

ORDINANCE NO. 2018-009

**AN ORDINANCE AUTHORIZING A FIRST AMENDMENT
TO A PREVIOUSLY EXECUTED LEASE AGREEMENT,
SITE AND IMPROVEMENT LEASE, AND PROVIDING
OTHER MATTERS RELATING THERETO**

WHEREAS, the Town of Castle Rock, Colorado (the “Town”) is a home rule municipality and political subdivision of the State of Colorado (the “State”) organized and existing under a home rule charter (the “Charter”) pursuant to Article XX of the Constitution of the State; and

WHEREAS, pursuant to the Charter, the Town is authorized to enter into long term installment purchase contracts and rental or leasehold agreements in order to provide necessary land, buildings, equipment and other property for governmental or proprietary purposes; and

WHEREAS, the Town Council of the Town (the “Town Council”) has previously leased certain real property of the Town and the improvements located thereon, generally known as Town Hall, the Town Service Center, and a parking lot (the “Leased Property”) to UMB Bank, n.a., acting solely in its capacity as trustee under an Indenture of Trust (the “Trustee”), under that certain Site and Improvement Lease dated as of September 12, 2013 (the “Site Lease”) and then leased the Leased Property back from the Trustee pursuant to a Lease Agreement dated as of September 12, 2013 (the “Lease”); and

WHEREAS, pursuant to Section 10.4 of the Lease, so long as no Event of Lease Default or Event of Non-appropriation shall have occurred and is continuing, the Trustee shall release any portion of the Leased Property, and shall execute all documents necessary or appropriate to convey the same to the Town free of all restrictions and encumbrances imposed or created by the Site Lease, the Lease or the Indenture, upon receipt by the Trustee of (a) a written request of the Town Representative of such release and (b) a certificate of the Town Representative addressed to the Trustee and Assured Guaranty Municipal Corp. (the “Insurer”) certifying as to certain matters relating to the property to be released and the property to be substituted; and

WHEREAS, the Town Council has determined that it is in the best interest of the Town and its inhabitants and taxpayers that the Town Hall Facility and the parking lot located next to Town Hall and across the street from Town Hall should be released from the Lease and the Site Lease for purposes of economic development of the Town and substituted with the Police and Municipal Court Facility; and

WHEREAS, the Town Representative has presented the Trustee and the Insurer with the appropriate certificates and documents to effect such partial release and substitution; and

WHEREAS, pursuant to Section 9.03 of the Indenture, the Lease and the Site Lease may be amended without consent of or notice to the Owners of the Certificates (as defined in the Indenture), in order to more precisely identify the Leased Property, including any

substitutions, additions or modifications to the Leased Property as the case may be, as authorized under the Site Lease and the Lease; and

WHEREAS, the Town Council has determined and hereby determines it is in the best interests of the Town and its inhabitants that the Town execute and deliver a First Amendment to Lease Agreement (the “First Lease Amendment” **Exhibit 1**) and First Amendment to Site and Improvement Lease (the “First Site Lease Amendment” **Exhibit 2**) in order to more precisely identify the Leased Property after the release of the Town Hall facility and related parking lots, and the substitution of the Police and Municipal Court facility; and

WHEREAS, capitalized terms not otherwise defined herein will have the meanings assigned to them in the Lease or the Indenture; and

WHEREAS, there is on file with the Town the proposed forms of the First Lease Amendment and the First Site Lease Amendment.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO:

Section 1. Ratification and Approval of Prior Actions. All action heretofore taken (not inconsistent with the provisions of this ordinance) by the Town Council, the Town Representative, or the officers or agents of the Town Council or the Town relating to the First Lease Amendment and the First Site Lease Amendment, including the release of a portion of the Leased Property and substitution of such portion of the Leased Property with the Police and Municipal Court facility, is hereby ratified, approved and confirmed.

Section 2. Finding of Best Interests. The Town Council hereby finds and determines, pursuant to the Constitution, the laws of the State of Colorado and the Charter, that the release of a portion of the Leased Property and the substitution related thereto is necessary, convenient and in furtherance of the Town’s purposes and are in the best interests of the inhabitants of the Town, and the Town Council hereby authorizes and approves the same.

Section 3. Approval of Documents. The First Lease Amendment and the First Site Lease Amendment, in substantially the forms presented to the Town Council and on file with the Town, are in all respects approved, authorized and confirmed, and the Mayor of the Town is hereby authorized and directed for and on behalf of the Town to execute and deliver the First Amendment in substantially the forms and with substantially the same contents as presented to the Town Council.

Section 4. Authorization to Execute Collateral Documents. The Town Clerk or her designee is hereby authorized and directed to attest all signatures and acts of any official of the Town in connection with the matters authorized by this ordinance and to place the seal of the Town on any document authorized and approved by this ordinance. The Mayor and Town Clerk and other appropriate officials or employees of the Town are hereby authorized to execute and deliver for and on behalf of the Town any and all additional certificates, documents, instruments and other papers, and to perform all other acts that they deem necessary or appropriate, in order to implement and carry out the transactions and other matters authorized by this ordinance, including but not limited to such documents, certificates and affidavits as may be

necessary. The execution of any instrument by the aforementioned officers or members of the Town Council shall be conclusive evidence of the approval by the Town of such instrument in accordance with the terms hereof and thereof.

Section 5. Repealer. All ordinances, resolutions, bylaws, orders, and other instruments, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaws, order, or other instrument, or part thereof, heretofore repealed.

Section 6. Severability. If any section, subsection, paragraph, clause or other provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability thereof shall not affect any of the remaining sections, subsections, paragraphs, clauses or provisions hereof.

Section 7. Statutes Superseded. Pursuant to Article XX of the Colorado Constitution and to the Charter, all statutes of the State which might otherwise apply in connection with the release of the portion of Leased Property are hereby superseded except to the extent specifically held to be applicable.

Section 8. Ratification and Approval of Prior Actions. All actions heretofore taken by the officers of the Town and members of the Town Council, not inconsistent with the provisions of this Ordinance, relating to the First Lease Amendment and First Site Lease Amendment and the release of a portion of Leased Property, are hereby ratified, approved, and confirmed.

Section 9. Recording and Authentication. This Ordinance, immediately upon its final passage and adoption, shall be numbered and recorded in the Ordinance Book of the Town kept for that purpose, authenticated by the signatures of the Mayor (or Mayor Pro Tem) and the Town Clerk (or her deputy), and the full text hereof shall be published in a newspaper of general circulation in the Town.

Section 10. Effective Date. In accordance with Section 31-15-801, Colorado Revised Statutes, as amended, this Ordinance shall take effect 30 days after its passage and publication.

APPROVED ON FIRST READING this 3rd day of April, 2018 by a vote of 7 for and 0 against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING this 17th day of April, 2018, by the Town Council of the Town of Castle Rock by a vote of ____ for and ____ against.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jennifer Green, Mayor

Approved as to form:

Robert J. Slentz, Town Attorney

STATE OF COLORADO)
COUNTY OF DOUGLAS) SS.
TOWN OF CASTLE ROCK)

I, Lisa Anderson, the duly appointed, qualified Town Clerk of the Town of Castle Rock, Colorado (the “Town”), do hereby certify:

1. That the foregoing pages are a true, correct, and complete copy of an ordinance adopted by the Council of the Town of Castle Rock, Colorado (the “Town Council”), at regular meetings of the Town Council held on April 3, 2018 and April 17, 2018. A quorum of the Town Council was in attendance at each meeting.

2. That the passage of the Ordinance on first reading was duly moved and seconded at a regular meeting of the Town Council on April 3, 2018, and the Ordinance was approved on first reading by a vote of a majority of the members of the Town Council as follows:

<u>Council member</u>	<u>Voting Yes</u>	<u>Voting No</u>	<u>Absent</u>	<u>Abstaining</u>
Jennifer Green, Mayor	X			
Renee Valentine, Mayor Pro Tem	X			
Jess Loban	X			
James Townsend	X			
Jason Bower	X			
George Teal	X			
Brett J. Ford	X			

3. That the passage of the Ordinance on second and final reading, was duly moved and seconded at a regular meeting of the Town Council on April 17, 2018 and the Ordinance was approved on second and final reading by a vote of a majority of the members of the Council as follows:

<u>Council member</u>	<u>Voting Yes</u>	<u>Voting No</u>	<u>Absent</u>	<u>Abstaining</u>
Jennifer Green, Mayor				
Renee Valentine, Mayor Pro Tem				
Jess Loban				
James Townsend				
Jason Bower				
George Teal				
Brett J. Ford				

4. That the Ordinance has been authenticated by the Mayor and sealed with the corporate seal of the Town, attested by me as the Town Clerk, and duly recorded in the official records of the Town.

5. That notices of the meetings of April 3, 2018, and April 17, 2018, in the forms attached hereto as **Exhibit A**, were duly given to the Council members and were posted in a designated public place within the boundaries of the Town no less than twenty-four hours prior to the meetings as required by law.

6. That the Ordinance was published prior to first reading on the Town website along with a notice containing a summary of the subject matter of the ordinance and identifying the location where the entire text of the proposed ordinance is available for public inspection on March 29, 2018. Following adoption on second and final reading, the ordinance was posted on the Town website along with a notice containing a summary of the subject matter of the ordinance and identifying the location of where the ordinance is available for public inspection on April 20, 2018.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Town this 17th day of April, 2018.

(SEAL)

Town Clerk

EXHIBIT A

(Attach Notices of Meetings)