

**ACCOUNT PLEDGE AGREEMENT**

THIS ACCOUNT PLEDGE AGREEMENT (the “Agreement”) is entered into and effective as of \_\_\_\_\_, 2016 (“Effective Date”) between TOWN OF CASTLE ROCK, a home rule municipality and political subdivision of the State of Colorado (“Pledgor”) and FIRSTBANK, a Colorado banking association (“Pledgee”).

**RECITALS**

- A. Borrower has executed or will execute a Promissory Note of even date herewith, payable to the order of Lender in an amount of \$2,500,000.00 (“Note”). Terms not otherwise defined in this Agreement shall have the meanings ascribed to such terms as set forth in the Note.
- B. In consideration of the loan evidenced by the Note, Pledgor has agreed to grant to Pledgee a security interest in all rights of Pledgee with respect to a deposit account (described below), held by Pledgee on the following terms and conditions:

**AGREEMENT**

NOW, THEREFORE, in partial consideration of Pledgee entering into the Loan Agreement, for the benefit of Pledgor and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Debt Service in Special Fund Deposit Account. Upon the execution of this Agreement, Pledgor will have on deposit with and located at Pledgee the certain deposit account described in the attached Exhibit A (“Special Fund Account”) into which Pledgor shall deposit at least 1.2 times the annual debt service on the Note [as of the date of this Agreement, approximately \$230,000] (“Debt Service Coverage Amount”). The funds in the Special Fund Account may be withdrawn but shall never be less than the Debt Service Coverage Amount. The funds in the Special Fund Account shall bear interest at the standard applicable rate offered by the Pledgee to said accounts, which shall become part of the Special Fund Account.
2. Balloon Reserve Amount in Special Fund Deposit Account. Borrower shall cause to be deposited into the Special Fund Account from the Pledged Revenues the following amounts: On or before closing, Pledgor will deposit into the Special Fund Account the amount of \$30,817.24; on or before September 1 of each of the years 2017-2019 (inclusive), Pledgor will deposit into the Special Fund Account an additional \$30,817.24 (each year), so that as of September 1, 2019 there shall be a total of \$123,268.96; on or before September 1 of each of the years 2020-2023 (inclusive), Pledgor will deposit into the Special Fund Account an additional \$200,312.06 (each year); and on or before September 1 of each of the years 2024 and 2025, Pledgor will deposit into the Special Fund Account an additional \$308,172.40 (so much as shall be deposited pursuant to the foregoing, the “Balloon Reserve Amount”).
3. Collateral. Pledgor hereby pledges, assigns and hypothecates to Pledgee all of Pledgor’s right, title and interest in and to all amounts in the Special Fund Account, including, the Debt Service Coverage Amount and the Balloon Reserve Amount (“Collateral”).

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4. Obligations Secured. This Agreement shall secure the following obligations (the “Obligations”):

- a. Any indebtedness existing under the terms of the Note;
- b. Payment, performance and observance by Pledgor of each covenant, condition, provision and agreement contained in the Note and related Loan Documents (as defined in the Note) or to preserve any right of Pledgee thereunder;
- c. Payment, performance and observance by Pledgor of each covenant, condition, provision and agreement contained herein or to preserve any right of Pledgee hereunder, or to protect or preserve the Collateral or any party thereof.

5. Covenants and Warranties of Pledgor. Pledgor hereby warrants and covenants to Pledgee the following:

- a. Except for the security interest granted hereby or otherwise to the Pledgee, Pledgor is the owner of 100% of the Collateral, free and clear of any prior liens, security interests, claims or encumbrances. Pledgor shall defend the Collateral against all claims and demands of any persons at any time claiming the same or any interest therein.
- b. No certificate, instrument or document has been issued to Pledgor or any other person or entity to evidence ownership rights of any kind in or to the Reserve Account or Surplus Reserve Account.
- c. Pledgor will not sell or offer to sell or otherwise transfer or encumber the Collateral or any interest therein without the prior written consent of Pledgee, in its sole discretion.

6. Balance of Account. Pledgor agrees that Pledgee shall be entitled to withdraw and collect any loan fees (as enumerated in the Note) from the Special Fund Account, in its sole discretion.

7. Further Assurances. As of and after the date of this Agreement, Pledgor shall provide to Pledgee a copy of any written or other communications or information that Pledgor receives from any person or entity regarding the Special Fund Account within five (5) days after receipt thereof by Pledgor. Pledgor shall execute and deliver to Pledgee irrevocable transfer powers and financing statements or other documents and instruments as reasonably required or requested by Pledgee to establish, maintain and perfect its security interest in the Collateral or to collect, repossess or foreclose upon the same or to preserve any of the Collateral.

8. Indemnity. To the extent permitted by law and subject to annual appropriation, Pledgor shall indemnify, defend and hold Pledgee harmless from and against all claims, actions, demands, loss, cost, liability or expense (including, but not limited to, reasonable attorneys’ fees and court costs) incurred in connection with any action taken by Pledgee pursuant to this Agreement or asserted against Pledgee in connection with the Collateral.

9. Events of Default. Any failure of the Pledgor to timely perform or observe any term, covenant, condition or Obligation contained herein or in the Note or other Loan Documents shall constitute an “Event of Default.”

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10. Rights Upon Default. Upon an Event of Default and any time thereafter, Pledgee may take the funds in the Special Reserve Account and apply it to amounts due and owing under the Note and provide Pledgor with notice as to the disposition of funds in the Special Fund Account in order to satisfy any of the Obligations to the extent owed to Pledgee. Pledgor acknowledges and agrees that it may not withdraw any amounts from Special Fund Account, except upon the prior written consent of Pledgee. Pledgee shall have the rights and remedies of a secured party under Article 9 of the Colorado Uniform Commercial Code or other applicable law, and all rights provided herein and in the Loan Agreement shall be cumulative to the fullest extent permitted by law.

11. Remedies Cumulative. All of the remedies afforded to Pledgee by reason of this Agreement, the Note, the other Loan Documents and under the laws of the State of Colorado are separate and cumulative remedies. It is agreed that no one such remedy shall be deemed to be exclusive of any other remedy and shall not in any manner limit or prejudice any other legal or equitable remedy which Pledgee may have. All remedies may be exercised concurrently, consecutively or simultaneously.

12. Notice. Any notice, request, demand, statement or consent made hereunder shall be in writing and shall be personally delivered, sent by overnight courier providing documentation of receipt or sent by registered or certified mail, return receipt requested, and shall be deemed given when personally delivered, when received by overnight courier or three days after deposit in the United States Mail, postage prepaid and properly addressed to the other party at its address as set forth in the Loan Agreement. Each party may designate a change of address by notice to the other party in accordance with this section.

13. Term. This Agreement shall terminate on the date that all obligations of Pledgor under the Loan Agreement and Note are paid in full.

14. General Provisions.

a. No waiver by Pledgee of any Event of Default shall operate as a waiver of any other Event of Default or of the same Event of Default on a future occasion. Pledgee's acceptance of this Agreement shall not impair any other security Pledgee may have or acquire for the payment of the Obligations secured, nor shall the taking of any additional security waive or impair this Agreement. Pledgee shall retain any rights of setoff against Pledgor.

b. This Agreement may not be modified, amended, changed, discharged or terminated orally, but only by an agreement signed in writing by the party against whom enforcement of the modification, amendment, change, discharge or termination is sought.

c. If any term, covenant or provision of this Agreement shall be held to be invalid, illegal or unenforceable in any respect, this Agreement shall be construed without such term, covenant or provision to the fullest extent permitted by law.

d. This Agreement shall be governed and construed in accordance with the laws of the state of Colorado applicable to contracts made in and to be performed in the state of Colorado.

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e. All of the rights of Pledgee hereunder shall inure to the benefit of its successors and assigns. All the promises and duties of Pledgor shall bind and inure to the benefit of Pledgor's successors and assigns.

f. A carbon or photographic reproduction of this Agreement may be filed or recorded as a financing statement.

g. This Agreement may be executed in any number of original or facsimile counterparts, each of which shall constitute an original, but all of which, taken together, shall constitute one and the same instrument.

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

**PLEDGOR:**

**BORROWER:**

TOWN OF CASTLE ROCK,  
a home rule municipality and political subdivision of  
the State of Colorado

By: \_\_\_\_\_  
Paul Donahue, Mayor

(Seal)

**ATTEST:**

\_\_\_\_\_  
Sally Misare, Town Clerk

**PLEDGEE:**

**LENDER:**

FIRSTBANK,  
a Colorado banking corporation

By: \_\_\_\_\_  
David Zwerenz, Senior Vice President

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**EXHIBIT A**  
**SPECIAL FUNDS ACCOUNT**

Account No. 285-129-1356