

LOAN AGREEMENT  
BETWEEN THE TOWN OF CASTLE ROCK AND  
THE TOWN OF CASTLE ROCK GOLF COURSE ACTIVITY ENTERPRISE

THIS LOAN AGREEMENT (this “Agreement”), dated as of October 14, 2015, is made and entered into between the TOWN OF CASTLE ROCK, COLORADO (the “Town”) and the TOWN OF CASTLE ROCK ACTING BY AND THROUGH ITS GOLF COURSE ENTERPRISE (the “Enterprise”).

WHEREAS, the Town is a Colorado home rule municipality with all the powers and authority granted pursuant to Article XX of the Colorado Constitution and its Town Charter; and

WHEREAS, the members of the Town Council of the Town (the “Council”) have been duly elected or appointed and qualified; and

WHEREAS, the Council has previously created the Town of Castle Rock, Colorado Golf Course Enterprise (the “Enterprise”) as a government owned business, authorized to issue its own revenue bonds pursuant to the Colorado Constitution and the statutes of the State of Colorado; and

WHEREAS, the Town and the Enterprise previously entered into a certain loan agreement dated as of February 13, 1997 (the “Prior Loan Agreement”), as amended, pursuant to which the Town agreed to make available to the Enterprise such amount as is necessary to fund a Supplemental Reserve Fund at the Supplemental Reserve Fund Requirement, each as defined in the ordinance approving the Town’s Golf Course Enterprise Revenue Bonds, Series 1997, which bonds were refunded by the Golf Course Enterprise Revenue Refunding Bonds, Series 2005 (collectively, the “Prior Bonds” and the “Prior Bond Ordinances”);

WHEREAS, it is the current intention of the Town to approve an ordinance (the “2015 Ordinance”) authorizing the issuance of its Town of Castle Rock, Colorado Golf Course Enterprise Revenue Refunding Bonds, Series 2015 (the “2015 Bonds”) in order to refund the 2005 Bonds; and

WHEREAS, pursuant to the terms of the ordinance authorizing the issuance of the 2015 Bonds, the Supplemental Reserve Fund has been eliminated; however the 2015 Bonds will be secured by a Reserve Fund in the amount of the Reserve Fund Requirement, each as defined in the 2015 Ordinance;

WHEREAS, in order to secure the financing for the 2015 Bonds, the Council has determined to repeal the Prior Loan Agreement and approve the Loan Agreement with respect to the funding of the Reserve Fund at the Reserve Fund Requirement; and

WHEREAS, the Council has adopted its Resolution 15-[ ] (the “Replenishment Resolution”) declaring its nonbinding intent and expectation that it will appropriate any funds requested, within the limits of available funds and revenues, in a sufficient amount to replenish the Reserve Fund to the Reserve Requirement, for the purpose of providing additional security for the payment of principal and interest on the 2015 Bond.

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

1. PRIOR LOAN AGREEMENT. The Prior Loan Agreement dated as of February 13, 1997, between the Town and the Enterprise relating to the Supplemental Reserve Fund and other Loans by the Town to the Enterprise, as amended, is hereby repealed.

2. LOAN. If the Council appropriates funds pursuant to the Replenishment Resolution, such funds shall be a loan from the Town to the Enterprise to be repaid as provided herein.

3. USE OF PROCEEDS OF LOAN. The Loan is made for the purpose of replenishing the Reserve Fund to the Reserve Fund Requirement under the terms of the Bond Ordinance. NOTWITHSTANDING ANY OTHER PROVISION CONTAINED HEREIN, THE OBLIGATIONS OF THE ENTERPRISE WITH RESPECT TO THE LOAN, SHALL BE EXPRESSLY SUBORDINATE AND JUNIOR, ON AN ANNUAL BASIS, TO ITS OBLIGATIONS WITH RESPECT TO THE 2015 BONDS.

4. PAYMENT. (a) All amounts payable by the Enterprise to the Town hereunder shall constitute "Subordinate Debt" for purposes of the Bond Ordinance. The Enterprise shall cause such amounts to be paid from and to the extent of Net Revenues (as defined in the Bond Ordinance) available for the payment of Subordinate Debt in accordance with Section 15 (I) of the Bond Ordinance.

(b) The Enterprise agrees to pay the Town interest in the amount of  $\frac{1}{4}$  of 1% of the average rate obtained on Town investments for the preceding twelve (12) months as certified by the Finance Director.

5. SUBORDINATION. The Enterprise's obligations pursuant to this Agreement are subordinate to the repayment of any current or future bonded indebtedness of the Enterprise. For purposes of this Agreement, the term "bonded indebtedness," "bonds" and similar terms describing the possible forms of indebtedness include all forms of indebtedness that may be incurred by the Enterprise, including, but not limited to, revenue bonds, revenue anticipation notes, and all other forms of contractual indebtedness of whatsoever nature that is in any way secured or collateralized by revenues of the Enterprise, and including the 2015 Bonds.

4. GENERAL PROVISIONS. (a) Dispute Resolution. If a dispute arises between the parties relating to this Agreement, the parties agree to submit the dispute to mediation prior to filing litigation.

(b) Third Parties. Neither the Town nor the Enterprise shall be obligated or liable under the terms of this Agreement to any person or entity not a party hereto, other than the Lender.

(c) Modifications. No modification or change of any provision in this Agreement shall be made, or construed to have been made, unless such modification is mutually agreed to in writing by both parties with the prior written consent of the Lender and incorporated as a written amendment to this Agreement. Memoranda of understanding and correspondence shall not be construed as amendments to the Agreement.

(d) Entire Agreement. This Agreement shall represent the entire agreement between the parties with respect to the subject matter hereof and shall supersede all prior negotiations, representations or agreements, either written or oral, between the parties relating to the subject matter of this Agreement and shall be independent of and have no effect upon any other contracts.

(e) Severability. If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

(f) Waiver. No waiver of a breach of any provision of this Agreement by either party shall constitute a waiver of any other breach or of such provision. Failure of either party to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The remedies reserved in this Agreement shall be cumulative and additional to any other remedies in law or in equity.

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IN WITNESS HEREOF, the parties have caused this Agreement to be executed by their duly authorized officers on the date above.

TOWN OF CASTLE ROCK, COLORADO

ATTEST:

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Sally A. Misare, Town Clerk

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Mayor

TOWN OF CASTLE ROCK, COLORADO  
ACTING THROUGH ITS GOLF COURSE  
ENTERPRISE

ATTEST:

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