

**TOWN OF CASTLE ROCK, COLORADO**  
**TAXABLE SALES AND USE TAX REVENUE REFUNDING BONDS**  
**SERIES 2020**  
**ESCROW AGREEMENT**

**DATED** as of [closing date], 2020, made by and between **TOWN OF CASTLE ROCK, COLORADO**, a legally and regularly created, established, organized and existing municipal corporation under the Constitution of the State of Colorado (the “Town”), and **UMB BANK, N.A.**, Denver, Colorado, a national banking association having and exercising full and complete trust powers, duly organized and existing under and by virtue of the laws of the United States, being a member of the Federal Deposit Insurance Corporation and the Federal Reserve System (the “Escrow Bank”).

(1) **WHEREAS**, the Town is duly organized and existing under the Constitution and laws of the State of Colorado (the “State”) and its Town Charter, and its officers from time to time have been duly chosen and qualified; and

(2) **WHEREAS**, the Town has heretofore issued its Sales and Use Tax Revenue Bonds, Series 2013, in the aggregate principal amount of \$20,000,000 (the “Series 2013 Bonds”), currently outstanding in the aggregate principal amount of \$18,015,000; and

(3) **WHEREAS**, the Series 2013 Bonds bear interest from the date thereof until their respective maturities at the rates set forth below, and mature on the first day of June in each of the designated amounts of principal and designated years, as follows:

<u>Maturity</u> <u>(June 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u> <u>Per Annum</u>
2021	515,000	2.250
2022	525,000	2.500
2023	550,000	4.000
2025	1,165,000	4.000
2026	620,000	4.000
2027	645,000	4.000
2028	670,000	4.000
2029	1,630,000	5.000
2030	1,715,000	5.000
2031	1,800,000	5.000
2032	1,895,000	5.000
2035	6,285,000	5.000

(4) **WHEREAS**, the Series 2013 Bonds maturing on June 1, 2024 and thereafter are subject to redemption at the option of the Town, in whole, or in part from any maturity, from such maturities as are selected by the Town and by lot within maturity (giving proportionate weight to bonds in denominations larger than \$5,000), in such manner as the Town may determine on June 1, 2023, or on any date thereafter, at a redemption price equal to the principal amount of each Refunded Bond so redeemed and accrued interest thereon to the redemption date without a redemption premium. ; and

(5) **WHEREAS**, the Town now desires to refund, pay and discharge the all of the currently outstanding Series 2013 Bonds maturing on and after June 1, 2024 (the “Refunded Bonds”) and pay such Refunded Bonds upon maturity or upon prior redemption on June 1, 2023 (the “Redemption Date”) at a redemption price equal to the principal amount so redeemed, plus accrued interest to the Redemption Date; and

(6) **WHEREAS**, the Town intends to issue its Taxable Sales and Use Tax Revenue Refunding Bonds, Series 2020 in the aggregate principal amount of \$\_\_\_\_\_ (the “2020 Bonds” or the “Bonds”), to be used for the purpose of paying (i) the interest due on the Refunded Bonds, both accrued and unaccrued, as the same becomes due on and after the date of delivery of the Bonds and on and before maturity or upon prior redemption on the Redemption Date; and (ii) the principal of the Refunded Bonds upon maturity or upon prior redemption on the Redemption Date, all as more fully described in Exhibit 1 to this Agreement (the “Refunded Bond Requirements”); and

(7) **WHEREAS**, the Town is not delinquent in the payment of the principal of and interest on the Refunded Bonds; and

(8) **WHEREAS**, the Series 2020 Bonds are issued by the Town pursuant to an ordinance passed by the Town on September 1, 2020 (the “Ordinance”); and

(9) **WHEREAS**, the Town, by the Ordinance, among other matters:

A. Created the Escrow Account (as defined below);

B. Authorized the Escrow Account (as defined below) to be maintained at the Escrow Bank;

C. Provided for the deposit in the Escrow Account of a portion of the net proceeds of the Series 2020 Bonds and any other moneys in an aggregate amount fully sufficient, together with the known minimum yield from the investment of such moneys in bills, certificates of

indebtedness, notes, bonds, or similar securities which are direct obligations of, or the principal and interest of which are unconditionally guaranteed by, the United States, which obligations are not callable at the option of the issuer thereof (“Federal Securities”), to pay the Refunded Bond Requirements, as set forth therein and herein (in no circumstances shall the term “Federal Securities” include money market investments even if the money market fund in which the investment is made invests only in Federal Securities);

D. Provided for the purchase of Federal Securities with such moneys credited to the Escrow Account; and

E. Authorized the completion and execution of this Agreement; and

(10) **WHEREAS**, a copy of the Bond Ordinance has been delivered to the Escrow Bank, and the provisions therein set forth are herein incorporated by reference as if set forth herein verbatim in full; and

(11) **WHEREAS**, the Federal Securities described in the Report, have appropriate maturities and yields to insure, together with the initial cash (as defined below), the payment of the Refunded Bond Requirements, as the same becomes due; and

(12) **WHEREAS**, a schedule of receipts from such Federal Securities and a schedule of payments and disbursements in the Report demonstrate the sufficiency of the Federal Securities and initial cash, if any, for such purpose; and

(13) **WHEREAS**, the Escrow Bank is empowered to undertake the obligations and commitments on its part herein set forth; and

(14) **WHEREAS**, the undersigned officer of the Escrow Bank is duly authorized to execute and deliver this Agreement in the Escrow Bank’s name and on its behalf; and

(15) **WHEREAS**, the Town is empowered to undertake the obligations and commitments on its part herein set forth; and

(16) **WHEREAS**, the undersigned officers of the Town are duly authorized to execute and deliver this Agreement in the Town’s name and on its behalf.

**NOW, THEREFORE, THIS ESCROW AGREEMENT WITNESSETH:**

That in consideration of the mutual agreements herein contained, and the payment of the fees and costs specified in Section 9 hereof, duly paid by the Town to the Escrow Bank at or before the delivery of these presents, the receipt of which is hereby acknowledged, and in order to secure the payment of the Refunded Bond Requirements, as the same become due, the parties hereto mutually

undertake, promise, and agree for themselves and their respective representatives, successors, and assigns, as follows:

**Section 1. Creation of Escrow.**

A. Simultaneously with the delivery of the Series 2020 Bonds and subject to their issuance, the Town, with \$\_\_\_\_\_ of the proceeds of the Series 2020 Bonds, the Federal Securities described in Exhibit 1 to this Agreement (the “Initial Federal Securities”) and shall cause the Initial Federal Securities, if any, and an initial cash balance of \$\_\_\_ (the “initial cash”) to be irrevocably credited to and accounted for in a separate trust account designated as the “Town of Castle Rock, Colorado, Taxable Sales and Use Tax Revenue Refunding Bonds, Series 2020, Escrow Account” (the “Escrow Account”). Receipt of \$\_\_\_\_\_ by the Escrow Bank to be applied as provided herein is hereby acknowledged.

B. Other Federal Securities may be substituted for any Initial Federal Securities if such Initial Federal Securities are unavailable for purchase at the time of issuance of the Series 2020 Bonds or other Federal Securities may be substituted for any Federal Securities held in the Escrow Account if such substitution is required or permitted by Section 148 of the Internal Revenue Code of 1986, as amended (the “Tax Code”), and the applicable regulations thereunder, subject in any case to sufficiency demonstrations and yield proofs in a certified public accountant’s report, and subject to a favorable opinion of the Town’s bond counsel as to the legality of any such substitution, and the continued exemption of interest on the Bonds from federal income taxation (except certain alternative minimum taxes described in bond counsel’s opinion), and in any event in such a manner so as not to increase the price which the Town pays for the initial acquisition of Federal Securities for the Escrow Account. The certified public accountant’s report must indicate that the receipts from the substitute securities are sufficient without any need for reinvestment to fully pay the Refunded Bond Requirements. In lieu of, or in addition to, substituting other Federal Securities pursuant to the preceding sentence, moneys in an amount equal to the principal of and interest on all or any portion of such Initial Federal Securities may be credited to the Escrow Account subject to the provisions of Section 5 hereof. Any such cash shall be deemed to be part of the initial cash, if any. Any Federal Securities temporarily substituted may be withdrawn from the Escrow Account when the Initial Federal Securities are purchased and credited to the Escrow Account. Similarly any temporary advancement of moneys to the Escrow Account to pay designated Refunded Bond Requirements, because of a failure to receive promptly the principal of and interest on any Federal Securities at their respective fixed maturity

dates, or otherwise, may be repaid to the person advancing such moneys upon the receipt by the Escrow Bank of such principal and interest payments on such Federal Securities.

C. The initial cash, the proceeds of the Initial Federal Securities, if any, (and of any other Federal Securities acquired as an investment or reinvestment of moneys accounted for in the Escrow Account), and any such Federal Securities themselves (other than Federal Securities, including the Initial Federal Securities, held as book-entries), shall be deposited with the Escrow Bank and credited to and accounted for in the Escrow Account. The securities and moneys accounted for therein shall be redeemed and paid out and otherwise administered by the Escrow Bank for the benefit of the Town as provided in this Agreement and the Bond Ordinance.

**Section 2. Purpose of Escrow.**

A. The Escrow Bank shall hold the initial cash and all Federal Securities, if any, accounted for in the Escrow Account (other than Federal Securities, including the Initial Federal Securities, held as book-entries), and all moneys received from time to time as interest on and principal of any such Federal Securities, in trust to secure and for the payment of the Refunded Bond Requirements, as the same become due.

B. Except as provided in paragraph B of Section 1 hereof, the Escrow Bank shall collect the principal of and interest on such Federal Securities promptly as such principal and interest become due and shall apply all money so collected to the payment of the Refunded Bond Requirements as aforesaid.

**Section 3. Accounting for Escrow.**

A. The moneys and the Federal Securities, if any, accounted for in the Escrow Account shall not be subject to checks drawn by the Town or otherwise subject to its order except as otherwise provided in paragraph B of Section 1 hereof.

B. The Escrow Bank, however, shall transfer from time to time, sufficient moneys to pay, without any default, the Refunded Bond Requirements, as the same become due, as provided herein.

C. Except as otherwise provided in paragraph B of Section 1 of this Agreement, there shall be no sale of any Federal Securities held hereunder, and no Federal Securities held hereunder and callable for prior redemption at the Town's option shall be called at any time for prior redemption, except if necessary to avoid a default in the payment of the Refunded Bond Requirements.

**Section 4. Maturities of Federal Securities.**

A. Any Federal Securities shall be purchased in such manner:

1. So that such Federal Securities may be redeemed in due season at their respective maturities to meet such Refunded Bond Requirements as the same become due, and
2. So that any sale or prior redemption of such Federal Securities shall be unnecessary.

B. There shall be no substitution of any Federal Securities except as otherwise provided in paragraph B of Section 1 of this Agreement.

**Section 5. Reinvestments.**

A. The Escrow Bank shall reinvest the cash balances listed in the Report for the period designated in the Report in state and local government series securities (“SLGs”) purchased directly from the United States Government by the Escrow Bank in the name of the Town. All of the SLGs in which such reinvestments are made shall bear interest at the rate of zero percent (0%) per annum. The Escrow Bank agrees to comply with Part 344 of Title 31, Code of Federal Regulations, and with such other regulations of the United States Treasury, Bureau of Public Debt, as are from time to time in effect in subscribing for and purchasing such SLGs, including without limitation, requirements with respect to submitting subscriptions to a Federal Reserve Bank or Branch in advance (currently between 60 and 15 days in advance) of the date of purchase of the SLGs.

B. In addition to or, as the case may be, in lieu of the reinvestments required by paragraph A of this Section, the Escrow Bank, at the written direction of the Town, shall invest the initial cash, if any, and shall reinvest in Federal Securities any moneys received in payment of the principal of and interest on any Federal Securities accounted for in the Escrow Account, subject to the limitations of Section 1, Section 4, and Section 6 hereof and the following limitations:

1. Any such Federal Securities shall not be subject to redemption prior to their respective maturities at the option of their issuer.
2. Any such Federal Securities shall mature on or prior to the date when the proceeds thereof must be available for the prompt payment of the Refunded Bond Requirements, as the same become due.
3. Under no circumstances shall any reinvestment be made under this Section if such reinvestment, alone or in combination with any other investment or reinvestment, violates the applicable provisions of § 148 of the Tax Code, and the rules and regulations thereunder.

4. The Escrow Bank shall make no such reinvestment unless the Town first obtains and furnishes to the Escrow Bank a written opinion of the Town's bond counsel to the effect that such reinvestment, as described in the opinion, complies with paragraph B of this Section.

**Section 6. Sufficiency of Escrow.** The moneys and Federal Securities accounted for in the Escrow Account shall be in an amount (or have appropriate maturities and yields to produce an amount) which at all times shall be sufficient to pay the Refunded Bond Requirements as they become due.

**Section 7. Transfers and Redemption Notice for Refunded Bond Requirements.**

A. The Escrow Bank shall make such arrangements and transfers to the paying agent for the Refunded Bonds as will assure, to the extent of money in the Escrow Account properly allocable to and available therefor, the timely payment of the Refunded Bond Requirements **at the maturity or** prior redemption date.

B. The Town directs the Escrow Bank to cause notice of prior redemption of the Refunded Bonds to be given in the manner required by the bond ordinances authorizing the Refunded Bonds. The Escrow Bank shall cause notice of redemption of the Refunded Bonds to be given to the registered owners of the Refunded Bonds upon the issuance of the Series 2020 Bonds, and again not more than 60 nor less than 30 days prior to the Redemption Date in the manner provided in the bond ordinance authorizing the Refunded Bonds.

**Section 8. Termination of Escrow Account.**

When payment or provisions for payment shall have been made so that all Refunded Bond Requirements shall be or shall have been paid in full and discharged, this Escrow Agreement and any obligations hereunder shall terminate. Upon such termination, the Escrow Bank shall immediately transfer any moneys remaining in the Escrow Account to the Town.

**Section 9. Fees and Costs.**

A. The Escrow Bank's total fees and costs for and in carrying out the provisions of this Agreement, have been fixed at \$\_\_\_\_\_, which amount is to be paid at or prior to the time of the issuance of the Series 2020 Bonds by the Town directly to the Escrow Bank as payment in full of all charges of the Escrow Bank pertaining to this Agreement for services performed hereunder.

B. Such payment for services rendered and to be rendered by the Escrow Bank shall not be for deposit in the Escrow Account, and the fees of and the costs incurred by the Escrow Bank shall not be deducted from such account.

**Section 10. Status Report.**

A. On or before January 15, 2021, and on or before each January 15 through and including January 15, 2024, the Escrow Bank shall submit to the Town a report covering all money which the Escrow Bank shall have received and all payments which it shall have made or caused to be made hereunder.

B. The report shall indicate for which period and in which trust bank any Federal Securities (other than Federal Securities held as book-entries) and any uninvested moneys were transferred for safekeeping or any Federal Securities (other than Federal Securities held as book-entries) pledged to secure the repayment to the Town of any uninvested moneys were placed in pledge, as permitted by Section 12 hereof.

**Section 11. Character of Deposit.**

A. It is recognized that title to the Federal Securities and money accounted for in the Escrow Account from time to time shall remain vested in the Escrow Bank for the benefit of the Town but subject always to the prior charge and lien thereon of the Bond Ordinance and this Agreement and the use thereof required to be made by the provisions of this Agreement and the Bond Ordinance.

B. The Escrow Bank shall hold all such Federal Securities (except as they may be held as book-entries) and money in the Escrow Account as a special trust fund accounted for separately, and shall never commingle such securities or money with other securities or money held by the Escrow Bank in its non-trust operations.



**Section 12. Securing Deposit.**

A. The Escrow Bank may cause the Federal Securities accounted for in the Escrow Account to be registered in the name of the Escrow Bank for payment, if they are registrable for payment.

B. No money paid into and accounted for in the Escrow Account shall ever be considered as an asset of the Escrow Bank and the Escrow Bank shall have no right or title with respect thereto except as provided herein.

**Section 13. Purchaser's Responsibility.**

The holders from time to time of the Series 2020 Bonds shall in no manner be responsible for the application or disposition of the proceeds thereof or any moneys or Federal Securities accounted for in the Escrow Account. This clause shall not relieve the Escrow Bank (if it is a holder of the Series 2020 Bonds), in its capacity as Escrow Bank, from its duties under this Agreement.

**Section 14. Amendment.**

A. The Series 2020 Bonds shall be issued in reliance upon this Agreement and except as herein provided this Agreement shall be irrevocable and not subject to amendment after any of the Series 2020 Bonds shall have been issued.

B. The provisions of this Agreement may be amended, waived or modified upon approval the holders of all of the then-outstanding Refunded Bonds and Series 2020 Bonds. The provisions of this Agreement also may be amended, waived or modified, without the consent of or notice to the holders of the Refunded Bonds or the Series 2020 Bonds, for one or more of the following purposes:

1. to cure any ambiguity, or to cure, correct or supplement any formal defect or omission or inconsistent provision contained in this Agreement;
2. to pledge additional revenues, properties or collateral as security for the Refunded Bonds; or
3. to deposit additional monies or Federal Securities to the Escrow Account.

Notwithstanding any other provision hereof no amendment, modification or waiver shall be effective if it is materially prejudicial to the owners of the Refunded Bonds or affects the exclusion of the interest on the Refunded Bonds or the Series 2020 Bonds from gross income from federal income tax purposes, unless such amendment, waiver or modification is approved by the holders of all of the then-outstanding Refunded Bonds, the Series 2020 Bonds affected thereby.

C. The Town hereby agrees for the benefit of the registered owners of the Refunded Bonds that it will not avail itself of any statutory or other right it may have to terminate or cancel this Agreement unless and until a successor Escrow Bank has been appointed and the Escrow Account has been transferred to such successor.

**Section 15. Exculpatory Provisions.**

A. The duties and responsibilities of the Escrow Bank are limited to those expressly and specifically stated in this Agreement.

B. The Escrow Bank shall not be liable or responsible for any loss resulting from any investment or reinvestment made pursuant to this Escrow Agreement and made in compliance with the provisions hereof.

C. The Escrow Bank shall not be personally liable or responsible for any act which it may do or omit to do hereunder, while acting with reasonable care, except for duties expressly imposed upon the Escrow Bank hereunder or as otherwise expressly provided herein.

D. The Escrow Bank shall neither be under any obligation to inquire into or be in any way responsible for the performance or nonperformance by the Town of any of its obligations, nor shall the Escrow Bank be responsible in any manner for the recitals or statements contained in this Agreement, in the Bond Ordinance, in the Refunded Bonds, or in any proceedings taken in connection therewith, such recitals and statements being made solely by the Town.

E. Nothing in this Agreement creates any obligation or liabilities on the part of the Escrow Bank to anyone other than the Town and the holders of the Refunded Bonds.

**Section 16. Time of Essence.**

Time is of the essence in the performance of the obligations from time to time imposed upon the Escrow Bank by this Agreement.

**Section 17. Successors.**

A. Whenever in this Agreement the Town or the Escrow Bank is named or is referred to, such provision is deemed to include any successor of the Town or the Escrow Bank, respectively, immediate or intermediate, whether so expressed or not. The rights and obligations under this Agreement may be transferred by the Escrow Bank to a successor. Any corporation or association into which the Escrow Bank may be merged or converted or with which the Escrow Bank may be consolidated or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which the Escrow Bank may be a party or any corporation or association to

which the Escrow Bank may sell or transfer all or substantially all of its corporate trust business shall be the successor to the Escrow Bank without the execution or filing of any document or any further act, anything herein to the contrary notwithstanding.

B. All of the stipulations, obligations, and agreements by or on behalf of and other provisions for the benefit of the Town or the Escrow Bank contained in this Agreement:

1. Shall bind and inure to the benefit of any such successor, and
2. Shall bind and inure to the benefit of any officer, board, city, agent, or instrumentality to whom or to which there shall be transferred by or in accordance with law any relevant right, power, or duty of the Town or the Escrow Bank, respectively, or of its successor.



**Section 22. Exercise of Option.** The Town Council has elected and does hereby declare its intent to exercise on the behalf and in the name of the Town its option to redeem the Refunded Bonds on the Redemption Date. The Town hereby authorizes and directs the registrar for such Refunded Bonds to give notice of refunding, defeasance and redemption of the Refunded Bonds to the registered owners of the Refunded Bonds in accordance with the provisions of the ordinance authorizing the issuance of the Refunded Bonds.

**Section 23. Form of Notice.** The notices so to be given shall be in substantially the following form:

**EXHIBIT A**

(Form of Notice)

**NOTICE OF REFUNDING, DEFEASANCE AND REDEMPTION  
TOWN OF CASTLE ROCK, COLORADO  
SALES AND USE TAX REVENUE BONDS  
SERIES 2013  
CUSIP NOS. \_\_\_\_\_**

NOTICE IS HEREBY GIVEN that Town of Castle Rock, Colorado, (the “Town”) will cause to be deposited in escrow with UMB BANK, N.A., refunding bond proceeds and other moneys which will be invested (except for a small initial cash balance remaining uninvested) in certificates of indebtedness, notes, bonds and similar securities which are direct obligations of, or obligations the principal or and interest on which are unconditionally guaranteed by, the United States of America to refund, pay, redeem and discharge portions of the principal and interest in connection with the Town’s Sales and Use Tax Revenue Bonds, Series 2013 (the “Series 2013 Bonds”) as more particularly described below.

All of the Series 2013 Bonds maturing on and after June 1, 20\_\_, in the aggregate principal amount of \$\_\_\_\_\_ (the “Refunded 2013 Bonds”) will be paid upon maturity or called for prior redemption on June 1, 2023 (the “Redemption Date”). On the Redemption Date, the principal of such Refunded 2013 Bonds and accrued interest to the date of redemption, without a prior redemption premium, will become due and payable at the principal office of the paying agent, UMB Bank, n.a., as paying agent for the Refunded 2013 Bonds (the “Paying Agent”), and thereafter interest will cease to accrue.

According to a report of a firm of certified public accountants, licensed to practice in Colorado, amounts deposited to the escrow account by the Town, including the known minimum yield from investments of the amount deposited and the initial cash balance remaining uninvested, will be fully sufficient at the time of the deposit and at all times subsequent, to pay the principal of the Refunded Bonds as it comes due upon maturity and on the Redemption Date and accrued interest thereon on and after the date of the deposit and on and before the respective Redemption Date.

In compliance with the federal law, the Paying Agent is required to withhold at the current backup withholding rate a percentage from payments of principal to individuals who fail to furnish valid Taxpayer Identification Numbers. A completed Form W-9 should be presented with your bond.

The above-referenced CUSIP numbers were assigned to this issue by Standard & Poor’s Corporation and are intended solely for bondholders’ convenience. Neither the Paying Agent nor the Town shall be responsible for selection or use of the CUSIP numbers, nor is any

representation made as to their correctness on the Refunded Bonds or as indicated in any redemption notice.

Dated [closing date], 2020

UMB BANK, N.A.,  
Registrar

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

(End of Form of Notice)

**IN WITNESS WHEREOF, THE TOWN OF CASTLE ROCK, COLORADO**, has caused this Escrow Agreement to be signed in the Town's name by the Mayor, and to be attested by the Town Clerk, with the seal thereof hereunto affixed; and **UMB BANK, N.A.**, has caused this Escrow Agreement to be signed in its corporate name by one of its Vice Presidents, all as of the day and year first above written.

**TOWN OF CASTLE ROCK, COLORADO**

\_\_\_\_\_  
Jason, Gray, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Anderson, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael J. Hyman, Town Attorney

**UMB BANK, N.A., as Escrow Bank**

By: \_\_\_\_\_  
Authorized Officer



EXHIBIT 1

(Attach Certified Public Accountant's Report)