ridge, Adamo Homes and Vantage Homes and any parent, subsidiary or successor in interest to such entities.

“*Assessed Value*” means for any property, the certified final assessed value of any taxable property as determined by the Assessor for El Paso County, Colorado.

“*AV of Construction Home*” means for any Construction Home, the amount equal to the lesser of (a) the most recent actual sale within the District of a similar house model and property multiplied by 0.0796 or (b) of the Assessed Value applied to a similar house model and property within the District.

“*AV of Finished Lot*” means for any Finished Lot, the lesser of (a) the Assessed Value of the lot or (b) the sale price of the most recent actual sale of the lot multiplied by 0.29.

“*AV of Resident Home(s)*” means for any Resident Home, the amount equal to the lesser of the sales price on the actual HUD-1 Settlement Statement multiplied by 0.0796 or the Assessed Value applied by the El Paso County Assessor for similar properties; provided, however, upon the second year after the sale described above, the AV of Resident Home for any Resident Home shall be the Assessed Value applicable to that property.

“*Construction Home(s)*” means any home for which construction has commenced by an Approved Builder; for purposes of this definition, construction shall be deemed to have occurred upon the issuance of a permit to inspect the foundation water proofing by the City and confirmation of same by posting of the inspection on the City’s website.

“*Finished Lots*” means platted lots for which all infrastructure required by the City has been completed, dedicated and accepted by the City which have been sold or transferred to Approved Builders, but on which no home construction has commenced.

“*Present Value Multiple*” means the number derived from the following formula using the Interest Rate (“i”) applicable to this Advance over the remaining term until the final Maturity Date (“n”) minus 1.

$$\frac{1 \cdot (1 + i)^{-(n-1)}}{i}$$

i.e. i=4.50% , n=30 , Present Value Multiple = 16.02

$$\frac{1 \cdot (1.045)^{-29}}{.045} = 16.02$$

“*Resident Home(s)*” means homes which have received a certificate of occupancy and have been sold with ownership transferred to a non-investor homeowner.

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District Authorized Person

**LOAN AGREEMENT**

by and between

**ALLISON VALLEY METROPOLITAN DISTRICT NO. 2  
IN THE CITY OF COLORADO SPRINGS, COLORADO**

and

**VECTRA BANK COLORADO, NATIONAL ASSOCIATION  
as Bank**

Relating to:

2015B Limited Tax General Obligation Note in the Loan Amount provided herein

Dated as of [date], 2015

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## LOAN AGREEMENT

**THIS LOAN AGREEMENT** (this “Agreement”) is made and entered into as of [date], 2015, by and between **ALLISON VALLEY METROPOLITAN DISTRICT NO. 2**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”), and **VECTRA BANK COLORADO, NATIONAL ASSOCIATION**, a national banking association, in its capacity as lender (the “Bank”).

### WITNESSETH:

WHEREAS, the District is a quasi-municipal corporation and political subdivision of the State of Colorado, duly organized and existing as a metropolitan district under the constitution and laws of the State of Colorado (all capitalized terms used and not otherwise defined herein shall have the respective meanings assigned in Article I hereof); and

WHEREAS, the District was created for the purpose of providing certain public improvements and services to and for the benefit of the properties within and without the boundaries of the District, including, but not limited to, water, storm and sanitary sewer, and street improvements and facilities, together with all necessary, incidental, and appurtenant facilities, equipment, land and easements or other interests in property (the “Public Improvements”), and maintaining and operating such improvements, all in accordance with Title 32, Article 1, C.R.S. (the “Special District Act”); and

WHEREAS, the Board of Directors of the District (the “Board”) has determined that the interests of the District and the public interest demand the design, acquisition, construction, relocation, installation and completion of certain public infrastructure and all things necessary and incidental thereto; and

WHEREAS, pursuant to Section 32-1-1101(1), C.R.S., the District is authorized to incur indebtedness for the acquisition, construction, installation or completion of any improvements or facilities to carry out the purposes of the District; and

WHEREAS, at a special election of the qualified electors of the District, to be held on November 7, 2006 (the “2006 Election”) in accordance with law and pursuant to due notice, a majority of those qualified to vote and voting at the 2006 Election voted in favor of, inter alia, the issuance by the District of debt for the purposes of financing the construction or acquisition of capital improvements; and

WHEREAS, at a special election of the qualified electors of the District, which will be held on November 3, 2015, the District is seeking authorization for debt for the purposes of financing the construction or acquisition of capital improvements which will replace the 2006 Election; and

WHEREAS, the District and Allison Valley Metropolitan District No. 1, pursuant to the Amended and Restated Consolidated Service Plan approved by the City of Colorado Springs, Colorado (the “City”) dated \_\_\_\_\_, 2015, (the “Service Plan”), are permitted to issue up to an

aggregate \$30,000,000 in debt to finance Public Improvements (as defined in the Service Plan); and

WHEREAS, it has been determined by the District that it is necessary to finance Public Improvements (the “2015B Project”) and that for such purpose, the District should authorize the incurrence of debt in the form of a loan; and

WHEREAS, the District has requested the Bank to provide financing by making available to the District a loan in the Loan Amount provided herein (as more particularly defined herein, the “Loan” or the “2015B Loan”); and

WHEREAS, the Bank has previously entered into a Loan Agreement (the “2015A Loan Agreement”) with the District making available to the District a loan (the “2015A Loan”) in the aggregate principal amount of not to exceed \$10,000,000 as evidenced by a note (the “2015A Note”); and

WHEREAS, the Bank is willing to enter into this Agreement and to make the Loan to the District pursuant to the terms and conditions stated below; and

WHEREAS, the Loan shall be payable from and secured by the Pledged Revenue as more fully set forth herein;

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the parties hereto agree as follows.

## ARTICLE I

### DEFINITIONS

Words and terms defined in the recitals hereof, as hereby supplemented and amended, shall have the same meanings herein or therein assigned to them, unless the context or use indicates another meaning or intent, and except to the extent amended by the definitions hereinafter set forth. In addition, the following terms shall have the meanings set forth herein:

“*2015B Loan*” or “*Loan*” means the 2015B limited tax general obligation loan made by the Bank to the District as evidenced by the 2015B Note and made in accordance with the terms and provisions of this Agreement.

“*2015B Note*” or “*Note*” means the Allison Valley Metropolitan District No. 2 2015B Limited Tax General Obligation Note evidencing the 2015B Loan from the District, as maker, to the Bank, as payee.

“*Advance*” means a disbursement of proceeds of the Unfunded Portion of the Loan pursuant to the terms hereof.

“*Advance Period*” means the period commencing on the date of the Closing Date and terminating on the third anniversary of the Closing Date unless terminated or extended as provided herein.

“*Advance Termination Date*” means the earlier to occur of (a) the Full Funding Date; (b) the date which is the last day of the Advance Period or (c) a date determined by the District and provided in writing to the Bank.

“*Authorized Person*” means the President or the Secretary of the District, and also means any other individual authorized by the Board to act as an Authorized Person hereunder.

“*Authorizing Resolution*” means the resolution adopted by the Board on \_\_\_\_\_, 2015 authorizing the District to enter into the Loan and execute and deliver the Note, this Agreement, and the other Financing Documents.

“*Bank*” means Vectra Bank Colorado, National Association, a national banking association, Denver, Colorado, in its capacity as lender of the Loan.

“*Bank Qualified Tax-Exempt Rate*” means the Taxable Rate multiplied by 0.75%.

“*Business Day*” means any day of the week on which the Bank is conducting its banking operations nationally and on which day the Bank’s offices are open for business in Denver, Colorado.

“*Capitalized Interest Requirement*” means the Projected Debt Service minus amounts in the Loan Payment Fund (excluding the Capitalized Interest Account therein).

“*Closing*” means the date of the concurrent execution and delivery of the Note, this Agreement, and the other Financing Documents by the respective parties thereto and the Initial Advance in accordance with the provisions hereof.

“*Closing Date*” means date of the Closing for the Loan.

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

“*C.R.S.*” means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

“*Custodial Agreement*” means the Custodial Agreement, dated as of [date], 2015, by and between the District, the Bank and the Custodian, as amended or supplemented from time to time.

“*Custodian*” means Zions First National Bank and its successors and assigns, as custodian under the Custodial Agreement.

“*Debt*” means, without duplication, all of the following obligations of the District for the payment of which the District has promised or is required to impose an ad valorem property tax levy and/or impose fees: (a) borrowed money of any kind; (b) obligations evidenced by bonds, debentures, notes or similar instruments; (c) obligations upon which interest charges are customarily paid; (d) obligations under conditional sale or other title retention agreements relating to property or assets purchased by the District; (e) obligations issued or assumed as the

deferred purchase price of property or services; (f) obligations in connection with indebtedness of others secured by (or which the holder of such indebtedness has an existing right, contingent or otherwise, to be secured by) any lien or other encumbrance on property owned or acquired by the District, whether or not the obligations secured thereby have been assumed (only to the extent of the fair market value of such asset if such indebtedness has not been assumed by the District); (g) obligations arising from guarantees made by the District; (h) obligations evidenced by capital leases; (i) obligations as an account party in respect of letters of credit and bankers' acceptances or similar obligations issued in respect of the District; and (j) obligations evidenced by any interest rate exchange agreement; provided that notwithstanding the foregoing, the term "Debt" does not include obligations issued for any purpose, the repayment of which is contingent upon the District's annual determination to appropriate moneys therefor so long as (i) such obligations are payable only to the extent the District has excess moneys on hand, (ii) such obligations are payable in any Fiscal Year only after the last scheduled payment of principal or interest on the Loan in such Fiscal Year, and (iii) the District makes no promise to impose any tax, fee, or other governmental charge for the payment of such obligations.

"*Default Interest Rate*" means a rate per annum equal to the lesser of (a) the Prime Rate plus 4% or (b) [16%].

"*District Accountant*" means \_\_\_\_\_ or any other certified public accountant identified in writing by the District.

"*Electronic Notification*" means telecopy, facsimile transmissions, email transmissions or other similar electronic means of communication providing evidence of transmission.

"*Event of Default*" has the meaning set forth in Section 7.01 hereof.

"*Financing Documents*" means this Agreement, the Note, the Authorizing Resolution, the Custodial Agreement and any other document or instrument required or stated to be delivered hereunder or thereunder, all in form and substance satisfactory to the Bank.

"*Fiscal Year*" means the 12 months commencing January 1 of any year and ending December 31 of such year.

"*Full Funding Date*" means the date on which, if at all, the aggregate amount of all Advances equals the Maximum Advance Amount.

"*General Counsel*" means Spencer Fane Britt & Browne LLP or any successor General Counsel designated in writing by the District.

"*Initial Advance*" means the Advance in the amount of \$\_\_\_\_\_ made on the Closing Date.

"*Loan Amount*" means with respect to the 2015B Loan, the lesser of (i) \$3,500,000, plus the amount, if any, which is not funded pursuant to the 2015A Loan Agreement by \_\_\_\_\_, 2018 and which is transferred to the amount which may be advanced pursuant to this Agreement or (ii) \$10,000,000.

“*Loan Payment Fund*” means the fund by that name established by the provisions of the Custodial Agreement to be held and administered by the Custodian pursuant to the provisions of the Custodial Agreement for the purposes set forth therein.

“*Mandatory Prepayment Fund*” means the fund by that name established by the provisions of the Custodial Agreement to be held and administered by the Custodian pursuant to the provisions of the Custodial Agreement for the purposes set forth therein.

“*Maturity Date*” means December 1, 2045.

“*Maximum Advance Amount*” means, with respect to the 2015B Note, the lesser of (i) \$3,500,000, plus the amount, if any, which is not funded pursuant to the 2015A Loan Agreement by \_\_\_\_\_, 2018 and which is transferred to the amount which may be advanced pursuant to this Agreement or (ii) \$10,000,000.

“*Non-Use Fee*” has the meaning set forth in Section 2.01(e) hereof.

“*Parity Debt*” means any Debt issued by the District payable from the Pledged Revenue on a parity basis with the 2015B Note, including, but not limited to, the 2015A Note.

“*Payment Date*” means June 1 and December 1 of each year, commencing June 1, 2016 and continuing through and including the Maturity Date.

“*Payment Account*” means the account as may be designated by the Bank in writing to the District and the Custodian.

“*Permitted Investments*” means any investment or deposit permissible under then applicable law for governmental entities such as the District.

“*Person*” means an individual, a corporation, a partnership, an association, a joint venture, a trust, an unincorporated organization or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

“*Placement Agent*” means RBC Capital Markets, Denver, Colorado.

“*Pledged Revenue*” means all Property Tax Revenues, all Specific Ownership Tax Revenues and all System Development Fees plus, for purposes of this Agreement, such term includes all amounts held in the funds and accounts held under the Custodial Agreement pledged under the Custodial Agreement to secure the Loan and the Note.

“*Pledged Revenue Fund*” means the fund by that name established by the provisions of the Custodial Agreement to be held and administered by the Custodian pursuant to the provisions of the Custodial Agreement for the purposes set forth in Section 3.03 hereof.

“*Prime Rate*” means a variable per annum rate of interest equal at all times to the rate of interest established and quoted by the Bank as its “Prime Rate,” “Base Rate” or “Reference Rate,” such rate to change contemporaneously with each change in such established and quoted

rate, provided that it is understood that the Prime Rate shall not necessarily be representative of the rate of interest actually charged by the Bank on any loan or class of loans.

“*Projected Debt Service*” means the amount of principal and interest, if any, due and payable on the Loan through and including \_\_\_\_\_ 1, 201\_ as calculated by the Bank

“*Project Fund*” means the Project Fund established under the Custodial Agreement for the purposes set forth therein.

“*Property Tax Revenues*” means all moneys derived from the imposition of the Required Mill Levy; provided, however, that any “Property Tax Revenues” shall not include amounts collected from an operations and maintenance mill levy.

“*Quarterly Advance*” shall be the amount calculated by the District and confirmed by the Bank pursuant to the form Schedule 1 attached to Exhibit B hereto.

“*Rate Reset Date*” means December 1, 2020, and each five year anniversary of such date until the Maturity Date. If the Rate Reset Date falls on a non-Business Day, the Rate Reset Date shall be deemed to be the immediately preceding Business Day before December 1<sup>st</sup> of that year.

“*Required Mill Levy*” means:

(a) An ad valorem mill levy (a mill being equal to 1/10 of 1 cent) imposed upon all taxable property of the District each year in an amount equal to 30 mills; provided that if, on or after January 1, 2006, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement; the mill levy may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board of the District in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenue generated by the mill levy, as adjusted for changes occurring after January 1, 2006, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.; and

(b) Notwithstanding anything herein to the contrary, in no event may the Required Mill Levy be established at a mill levy which would cause the District to derive tax revenue in any year in excess of the maximum tax increases permitted by the District's electoral authorization, and if the Required Mill Levy as calculated pursuant to the foregoing would cause the amount of taxes collected in any year to exceed the maximum tax increase permitted by the District's electoral authorization, the Required Mill Levy shall be reduced to the point that such maximum tax increase is not exceeded.

“*Special District Act*” means Title 32, Article 1, C.R.S.

“*Specific Ownership Tax*” means the specific ownership tax which is collected by the county and remitted to the District pursuant to Section 42-3-107, C.R.S., or any successor statute.

“*Subordinate Debt*” means obligations of the District payable from Pledged Revenue or other revenues of the District that are junior and subordinate to the 2015B Loan and the Parity Debt.

“*Supplemental Public Securities Act*” means Title 11, Article 57, C.R.S.

“*System Development Fees*” means all fees, rates, tolls, penalties, and charges of a capital nature (excluding periodic, recurring service charges) imposed by the District or any District-owned "enterprise" under Article X, Section 20 of the Colorado Constitution, for services, programs, or facilities furnished by the District; excluding any fees, rates or charges of a capital nature imposed upon or collected from property owned by an End User (as defined in the Service Plan); and including the revenue derived from any action to enforce the collection of System Development Fees, and the revenue derived from the sale or other disposition of property acquired by the District from any action to enforce the collection of System Development Fees.

“*Taxable Rate*” means (a) 3.50% plus (b) the five-year Federal Home Loan Bank Des Moines (or its successor in interest) Fixed Rate Advances [regular] rate as determined by the Bank of the date of any Advance or any Rate Reset Date, which is to be strictly interpreted and is not intended to serve any purpose other than providing an index to determine the interest rate on the Loan and shall mean the rate per annum quoted by the Bank based upon the rate as quoted in Bloomberg, or on the FHLB Des Moines internet website at <http://www.fhlbdm.com> or other comparable service selected by the Bank for determining the Fixed Rate Advances [regular] rate; provided, however, for any Advance made after the Initial Advance and before the first Reset Date, the rate in (b) above shall be based upon the Fixed Rate Advances [regular] rate as calculated by the Bank as of the date of such Advance for the maturity that corresponds to the term of the related Advance (such term being from the date of the Advance Date to the next Reset Date).

“*Tax Certificate*” means the tax compliance certificate prepared by Tax Counsel to be signed by the District relating to the requirements of Sections 103 and 141-150 of the Code.

“*Tax Counsel*” means Butler Snow LLP.

“*Unfunded Portion*” means, as of any date, an amount equal to the Maximum Advance Amount less the total amount of all Advances funded as of such date.

## ARTICLE II

### LOAN

#### Section 2.01. Term Loan.

(a) *Agreement to Make Loan.* The Bank hereby agrees to extend the Loan to the District in the aggregate principal amount of the Loan Amount subject to the terms and conditions of this Agreement. The Loan shall be evidenced by the 2015B Note, the form of which is set forth in Exhibit A attached hereto.

(b) **Initial Advance.** An Initial Advance shall be made upon delivery to the Bank of the executed Note and an Approving Opinion of Tax Counsel subject to the terms and conditions set forth in Section 2.06 hereof. The District shall make an Advance Request (as described in 2.01(c) below) for the Initial Advance and in conjunction with the Initial Advance, the District shall designate the Loan as a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3) of the Code.

(c) **Advances.** Subject to the terms and conditions of this Agreement, including without limitation satisfaction of the conditions set forth in Section 2.06 hereof and upon delivery to the Bank of an Advance Request in the form of Exhibit B hereto, the Bank hereby agrees to make Advances to the District from time to time during the Advance Period (but not more than once per calendar year quarter and in amounts not less than \$250,000) in the aggregate original principal amounts not to exceed \$3,500,000 with respect to the 2015B Loan plus the amount, if any, which is not funded pursuant to the 2015A Loan Agreement by \_\_\_\_\_, 2018 and which is transferred to the amount which may be advanced pursuant to this Agreement (as more particularly defined in Section 1.01 hereof, the “Maximum Advance Amount”). On the Advance Termination Date, the Unfunded Portion shall be reduced to zero.

(d) **Note.** The Loan shall be evidenced by the 2015B Note. On the Closing Date, the District shall execute and deliver the 2015B Note payable to the Bank, the form of which is set forth in Exhibit A attached hereto. With respect to each Advance funded by the Bank from time to time hereunder, the Bank shall maintain, in accordance with its usual practices, an account or accounts evidencing the indebtedness resulting from each such Advance and the amounts of principal and interest payable and paid from time to time hereunder on the Outstanding Loan Amount. In any legal action or proceeding in respect of any Advance or the Loan, the entries made in such account or accounts shall be conclusive evidence (absent manifest error) of the existence and amounts of the obligations therein recorded. The Note shall evidence the obligation of the District to pay the Loan and shall evidence the obligation of the District to pay the principal amount of each Advance funded by the Bank hereunder, as such amounts are outstanding from time to time. Each shall constitute a general obligation of the District payable from and secured by the Pledged Revenue, subject to the limitations set forth herein.

(e) **Non-Use Fee.** The District shall pay to the Bank a nonrefundable annual fee (the “Non-Use Fee”) in the amount of 0.30% of the Unfunded Portion determined as of December 1<sup>st</sup> of each year, computed on the basis of a 360-day year and actual days elapsed, payable quarterly in arrears on the first Business Day of each March, June, September and December, commencing on the first Business Day of December 2016, through and including the date upon which the earlier of the following occurs (i) the Full Funding Date or (ii) the expiration or termination of the Advance Period; provided however no Non-Use Fee shall accrue before September 1, 2016.

(f) **Application of Series 2015B Loan Proceeds.** On the Closing Date, the Bank shall disburse the proceeds of the Initial Advance and any costs and expenses of the Bank in connection with the Loan and the District and the Custodian shall apply such proceeds to the Costs of Issuance Account of the Project Fund, the 2014B Capitalized Interest Account in the Loan Payment Fund amounts constituting capitalized interest and into the 2014B Project Account of the Project Fund the amounts set forth in the Advance Request.



**Section 2.02. Interest Rate; Interest Payments; Principal Payments.**

(a) ***Interest Rate.*** The unpaid principal balance of the Loan will bear interest as follows:

(i) prior to the first Rate Reset Date, each Advance of the 2015B Loan shall bear interest at a rate specific to that Advance determined on the date of the Advance at a rate equal to the Bank Qualified Tax-Exempt Rate as determined by the Bank and provided by the Bank to the Custodian and District, upon which the Custodian may conclusively rely;

(ii) upon each Rate Reset Date, all Advances under the 2015B Loan shall bear interest for the ensuing five-year period at the Bank Qualified Tax-Exempt Rate as determined by the Bank on such Rate Reset Date (and provided by the Bank to the Custodian and District) upon which the Custodian may conclusively rely; and

(iii) all interest due and payable under this Agreement shall be calculated on the basis of a 360-day year and actual number of days elapsed.

(b) ***Interest Payments.***

(i) ***Semi-Annual Payments.*** Interest payments on the Loan shall be due semi-annually on each Payment Date and on the Maturity Date.

(ii) ***Default Interest Rate.*** Immediately upon the occurrence of an Event of Default or upon the Maturity Date, interest shall immediately begin to accrue and compound semi-annually on all principal amounts owing on the Loan at the Default Interest Rate for so long as such Event of Default continues and remains uncured or, if after the Maturity Date, for so long as amounts due on the Loan remain unpaid; notwithstanding the foregoing, in the case of an Event of Default pursuant to Section 7.01(o), the Loan shall bear interest at the Taxable Rate until the Maturity Date, and the Default Interest Rate thereafter.

(c) ***Principal Payments.*** Principal payments shall be made annually on December 1 of each year thereafter until the Maturity Date, on which Maturity Date the outstanding principal balance of the Loan shall be due and payable in full. The annual principal payment amounts shall be determined on the date of the Initial Advance and evidenced by a schedule signed by the District and the Bank and attached to this Agreement. In the event all Advances are not made as scheduled, the above-referenced principal repayment schedule shall, upon the written request of the District, be re-amortized by the Bank to approximate [the debt service shown above] with the shorter amortization period and such revised repayment schedule shall be delivered in writing to the Notice Parties identified in Section 8.05.

(d) ***Prepayment.*** For the first two years after (i) the Closing and (ii) the first two years after each Rate Reset Date, the District may not prepay the Loan. The District may prepay the Loan commencing on the 2nd anniversary of either (i) the Closing Date for the Note

(until the Rate Reset Date) or (ii) the 2nd anniversary of each Rate Reset Date and any day thereafter until the next Rate Reset Date upon 30-day notice to the Bank upon payment of principal of par plus 1% of the outstanding principal balance of the Loan; if such prepayment occurs after the 3rd anniversary of the Closing Date or any Rate Reset Date, then the District may prepay the Loan, without penalty, upon payment of the principal of par and accrued interest until the next Rate Reset Date. Notwithstanding the foregoing, to the extent funds are available in the Mandatory Prepayment Fund, such funds shall be applied by the Custodian to the prepayment of the Loan without penalty or premium pursuant to the terms and conditions set forth in Section 5 of the Custodial Agreement.

(e) **Obligations Unconditional.** The District's obligation to repay the Loan hereunder and all of its other obligations under this Agreement shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment which the District may have against the Bank, any Participant (as defined in Section 8.02(c)), or any other Person, including, without limitation, any defense based on the failure of any nonapplication or misapplication of the proceeds of the Loan hereunder, and irrespective of the legality, validity, regularity or enforceability of all or any of the Financing Documents, and notwithstanding any amendment or waiver of (other than an amendment or waiver signed by the Bank explicitly reciting the release or discharge of any such obligation), or any consent to, or departure from, all or any of the Financing Documents or any exchange, release, or nonperfection of any collateral securing the obligations of the District hereunder and any other circumstances or happening whatsoever, whether or not similar to any of the foregoing; provided, however, that nothing contained in this Section 2.02(e) shall abrogate or otherwise affect the rights of the District pursuant to Section 8.16 hereof.

(f) **Waivers, Etc.** To the full extent permitted by law: (i) the District hereby waives (A) presentment, demand, notice of demand, protest, notice of protest, notice of dishonor and notice of nonpayment; (B) to the extent the Bank is not in default hereunder, the right, if any, to the benefit of, or to direct application of, any security hypothecated to the Bank until all obligations of the District to the Bank hereunder, howsoever arising, has been paid; (C) the right to require the Bank to proceed against the District hereunder, or against any Person under any guaranty or similar arrangement, or under any agreement between the Bank and any Person or to pursue any other remedy in the Bank's power; (D) all statutes of limitation; and (E) any defense arising out of the election by the Bank to foreclose on any security by one or more non-judicial or judicial sales; (ii) the Bank may exercise any other right or remedy, even though any such election operates to impair or extinguish the District's right to repayment from, or any other right or remedy it may have against, any Person, or any security; and (iii) the District agrees that the Bank may proceed against the District or any Person directly and independently of any other, and that any forbearance, change of rate of interest, or acceptance, release or substitution of any security, guaranty, or loan or change of any term or condition thereunder or under any Financing Document (other than by mutual agreement between the District and the Bank) shall not in any way affect the liability of the District hereunder.

(g) **Manner of Payments.** All interest, fees, and other payments to be made hereunder by or on behalf of the District to the Bank shall be made, and shall not be considered made until received, in United States dollars from amounts in the Loan Payment Fund in

immediately available funds. The District or the Custodian shall make each payment hereunder in the manner and at the time necessary so that each such payment is received in the Loan Payment Fund not later than 12:00 p.m., Denver time, on the day when due in lawful money of the United States of America in immediately available funds. Any payment received after 12:00 p.m., Denver time, shall be deemed made on the next succeeding Business Day. All payments made hereunder by or on behalf of the District to the Bank may be applied to such amounts due hereunder and under the Financing Documents in such order as the Bank shall elect.

(h) ***Default Interest Rate; Calculation of Interest and Fees.*** All interest and fees due and payable under this Agreement shall be calculated on the basis of a 360-day year and actual number of days elapsed. Any sum due to the Bank and not paid when due and any sum due to the Bank upon the occurrence or during the continuance of any Event of Default hereunder shall bear interest and compound semi-annually at the Default Interest Rate.

(i) ***Maximum Interest Rate.*** If the interest due and payable on any obligation hereunder computed at the applicable rate as provided in Sections 2.02(a)(i) and (a)(ii) hereof is in excess of the maximum net effective interest rate of [16%] per annum under the District's voted debt authorization (the "Maximum Rate"), the difference between what would have been the interest payable on such amounts had they accrued interest at the rate provided in Sections 2.02(a)(i) and (a)(ii) and the Maximum Rate (the "Interest Differential") shall remain an obligation of the District. Notwithstanding anything herein or in the Financing Documents to the contrary, if at any time there is an Interest Differential owed to the Bank, any reduction in interest rate that would result from the application of the Maximum Rate to the Default Interest Rate, shall not reduce the rate of interest below the Maximum Rate until the total amount due has been paid to the Bank as if the applicable rate computed as provided in Section 2.02(a)(i) and (a)(ii) hereof had at all times been utilized. It is acknowledged by the Bank that the obligations of the District hereunder are limited by the District's voted debt authorization with respect to principal amount, maximum net effective interest rate of [16%] per annum, maximum repayment cost, and maximum annual tax increases, and that, notwithstanding anything herein to the contrary, the District is not authorized and is not obligating itself with respect to the foregoing obligations in excess of that which is permitted under the terms of the District's voted debt authorization.

**Section 2.03. Costs, Expenses and Taxes.** Subject to annual appropriation by the Board, the District agrees to pay all reasonable costs and expenses actually incurred by the Bank in connection with (a) the preparation, execution and delivery of this Agreement or any other documents, including the other Financing Documents, which may be delivered by any party in connection with this Agreement and the other Financing Documents; (b) the filing, recording, administration (other than normal, routine administration), enforcement, transfer, amendment, maintenance, renewal or cancellation of this Agreement and all amendments or modifications thereto (or supplements hereto), including, without limitation, the reasonable fees and out-of-pocket expenses of counsel for the Bank and independent public accountants and other outside experts retained by the Bank in connection with any of the foregoing; and (c) the fees and expenses of the Custodian or any other custodian appointed by the Bank to hold any collateral securing the obligations of the District hereunder. In addition, the District agrees to pay promptly all reasonable costs and expenses of the Bank, including, without limitation, the

actual, reasonable fees and expenses of external counsel, for (i) any and all amounts which the Bank has paid relative to the Bank's curing of any Event of Default under this Agreement or any of the Financing Documents; (ii) the enforcement of this Agreement or any of the Financing Documents; or (iii) any action or proceeding relating to a court order, injunction, or other process or decree restraining or seeking to restrain the Bank from paying any amount hereunder. Without prejudice to the survival of any other agreement of the District hereunder, the agreements and obligations contained in this Section 2.03 shall survive the payment in full of all amounts owing to the Bank hereunder.

**Section 2.04. Pledge.** The District hereby pledges, assigns and grants to the Bank a first priority security interest in the Pledged Revenue to secure its obligations to the Bank hereunder and under the other Financing Documents. The lien of the Bank on the Pledged Revenue hereunder and under the Custodial Agreement shall be subject to no other liens except those liens granted on the Pledged Revenue to the Parity Debt and the Subordinate Debt. The District represents and warrants that, except as described in this Section 2.04, the Pledged Revenue is not and shall not be subject to any other lien or encumbrance without the prior written consent of the Bank.

**Section 2.05. Conditions to Closing.** The funding by the Bank of the Loan is conditioned upon the satisfaction of each of the following:

(a) all Financing Documents and other instruments applicable to the Loan are in form and content satisfactory to the Bank and have been duly executed and delivered in form and substance satisfactory to the Bank and shall have not been modified, amended or rescinded, shall be in full force and effect on and as of the Closing Date and executed original or certified copies of each thereof shall have been delivered to the Bank;

(b) the Bank has received a certified copy of the Authorizing Resolution of the District, which shall be in form and content satisfactory to the Bank and authorize the District to obtain the Loan and perform all acts contemplated by this Agreement and all other Financing Documents, a copy of the District resolution authorizing the System Development Fees, if any, and a certified copy of all other, resolutions and proceedings taken by the District authorizing the District to obtain the Loan and the execution, delivery and performance of this Agreement and the other Financing Documents and the transactions contemplated hereunder and thereunder, together with such other certifications as to the specimen signatures of the officers of the District authorized to sign this Agreement and the other Financing Documents to be delivered by the District hereunder and as to other matters of fact as shall reasonably be requested by the Bank;

(c) the District has provided a certificate certifying that on the Closing Date each representation and warranty on the part of the District contained in this Agreement and in any other Financing Document is true and correct and no Event of Default, or event which would, with the passage of time or the giving of notice, constitute an Event of Default, has occurred and is continuing and no default exists under any other Financing Documents, or under any other agreements by and between the District and the Bank and certifying as to such other matters as the Bank might reasonably request;

(d) the Bank shall have received the opinion of Tax Counsel as to the exemption of interest on the 2015B Loan from income taxation by the United States of America and the State of Colorado standard in similar transactions and reasonably satisfactory to the Bank;

(e) all proceedings taken in connection with the transactions contemplated by this Agreement, and all instruments, authorizations and other documents applicable thereto, are satisfactory to the Bank and its counsel;

(f) the Bank shall have received an opinion of General Counsel to the District relating to due organization, due delivery and due execution of the Financing Documents standard in similar transactions and reasonably satisfactory to the Bank;

(g) the Custodian shall be Zions First National Bank;

(h) the Bank shall have received a certificate of an authorized representative of the Custodian certifying as to the authority, incumbency and specimen signatures of the authorized representatives of the Custodian and certifying as to such other matters as the Bank might reasonably request;

(i) no law, regulation, ruling or other action of the United States, the State of Colorado or any political subdivision or authority therein or thereof shall be in effect or shall have occurred, the effect of which would be to prevent the District from fulfilling its obligations under this Agreement or the other Financing Documents;

(j) all Bank counsel fees and any other fees and expenses due and payable in connection with the execution and delivery of this Agreement shall have been paid by the District upon issuance of the Loan;

(k) the Bank shall have been provided with the opportunity to review all pertinent financial information regarding the District, agreements, documents, and any other material information relating to the District or the Pledged Revenue or any other component of the collateral securing the obligations of the District hereunder;

(l) all information provided by the District to the Bank is accurate in all respects;

(m) the District is not in violation or breach of any other agreement with the Bank of any type or amount or of any third-party obligation in excess of \$10,000;

(n) evidence of a first and exclusive perfected security interest in favor of the Bank in the collateral securing the obligations of the District hereunder;

(o) the Bank shall have received such other certificates, approvals, filings, opinions and documents as shall be reasonably requested by the Bank;

(p) the District shall have received an investment letter from the Bank in a form satisfactory to the District; and

(q) all other legal matters pertaining to the execution and delivery of this Agreement and the other Financing Documents shall be reasonably satisfactory to the Bank.

**Section 2.06. Procedure for Requesting and Funding Advances.**

(a) *Conditions to Funding Advances.* Other than the Initial Advance, no Advance shall be requested by the District and the Bank shall have no obligation to honor an Advance Request except in accordance with the provisions and upon fulfillment of the terms and conditions set forth in this Agreement. The funding by the Bank of each Advance (other than the Initial Advance) is conditioned upon the satisfaction of each of the following, each of which shall be satisfactory in all respects to the Bank:

(i) *Advance Frequency.* Advance Requests may only be made during the Advance Period and shall be submitted to the Bank no more than once in any calendar quarter. Advances shall be made in amounts of \$250,000 or more.

(ii) *Representations and Warranties True; No Default.* At the time any Advance is to be made and as a result thereof, immediately thereafter, all representations and warranties of the District set forth in Article IV are true and correct as though made on the date of such Advance Request and on the date when such Advance is funded and no Event of Default hereunder has occurred and is continuing and no litigation is then pending or threatened concerning the District's authority to pledge the Pledged Revenue as provided herein, and the District shall deliver an executed certificate of an Authorized Person to such effect in connection with each Advance in substantially the form of Exhibit B.

(iii) *Payments Current.* The District shall be current on all of its obligations hereunder.

(iv) *Use of Advance Proceeds.* The District shall not use the proceeds of any Advance for any payment which is not permitted by the Code, the Special District Act or the Service Plan.

(v) *Advance Request.* The Bank shall have received an Advance Request from the District, the form of which is attached hereto as Exhibit B (each, an "Advance Request"), signed by the Authorized Person of the District and containing the calculation of the amount of such Advance requested by the District, which amount shall be based on the formula set forth in Schedule 1 of Exhibit B.

(vi) *Amount of Advance.* The amount of the requested Advance, when combined with the sum of all prior Advances made hereunder shall not exceed the Maximum Advance Amount for the Loan upon which the Advance is made. From each Advance the Bank will transfer amounts as specified in each Advance Request.

(vii) *Other Conditions Precedent to Funding Each Advance.*

(A) The District shall have provided the Bank with each Advance Request the all documentation requested by the Bank supporting calculations made on Schedule 1 of the Advance Request;

(B) No Advance shall be requested or made after the Advance Termination Date;

(C) The Bank shall have approved such Advance Request;

(D) The obligation of the Bank to make future Advances hereunder subject to the terms of this Agreement shall not have been terminated in accordance with the terms hereof;

(b) ***Funding of Advances.*** Provided that the conditions set forth in Section 2.06(a) above are satisfied, within 5 days of receipt by the Bank of an Advance Request signed by the Authorized Person, the Bank shall provide in writing to the District and the Custodian: (i) the latest date on which the Bank will fund such Advance if requested by the District (the "Funding Deadline"); (ii) the amount of such Advance that is to be deposited into the 2015B Capitalized Interest Account, representing the amount required to bring the balance of the Capitalized Interest Account to the Capitalized Interest Requirement, if any, after such Advance is made; and (iii) the interest rate applicable to said Advance.

(c) ***Final Advance.*** It is the expectation of the Bank and the District that the Advance Termination Date will occur before December 1, 201\_. If on December 1, 201\_, the Maximum Advance Amount for the Loan has not been reached, the District must notify the Bank and the Custodian of its election to either (i) surrender any right to any future Advances or (ii) request a final Advance from the Bank, the amount of which when combined with prior Advances, cannot exceed the Maximum Advance Amount. In the circumstance of (ii), the Bank, the District and the Custodian shall establish an escrow account to hold the proceeds of the final Advance until the satisfaction of the criteria for amounts for each Advance Request specified in (v) above have been met and any of such escrowed funds release shall be determined in accordance with the formula set forth in Schedule 1 of Exhibit B. Amounts in such escrow accounts shall bear interest along with all other Advances at the Bank-Qualified Rate effect on the first Rate Reset Date (December 1, 201\_).

### ARTICLE III

#### FUNDS AND ACCOUNTS

**Section 3.01. Acknowledgement of Funds.** Pursuant to the Custodial Agreement, the District created and established the following funds and accounts, which shall be held and administered by the Custodian in accordance with the provisions hereof:

- (a) the Pledged Revenue Fund;
- (b) the Loan Payment Fund (including a Capitalized Interest Account therein);
- (c) the Project Fund (including the 2015B Project Account and the Cost of Issuance Account therein); and
- (d) the Mandatory Prepayment Fund.

The Custodian is hereby authorized for the purpose of facilitating the administration of the Loan Agreement to create further accounts or subaccounts in any of the various funds and accounts established hereunder which are deemed necessary or desirable.

**Section 3.02. Application of Pledged Revenue.** After the Closing, the District shall transfer all amounts comprising Pledged Revenue to the Custodian as soon as may be practicable after the receipt thereof for application by the Custodian in accordance with the Custodial Agreement (to the extent Pledged Revenue are received by the District in any month, such transfer shall occur in no case less frequently than monthly and 10 days in advance of any Payment Date).

**Section 3.03. Pledged Revenue Fund.** The Pledged Revenue Fund shall be held and administered by the Custodian in accordance with the terms of the Custodial Agreement. Moneys in the Pledged Revenue Fund shall be applied by the Custodian only as set forth in the Custodial Agreement and the Pledged Revenue Fund is pledged to the payment of the Loan. The Custodian shall deposit the Pledged Revenue received from the District in the Pledged Revenue Fund as set forth in the Custodial Agreement.

**Section 3.04. Loan Payment Fund.** The Loan Payment Fund shall be held and administered by the Custodian in accordance with the terms of the Custodial Agreement. Moneys in the Loan Payment Fund (including amounts in the Capitalized Interest Account) shall be applied by the Custodian only as set forth in the Custodial Agreement and the Loan Payment Fund is pledged to the payment of the Loan.

**Section 3.05. Project Fund.** The Project Fund shall be held and administered by the Custodian in accordance with the terms of the Custodial Agreement. Moneys in the Project Fund shall be applied by the Custodian only as set forth in the Custodial Agreement and is pledged to the payment of the Loan.

**Section 3.06. Mandatory Prepayment Fund.** The Mandatory Prepayment Fund shall be held and administered by the Custodian in accordance with the terms of the Custodial Agreement. Moneys in the Mandatory Prepayment Fund shall be applied by the Custodian only as set forth in the Custodial Agreement and is pledged to the payment of the Loan.



## ARTICLE IV

### REPRESENTATIONS AND WARRANTIES OF THE DISTRICT

While any obligations hereunder or under any of the other Financing Documents are unpaid or outstanding, the District continuously represents and warrants to the Bank as follows:

**Section 4.01. Due Organization.** The District is a quasi-municipal corporation and political subdivision of the State of Colorado and a body corporate duly organized and validly existing under the laws of the State of Colorado.

**Section 4.02. Power and Authorization.** The District has all requisite power and authority to own and convey its properties and to carry on its business as now conducted and as contemplated to be conducted under the Financing Documents; to execute, deliver and to perform its obligations under this Agreement and the other Financing Documents; and to cause the execution, delivery and performance of the Financing Documents.

**Section 4.03. No Legal Bar.** To the best of the District's knowledge, the District is not in violation of any of the provisions of the laws of the State of Colorado or the United States of America or any of the provisions of any order of any court of the State of Colorado or the United States of America which would affect its existence or its powers referred to in the preceding Section 4.02. The execution, delivery and performance by the District of this Agreement and of the other Financing Documents (a) will not violate any provision of any applicable law or regulation or of any order, writ, judgment or decree of any court, arbitrator or governmental authority; (b) will not violate any provisions of any document constituting, regulating or otherwise affecting the operations or activities of the District; and (c) will not violate any provision of, constitute a default under, or result in the creation, imposition or foreclosure of any lien, mortgage, pledge, charge, security interest or encumbrance of any kind other than liens created or imposed by the Financing Documents, on any of the revenues or other assets of the District which could have a material adverse effect on the assets, financial condition, business or operations of the District, on the District's power to cause the Financing Documents to be executed and delivered, or its ability to pay in full in a timely fashion the obligations of the District under this Agreement or the other Financing Documents.

**Section 4.04. Consents.** The District has obtained all consents, permits, licenses and approvals of, and has made all registrations and declarations with any governmental authority or regulatory body required for the execution, delivery and performance by the District of this Agreement and the other Financing Documents.

**Section 4.05. Litigation.** There is no action, suit, inquiry or investigation or proceeding to which the District is a party, at law or in equity, before or by any court, arbitrator, governmental or other board, body or official which is pending or, to the best knowledge of the District, threatened in connection with any of the transactions contemplated by this Agreement or against or affecting the assets of the District, nor, to the best knowledge of the District, is there any basis therefor, wherein an unfavorable decision, ruling or finding (a) would adversely affect the validity or enforceability of, or the authority or ability of the District to perform its obligations under, the Financing Documents; (b) would, in the reasonable opinion of the District,

have a materially adverse effect on the ability of the District to conduct its business as presently conducted or as proposed or contemplated to be conducted; or (c) would adversely affect the exclusion of interest on the Loan from gross income for federal income tax purposes or the exemption of such interest from State of Colorado personal income taxes.

**Section 4.06. Enforceability.** This Agreement and each other Financing Document constitutes the legal, valid and binding obligation of the District, enforceable against the District in accordance with its terms (except as such enforceability may be limited by bankruptcy, moratorium or other similar laws affecting creditors' rights generally and provided that the application of equitable remedies is subject to the application of equitable principles).

**Section 4.07. Changes in Law.** To the best knowledge of the District, there is not pending any change of law which, if enacted or adopted could have a material adverse effect on the assets, financial condition, business or operations of the District, on the District's power to enter into this Agreement or the other Financing Documents or its ability to pay in full in a timely fashion the obligations of the District under this Agreement or the other Financing Documents.

**Section 4.08. Financial Information and Statements.** The financial statements and other information previously provided to the Bank or provided to the Bank in the future are or will be complete and accurate and prepared in accordance with generally accepted accounting principles. There has been no material adverse change in the District's financial condition since such information was provided to the Bank.

**Section 4.09. Accuracy of Information.** All information, certificates or statements given to the Bank pursuant to this Agreement and the other Financing Documents will be true and complete when given.

**Section 4.10. Tax-Exempt Status.** To the best of the District's knowledge, the District has not taken any action or omitted to take any action, and knows of no action taken or omitted to be taken by any other Person, which action, if taken or omitted, would adversely affect the exclusion of interest on the Loan from gross income for federal income tax purposes or the exemption of such interest from State of Colorado personal income taxes.

**Section 4.11. Financing Documents.** Each representation and warranty of the District contained in any Financing Document is true and correct as of the Closing Date.

**Section 4.12. Regulations U and X.** The District is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U or X issued by the Board of Governors of the Federal Reserve System); and no proceeds of the Loan will be or have been used to extend credit to others for the purpose of purchasing or carrying any margin stock.

**Section 4.13. Default, Etc.** The District is not in default in the performance, observance, or fulfillment of any of the obligations, covenants or conditions contained in any Financing Document or other resolution, agreement or instrument to which it is a party which would have a material adverse effect on the ability of the District to perform its obligations

hereunder or under the other Financing Documents, or which would affect the enforceability hereof or thereof.

**Section 4.14. Sovereign Immunity.** Except for actions that lie or would lie in tort, the District does not enjoy any rights of immunity on the grounds of sovereign immunity in respect of its obligations under this Agreement or any of the other Financing Documents.

**Section 4.15. No Filings.** No filings, recordings, registrations or other actions are necessary to create and perfect the pledges provided for herein and in the Custodial Agreement; all obligations of the District hereunder are secured by the lien and pledge provided for herein and in the Custodial Agreement; and the liens and pledges provided for herein and in the Custodial Agreement constitute valid prior liens subject to no other liens.

**Section 4.16. Outstanding Debt.** Except for this Agreement and the 2015A Loan Agreement, the District has no other Debt outstanding payable from or secured by the Pledged Revenue or any portion thereof or any other component of the collateral securing the obligations of the District hereunder. The District represents and warrants that it will incur additional Debt only in accordance with the provisions of Section 5.11 of this Agreement.

**Section 4.17. Appropriation.** No portion of the Pledged Revenue or any other component of the collateral securing the obligations of the District hereunder is subject to appropriation by any other Person.

## ARTICLE V

### COVENANTS OF THE DISTRICT

While any obligations hereunder or under any of the other Financing Documents are unpaid or outstanding, the District continuously warrants and agrees as follows:

**Section 5.01. Performance of Covenants, Authority.** The District covenants that it will faithfully perform and observe at all times any and all covenants, undertakings, stipulations, and provisions contained in the Authorizing Resolution, this Agreement, the Note, the other Financing Documents and all its proceedings pertaining thereto as though such covenants, undertakings, stipulations, and provisions were set forth in full herein (for the purpose of this provision the Financing Documents shall be deemed to continue in full force and effect notwithstanding any earlier termination thereof so long as any obligation of the District under this Agreement shall be unpaid or unperformed). The District covenants that it is duly authorized under the constitution and laws of the State of Colorado, including, particularly and without limitation, the Special District Act, to issue the Loan and to execute and deliver the Note, this Agreement, and the other Financing Documents, and that all action on its part for the issuance of the Loan and the execution and delivery of the Note, this Agreement, and the other Financing Documents has been duly and effectively taken and will be duly taken as provided herein, and that the Loan, the Note, this Agreement, and the other Financing Documents are and will be valid and enforceable obligations of the District according to the terms hereof and thereof.

**Section 5.02. Laws, Permits and Obligations.** The District will comply in all material respects with all applicable laws, rules, regulations, orders and directions of any governmental authority and all agreements and obligations binding on the District, noncompliance with which would have a material adverse effect on the District, its financial condition, assets or ability to perform its obligations under this Agreement and/or the other Financing Documents; provided that the District may in good faith contest such laws, rules, regulations, orders and directions and the applicability thereof to the District to the extent that such action would not be likely to have a material adverse effect on the District's ability to perform its obligations hereunder.

**Section 5.03. Tax Covenants.** The District covenants that it will not take any action or omit to take any action with respect to the Loan, the proceeds thereof, any other funds of the District or any facilities financed or refinanced with the proceeds of the Loan if such action or omission (i) would cause the interest on the Loan to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Code, (ii) would cause interest on the Loan to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Code except to the extent such interest is required to be included in the adjusted current earnings adjustment applicable to corporations under Section 56 of the Code in calculating corporate alternative minimum taxable income or (iii) would cause interest on the Loan 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 Loan until the date on which all obligations of the District in fulfilling the above covenant under the Code have been met.

**Section 5.04. Bonding and Insurance.** The District shall carry general liability coverage, workers' compensation, public liability, and such other forms of insurance on insurable District property upon the terms and conditions, and issued by recognized insurance companies, as in the judgment of the District would ordinarily be carried by entities having similar properties of equal value, such insurance being in such amounts as will protect the District and its operations. In addition, each District official or other Person having custody of any District funds or responsible for the handling of such funds, shall be bonded or insured against theft or defalcation at all times.

**Section 5.05. Other Liabilities.** The District shall pay and discharge, when due, all of its liabilities, except when the payment thereof is being contested in good faith by appropriate procedures which will avoid financial liability and with adequate reserves provided therefor.

**Section 5.06. Proper Books and Records.** The District shall keep or cause to be kept adequate and proper records and books of account in which complete and correct entries shall be made with respect to the District, the Pledged Revenue and all of the funds and accounts established or maintained pursuant to any of the Financing Documents. The District shall (a) maintain accounting records in accordance with generally recognized and accepted principles of accounting consistently applied throughout the accounting periods involved; (b) provide the Bank with such information concerning the business affairs and financial condition (including insurance coverage) of District as the Bank may request; and (c) without request, provide the Bank with the information set forth below.

**Section 5.07. Reporting Requirements.**

(a) The District shall notify the Bank promptly of all interim litigation or administrative proceedings, threatened or pending, against the District which would, if adversely determined, in the District's reasonable opinion, have a material effect on the District's financial condition arising after the date hereof.

(b) The District shall provide the following to the Bank at the times and in the manner provided below:

(i) as soon as available, but not later than 210 days following the end of each Fiscal Year, the District shall furnish to the Bank its audited financial statements prepared in accordance with generally accepted accounting principles consistently applied, in reasonable detail and certified by a firm of independent certified public accountants selected by the District and satisfactory to the Bank, together with a certificate of an authorized representative of the District evidencing the District's continuing compliance with Sections 5.11, 5.12 and 5.16 and stating whether there exists on the date of such certificate any Event of Default and, if any Event of Default then exists, setting forth the details thereof and the actions which the District is taking or proposes to take with respect thereto; provided, however, to the extent that the District is exempt under Colorado law from the requirement to prepare audited financial statements, the District may satisfy the reporting requirements of this subsection (i) by delivering to the Bank written certification of its exemption from the audit requirements and a financial statement prepared by management of the District for such Fiscal Year;

(ii) as soon as available, but in no event later than 90 days after each calendar quarter's end, the District shall furnish to the Bank the District's financial statements (including a statement of all District revenues, a schedule of assets and liabilities including all District fund and accounts), the budget (with any amendments) prepared by the District Accountant for such Fiscal Year, which budget shall include as separate line items all projected Pledged Revenue expected to be received in such Fiscal Year;

(iii) promptly upon certification of the Required Mill Levy, if any, by the District to the county each year but in no event later than December 31 of each Fiscal Year, the District shall furnish to the Bank a certificate of an authorized officer of the District setting forth the amount of such Required Mill Levy so certified;

(iv) as soon as available, but in no event later than September 1 of each year, the District shall furnish to the Bank the preliminary certified "actual value" and assessed valuation of all property subject to the Required Mill Levy (including taxable property within the District and excluded property subject to the Required Mill Levy) for such calendar year;

(v) as soon as available, but in no event later than December 31 of each year, the District shall furnish to the Bank the final certified assessed

valuation of all property subject to the Required Mill Levy (including taxable property within the District and excluded property subject to the Required Mill Levy), as calculated, recorded and certified by the county assessor on or before December 16 of such calendar year; and

(vi) promptly upon request of the Bank, the District shall furnish to the Bank such other reports or information regarding the collateral securing the obligations of the District hereunder or the assets, financial condition, business or operations of the District, as the Bank may reasonably request.

(c) The District shall promptly notify the Bank of any Event of Default of which the District has knowledge, setting forth the details of such Event of Default and any action which the District proposes to take with respect thereto.

(d) The District shall immediately notify the Bank of any resignation of the Custodian.

(e) The District shall notify the Bank as soon as possible after the District acquires knowledge of the occurrence of any event which, in the reasonable judgment of the District, is likely to have a material adverse effect on the financial condition of the District or affect the ability of the District to perform its obligations under this Agreement or under any other Financing Documents.

**Section 5.08. Visitation and Examination.** Unless otherwise prohibited by law, the District will permit any Person designated by the Bank to visit any of its offices to examine the District's books and financial records, and make copies thereof or extracts therefrom, and to discuss its affairs, finances and accounts with its principal officers, all at such reasonable times and as often as the Bank may reasonably request.

**Section 5.09. Further Assurances.** The District shall do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged and delivered, such indentures supplemental hereto and such further acts, instruments, and transfers as the Bank may reasonably require for the better assuring, transferring, and pledging unto the Bank the Pledged Revenue; provided, however, that the District shall not be obligated to incur in excess of nominal expenses in complying with this covenant.

**Section 5.10. Covenant to Impose Required Mill Levy.**

(a) For the purpose of paying the District's obligations under this Agreement, the District covenants to cause to be levied on all of the taxable property of the District, in addition to all other taxes, direct annual taxes in each of the years 2015 to 2044, inclusive (and, to the extent necessary to make up any overdue payments on the 2015B Note, in each year subsequent to 2044, but in no year beyond 2047 unless a later year is authorized by law, including without limitation, the Service Plan) in the amount of the Required Mill Levy. Nothing herein shall be construed to require the District to levy an ad valorem property tax in excess of the Required Mill Levy.

(b) The foregoing provisions of this Agreement are hereby declared to be the certificate of the Board to the board or boards of county commissioners of each county in which taxable real or personal property of the District is located, showing the aggregate amount of taxes to be levied from time to time, as required by law, for the purpose of the District's obligations under this Agreement.

(c) The amounts necessary to pay all of the District's obligations under this Agreement are hereby appropriated for said purposes, and such amounts as appropriate for each year shall also be included in the annual budget and the appropriation bills to be adopted and passed by the Board in each year, respectively, until the Loan has been fully paid, satisfied, and discharged.

(d) It shall be the duty of the Board, annually, at the time and in the manner provided by law for levying other District taxes, to ratify and carry out the provisions hereof with reference to the levying and collection of taxes; and the Board shall levy, certify, and collect said taxes in the manner provided by law for the purposes aforesaid.

(e) Said taxes shall be levied, assessed, collected, and enforced at the time and in the form and manner and with like interest and penalties as other general taxes in the State of Colorado, and when collected said taxes shall be paid to the District as provided by law. The Board shall take all necessary and proper steps to enforce promptly the payment of taxes levied pursuant to this Indenture.

**Section 5.11. Additional Debt.** The District covenants not to issue any additional Debt which is secured by the Pledged Revenue or any portion thereof or any other component of the collateral securing the obligations of the District hereunder without the prior written consent of the Bank.

**Section 5.12. Continued Existence.** The District shall maintain its existence and shall not merge or otherwise alter its corporate structure in any manner or to any extent as might reduce the security provided for the payment of the Loan, and will continue to operate and manage the District and its facilities in an efficient and economical manner in accordance with all applicable laws, rules and regulations.

**Section 5.13. Restructuring.** In the event the Pledged Revenue is insufficient or is anticipated to be insufficient to pay the principal of and interest on the Loan when due, the District shall use its best efforts to refinance, refund, or otherwise restructure the Loan so as to avoid such a default.

**Section 5.14. District Operations.** The District shall manage its finances and day to day operations in an economical and efficient manner and in accordance with all applicable laws, rules and regulations.

**Section 5.15. Enforcement and Collection.** The District shall diligently collect all Pledged Revenue and shall take all necessary action to enforce such collection. If System Development Fees are imposed, the District shall not reduce the amount of, or impair the collection of, the System Development Fees.

**Section 5.16. Material Adverse Action.** The District shall neither take any action nor consent to any action that would materially adversely affect any portion of the Pledged Revenue or any other component of the collateral securing the obligations of the District hereunder, including, but not limited to any efforts to convert property to a use that would exempt such property from the Required Mill Levy.

**Section 5.17. No Change in Financing Documents.** The District shall not cancel, terminate, amend, supplement, modify or waive any of the provisions of the Financing Documents to which it is party or consent to any such cancellation, termination, amendment, supplement, modification or waiver, without the prior written consent of the Bank. The District shall take no action, nor shall it cause the Custodian to take any action under any of the Financing Documents to which it is a party inconsistent with the rights of the Bank under this Agreement including, without limitation, its obligations to make payments to the Bank hereunder.

**Section 5.18. Removal or Appointment of Agents.** The Custodian shall not be removed, and no successor Custodian shall be appointed by the District without the prior written consent of the Bank.

**Section 5.19. References to Bank.** The District shall not refer to the Bank in any official statement, offering memorandum, or private placement memorandum without the Bank's prior written consent thereto.

**Section 5.20. Termination of Agreement.** So long as the District's obligations hereunder remain unpaid or unperformed, the District shall not terminate this Agreement.

**Section 5.21. Tax-Exempt/Taxable Property.** The District shall not acquire any real property for tax-exempt purposes or transfer, sell, convey or otherwise dispose of any taxable property within the District in any manner which would cause such property, following such transfer, sale, conveyance, or other disposition, to be exempt from ad valorem property taxation without the prior written consent of the Bank; provided, however, that if such acquisition is less than \$25,000 in the aggregate, then no Bank consent shall be required without the prior written consent of the Bank.

**Section 5.22. No Priority Claim.** Except as permitted by Section 5.11 hereof, the District shall not grant or permit to be granted any lien on or security interest in and to any portion of the Pledged Revenue or any other component of the collateral securing the obligations of the District hereunder.

## ARTICLE VI

### INVESTMENTS

**Section 6.01. Permitted Investments Only.** All moneys held by the Custodian in any of the funds or accounts held and administered by the Custodian under the Custodial Agreement shall be promptly invested or reinvested by the Custodian, at the written or oral request (followed by written instructions) and direction of the Authorized Person, in Permitted Investments only.



The Custodian may conclusively rely on the investment direction given by the District as being a Permitted Investment.

**Section 6.02. Other Investment Requirements.** Such investments shall mature or be redeemable at the option of the owner thereof no later than the respective dates when moneys held for the credit of such fund or account will be required for the purposes intended. The Authorized Person shall direct the Custodian to, or in the absence of direction, an authorized representative of the Bank may direct the Custodian, in accordance with this Section, to invest and reinvest the moneys in any investment permitted hereby so that the maturity date, interest payment date, or date of redemption, at the option of the owner of such investment, shall coincide as nearly as practicable with the times at which money is needed to be so expended. The Custodian may make any and all such investments through its investment department. In the absence of direction from the District or the Bank, the Custodian shall purchase or invest in shares of any investment company that (a) is registered under the Investment Company Act of 1940, as amended (including both corporations and Massachusetts business trusts, and including companies for which the Custodian or Bank may provide advisory, administrative, custodial, or other services for compensation); (b) invests substantially all of its assets in short-term high-quality money-market instruments, limited to obligations issued or guaranteed by the United States; and (c) maintains a constant asset value per share subject to Colorado law.

**Section 6.03. Compliance with Tax Covenants.** Any and all such investments shall be subject to full and complete compliance at all times with the covenants and provisions of Section 5.03 hereof.

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES

**Section 7.01. Events of Default.** The occurrence of any one or more of the following events or the existence of any one or more of the following conditions shall constitute an Event of Default under this Agreement (whatever the reason for such event or condition and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree, rule, regulation or order of any court or any administrative or governmental body):

(a) the District fails to apply the Pledged Revenue as required by this Agreement and the Custodial Agreement;

(b) the District fails to impose the Required Mill Levy;

(c) (i) the District fails to observe or perform any of the covenants, agreements or conditions in Sections 5.04, 5.10, 5.11, 5.15 5.16, 5.17, 5.18, 5.20, 5.21 and 5.22 hereof or in the Authorizing Resolution; or (ii) the District fails to observe or perform any other of the covenants, agreements or conditions on the part of the District in this Agreement, the Note, or the Authorizing Resolution, and, solely in the case of this clause (ii), the District fails to remedy the same within 30 days after the Bank has provided the District with notice thereof;

(d) any representation or warranty made by the District in this Agreement or in any other Financing Document or any certificate, instrument, financial or other statement furnished by the District to the Bank, proves to have been untrue or incomplete in any material respect when made or deemed made;

(e) the occurrence and continuance of an event of default or an event of nonperformance under the Custodial Agreement or any of the other Financing Documents after the expiration of any grace period as determined by the Bank;

(f) the pledge of the collateral or any other security interest created hereunder or under the Custodial Agreement fails to be fully enforceable with the priority required hereunder or thereunder;

(g) any judgment or court order for the payment of money exceeding any applicable insurance coverage by more than \$100,000 in the aggregate is rendered against the District and the District fails to vacate, bond, stay, contest, pay or satisfy such judgment or court order for 60 days (such satisfaction shall include, but not be limited to, compliance with the provisions of §24-10-113(3) C.R.S. or §13-60-101 C.R.S.);

(h) the District shall initiate, acquiesce or consent to any proceedings to dissolve the District or to consolidate the District with other similar entities into a single entity or the District shall otherwise cease to exist;

(i) a change occurs in the financial or operating conditions of the District, or the occurrence of any other event that, in the Bank's reasonable judgment, will have a materially adverse impact on the ability of the District to generate Pledged Revenue sufficient to satisfy the District's obligations under this Agreement or its other obligations, and the District fails to cure such condition within six months after receipt by the District of written notice thereof from the Bank;

(j) (i) the District shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it or seeking to adjudicate it insolvent or a bankrupt or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts; or (B) seeking appointment of a receiver, trustee, custodian or other similar official for itself or for any substantial part of its property, or the District shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against the District any case, proceeding or other action of a nature referred to in clause (k)(i) above and the same shall remain undismissed; or (iii) there shall be commenced against the District any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its property which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal, within 60 days from the entry thereof; or (iv) the District shall take action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii) or (iii) above; or (v) the District shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due;

(k) this Agreement, the Custodial Agreement or any other Financing Document, or any material provision hereof or thereof, (i) ceases to be valid and binding on the District or is declared null and void, or the validity or enforceability thereof is contested by the District (unless being contested by the District in good faith), or the District denies it has any or further liability under any such document to which it is a party; or (ii) any pledge or security interest created hereunder or under the Custodial Agreement fails to be fully enforceable with the priority required hereunder or thereunder;

(l) the District's auditor delivers a qualified opinion with respect to the District's status as an on-going concern;

(m) any funds or investments on deposit in, or otherwise to the credit of, any of the funds or accounts established hereunder or under the Custodial Agreement shall become subject to any writ, judgment, warrant or attachment, execution or similar process; or

(n) any determination, decision, or decree is made by the Commissioner or any District Director of the Internal Revenue Service, or by any court of competent jurisdiction, that the interest payable on the Loan is includable in the gross income for federal income tax purposes of the Bank by virtue of the occurrence of any event, including any change in the Constitution or laws of the United States of America or the State of Colorado, which results in interest payable on the Loan becoming includable in the gross income of the Bank pursuant to Section 103(b) of the Internal Revenue Code, and the rules and regulations promulgated thereunder if and so long as such determination, decision or decree is not being appealed or otherwise contested in good faith by the District.

**Section 7.02. Remedies.** Upon the occurrence and during the continuance of any Event of Default, the 2015B Loan shall bear interest at the Default Interest Rate (except in the case of an Event of Default pursuant to Section 7.01(n), in which case the 2015B Loan shall bear interest at the Taxable Rate until the Maturity Date, and the Default Interest Rate thereafter) and become immediately due and payable, and the Bank may seek recovery of all unpaid principal and interest then due. The Bank, at its option, may do any one or more of the following:

(a) exercise any and all remedies available under the Custodial Agreement; or

(b) take any other action or remedy available under the other Financing Documents or any other document, or at law or in equity.

In exercising any remedy hereunder, the Bank shall give notice to all Notice Parties listed in Section 8.05 hereof.

**Section 7.03. Notice to Bank of Default.** Notwithstanding any cure period described above, the District will immediately notify the Bank in writing (with a copy to the Custodian) when the District obtains knowledge of the occurrence of any Event of Default or any event which would, with the passage of time or the giving of notice, constitute an Event of Default.

**Section 7.04. Additional Bank Rights.** Upon the occurrence of an Event of Default the Bank may at any time (a) Setoff (as defined below), and/or (b) take such other steps to protect or preserve the Bank's interest in the Pledged Revenue.

**Section 7.05. Credit Balances; Setoff.** As additional security for the payment of the obligations described in the Financing Documents (collectively the "Obligations"), the District hereby grants to the Bank a security interest in, a lien on and an express contractual right to set off against all depository account balances, cash and any other property of the District now or hereafter in the possession of the Bank and the right to refuse to allow withdrawals from any account (collectively, "Setoff"). The Bank may, at any time upon the occurrence of an Event of Default hereunder Setoff against the Obligations whether or not the Obligations (including future payments to be made) are then due, all without any advance or contemporaneous notice or demand of any kind to the District, such notice and demand being expressly waived.

**Section 7.06. Delay or Omission No Waiver.** No delay or omission of the Bank to exercise any right or power accruing upon any default shall exhaust or impair any such right or power or shall be construed to be a waiver of any such default, or acquiescence therein; and every power and remedy given by this Agreement may be exercised from time to time and as often as may be deemed expedient.

**Section 7.07. No Waiver of One Default To Affect Another; All Remedies Cumulative.** No waiver of any Event of Default hereunder shall extend to or affect any subsequent or any other then existing Event of Default or shall impair any rights or remedies consequent thereon. All rights and remedies of the Bank provided herein shall be cumulative and the exercise of any such right or remedy shall not affect or impair the exercise of any other right or remedy.

**Section 7.08. Other Remedies.** Nothing in this Article VII is intended to restrict the Bank's rights under any of the Financing Documents or at law or in equity, and the Bank may exercise all such rights and remedies as and when they are available.

## ARTICLE VIII

### MISCELLANEOUS

**Section 8.01. Loan Agreement and Relationship to Other Documents.** The warranties, covenants and other obligations of the District (and the rights and remedies of the Bank) that are outlined in this Agreement and the other Financing Documents are intended to supplement each other. In the event of any inconsistencies in any of the terms in the Financing Documents, all terms will be cumulative so as to give the Bank the most favorable rights set forth in the conflicting documents, except that if there is a direct conflict between any preprinted terms and specifically negotiated terms (whether included in an addendum or otherwise), the specifically negotiated terms will control.

**Section 8.02. Assignments, Participations, etc. by the Bank.** Any assignment or participation by the Bank is not subject to the District's consent, but shall be subject to Section 8.15 and Section 8.26 hereof. In connection with any such assignment or participation,

the Bank may disclose to any proposed assignee or participant any information that the District discloses pursuant to this Agreement and the other Financing Documents. Any such assignment or participation is also subject to the following conditions:

(a) Subject to Section 8.15 hereof, the rights, options, powers and remedies granted in this Agreement and the other Financing Documents will extend to the Bank and to its successors and assigns, will be binding upon the District and its successors and assigns and will be applicable hereto and to all renewals and/or extensions hereof.

(b) In addition, the Bank may collaterally assign and pledge, without the consent of the District, all or any portion of the obligations owing to it to any Federal Reserve Bank or the United States Treasury as collateral security pursuant to Regulation A of the Board of Governors of the Federal Reserve System and any Operating Circular issued by such Federal Reserve Bank; provided that any payment in respect of such assigned obligations made by the District to the Bank in accordance with the terms of this Agreement shall satisfy the District's obligations hereunder in respect of such assigned obligation to the extent of such payment. No such collateral assignment shall release the Bank from its obligations hereunder.

(c) The Bank may at any time, without the consent of the District, sell to one or more commercial banks or other Persons not affiliates of the District (a "Participant") participating interests in its rights and obligations hereunder or under the other Financing Documents; provided, however, that (i) the Bank's obligations hereunder shall remain unchanged, (ii) the Bank shall remain solely responsible for the performance of such obligations, and (iii) the participation of one or more Participants shall not reduce or alter the Bank's obligations hereunder or affect in any way the rights or obligations of the District hereunder and the District has the right to continue to deal solely with the Bank. The Bank will give notice of the sale of such participation and the name of the Participant to the District within 30 days of the date of such sale. In the case of any such participation, the Participant shall be entitled to the benefit of Sections 2.02(g) and 8.03 hereof as though it were also the Bank hereunder, and if amounts outstanding under this Agreement are due and unpaid, or has been declared or has become due and payable upon the occurrence of an Event of Default, each Participant shall be deemed to have the right of setoff in respect of its participating interest in amounts owing under this Agreement to the same extent as if the amount of its participating interest were owing directly to it as the Bank under this Agreement.

**Section 8.03. Litigation/Indemnification.** The District agrees, to the extent permitted by law and as set forth herein, to completely indemnify and hold harmless the Bank and its agents, employees, officers, directors and controlling Persons, together with any Participant and its agents, employees, officers, directors and controlling Persons (hereinafter collectively referred to in this Section 8.03 as the "Indemnitees") from and against any and all claims, damages, liabilities, settlements, judgments, losses, legal fees and costs or expenses incurred (including all reasonable fees and disbursements of the Indemnitees' legal counsel and allocated cost of in-house counsel and staff and all of the Indemnitees' reasonable travel and other out-of-pocket expenses incurred in connection with the investigation of and preparation for any such pending or threatened claims and any litigation and other proceedings arising therefrom) arising out of or based upon (a) the Loan; or (b) the holding or owning by the Bank, the Participant, or their respective nominees of any collateral securing the obligations of the District

hereunder; or (c) any matters for which neither the Bank nor any Participant has any liability as set forth under Section 8.16 of this Agreement; provided, however, that the District shall not be required to indemnify the Indemnitees pursuant to Section 8.02 (c) above for any claims, damages, losses, liabilities, settlements, judgments, legal fees or costs or expenses to the extent proven to be caused by the Bank's willful or grossly negligent failure to make lawful payment under the Loan. Nothing in this Section 8.03 is intended to limit the District's obligations contained in Article II hereof.

If any action, lawsuit or claim shall be brought or asserted against the Indemnitees in respect of which indemnity may be sought by the Indemnitees from the District under this Section 8.03, the Indemnitees shall promptly notify the District in writing, and the District shall promptly assume the defense thereof, including, but not limited to, the employment of counsel (the selection of which has been approved by the Indemnitees and such approval shall not be unreasonably withheld), the payment of all legal fees and expenses and the right to negotiate and consent to settlement; provided, however, that the District shall not settle any such action which may adversely affect the Bank without the Bank's written consent, which consent shall not be unreasonably withheld.

In the event that the Indemnitees shall be advised by counsel experienced in matters of banking or securities laws that the Indemnitees have defenses or causes of action separate from those of the District, or that there is otherwise a conflict of interest, the Indemnitees have the right to employ their own counsel ("Independent Counsel") to defend the Indemnitees against such action at the expense of the District, who shall pay all legal fees and expenses incurred by such Independent Counsel. The Indemnitees' selection of Independent Counsel shall be approved by the District, and such approval shall not be unreasonably withheld. With respect to claims against the Indemnitees defended by Independent Counsel, the Indemnitees have the right to negotiate settlement of any such claims; provided, however, that the District shall not be liable for any such settlement effected by the Indemnitees without the written consent of the District, which consent shall not be unreasonably withheld.

The obligations of the District under this Section 8.03 shall be in addition to any rights that any Indemnitee may have at common law or otherwise and shall survive the payment in full of all amounts owing to the Bank hereunder. If indemnification pursuant to this Section 8.03 shall be found to be unlawful or invalid for any reason, then the District and each Indemnitee shall to the extent lawful make contributions in payment of any liabilities incurred pursuant to the above referenced issuance, sale and distributions and statements or omissions in accordance with the respective fault of the District and each Indemnitee.

**Section 8.04. Notice of Claims Against Bank; Limitation of Certain Damages.** In order to allow the Bank to mitigate any damages to the District from the Bank's alleged breach of its duties under the Financing Documents or any other duty, if any, to the District, the District agrees to give the Bank written notice no later than 10 days after the District knows of any claim or defense it has against the Bank, whether in tort or contract, relating to any action or inaction by the Bank under the Financing Documents, or the transactions related thereto, or of any defense to payment of the obligations of the District hereunder for any reason. The requirement of providing timely notice to the Bank represents the parties' agreed-to standard of performance regarding the duty of the Bank to mitigate damages related to claims against the Bank.

Notwithstanding any claim that the District may have against the Bank, and regardless of any notice the District may have given the Bank, the Bank will not be liable to the District for indirect, consequential and/or special damages arising therefrom, except those damages arising from the Bank's willful misconduct, gross negligence or bad faith. Failure by the District to give notice to the Bank shall not waive any claims of the District but such failure shall relieve the Bank of any duty to mitigate damages prior to receiving notice.

**Section 8.05. Notices.** Notice of any record shall be deemed delivered when the record has been (a) deposited in the United States Mail, postage pre-paid; (b) received by overnight delivery service; (c) received by Electronic Notification; or (d) when personally delivered at the following addresses (the "Notice Parties"):

to District: Allison Valley Metropolitan District No. 2  
c/o \_\_\_\_\_  
Attention: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

with a copy to: Spencer Fane Britt & Browne LLP  
1700 Lincoln Street  
Suite 2000  
Denver, CO 80203  
Telephone: (303) 839-3706  
Attention: Norman F. (Rick) Kron, Esq.  
Email: [rkron@spencerfane.com](mailto:rkron@spencerfane.com)

to Bank: Vectra Bank Colorado, National Association  
2000 S. Colorado Boulevard  
Suite 2-1200  
Denver, CO 80222  
Telephone: (720) 947-8802  
Attention: Conrad Freeman  
Email: [cfreeman@vectrabank.com](mailto:cfreeman@vectrabank.com)

to Custodian: Zions First National Bank  
1001 17th Street, Suite 850  
Denver, CO 80202  
Telephone: (720) 947-7475  
Attention: David Bata  
Email: [david.bata@zionsbank.com](mailto:david.bata@zionsbank.com)

**Section 8.06. Payments.** Payments due on the Loan shall be made in lawful money of the United States. All payments may be applied by the Bank to principal, interest and other amounts due under the Note and this Agreement pursuant to the terms of the Custodial Agreement and this Agreement.

**Section 8.07. Applicable Law and Jurisdiction; Interpretation; Severability.** This Agreement and all other Financing Documents will be governed by and interpreted in accordance with the internal laws of the State of Colorado, except to the extent superseded by Federal law. Invalidity of any provisions of this Agreement will not affect any other provision. TO THE EXTENT PERMITTED BY LAW, THE DISTRICT AND THE BANK HEREBY CONSENT TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT SITUATED IN DENVER, COLORADO, AND WAIVE ANY OBJECTIONS BASED ON *FORUM NON CONVENIENS*, WITH REGARD TO ANY ACTIONS, CLAIMS, DISPUTES OR PROCEEDINGS RELATING TO THIS AGREEMENT, THE NOTE, THE PLEDGED REVENUE, ANY OTHER FINANCING DOCUMENT, OR ANY TRANSACTIONS ARISING THEREFROM, OR ENFORCEMENT AND/OR INTERPRETATION OF ANY OF THE FOREGOING. Nothing in this Agreement will affect the Bank's rights to serve process in any manner permitted by law. This Agreement, the other Financing Documents and any amendments hereto (regardless of when executed) will be deemed effective and accepted only at the Bank's offices, and only upon the Bank's receipt of the executed originals thereof. Invalidity of any provision of this Agreement shall not affect the validity of any other provision.

**Section 8.08. Copies; Entire Agreement; Modification.** The District hereby acknowledges the receipt of a copy of this Agreement and all other Financing Documents.

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING, EXPRESSING CONSIDERATION AND SIGNED BY THE PARTIES ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. THE TERMS OF THIS AGREEMENT MAY ONLY BE CHANGED BY ANOTHER WRITTEN AGREEMENT. THIS NOTICE SHALL ALSO BE EFFECTIVE WITH RESPECT TO ALL OTHER CREDIT AGREEMENTS NOW IN EFFECT BETWEEN THE DISTRICT AND THE BANK. A MODIFICATION OF ANY OTHER CREDIT AGREEMENT NOW IN EFFECT BETWEEN THE DISTRICT AND THE BANK, WHICH OCCURS AFTER RECEIPT BY THE DISTRICT OF THIS NOTICE, MAY BE MADE ONLY BY ANOTHER WRITTEN INSTRUMENT. ORAL OR IMPLIED MODIFICATIONS TO ANY SUCH CREDIT AGREEMENT IS NOT ENFORCEABLE AND SHOULD NOT BE RELIED UPON.

**Section 8.09. Waiver of Jury Trial.** TO THE EXTENT PERMITTED BY LAW, THE DISTRICT AND THE BANK HEREBY JOINTLY AND SEVERALLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO ANY OF THE FINANCING DOCUMENTS, THE OBLIGATIONS THEREUNDER, ANY COLLATERAL SECURING THE OBLIGATIONS, OR ANY TRANSACTION ARISING THEREFROM OR CONNECTED THERETO. THE DISTRICT AND THE BANK EACH REPRESENTS TO THE OTHER THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY GIVEN.

**Section 8.10. Attachments.** All documents attached hereto, including any appendices, schedules, riders and exhibits to this Agreement, are hereby expressly incorporated by reference.



**Section 8.11. No Recourse Against Officers and Agents.** Pursuant to Section 11-57-209 of the Supplemental Public Securities Act, if a member of the Board, or any officer or agent of the District, acts in good faith in the performance of his duties as a member, officer, or agent of the Board or the District and in no other capacity, no civil recourse shall be available against such member, officer or agent for payment of the principal of and interest on the Loan. Such recourse shall not be available either directly or indirectly through the Board or the District, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the delivery of the Note evidencing the Loan and as a part of the consideration for such transfer, the Bank and any Person purchasing or accepting the transfer of the obligation representing the Loan specifically waives any such recourse.

**Section 8.12. Conclusive Recital.** Pursuant to Section 11-57-210 of the Supplemental Public Securities Act, this Agreement is entered into pursuant to certain provisions of the Supplemental Public Securities Act. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of this Agreement after delivery for value.

**Section 8.13. Limitation of Actions.** Pursuant to Section 11-57-212 of the Supplemental Public Securities Act, no legal or equitable action brought with respect to any legislative acts or proceedings in connection with the authorization or issuance of the Loan shall be commenced more than 30 days after the authorization of the Loan.

**Section 8.14. Pledge of Revenues.** The creation, perfection, enforcement, and priority of the pledge of revenues to secure or pay the Loan provided herein shall be governed by Section 11-57-208 of the Supplemental Public Securities Act, this Agreement, the Note and the Authorizing Resolution. The amounts pledged to the payment of the Loan shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge shall have a first priority. 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 District irrespective of whether such Persons have notice of such liens.

**Section 8.15. Authorized Denominations.** No interest in the Loan may be assigned, transferred, conveyed or acquired in an amount less than \$500,000 or any integral multiple of \$1,000 in excess thereof.

**Section 8.16. No Liability.** Any action taken or omitted by the Bank under or in connection with the Financing Documents, if taken or omitted in good faith and without willful misconduct or gross negligence, shall be binding upon the District and shall not put the Bank under any resulting liability to the District. The Bank, including its agents, employees, officer's directors and controlling Persons, shall not have any liability to the District, and the District assumes all risk, responsibility and liability for (a) the form, sufficiency, correctness, validity, genuineness, falsification and legal effect of any demands and other documents, instruments and other papers relating to the Loan even if such documents, should prove to be in any or all respects invalid, insufficient, fraudulent or forged; (b) the general and particular conditions stipulated therein; (c) the good faith acts of any Person whosoever in connection therewith; (d) failure of any Person (other than the Bank, subject to the terms and conditions hereof) to comply with the terms of the Loan; (e) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telex, telegraph, wireless or otherwise, whether or

not they be in code; (f) errors in translation or errors in interpretation of technical terms; (g) for any other consequences arising from causes beyond the Bank's control; or (h) any use of which may be made of the proceeds of the Loan, except to the extent of any direct, as opposed to indirect, consequential, or special damages suffered by the District which direct damages are proven by the District to be caused by the Bank's willful or grossly negligent failure to make lawful payment under the Loan.

**Section 8.17. No Waiver; Modifications in Writing.** No failure or delay on the part of the Bank in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other right, power or remedy. The remedies provided for herein are cumulative and are not exclusive of any remedies that may be available to the Bank at law or in equity or otherwise. No amendment, modification, supplement, termination or waiver of or to any provision of this Agreement, nor consent to any departure by the District therefrom, shall be effective unless the same shall be in writing and signed by or on behalf of the Bank. Any amendment, modification or supplement of or to any provision of this Agreement, and any consent to any departure by the District from the terms of any provision of this Agreement, shall be effective only in the specific instance and for the specific purpose for which made or given. No notice to or demand on the District in any case shall entitle the District to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the Bank to any other or further action in any circumstances without notice or demand. The Bank shall notify the Custodian of each amendment to this Agreement.

**Section 8.18. Payment on Non-Business Days.** Whenever any payment hereunder shall be stated to be due on a day which is not a Business Day, such payment may be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of the amount due.

**Section 8.19. Further Assurances.** The District agrees to do such further acts and things and to execute and deliver to the Bank such additional assignments, agreements, powers and instruments as the Bank may reasonably require or deem advisable to carry into effect the purposes of this Agreement or to better assure and confirm unto the Bank its rights, powers and remedies hereunder and under the Financing Documents.

**Section 8.20. Execution in Counterparts.** This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same Agreement.

**Section 8.21. Severability.** Any provision of this Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or nonauthorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

**Section 8.22. Headings.** Article and Section headings used in this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

**Section 8.23. Waiver of Rules of Construction.** The District hereby waives any and all provisions of law to the effect that an ambiguity in a contract or agreement should be interpreted against the party responsible for its drafting.

**Section 8.24. Integration.** This Agreement is intended to be the final agreement between the parties hereto relating to the subject matter hereof and this Agreement and any agreement, document or instrument attached hereto or referred to herein shall supersede all oral negotiations and prior writings with respect to the subject matter hereof.

**Section 8.25. No City Debt.** The debt of the District hereunder does not constitute a debt or obligation of the City of Colorado Springs in any manner. The faith and credit of the City of Colorado Springs is not be pledged for the repayment of the debt of the District hereunder.

**Section 8.26. Bank Representations.** The Bank hereby represents that it is a “depository institution” and therefore, a “financial institution” within the meaning of Section 32-1-1101(6)(a)(IV), C.R.S. The Bank is an organization that qualifies as an “accredited investor,” as defined in § 11-59-110(1)(g) C.R.S., and the Bank agrees that, without the District’s written consent, it will not assign or transfer this Loan Agreement or the Note to any person or entity which is not an “accredited investor” as defined in § 11-59-110(1)(g) C.R.S., or to any person or entity which is not a direct affiliate of the Bank (which affiliates shall mean any entity which, by virtue of majority ownership interest, controls, is controlled by, or under common control with the Bank). The Bank agrees that any assignment or transfer in violation of the foregoing shall be null and void and of no force or effect at the election of the District.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date set forth above.

**VECTRA BANK COLORADO, NATIONAL ASSOCIATION**, a national banking association

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

**ALLISON VALLEY METROPOLITAN DISTRICT NO. 2**, a quasi-municipal corporation and political subdivision of the State of Colorado

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

[SEAL]

Attest:

By \_\_\_\_\_  
Secretary

[Signature Page to Loan Agreement]

**EXHIBIT A**

**FORM OF 2015B NOTE**

**THIS NOTE MAY NOT BE SOLD TRANSFERRED OR OTHERWISE DISPOSED OF EXCEPT TO PERSONS WHO HAVE DELIVERED TO THE DISTRICT WRITTEN EVIDENCE THAT SUCH TRANSFEREE IS AN "ACCREDITED INVESTOR" FOR PURPOSES OF SECTION 11-59-110(1)(g), C.R.S. AND A FINANCIAL INSTITUTION WITHIN THE MEANING OF SECTION 32-1-110(6)(A)(IV), C.R.S. OR IN DENOMINATIONS OF LESS THAN \$500,000**

**UNITED STATES OF AMERICA  
STATE OF COLORADO  
ALLISON VALLEY METROPOLITAN DISTRICT NO. 2**

**2015B LIMITED TAX GENERAL OBLIGATION NOTE**

**IN THE AGGREGATE PRINCIPAL AMOUNT OF  
NOT TO EXCEED \$ \_\_\_\_\_**

**Advances Not to Exceed US \$ \_\_\_\_\_**

**[date], 2015**

FOR VALUE RECEIVED, ALLISON VALLEY METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado, duly organized and existing as a metropolitan district under the constitution and laws of the State of Colorado (hereinafter referred to as "Maker"), promises to pay to the order of VECTRA BANK COLORADO, NATIONAL ASSOCIATION, a national banking association, its successors and assigns (hereinafter referred to as "Payee"), at the office of Payee or its agent, designee, or assignee at Vectra Bank, 2000 South Colorado Boulevard, Suite 2-1200, Denver, Colorado 80222 or at such place as Payee or its agent, designee, or assignee may from time to time designate in writing, all Advances made in an amount not to exceed the principal sum of \_\_\_\_\_ MILLION AND NO/100 DOLLARS (US \$ \_\_\_\_\_) (this "Note") pursuant to the terms of the Loan Agreement dated of even date herewith by and between Maker and Payee (the "Loan Agreement"), in lawful money of the United States of America.

This Note shall bear interest, be payable, and mature pursuant to the terms and provisions of the Loan Agreement. All capitalized terms used and not otherwise defined herein shall have the respective meanings ascribed in the Loan Agreement.

Amounts received by Payee under this Note shall be applied in the manner provided by the Loan Agreement. All amounts due under this Note shall be payable without setoff, counterclaim or any other deduction whatsoever by Maker.

Unless payments are made in the required amount in immediately available funds in accordance with the provisions of the Loan Agreement, remittances in payment of all or any part of the amounts due and payable hereunder shall not, regardless of any receipt or credit issued

therefor, constitute payment until the required amount is actually received by Payee in funds immediately available at the place where this Note is payable (or any other place as Payee, in Payee's sole discretion, may have established by delivery of written notice thereof to Maker) and shall be made and accepted subject to the condition that any check or draft may be handled for collection in accordance with the practice of the collecting bank or banks. Acceptance by Payee of any payment in an amount less than the amount then due shall be deemed an acceptance on account only and any unpaid amounts shall remain due hereunder, all as more particularly provided in the Loan Agreement.

In the event of nonpayment of this Note, Payee shall be entitled to all remedies under the Loan Agreement and at law or in equity, and all remedies shall be cumulative.

It is expressly stipulated and agreed to be the intent of Maker and Payee at all times to comply with applicable state law and applicable United States federal law. If the applicable law (state or federal) is ever judicially interpreted so as to render usurious any amount called for under this Note or under the Loan Agreement, or contracted for, charged, taken, reserved or received with respect to the indebtedness evidenced by this Note, then it is Maker's and Payee's express intent that all excess amounts theretofore collected by Payee be credited on the principal balance of this Note (or, if this Note has been or would thereby be paid in full, refunded to Maker), and the provisions of this Note shall immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and under the Loan Agreement. All sums paid or agreed to be paid to Payee for the use, forbearance and detention of the indebtedness evidenced hereby and by the Loan Agreement shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the rate or amount of interest on account of such indebtedness does not exceed the maximum rate permitted under applicable law from time to time in effect and applicable to the indebtedness evidenced hereby for so long as such indebtedness remains outstanding.

Maker and any endorsers, sureties or guarantors hereof jointly and severally waive presentment and demand for payment, protest and notice of protest and nonpayment, all applicable exemption rights, valuation and appraisal, notice of demand, and all other notices in connection with the delivery, acceptance, performance, default or enforcement of the payment of this Note and the bringing of suit and diligence in taking any action to collect any sums owing hereunder or in proceeding against any of the rights and collateral securing payment hereof. Maker and any surety, endorser or guarantor hereof agree (a) that the time for any payments hereunder may be extended from time to time without notice and consent; (b) to the acceptance of further collateral; (c) to the release of any existing collateral for the payment of this Note; (d) to any and all renewals, waivers or modifications that may be granted by Payee with respect to the payment or other provisions of this Note; and/or (e) that additional makers, endorsers, guarantors or sureties may become parties hereto all without notice to them and without in any manner affecting their liability under or with respect to this Note. No extension of time for the payment of this Note shall affect the liability of Maker under this Note or any endorser or

guarantor hereof even though Maker or such endorser or guarantor is not a party to such agreement.

Failure of Payee to exercise any of the options granted herein to Payee upon the happening of one or more of the events giving rise to such options shall not constitute a waiver of the right to exercise the same or any other option at any subsequent time in respect to the same or any other event. The acceptance by Payee of any payment hereunder that is less than payment in full of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the options granted herein or in the Loan Agreement to Payee at that time or at any subsequent time or nullify any prior exercise of any such option without the express written acknowledgment of Payee.

Maker (and the undersigned representative of Maker, if any) represents that Maker has full power, authority and legal right to execute, deliver and perform its obligations pursuant to this Note and this Note constitutes the legal, valid and binding obligation of Maker.

All notices or other communications required or permitted to be given hereunder shall be given in the manner and be effective as specified in the Loan Agreement, directed to the parties at their respective addresses as provided therein.

This Note is governed by and interpreted in accordance with the internal laws of the State of Colorado, except to the extent superseded by federal law. Invalidity of any provisions of this Note will not affect any other provision.

Pursuant to Section 11-57-210 of the Colorado Revised Statutes, as amended, this Note is entered into pursuant to and under the authority of certain provisions of the Supplemental Public Securities Act, being Title 11, Article 57, of the Colorado Revised Statutes, as amended. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of this Note after delivery for value and shall conclusively impart full compliance with all provisions and limitations of said statutes, and this Note shall be incontestable for any cause whatsoever after delivery for value.

Maker hereby designates the Note as a "qualified tax exempt obligation" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder. Maker covenants that the aggregate face amount of all tax exempt obligations issued by Maker, together with governmental entities which derive their issuing authority from Maker or are subject to substantial control by Maker, shall not be more than \$10,000,000 during calendar year 201\_. Maker recognizes that such tax exempt obligations include notes, leases, loans, warrants, and bonds. Maker further recognizes that any bank, thrift institution, or other financial institution that owns the Note will rely on Maker's designation of this Note as a qualified tax exempt obligation for the purpose of avoiding the loss of 100% of any otherwise available interest deduction attributable to such institution's tax exempt holdings.

By acceptance of this instrument, the owner of this Note agrees and consents to all of the limitations in respect of the payment of the principal of and interest on this Note contained herein, in the resolution of the Maker authorizing the issuance of this Note and in the Service Plan for creation of the Maker dated \_\_\_\_\_, 2015.

TO THE EXTENT PERMITTED BY LAW, MAKER HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT SITUATED IN DENVER, COLORADO, AND WAIVES ANY OBJECTION BASED ON FORUM NON CONVENIENS, WITH REGARD TO ANY ACTIONS, CLAIMS, DISPUTES OR PROCEEDINGS RELATING TO THIS NOTE, THE LOAN AGREEMENT, THE PLEDGED REVENUE, ANY OTHER FINANCING DOCUMENT, OR ANY TRANSACTIONS ARISING THEREFROM, OR ENFORCEMENT AND/OR INTERPRETATION OF ANY OF THE FOREGOING.

TO THE EXTENT PERMITTED BY LAW, MAKER HEREBY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO THIS NOTE, THE LOAN AGREEMENT, OR ANY OF THE OTHER FINANCING DOCUMENTS, THE OBLIGATIONS THEREUNDER, ANY COLLATERAL SECURING THE OBLIGATIONS, OR ANY TRANSACTION ARISING THEREFROM OR CONNECTED THERETO. MAKER REPRESENTS TO PAYEE THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY GIVEN.

THE PROVISIONS OF THIS NOTE MAY BE AMENDED OR REVISED ONLY BY AN INSTRUMENT IN WRITING SIGNED BY MAKER AND PAYEE. THERE ARE NO ORAL AGREEMENTS BETWEEN MAKER AND PAYEE WITH RESPECT TO THE SUBJECT MATTER HEREOF.

**The debt of the District hereunder does not constitute a debt or obligation of the City of Colorado Springs in any manner. The faith and credit of the City of Colorado Springs is not be pledged for the repayment of the debt of the District hereunder.**

IN WITNESS WHEREOF, an authorized representative of Allison Valley Metropolitan District No. 2, as Maker, has executed this Note as of the day and year first above written.

ALLISON VALLEY METROPOLITAN  
DISTRICT NO. 2, a quasi-municipal  
corporation and political subdivision of the State  
of Colorado

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

[SEAL]

Attest:

By \_\_\_\_\_  
Secretary



**EXHIBIT B**

**FORM OF ADVANCE REQUEST**

**Allison Valley Metropolitan District No. 2  
2015B Loan Agreement**

The undersigned certifies that he/she is an Authorized Person under that certain Loan Agreement dated as of [date], 2015 (the "Agreement") by and between Allison Valley Metropolitan District No. 2 and Vectra Bank Colorado, National Association (the "Bank"). All capitalized terms used in this Advance Request ("Advance Request") shall have the respective meanings assigned in the Agreement.

The undersigned Authorized Person hereby makes a request to the Bank for an Advance on the 2015B Loan, and in support thereof states:

- (i) The amount of the Advance so requested is \$\_\_\_\_\_.
- (ii) Upon the funding of such Advance, the sum of all Advances will not exceed the Maximum Advance Amount of the 2015B Loan.
- (iii) Attached hereto is the District's calculation of Assessed Value (Schedule 1).<sup>1</sup>
- (iv) The amount on deposit in the Loan Payment Fund plus Pledged Revenues expected to be collected in this Fiscal Year are equal to not less than \$\_\_\_\_\_, which is the amount required to pay debt service on the Loan in this Fiscal Year.<sup>1</sup>
- (v) At the time the requested Advance is to be made and as a result thereof, immediately thereafter, all representations and warranties of the District set forth in Article IV of the Loan Agreement are true and correct as though made on the date hereof and will be true and correct as though made on the Advance Date and no Event of Default shall have occurred and be continuing on the date hereof and on the Advance Date and no litigation is currently pending or threatened concerning the District's authority to pledge the Pledged Revenue as provided in the Loan Agreement or the District's authority to impose the Required Mill Levy as provided in the Loan Agreement.
- (vi) The requested Advance shall be made by the Bank by wire transfer of immediately available funds to the Custodian in accordance with the instructions set forth below:

[Insert wire instructions]

- (vii) Attached hereto is Schedule 1 with sufficient detail supporting the calculation of the applicable Advance.<sup>1</sup>

---

<sup>1</sup> Items (iii), (iv) and (viii) are not required for the Initial Advance.

(viii) The Advance is requested for the purpose of paying a portion of the Project Costs (as defined in the Custodial Agreement) in the amount of \$\_\_\_\_\_ relating to the Project, providing capitalized interest in the amount of \$\_\_\_\_\_ and funding costs of issuance in the amount of \$\_\_\_\_\_. As a result of the foregoing intended uses of the proceeds of the Advance, the District has allocated its electoral authorization for indebtedness to the principal amount of the Advance as follows:

<u>Purpose</u>	<u>Amount</u>
Streets	\$
Parks and Recreation	
Water	
Sanitary Sewer	
Transportation	
Mosquito Control	
Safety Protection	
Fire Protection	
TV Relay and Translation	
Security	

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_.

ALLISON VALLEY METROPOLITAN  
DISTRICT NO. 2, a quasi-municipal  
corporation and political subdivision of the State  
of Colorado

By \_\_\_\_\_  
Authorized Person

**BANK APPROVAL**

In response to the above Advance Request, the Bank hereby agrees to advance to the District an Advance in the amount of \$\_\_\_\_\_. The Interest Rate applicable to this Advance until the next Rate Reset Date is \_\_\_\_\_%.

**APPROVED BY:**

\_\_\_\_\_  
Vectra Bank Colorado, National Association, Bank

**SCHEDULE 1**

**DISTRICT ASSESSED VALUE**

YEAR	QUARTER	TOTAL AV OF FINISHED LOTS	TOTAL AV OF CONSTRUCTION HOMES	TOTAL AV OF RESIDENT HOMES
	Assessed Value	_____	_____	_____
	x Required Mill Levy			
	Projected Revenue	_____	_____	_____

**ADVANCE CALCULATION**

Finished Lots (But Not to Exceed 60 Lots) Projected Revenue Divided by 1.50:	_____
Construction Homes (the lesser of actual homes under construction or 60 homes) Projected Revenue Divided by 1.50:	_____
Resident Homes Projected Revenue Divided by 1.25:	_____ +
Total District Projected Revenue	_____
 District Projected Revenue x Present Value Multiple = Advance Total	 _____
minus Prior Advances	- _____
= Quarterly Advance	_____

For purposes of calculating Advances, the following definitions shall apply:

“*Approved Builders*” means Keller Homes, Windsor Ridge, Adamo Homes and Vantage Homes and any parent, subsidiary or successor in interest to such entities.

“*Assessed Value*” means for any property, the certified final assessed value of any taxable property as determined by the Assessor for El Paso County, Colorado.

“*AV of Construction Home*” means for any Construction Home, the amount equal to the lesser of (a) the most recent actual sale within the District of a similar house model and property multiplied by 0.0796 or (b) of the Assessed Value applied to a similar house model and property within the District.

“*AV of Finished Lot*” means for any Finished Lot, the lesser of (a) the Assessed Value of the lot or (b) the sale price of the most recent actual sale of the lot multiplied by 0.29.

“*AV of Resident Home(s)*” means for any Resident Home, the amount equal to the lesser of the sales price on the actual HUD-1 Settlement Statement multiplied by 0.0796 or the Assessed Value applied by the El Paso County Assessor for similar properties; provided, however, upon the second year after the sale described above, the AV of Resident Home for any Resident Home shall be the Assessed Value applicable to that property.

“*Construction Home(s)*” means any home for which construction has commenced by an Approved Builder; for purposes of this definition, construction shall be deemed to have occurred upon the issuance of a permit to inspect the foundation water proofing by the City and confirmation of same by posting of the inspection on the City’s website.

“*Finished Lots*” means platted lots for which all infrastructure required by the City has been completed, dedicated and accepted by the City which have been sold or transferred to Approved Builders, but on which no home construction has commenced.

“*Present Value Multiple*” means the number derived from the following formula using the Interest Rate (“i”) applicable to this Advance over the remaining term until the final Maturity Date (“n”) minus 1.

$$\frac{1 \cdot (1 + i)^{-(n-1)}}{i}$$

i.e. i=4.50% , n=30 , Present Value Multiple = 16.02

$$\frac{1 \cdot (1.045)^{-29}}{0.045} = 16.02$$

“*Resident Home(s)*” means homes which have received a certificate of occupancy and have been sold with ownership transferred to a non-investor homeowner.

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District Authorized Person



**CUSTODIAL AGREEMENT**

between

**ALLISON VALLEY METROPOLITAN DISTRICT NO. 2,**

**VECTRA BANK COLORADO, NATIONAL ASSOCIATION,**

**and**

**ZIONS FIRST NATIONAL BANK**

Dated as of [date], 2015

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EXHIBIT A FORM OF PROJECT FUND REQUISITION

EXHIBIT B FORM OF COST OF ISSUANCE REQUISITION



## CUSTODIAL AGREEMENT

**THIS CUSTODIAL AGREEMENT** (this “Agreement”) is made and dated as of [date], 2015, by and among **ALLISON VALLEY METROPOLITAN DISTRICT NO. 2** (the “District”), **ZIONS FIRST NATIONAL BANK**, as custodian (in such capacity, the “Custodian”) and **VECTRA BANK COLORADO, NATIONAL ASSOCIATION**, a national banking association, as lender. Capitalized terms used in the following recitals but not defined therein shall have the meanings set forth in Section 1 of this Agreement.

### RECITALS

WHEREAS, the District has determined in an Authorizing Resolution dated December 8, 2015 (the “Authorizing Resolution”) that it is in the best interests of the District, the residents, and taxpayers thereof, that there shall be issued a not to exceed \$10,000,000 2015A Limited Tax General Obligation Note (the “2015A Note”); and

WHEREAS, the 2015A Note will be issued pursuant to the Authorizing Resolution, the Loan Agreement dated as of [date], 2015, between the District and Vectra Bank Colorado, National Association, a national banking association (the “Bank”) (as amended or supplemented from time to time, the “2015A Loan Agreement”), and this Custodial Agreement; and

WHEREAS, the District, the Bank and the Custodian intend for this Custodial Agreement to govern the application of certain revenues of the District to the repayment of the 2015A Note as well as any Parity Debt and the Subordinate Debt (as each term is defined in the 2015A Loan Agreement); and

WHEREAS, under the terms of the Authorizing Resolution and the 2015A Loan Agreement, certain funds and accounts shall be pledged to the Owners of the 2015A Note and the Parity Debt as set forth herein as security for the payment of the 2015A Note and the Parity Debt and as security for the payment of all obligations of the District owing to the Bank under the 2015A Loan Agreement and to the Owners under the Authorizing Resolution pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, the 2015A Loan Agreement and in the Authorizing Resolution, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

**Section 1. Definitions.** Unless otherwise defined herein or the context otherwise requires, capitalized terms used herein shall have the meaning set forth below. These definitions shall be equally applicable to both the singular and the plural forms of the terms so defined. Certain terms have been defined in the introductory paragraph and the recitals to this Agreement.

The following terms, as used in this Agreement, shall have the meanings set forth in the 2015A Loan Agreement: “*2015A Project*,” “*Authorized Person*,” “*Closing Date*,” “*Electronic Notification*” “*Financing Documents*,” “*Maturity Date*,” “*Non-Use Fee*,” “*Parity Debt*,” “*Payment Date*,” “*Pledged Revenue*,” “*System Development Fees*” and “*Subordinate Debt*.”

In addition, the following terms as used in this Agreement shall have the following meanings, unless the context otherwise requires:

“*Capitalized Interest Requirement*” means the required balances in the Capitalized Interest Account of the Loan Payment Fund as required by the 2015A Loan Agreement and any loan agreement, indenture or resolution authorizing Parity Debt.

“*Debt Service Coverage Ratio*” means for any Note Year, the ratio derived by dividing the Pledged Revenue (not including System Development Fees) collected in that Note Year by the sum of (i) the principal and interest due on the 2015A Loan and any Parity Debt in that Note Year and (ii) the Non-Use Fee.

“*Funds and Accounts*” means, collectively, the Loan Payment Fund, the Pledged Revenue Fund, the Project Fund, the Mandatory Prepayment Fund and all accounts within such fund created herein.

“*Loan Agreement*” means the 2015A Loan Agreement and any loan agreement executed with Parity Debt.

“*Loan Payment Fund*” means the fund by that name created pursuant to the Loan Agreement and Section 3 hereof, including a Capitalized Interest Account therein.

“*Mandatory Prepayment Fund*” means the fund established pursuant to the Loan Agreement and Section 5 hereof.

“*Note Year*” means, December 2nd of any year through the next succeeding December 1st.

“*Owner*” means the registered owner of the 2015A Note and any Parity Debt.

“*Permitted Investments*” means any investment or deposit permissible under then applicable law for governmental entities such as the District.

“*Pledged Revenue Fund*” means the fund established pursuant to the Loan Agreement and Section 2 hereof.

“*Project Costs*” means the costs properly attributable to the 2015A Project, any project to be financed with Parity Debt or any part thereof, including without limitation:

(a) the costs of construction, acquisition, labor, and materials, of machinery, furnishings, and equipment, and of the restoration of property damaged or destroyed in connection with construction work;

(b) the costs of insurance premiums, indemnity and fidelity bonds, financing charges, bank fees, taxes, or other municipal or governmental charges lawfully levied or assessed;

(c) administrative and general overhead costs, including costs of organization of the District;

- (d) the costs of reimbursing funds advanced by the District in anticipation of reimbursement from Loan proceeds, including any intrafund or interfund loan;
- (e) the costs of surveys, appraisals, plans, designs, specifications, and estimates;
- (f) the costs, fees, and expenses of printers, engineers, architects, financial consultants, legal advisors, custodians, escrow agents or other agents or employees;
- (g) the costs of publishing, reproducing, posting, mailing, or recording documents;
- (h) the costs of contingencies or reserves;
- (i) the costs of negotiating and executing the Financing Documents;
- (j) the costs of amending the Financing Documents or any other instrument relating to the Loan or the 2015A Project;
- (k) the costs of repaying any short-term financing, construction loans, and other temporary loans, and of the incidental expenses incurred in connection with such loans;
- (l) the costs of acquiring any property, rights, easements, licenses, privileges, agreements, and franchises;
- (m) the costs of demolition, removal, and relocation;
- (n) capitalized interest on 2015A Note and any Parity Debt; and
- (o) all other lawful costs as may be agreed to by the District.

“*Project Fund*” means the fund by that name created pursuant to the Loan Agreement and Section 4 hereof.

## **Section 2. Pledged Revenue Fund.**

(a) There is established pursuant to the Loan Agreement and there shall be maintained with the Custodian, a separate fund to be known as the “Allison Valley Metropolitan District No. 2 Pledged Revenue Fund” herein referred to (together with any replacement or substitute therefor) as the “Pledged Revenue Fund.” The Custodian shall hold and administer the Pledged Revenue Fund, which includes accounts established pursuant to this Agreement, so long as any obligations of the District remain owing to the Bank under the Loan Agreement. The Pledged Revenue Fund constitutes a trust fund held for the benefit of the Bank and the Owner of the Notes and the money in such fund shall be disbursed only for the purposes and uses in the Loan Agreement and hereinafter authorized.

(b) The Custodian shall deposit Pledged Revenue received from the District into the Pledged Revenue Fund as soon as practicable upon receipt thereof (but in no case less frequently than monthly).

(c) Moneys on deposit in the Pledged Revenue Fund shall be applied by the Custodian on the [10<sup>th</sup>] day of each month as to the extent deposited therein as follows:

(i) On each day on which fees or other amounts are due to the Custodian pursuant to the terms of this Agreement or to the Bank pursuant to the Loan Agreement (including the Non-Use Fee), the Custodian shall, set aside moneys and to the extent such funds are available, promptly pay such obligations.

(ii) If directed by the District and Tax Counsel, amounts required to pay arbitrage rebate to the United States of America.

(iii) Following the transfers provided in paragraphs (i) and (ii) above, moneys deposited in the Pledged Revenue Fund shall be transferred or paid as directed by the District, upon which the Custodian may conclusively rely, as soon as practicable, as follows:

(A) for each Note Year to the Loan Payment Fund up to the amount required (taking into consideration amounts on deposit in the Capitalized Interest Account) to pay principal and interest due on the 2015A Note and the Parity Debt on a pari passu basis in such Note Year (including any past due interest and principal);

(B) to the [Project Fund] amounts that, when combined with prior deposits of Pledged Revenue in the [Project Fund], equal the sum of the amounts advanced to fulfill the Capitalized Interest Requirement; and

(C) fifty percent of all remaining amounts shall be deposited in the Mandatory Prepayment Fund and be applied in accordance with Section 5 hereof; and

(D) All remaining amounts shall be transferred to the District to be used for any legal purpose.

### **Section 3. Loan Payment Fund.**

(a) There is established pursuant to the Loan Agreement and there shall be maintained with the Custodian, a separate fund to be known as the "Allison Valley Metropolitan District No. 2 Loan Payment Fund" herein referred to (together with any replacement or substitute therefor) as the "Loan Payment Fund." Within the Loan Payment Fund there shall be established accounts entitled the "2015A Capitalized Interest Account" and for each Parity Debt an account relating to the name of the Parity Debt as the "20\_\_ Capitalized Interest Account." The Custodian shall hold and administer the Loan Payment Fund, so long as any obligations of the District remain owing to the Bank under the Loan Agreement, or any obligations of the District to the Owners of the Notes under the Authorizing Resolution are not discharged in accordance with the terms thereof. The Loan Payment Fund constitutes a trust fund for the benefit of the Bank and Owners of the 2015A Note and the Parity Debt, and the money in such

fund shall be disbursed only for the purposes and uses in the Loan Agreement and hereinafter authorized.

(b) The amounts in the 2015A Capitalized Interest Account and any Parity Debt Capitalized Interest Account shall be transferred to the Loan Payment Fund to pay interest due on the 2015A Note and any Parity Debt in the current Note Year.

(c) The amounts on deposit in the Loan Payment Fund shall be maintained, transferred, paid, reimbursed and liquidated in the following priority:

(i) First, to pay interest on each Payment Date and the Maturity Date on the 2015A Note, and to pay interest on each interest payment date and maturity date associated with the Parity Debt; and

(ii) Second, to pay principal on the principal payment dates set forth in the Section 2.02 of the Loan Agreement and the Maturity Date with respect to the 2015A Note and the dates upon which principal is due on the Parity Debt.

#### **Section 4. Project Fund.**

(a) There is established pursuant to the Loan Agreement and there shall be maintained with the Custodian, a separate fund to be known as the "Allison Valley Metropolitan District No. 2 Project Fund" herein referred to (together with any replacement or substitute therefor) as the "Project Fund." Within the Project Fund there shall be established subaccounts titled the "2015A Project Account" and for each Parity Debt an account relating to the name of the Parity Debt. The 2015A Loan net proceeds and the net proceeds of any Parity Debt shall be deposited into the respective subaccount in the Project Fund. Subject to Section 4(d) below, the Custodian is hereby directed to disburse amounts in the Project Fund in accordance with the written direction of the District and the Bank in the form of Exhibit A of this Agreement. Within the Project Fund there shall also be established a subaccount titled the Cost of Issuance Account. The Custodian shall hold and administer the Project Fund, which includes accounts established pursuant to this Agreement, so long as any obligations of the District remain owing to the Bank under the Loan Agreement, or any obligations of the District to the Owners of the Notes under the Loan Agreement and any Parity Debt are not discharged in accordance with the terms thereof. The money in the Project Fund shall be disbursed only for the purposes and uses in the Loan Agreement and any loan documents relating to any Parity Debt and hereinafter authorized upon the Custodian's receipt of a written request in the form of Exhibit A of this Agreement.

(b) Upon the determination of the Board of the District that all Project Costs have been paid or are determinable or if amounts remain unspent more than three years after deposit into the respective Project Account, any balance remaining in the Project Fund shall be credited to the Loan Payment Fund and used to redeem the 2015A Loan and any Parity Debt in amounts specified by the District. The determination of the Board of the District shall be evidenced by presentment to the Bank and the Custodian of a resolution of the Board that all Project Costs have been paid or are determinable.

(c) Upon the Closing Date of the 2015A Loan and the date upon which any Parity Debt is funded, the District shall make deposits in the Costs of Issuance Account sufficient to pay costs of issuance associated with the 2015A Loan or any Parity Debt upon Custodian's receipt of a written request in the form of Exhibit B of this Agreement. Amounts not expended 90 days after the date of its deposit in the Costs of Issuance Account shall be deposited in the subaccount of the Project Fund associated with the source of the deposit.

**Section 5. Mandatory Prepayment Fund.** The Custodian shall hold and administer the Mandatory Prepayment Fund so long as the Loan is outstanding in whole or in part. The Mandatory Prepayment Fund is held for the benefit of the Bank and the Owner of the Note and the money in such fund shall be disbursed only in accordance with this Custodial Agreement.. On each December 2 the Custodian shall determine the amount credited to the Mandatory Prepayment Fund and, to the extent the amount therein is sufficient to prepay all or any part of the then-outstanding principal of the Loan in increments of \$5,000 or integral multiples thereof, plus the accrued interest thereon, such moneys shall be applied by the Custodian to such prepayment. [To which principal applied-last, first or District directed?] Amounts in the Mandatory Prepayment Fund not applied to the prepayment of the Loan as aforesaid will be credited to the Loan Payment Fund as soon as practicable after the determination by the Custodian that any such amounts remain in the Mandatory Prepayment Fund.

**Section 6. Investment of Funds.** The Custodian shall, at the written direction of an Authorized Person of the District, invest amounts held by it pursuant to this Agreement only in Permitted Investments and the investment earnings for such funds and accounts shall be deposited into the respective account which generated such earnings. The Custodian shall have no liability or responsibility for any loss or for failure to maximize earnings resulting from any investment made, sale or reduction in accordance with the provisions of this Section 6. The Custodian shall be entitled to assume, absent receipt by the Custodian of written notice to the contrary, that any investment that at the time of purchase is a Permitted Investment remains a Permitted Investment thereafter.

All investments and earnings thereon shall constitute a part of the Fund or Account from which the moneys used to acquire such investments have come. The Custodian shall sell and reduce to cash a sufficient amount of investments in a Fund or Account whenever the cash balance therein is insufficient to pay the amounts required to be paid therefrom. The Custodian may transfer investments from any Fund or Account to any other Fund or Account in lieu of cash when a transfer is required or permitted by the provisions of this Agreement.

In computing the amount of any Fund or Account, Permitted Investments purchased as an investment of moneys therein shall be valued at the then market value of such obligations, excluding any accrued interest. If the market value of such obligations is not readily available, the Custodian shall determine the value of such obligations in any reasonable manner.

The Custodian may make any and all investments permitted by the provisions of this Section 6 through its own investment department or that of its affiliates. As and when any amount invested pursuant to this Section 6 may be needed for disbursement, the Custodian may cause a sufficient amount of such investments to be sold and reduced to cash to the credit of such funds.

The parties acknowledge that to the extent regulations of the Comptroller of Currency or other applicable regulatory entity grant a right to receive brokerage confirmations of security transactions of the Custodial Agreement, the parties waive receipt of such confirmations, to the extent permitted by law. The Custodian shall furnish a statement of security transactions on its regular monthly reports.

**Section 7. Security.** The District hereby pledges and grants to the Bank a first priority lien on and security interest, as security for the Loan Agreement and the Notes, in and to all of its rights, title and interest, if any, whether now existing or hereafter arising, in (a) the Pledged Revenue Fund, the Loan Payment Fund and the Project Fund and (b) all cash and investment securities on deposit therein. The creation, perfection, enforcement and priority of the pledge of revenues to secure and pay the Loans provided herein shall be governed by Section 11-57-208 of the Supplemental Public Securities Act and as described in Section 8.14 of the 2015A Loan Agreement. The Custodian hereby agrees that it will treat all property held by it in any fund or account hereunder as financial assets under Article 8 of the Uniform Commercial Code of the State of Colorado. The Custodian agrees to treat the Bank as entitled to exercise all securities entitlements with respect to the financial assets credited to the Pledged Revenue Fund, the Loan Payment Fund, the Mandatory Prepayment Fund and the Project Fund and agrees that it shall at all times in the ordinary course of its business maintain securities accounts for others and act in that capacity as a custodian for others within the meaning of Article 8 of the Uniform Commercial Code of the State of Colorado. The Custodian hereby agrees that with respect to any uncertificated securities on deposit in the Pledged Revenue Fund, the Loan Payment Fund, the Mandatory Prepayment Fund and the Project Fund, it will comply with entitlement orders originated by the Bank, without further consent by the District. The Bank hereby agrees that it will give entitlement orders with respect to any uncertificated securities on deposit in the Pledged Revenue Fund, the Loan Payment Fund, the Mandatory Prepayment Fund and the Project Fund to the Custodian only in compliance with the provisions of this Agreement. Without limiting the foregoing, the Bank is hereby authorized to file one or more financing statements (including fixture filings), continuation statements or other documents for the purpose of perfecting, confirming, continuing, enforcing or protecting the lien and security interests granted herein or to otherwise enable the Bank to enforce its rights hereunder, without the signature of the District, and naming the District as a debtor and the Bank as secured party. The Custodian agrees not to enter into any agreements with respect to the Pledged Revenue Fund, the Loan Payment Fund, the Mandatory Prepayment Fund and the Project Fund containing provisions substantially similar to the provisions contained herein with any secured creditor other than the Bank. The Custodian further agrees not to take a lien on or a security interest in the Pledged Revenue Fund, the Loan Payment Fund, the Mandatory Prepayment Fund and the Project Fund except for its rights to receive payments as described in Section 2(c)(i) hereof.

**Section 8. Withdrawals and Applications of Funds.** The Custodian may conclusively rely upon the written direction of the Bank and the District in accordance with the terms herein.

**Section 9. Events of Default.** The occurrence of the following shall constitute an “Event of Default” hereunder (subject to any applicable cure period): the Custodian’s receipt of

written notice from the Bank of the occurrence of any event of default under the Loan Agreement or any loan agreement, indenture or resolution authorizing Parity Debt.

Each party hereto agrees to give written notice of any Event of Default of which it has knowledge to the Custodian promptly upon obtaining such knowledge and the Custodian shall promptly forward such notice to the other parties.

**Section 10. Remedies.** While any Event of Default remains uncured, the Bank and the Owners (through the rights assigned to them in the Loan Agreement and any loan agreement, indenture or resolution authorizing Parity Debt by the District) shall have all of the following rights and remedies:

(a) to foreclose their respective security interests in the Funds and Accounts by any available judicial procedure or without judicial process;

(b) to exercise all rights and remedies available to the Bank or the Owners upon the occurrence of an event of default under the Loan Agreement or any event of default under any documents relating to any Parity Debt;

(c) to cause the Custodian to transfer all amounts in the Funds and Accounts pursuant to the terms of this Agreement;

(d) to exercise any and all other rights and remedies that the Bank may have by law or under any applicable agreement, including without limitation, all rights and remedies of a secured party under any applicable commercial code.

**Section 11. Cumulative Remedies.** The Bank's and the Owners' rights and remedies hereunder, under the Loan Agreement and any loan agreement, indenture or resolution authorizing Parity Debt are cumulative and in addition to all rights and remedies provided by law or otherwise from time to time, and each such right or remedy may be exercised concurrently or independently and as often as the Bank or the Owners deem advisable.

**Section 12. No Implied Waivers.** No waiver of any default shall be implied from any omission by any party to this Agreement to take action on account of such default if such default persists or is repeated. No waiver of any default shall affect any default other than the default expressly waived, and any such waiver shall be operative only for the time and to the extent stated. No waiver of any provision of any Financing Document shall be construed as a waiver of any subsequent breach of the same provision.

**Section 13. Custodian's Costs and Expenses.** The District shall from time to time, subject to any agreement then in effect with the Custodian, pay the Custodian compensation for its services and reimburse the Custodian for all its advances and expenditures hereunder, including but not limited to advances to and fees and expenses of accountants, agents, appraisers, consultants, legal counsel or other experts employed by it in the observance and performance of its rights and obligations hereunder.



**Section 14. Role of Custodian; No Discretionary Authority.** The Custodian hereby accepts all duties and responsibilities required or permitted to be performed by it pursuant to this Agreement, pursuant to which it is acting as custodian, and the Loan Agreement. The Custodian understands and acknowledges that, by reason of the execution hereof, with respect to any funds held by it under this Agreement it has assumed a role of custodian. The Custodian shall receive and disburse such funds solely in accordance with the terms and provisions hereof.

**Section 15. Indemnification.** The District, Bank and the Custodian acknowledge that, except to the extent set forth in any separate instrument signed by the parties with respect to this Agreement, the Custodian's duties hereunder do not include any discretionary authority, control or responsibility with respect to the management or disposition of any asset or funds; that the Custodian has no authority or responsibility to render investment advice with respect to any asset or funds; and that the Custodian is not a fiduciary with respect to the District or the Bank. In addition, it is agreed that the Custodian shall not be liable for any loss or diminution of assets or funds by reason of investment or for its actions taken in reliance upon an instruction from the District or the Bank. The Custodian shall only be responsible for the performance of such duties as are expressly set forth herein or in instructions of the District or the Bank. The Custodian shall exercise reasonable care in the performance of its services hereunder. In no event shall the Custodian be liable for indirect or consequential damages. Custodian shall not be responsible or liable for any failure or delay in performance of its obligations under this Agreement arising out of or caused, directly or indirectly, by instructions, actions or omissions of the District or the Bank or by circumstances beyond the Custodian's reasonable control, including, without limitation, loss or malfunctions of utility, transportation, computer (hardware or software) or communication service; nor shall any such failure or delay give the District or the Bank the right to terminate this Agreement, except as provided in Section 23 of this Agreement.

The Custodian shall be deemed to have received appropriate written "instructions" or "directions" upon receipt of written instructions or directions, signed or given by an Authorized Persons designated by the District or an authorized representative of the Bank under the Loan Agreement. The District and the Bank shall each provide the Custodian with a certificate designating such authorized parties in a form acceptable to the Custodian.

To the extent permitted by law, the District and the Bank hereby agree to indemnify Custodian and its controlling person, officers, directors and employees (each an "Indemnified Party") and hold each Indemnified Party harmless from and against any cost, losses, claims, liabilities, fines, penalties, damages and expenses (including reasonable attorneys' and accountants' fees) (collectively, a "Claim") arising out of (i) District's actions or omissions or (ii) Bank's actions or omissions and (iii) Custodian's action taken or omitted hereunder in reliance upon the District's or Bank's instructions, or upon any information, order, indenture, stock certificate, power of attorney, assignment, affidavit or other instrument delivered hereunder to Custodian, reasonably believed by Custodian to be genuine or bearing the signature of a person or persons authorized by the District or the Bank to sign, countersign or execute the same; provided, that District and Bank shall not indemnify an Indemnified Party for any Claim arising from the Indemnified Party's willful misfeasance, bad faith or negligence in the performance of its duties, or reckless disregard of its duties under this Agreement.

**Section 16. Miscellaneous.** Presentment, protest, notice of protest, notice of dishonor and notice of nonpayment are hereby waived with respect to any proceeds to which any Bank is entitled hereunder. The Custodian shall make no disbursement, investment or other use of funds until and unless it has collected funds. The Custodian shall not be liable for collection items until the proceeds of the same in actual cash have been received.

**Section 17. Successors and Assigns.** Subject to any applicable restrictions on assignment contained herein, in any Loan Agreement or any loan agreement, indenture or resolution authorizing Parity Debt, this Agreement shall bind and shall inure to the benefit of, the successors and assigns of the District, the Custodian and the Bank.

**Section 18. Notices, Etc.** All notices, demands, instructions and other communications required or permitted to be given to or made upon any party hereto or any other Person shall be in writing and shall be personally delivered or sent by first class mail postage prepaid, or by Electronic Notification and shall be deemed to be given for purposes of this Agreement on the day that such writing is initially delivered to the intended recipient thereof in accordance with the provisions of this Section 17. Unless otherwise specified in a notice sent or delivered in accordance with the foregoing provisions of this Section 17, notices, demands, instructions and other communications in writing shall be given to or made upon the respective parties (the "Notice Parties") hereto at their respective addresses (or to their respective email addresses) indicated below:

to District: Allison Valley Metropolitan District No. 2  
c/o \_\_\_\_\_  
Attention: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

with a copy to: Spencer Fane Britt & Browne LLP  
1700 Lincoln Street  
Suite 2000  
Denver, CO 80203  
Telephone: (303) 839-3706  
Attention: Norman F. (Rick) Kron, Esq.  
Email: [rkron@spencerfane.com](mailto:rkron@spencerfane.com)

to Bank: Vectra Bank  
2000 S. Colorado Boulevard  
Suite 2-1200  
Denver, CO 80222  
Telephone: (720) 947-8802  
Attention: Conrad Freeman  
Email: [cfreeman@vectrabank.com](mailto:cfreeman@vectrabank.com)

to Custodian: Zions First National Bank  
1001 17th Street  
Suite 850

Denver, CO 80202  
Telephone: (720) 947-7475  
Attention: David Bata  
Email: [david.bata@zionsbank.com](mailto:david.bata@zionsbank.com)

**Section 19. Integration; Modification; Waiver.** This Agreement, together with any other documents referred to herein, constitutes the entire agreement among the District, the Custodian, and the Bank with respect to the matters set forth herein. No modification of this Agreement (including waivers of rights) shall be effective unless in writing and signed by each party hereto.

**Section 20. Counterparts.** This document may be executed in counterparts with the same force and effect as if the parties had executed one instrument, and each such counterpart shall constitute an original hereof. No provision of this Agreement that is held to be inoperative, unenforceable or invalid shall affect the remaining provisions, and to this end all provisions hereof are hereby declared to be severable. Time is of the essence of this Agreement. This Agreement shall be governed by, and construed in accordance with, the internal laws of the State of Colorado.

**Section 21. Waiver of Jury Trial.** Each of the parties hereto irrevocably waives, to the fullest extent permitted by law, any and all rights to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby. The District, the Bank and the Custodian each further agree that, in the event of litigation, it will not personally or through its agents or attorneys seek to repudiate the validity of this Section 21 and the District acknowledges that it freely and voluntarily entered into this Agreement to waive trial by jury in order to induce the Bank to enter into the Loan Agreement.

**Section 22. Headings.** Section headings used in this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

**Section 23. Termination.** This Agreement shall terminate on the date when the District has paid all amounts due and owing to (i) the Bank under the Loan Agreement and (ii) the Custodian under this Agreement. The Bank and District agree to provide written notice to the Custodian when all amounts due and owing have been paid.

**Section 24. Express Duties.** This Agreement expressly and exclusively sets forth the duties of the Custodian with respect to any and all matters pertinent hereto, and no implied duties or obligations shall be read into this Agreement against the Custodian. There are no unwritten oral agreements between the parties. The Custodian shall have no duty to know or determine the performance or nonperformance of any provision of any agreement between or among the other parties hereto, and no other agreement shall be considered as adopted or binding, in whole or in part, upon the Custodian notwithstanding that any such other agreement may be referred to herein or deposited with Custodian, and the Custodian's rights and responsibilities shall be governed solely by this Agreement.

**Section 25. Limitations of Liability.** The Custodian shall not be liable for any error of judgment or for any act done or step taken or omitted by it in good faith or for any mistake of

fact or law or for anything which the Custodian may do or refrain from doing in connection herewith, including upon advice of counsel, except for its own willful misconduct or gross negligence.

**Section 26. Adverse Claims.** In the event of any disagreement between any of the parties to this Agreement, or between any of them and any other person, resulting in adverse claims or demands being made in connection with the matters covered by this Agreement, or in the event that the Custodian, in good faith, be in doubt as to what action it should take hereunder, the Custodian may, at its option, refuse to comply with any claims or demands on it, or refuse to take any other action hereunder, so long as such disagreement continues or such doubt exists, and in any such event, the Custodian shall not be or become liable in any way or to any person for its failure or refusal to act, and the Custodian shall be entitled to continue so to refrain from acting until (i) the rights of all interested parties shall have been fully and finally adjudicated by a court of competent jurisdiction, or (ii) all differences shall have been adjudged and all doubt resolved by agreement among all of the interested persons, and the Custodian shall have been notified thereof in writing signed by all such persons.

**Section 27. Authority for Agreement.** Each party represents and warrants that it has full power and authority to enter into this Agreement and has taken all action necessary, corporate or otherwise, to carry out the transaction contemplated hereby so that when executed this Agreement constitutes a valid and binding obligation enforceable in accordance with its terms.

**Section 28. Resignation of Custodian; Successor Custodian.** The Custodian may resign at any time by giving written notice by Certified Mail, Return Receipt Requested to all of the parties hereto to be effective thirty days after such notice has been deposited into the U.S. Mail. If a successor Custodian has not been appointed within thirty days after such notice of resignation, the Custodian may petition any court of competent jurisdiction for the appointment of a successor Custodian. Costs of such petition, including reasonable attorneys' fees, shall be borne by the District. The Custodian shall have no responsibility for the appointment of a successor Custodian. The successor Custodian shall execute and deliver to the Custodian an instrument accepting such appointment, and the successor Custodian shall, without further acts, be vested with all the estates, property rights, powers and duties of the predecessor Custodian as if originally named as Custodian herein. The Custodian shall act in accordance with written instructions from the District as to the transfer of all funds and accounts to a successor Custodian.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

**ALLISON VALLEY METROPOLITAN  
DISTRICT NO. 2**

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

[SEAL]

Attest:

By \_\_\_\_\_  
Secretary

**ZIONS FIRST NATIONAL BANK, as Custodian**

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

**VECTRA BANK COLORADO, NATIONAL  
ASSOCIATION, a national banking association**

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

[Signature Page to Custodial Agreement]

**EXHIBIT A**  
**FORM OF PROJECT FUND REQUISITION**  
**REQUISITION NO. \_\_\_\_\_**

To: Zions First National Bank, as Custodian  
Attention: Corporate Trust Services

The undersigned District Representative (the "Authorized Person") of Allison Valley Metropolitan District No. 2 (the "District"), hereby requisitions the following sum from the Project Fund established under the Custodial Agreement, dated as of \_\_\_\_\_, 2015 (the "Agreement"), executed and delivered by you, as Custodian, and in connection with such request, certifies as follows:

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

Name and Payment Instructions of Payee:

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

The District has attached hereto a copy of each Payee's Form W-9 or Form W-8, as applicable (unless previously provided). The District further acknowledges the Custodian cannot process such disbursement request until the Custodian is in receipt of a valid Form W-9 or Form W-8, as applicable, in accordance with Internal Revenue Service regulations and the Foreign Account Tax Compliance Act.

The District further certifies that:

- (a) the obligation described above has been properly incurred by the District, is a proper charge against the Project Fund and has not been the basis of any previous withdrawal or requisition;
- (b) all conditions required by the Loan Agreement and the Custodial Agreement and other Financing Documents to be met prior to the disbursement of the above amount have been satisfied;
- (c) the District is not in breach of any of the agreements contained in the Custodial Agreement and other Financing Documents; and
- (d) no Event of Default has occurred and is continuing.

**ALLISON VALLEY METROPOLITAN  
DISTRICT NO. 2**

Date: \_\_\_\_\_

By \_\_\_\_\_  
Authorized Person

**VECTRA BANK COLORADO, NATIONAL  
ASSOCIATION, As Lender**

By: \_\_\_\_\_  
Authorized Person

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT B**  
**FORM OF COST OF ISSUANCE REQUISITION**

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

To: Zions First National Bank, as Custodian  
Attention: Corporate Trust Services

The undersigned District Representative (the "Authorized Person") of Allison Valley Metropolitan District No. 2 (the "District"), hereby requisitions the following sum from the Cost of Issuance Account established under the Custodial Agreement, dated as of [date], 2015 (the "Agreement"), executed and delivered by you, as Custodian, and in connection with such request, certifies as follows:

Amount:        \$ \_\_\_\_\_

Name and Payment Instructions of Payee:

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

The District has attached hereto a copy of each Payee's Form W-9 or Form W-8, as applicable (unless previously provided). The District further acknowledges the Custodian cannot process such disbursement request until the Custodian is in receipt of a valid Form W-9 or Form W-8, as applicable, in accordance with Internal Revenue Service regulations and the Foreign Account Tax Compliance Act.

The District further certifies that:

- (a) all conditions required by the Loan Agreement and the Custodial Agreement and other Financing Documents to be met prior to the disbursement of the above amount have been satisfied;
- (b) the District is not in breach of any of the agreements contained in the Custodial Agreement and other Financing Documents; and
- (c) no Event of Default has occurred and is continuing.



**ALLISON VALLEY METROPOLITAN  
DISTRICT NO. 2**

Date: \_\_\_\_\_

By \_\_\_\_\_  
Authorized Person

27117563 v1



\_\_\_\_\_, 2015

City Council  
City of Colorado Springs, Colorado

Allison Valley Metropolitan District No. 2  
2015A Loan Agreement and Related Promissory Note

Ladies and Gentlemen:

We have been engaged as bond counsel to Allison Valley Metropolitan District No. 2 (the "District") in connection with the proposed execution and delivery of a Loan Agreement between the District and Vectra Bank Colorado, National Association (the "Lender"), providing for a loan to be made by the Lender to the District in the amount of up to \$10,000,000 (the "Loan"), as further evidenced by a Promissory Note (the "Note") to be issued by the District to the Lender in the principal amount of the Loan (the obligations of the District represented by the Loan Agreement and the Note are collectively referred to herein as the "Obligations"). This letter is provided pursuant to your request with regard to the Amended and Restated Consolidated Service Plan for the District, approved by you on \_\_\_, 2015 (the "Service Plan"). The Loan is being issued as a "draw-down" loan, with an initial funded, and permitted subsequent advances, provided that the total amount thereof is not to exceed \$10,000,000. The Obligations will constitute limited tax general obligations of the District. A form of the Loan Agreement, including, as an exhibit, a form of the Note, accompany this letter, and all statements made in this letter concerning the provisions of the Obligations assume that the Loan Agreement and the Note are executed in substantially the forms so presented to you. We have further assumed, for purposes of this letter, the approval of the incurrence of the Obligations (in the principal amount of up to \$10,000,000) by the approving vote of at least two-thirds of the City Council and the delivery of a certification of an External Financial Advisor (as defined in the Service Plan) with respect to the Obligations.

Based upon the foregoing, we have determined that the incurrence by the District of the Obligations as set forth above is in compliance with all requirements of the Service Plan applicable thereto, as well as all applicable laws of the State of Colorado.

This letter is given as of the date hereof solely for your purpose in evaluating the appropriateness of consenting to the execution and delivery of the Loan Agreement and Note.

Sincerely,

Dee P. Wisor



\_\_\_\_\_, 2015

City Council  
City of Colorado Springs, Colorado

Allison Valley Metropolitan District No. 2  
2015B Loan Agreement and Related Promissory Note

Ladies and Gentlemen:

We have been engaged as bond counsel to Allison Valley Metropolitan District No. 2 (the "District") in connection with the proposed execution and delivery of a Loan Agreement between the District and Vectra Bank Colorado, National Association (the "Lender"), providing for a loan to be made by the Lender to the District in the amount of up to \$10,000,000 (the "Loan"), as further evidenced by a Promissory Note (the "Note") to be issued by the District to the Lender in the principal amount of the Loan (the obligations of the District represented by the Loan Agreement and the Note are collectively referred to herein as the "Obligations"). This letter is provided pursuant to your request with regard to the Amended and Restated Consolidated Service Plan for the District, approved by you on \_\_\_\_, 2015 (the "Service Plan"). The Loan is being issued as a "draw-down" loan, with an initial funded, and permitted subsequent advances, provided that the total amount thereof is not to exceed \$10,000,000. The Obligations will constitute limited tax general obligations of the District. A form of the Loan Agreement, including, as an exhibit, a form of the Note, accompany this letter, and all statements made in this letter concerning the provisions of the Obligations assume that the Loan Agreement and the Note are executed in substantially the forms so presented to you. We have further assumed, for purposes of this letter, the approval of the incurrence of the Obligations (in the principal amount of up to \$10,000,000) by the approving vote of at least two-thirds of the City Council and the delivery of a certification of an External Financial Advisor (as defined in the Service Plan) with respect to the Obligations.

Based upon the foregoing, we have determined that the incurrence by the District of the Obligations as set forth above is in compliance with all requirements of the Service Plan applicable thereto, as well as all applicable laws of the State of Colorado.

This letter is given as of the date hereof solely for your purpose in evaluating the appropriateness of consenting to the execution and delivery of the Loan Agreement and Note.

Sincerely,

Dee P. Wisor





RBC Capital Markets®

June 23, 2015

Board of Directors  
Allison Valley Metropolitan District No. 2  
c/o LaPlata Communities  
1755 Telestar Drive Suite 211  
Colorado Springs, CO 80920

Re: Allison Valley Metropolitan District No. 2  
Limited Tax General Obligation Loan, Series 2015

Board:

RBC Capital Markets, LLC ("RBC") is an External Financial Advisor within the meaning of the District's Service Plan.

We certify that: (1) the net effective interest rate (calculated as defined in Section 32-1-103(12), C.R.S.) to be borne by the Limited Tax General Obligation Loan, Series 2015 does not exceed a reasonable current tax exempt interest rate, using criteria deemed appropriate by RBC and based upon our analysis of comparable high yield securities; and (2) the structure of the Limited Tax General Obligation Loan, Series 2015, including maturities and early redemption provisions, is reasonable considering the financial circumstances of the District.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom Wendelin'.

Thomas Wendelin  
Vice President





AVMD Public Improvements  
 Project Budgets - Phase 1  
 As of: 7/1/2015

Projects		Item	Total
<b><u>Streets &amp; Drainage</u></b>			
Phase 1 Local Streets & Drainage		1,790,611	
Phase 2 Local Streets & Drainage	50.00%	770,608	
Federal Way Drive		1,296,646	
Ridgeline Drive Phase 1		1,493,000	
Black Squirrel Creek Phase 1		524,350	
Black Squirrel Creek Detention		88,650	
Public Infrastructure Design Costs		267,107	
<b>Total Streets &amp; Drainage</b>			6,230,972
<b><u>Water Infrastructure</u></b>			
Phase 1 Local Water		656,702	
Phase 2 Local Water		487,353	
Federal Way Water Loop		124,000	
<b>Total Water Infrastructure</b>			1,268,055
<b><u>Wastewater Infrastructure</u></b>			
Phase 1 Wastewater		597,180	
Phase 2 Wastewater		467,457	
Black Squirrel Creek Lift Station		1,725,000	
Sanitary Sewer Outfall		118,000	
<b>Total Wastewater Infrastructure</b>			2,907,637
<b><u>Parks &amp; Recreation</u></b>			
Landscape Phase 1		535,000	
Black Squirrel Pedestrian Bridge		489,000	
<b>Total Parks &amp; Recreation</b>			1,024,000
<b><u>Mosquito Control</u></b>			
Wetlands		72,000	
<b>Total Mosquito Control</b>			72,000
<b>Total Public Improvement Cost</b>			11,502,664
<b>Financing Costs</b>			
Cost of Issuance		250,000	995,000
Capitalized Interest		545,000	
Debt Service Reserve		200,000	
<b>Total Costs</b>			12,497,664

