

ORDINANCE NO. 2013-22

**AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN CERTIFICATES OF PARTICIPATION PURSUANT TO A LEASE TRANSACTION; AUTHORIZING THE EXECUTION AND DELIVERY BY THE TOWN OF A SITE AND IMPROVEMENT LEASE, A LEASE AGREEMENT, A DISCLOSURE CERTIFICATE, AND OTHER DOCUMENTS RELATED THERETO; SETTING FORTH CERTAIN PARAMETERS AND RESTRICTIONS; AUTHORIZING OFFICIALS OF THE TOWN TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HEREBY; RATIFYING ACTIONS PREVIOUSLY TAKEN; AND PROVIDING OTHER MATTERS RELATED THERETO; AND PROVIDING FOR ITS EMERGENCY ADOPTION ON SECOND AND FINAL READING.**

WHEREAS, the Town of Castle Rock, Colorado (the "Town"), is a duly organized and existing home rule municipality of the State of Colorado, created and operating pursuant to Article XX of the Constitution of the State of Colorado and the home rule charter of the Town (the "Charter"); and

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

WHEREAS, pursuant to the Charter and Article XX of the Colorado Constitution, the Town is authorized to enter into one or more leases or lease-purchase agreements for land, buildings, equipment and other property for governmental or proprietary purposes; and

WHEREAS, for the functions or operation of the Town, it is necessary that the Town finance the acquisition, construction, installation, equipping and improvement of certain public facilities, which may include but is not limited to, the construction of a field house facility for Town purposes, as authorized by law (the "Project"); and

WHEREAS, the Council has determined that it is in the best interests of the Town and its inhabitants to execute a lease agreement to finance the Project; and

WHEREAS, the Town owns, in fee title, a certain Site and the premises, buildings and improvements located thereon (the "Leased Property"), as further described in the Site Lease and the Lease (hereinafter defined); and

WHEREAS, the Council has determined, and now hereby determines, that it is in the best interest of the Town and its inhabitants that the Town lease the Leased Property to UMB Bank, n.a., as trustee under the Indenture (the "Trustee") pursuant to a Site and Improvement Lease between the Town, as lessor, and the Trustee, as lessee (the "Site Lease"), and lease back the Trustees' interest in the Leased Property pursuant to the terms of a Lease Agreement (the "Lease") between the Trustee, as lessor, and the Town, as lessee; and

WHEREAS, pursuant to the Lease, and subject to the right of the Town to terminate the Lease and other limitations as therein provided, the Town will pay certain Base

Rentals and Additional Rentals (as such terms are defined in the Lease) in consideration for the right of the Town to use the Leased Property; and

WHEREAS, the Town's obligation under the Lease to pay Base Rentals and Additional Rentals shall be from year to year only; shall constitute currently budgeted expenditures of the Town; shall not constitute a mandatory charge or requirement in any ensuing budget year; and shall not constitute a general obligation or other indebtedness or multiple fiscal year financial obligation of the Town within the meaning of any constitutional, statutory or Charter limitation or requirement concerning the creation of indebtedness or multiple fiscal year financial obligation, nor a mandatory payment obligation of the Town in any ensuing fiscal year beyond any fiscal year during which the Lease shall be in effect; and

WHEREAS, there has also been presented to this meeting of the Council a form of Indenture of Trust (the "Indenture") pursuant to which there is expected to be issued certificates of participation (the "Certificates") dated as of their date of delivery that shall evidence proportionate interests in the right to receive certain Revenues (as defined in the Lease), shall be payable solely from the sources therein provided and shall not directly or indirectly obligate the Town to make any payments beyond those appropriated for any fiscal year during which the Lease shall be in effect; and

WHEREAS, the Certificates will be executed and delivered pursuant to the Indenture and the Lease and pursuant to a certain Certificate Purchase Agreement (the "Purchase Agreement"); and

WHEREAS, the net proceeds of the Certificates are expected to be used to provide funds in an amount sufficient to finance the construction of the Project and pay the costs of issuance of the Certificates; and

WHEREAS, there has also been presented to the Council at this meeting the form of Continuing Disclosure Certificate (the "Continuing Disclosure Certificate"); and

WHEREAS, there has been presented to the Council and are on file at the Town offices the following: (i) the proposed form of the Site Lease; (ii) the proposed form of the Lease; (iii) the proposed form of the Continuing Disclosure Certificate to be provided by the District (the "Disclosure Certificate"); (iv) the form of Preliminary Official Statement (the "Preliminary Official Statement") relating to the Certificates; (v) the form of Purchase Agreement; and (vi) the form of Indenture; and

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Lease and the Site Lease; and

WHEREAS, Section 11-57-204 of the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, Colorado Revised Statutes (the "Supplemental Act"), provides that a public entity, including the Town, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act; and

WHEREAS, no member of the Council has any conflict of interest or is interested in any pecuniary manner in the transactions contemplated by this ordinance.

**NOW THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK:**

Section 1. Ratification and Approval of Prior Actions. All action heretofore taken (not inconsistent with the provisions of this ordinance) by the Council or the officers, agents or employees of the Council or the Town relating to the Site Lease, the Lease, the implementation of the Project, and the execution and delivery of the Certificates is hereby ratified, approved and confirmed.

Section 2. Finding of Best Interests. The Council hereby finds and determines, pursuant to the Constitution, the laws of the State of Colorado and the Charter, that the acquisition, construction and implementation of the Project and financing the costs thereof pursuant to the terms set forth in the Site Lease and the Lease are necessary, convenient, and in furtherance of the Town's purposes and are in the best interests of the inhabitants of the Town and the Council hereby authorizes and approves the same.

Section 3. Supplemental Act; Parameters. The Council hereby elects to apply all of the Supplemental Act to the Site Lease and the Lease and in connection therewith delegates to each of the Mayor, the Town Manager or the Finance Director of the Town the authority to make any determination delegable pursuant to Section 11-57-205(1)(a-i), Colorado Revised Statutes, in relation to the Site Lease and the Lease, and to execute a sale certificate (the "Sale Certificate") setting forth such determinations, including without limitation, the term of the Site Lease, the rental amount to be paid by the Trustee pursuant to the Site Lease, the term of the Lease and the rental amount to be paid by the Town pursuant to the Lease, subject to the following parameters and restrictions:

- (a) the total amount of rental payments to be received by the Town from the Trustee under the Site Lease shall not be less than \$8,500,000;
- (b) the Site Lease Term shall not exceed 31 years;
- (c) the aggregate principal amount of the Base Rentals payable by the Town pursuant to the Lease shall not exceed \$9,750,000;
- (d) the maximum annual repayment amount of Base Rentals payable by the Town pursuant to the Lease shall not exceed \$750,000;
- (e) the maximum total repayment amount of Base Rentals payable by the Town pursuant to the Lease shall not exceed \$14,500,000;
- (f) the Lease Term shall not exceed 21 years;
- (g) the Lease shall be subject to prepayment at the option of the Town, without penalty, no later than December 1, 2023; and
- (h) the maximum net effective interest rate on the interest component of the Base Rentals relating to the Certificates shall not exceed 4.875%.

Pursuant to Section 11-57-205 of the Supplemental Act, the Council hereby delegates to each of the Mayor, the Town Manager or the Finance Director the authority to sign a contract for the purchase of the Certificates or to accept a binding bid for the Certificates and to execute any agreement or agreements in connection therewith. In addition, each of the Mayor, the Town Manager or the Finance Director are hereby authorized to determine if obtaining an insurance policy for all or a portion of the Certificates is in the best interests of the Town, and if so, to select an insurer to issue an insurance policy, execute a commitment relating to the same and execute any related documents or agreements required by such commitment. Each of the Mayor, the Town Manager or the Finance Director are also hereby authorized to determine if obtaining a reserve fund insurance policy for the Certificates is in the best interests of the Town, and if so, to select a surety provider to issue a reserve fund insurance policy and execute any related documents or agreements required by such commitment.

The Council hereby acknowledges and agrees that the proceeds of the Certificates will be used to finance the costs of constructing, acquiring, installing and equipping the Project.

Section 4. Approval of Documents. The Site Lease, the Lease, and the Disclosure Certificate, in substantially the forms presented to the 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 Site Lease, the Lease, and the Disclosure Certificate in substantially the forms and with substantially the same contents as presented to the Council, provided that such documents may be completed, corrected or revised as deemed necessary by the parties thereto in order to carry out the purposes of this ordinance.

Section 5. Approval of Official Statement. A final Official Statement, in substantially the form of the Preliminary Official Statement presented to the Town Council and on file with the Town, is in all respects approved and authorized. The Mayor is hereby authorized and directed, for and on behalf of the Town, to execute and deliver the final Official Statement in substantially the form and with substantially the same content as the Preliminary Official Statement on file with the Town, with such changes as may be approved by the Town Finance Director. The distribution by the purchaser of the Preliminary Official Statement and the final Official Statement to all interested persons in connection with the sale of the Certificates is hereby ratified, approved and authorized.

Section 6. Authorization to Execute Collateral Documents. The Town Clerk 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. The appropriate officers of the Town are authorized to execute on behalf of the Town agreements concerning the deposit and investment of funds in connection with the transactions contemplated by this ordinance, and are specifically authorized and directed hereby to invest such funds in Permitted Investments as are defined and provided in the Indenture. The execution of any

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

Section 7. No General Obligation Debt. No provision of this ordinance, the Site Lease, the Lease, the Indenture, the Certificates, the Preliminary Official Statement, or the final Official Statement shall be construed as creating or constituting a general obligation or other indebtedness or multiple fiscal year financial obligation of the Town within the meaning of any constitutional, statutory or home rule charter provision, nor a mandatory charge or requirement against the Town in any ensuing fiscal year beyond the then current fiscal year. The Town shall have no obligation to make any payment with respect to the Certificates except in connection with the payment of the Base Rentals (as defined in the Lease) and certain other payments under the Lease, which payments may be terminated by the Town in accordance with the provisions of the Lease. Neither the Lease nor the Certificates shall constitute a mandatory charge or requirement of the Town in any ensuing fiscal year beyond the then current fiscal year or constitute or give rise to a general obligation or other indebtedness or multiple fiscal year financial obligation of the Town within the meaning of any constitutional, statutory or Charter debt limitation and shall not constitute a multiple fiscal year direct or indirect debt or other financial obligation whatsoever. No provision of the Site Lease, the Lease or the Certificates shall be construed or interpreted as creating an unlawful delegation of governmental powers nor as a donation by or a lending of the credit of the Town within the meaning of Sections 1 or 2 of Article XI of the Colorado Constitution. Neither the Lease nor the Certificates shall directly or indirectly obligate the Town to make any payments beyond those budgeted and appropriated for the Town's then current fiscal year.

Section 8. Reasonableness of Rentals. The Council hereby determines and declares that the Base Rentals due under the Lease, in the maximum amounts authorized pursuant to Section 3 hereof, constitute the fair rental value of the Leased Property and do not exceed a reasonable amount so as to place the Town under an economic compulsion to renew the Lease or to exercise its option to purchase the Trustee's leasehold interest in the Leased Property pursuant to the Lease. The Council hereby determines and declares that the period during which the Town has an option to purchase the Trustee's leasehold interest in the Leased Property (i.e., the entire maximum term of the Lease) does not exceed the useful life of the Leased Property. The Council hereby further determines that the amount of rental payments to be received by the Town from the Trustee pursuant to the Site Lease is reasonable consideration for the leasing of the Leased Property to the Trustee for the term of the Site Lease as provided therein.

Section 9.. Town Representatives. The Council hereby authorizes each of the Mayor, the Town Manager and the Finance Director to act as Town Representatives under the Lease, or such other person or persons who may be so designated in writing from time to time by the Mayor, as further provided in the Lease.

Section 10. No Recourse against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Town Council, or any officer or agent of the Town acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the principal, interest or prior redemption premiums on the 2013 Certificates. Such recourse shall not be available either directly or indirectly through the Town

Council or the Town, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the 2013 Certificates and as a part of the consideration of their sale or purchase, any person purchasing or selling such certificate specifically waives any such recourse.

Section 11. Repealer. All bylaws, orders, resolutions and ordinances of the Town, or parts thereof, inconsistent with this ordinance or with any of the documents hereby approved are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance of the Town, or part thereof, heretofore repealed. All rules of the Town Council, if any, which might prevent the final passage and adoption of this ordinance as an emergency measure at this meeting of the Town Council be, and the same hereby are, suspended.

Section 12. Severability. If any section, subsection, paragraph, clause or provision of this ordinance or the documents hereby authorized and approved (other than provisions as to the payment of Base Rentals by the Town during the Lease Term, provisions for the quiet enjoyment of the Leased Property by the Town during the Lease Term and provisions for the conveyance of the Leased Property to the Town under the conditions provided in the Lease) shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance or such documents, the intent being that the same are severable.

Section 13. Charter Controls. Pursuant to Article XX of the State Constitution and the Charter, all State statutes that might otherwise apply in connection with the provisions of this ordinance are hereby superseded to the extent of any inconsistencies or conflicts between the provisions of this ordinance and the Sale Certificate authorized hereby and such statutes. Any such inconsistency or conflict is intended by the Council and shall be deemed made pursuant to the authority of Article XX of the State Constitution and the Charter.

Section 14. Emergency Declaration. In order to take advantage of the currently favorable conditions in the municipal bond market, the continuation of which cannot be predicted, the Council hereby determines that this Ordinance is necessary for the immediate preservation of the public peace, health or safety.


Section 15. Emergency Clause. For the reasons stated in Section 14 above, it is declared that an emergency exists and it is necessary for the preservation of the immediate public health and safety for this Ordinance to take effect upon its adoption.

Section 16. Safety Clause. The Town Council finds and declares that this Ordinance is promulgated and adopted for the public health, safety and welfare and this Ordinance bears a rational relation to the legislative object sought to be obtained.

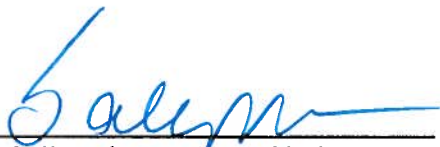
**APPROVED ON FIRST READING** this 2<sup>nd</sup> day of July, 2013 by a vote of 7  
for and 0 against, after publication in compliance with Section 2.02.100.C of the Castle Rock  
Municipal Code; and

**PASSED, APPROVED AND ADOPTED AS AN EMERGENCY  
ORDINANCE** this 16<sup>th</sup> of July, 2013, by a vote of the Town Council of the Town of Castle Rock,  
Colorado of 7 for and 0 against constituting the extraordinary majority required by Section  
2.02.100 of the Castle Rock Municipal Code.

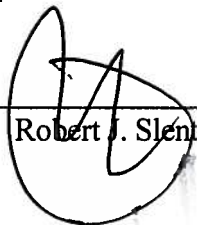
**TOWN OF CASTLE ROCK**

  
\_\_\_\_\_  
Paul Donahue, Mayor

**ATTEST:**

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

**Approved as to form:**

  
\_\_\_\_\_  
Robert J. Slenz, Town Attorney

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

I, Sally Misare, the duly appointed, qualified and acting 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 Town Council (the "Council") of the Town (i) on first reading at a regular meeting of the Council held at the Town Hall on July 2, 2013, and (ii) on second reading, as an emergency measure, at a regular meeting of the Council held at the Town Hall on July 16, 2013.

2. The ordinance has been signed by the Mayor, sealed with the corporate seal of the Town, attested by me as Town Clerk, and duly recorded in the books of the Town; and that the same remains of record in the book of records of the Town.

3. The passage of the ordinance on first reading was duly moved and seconded and the ordinance was passed on first reading by an affirmative vote of a majority of the members of the Council as follows:

Name	"Yes"	"No"	Absent	Abstain
Paul Donahue, Mayor	x			
Joe Procopio, Mayor Pro Tem	x			
Jennifer Green	x			
Clark Hammelman	x			
Mark P. Heath	x			
Renee Valentine	x			
Chip Wilson	x			

4. That notice of the regular meeting of July 2, 2013, in the form, attached hereto as **Exhibit A**, was posted in a designated public place within the boundaries of the Town no less than twenty-four hours prior to the meeting as required by law.

5. That the ordinance was published by title and summary (with notice that a copy of the entire text of the proposed ordinance is available at the office of the Town Clerk) prior to first

reading in the **Douglas County News-Press**, a newspaper of general circulation within the Town on June 27, 2013. The affidavit of publication is attached hereto as **Exhibit C**.

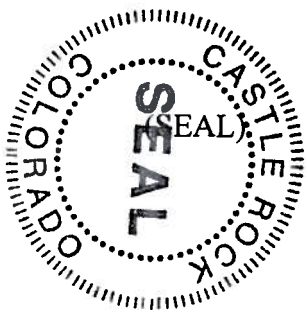
6. The passage of the ordinance on second and final reading was duly moved and seconded and the ordinance was passed on second and final reading as an emergency measure by an affirmative vote of three-fourths of the members of the Council as follows:

Name	"Yes"	"No"	Absent	Abstain
Paul Donahue, Mayor	x			
Joe Procopio, Mayor Pro Tem	x			
Jennifer Green	x			
Clark Hammelman	x			
Mark P. Heath	x			
Renee Valentine	x			
Chip Wilson	x			

7. That notice of the regular meeting on July 16, 2013, in the form attached hereto as **Exhibit B**, was posted in a designated public place within the boundaries of the Town no less than twenty-four hours prior to the meeting as required by law.

8. That the ordinance was published by title and summary (with notice that a copy of the entire text of the ordinance is available at the office of the Town Clerk) after adoption in the **Douglas County News-Press**, a newspaper of general circulation within the Town on July 25, 2013. The affidavit of publication is attached hereto as **Exhibit C**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Town this 13th day of August, 2013.



  
Town Clerk



**Town of Castle Rock  
Town Council Meeting Agenda  
100 North Wilcox  
Castle Rock, Colorado 80104**

**July 2, 2013**

**Mayor Paul Donahue  
Mayor Pro Tem Joe Procopio  
Mark Heath  
Jennifer Green  
Chip Wilson  
Renee Valentine  
Clark Hammelman**

***This meeting is open to the public. All times indicated on the agenda are approximate and interested parties are encouraged to be present earlier than the posted time.***

**5:00 pm COUNCIL DINNER & INFORMAL DISCUSSION – 2<sup>nd</sup> Floor Conference Room**

**INVOCATION – Pastor Mark Marble, Castle Rock Bible Church**

**6:00 pm CALL TO ORDER / ROLL CALL – Council Chambers**

**PLEDGE OF ALLEGIANCE**

**6:05 pm COUNCIL COMMENTS**

1. Proclamation: Awarding Ray Waterman the Vision Cornerstone Tribute
2. Report on June 18, 2013 Executive Session

**UNSCHEDULED PUBLIC APPEARANCES** (Reserved for members of the public to make a presentation to Council on items or issues that are not scheduled on the agenda. As a general practice, the Council will not discuss/debate these items, nor will Council make any decisions on items presented during this time, rather will refer the items to staff for follow up. Comments limited to four (4) minutes per speaker.)

**6:20 pm TOWN MANAGER'S REPORT**

3. Quasi-Judicial Projects Update
4. Appointments to Boards and Commissions
  - a. Appointment of Planning Commissioner to the Design Review Board
  - b. Appointment to the Downtown Development Authority
5. Introduction of Firefighter/Paramedics and Firefighter/EMTs

**TOWN ATTORNEY'S REPORT**

**ACCEPTANCE OF AGENDA**

**6:35 pm CONSENT CALENDAR** (These items are generally routine in nature and will be voted on a single motion without discussion. Any member of Town Council may remove an item from the Consent Calendar.)

6. Minutes of the June 18, 2013 Town Council Meeting

7. Resolution No. 2013-41: A Resolution Approving an Addendum to the Fire Protection Services Agreement Between the Town of Castle Rock and Plum Creek Wastewater Authority

**ADVERTISED PUBLIC HEARINGS & DISCUSSION ACTION ITEMS** (Public comment will be taken on items and limited to four (4) minutes per speaker)

- 6:40 pm 8. Discussion / Direction: Proposed Economic Development Project Conceptual Financial Deal Structure with Alberta Development Partners and Castle Pines Commercial Metro District
- 7:20 pm 9. Resolution No. 2013-42: A Resolution Approving an Intergovernmental Agreement Between the Town of Castle Rock and the Board of County Commissioners of the County of Douglas, State of Colorado, Regarding Funding for a Portion of the North Meadows Drive Extension to US 85 and I-25 Project
- 7:40 pm 10. Ordinance No. 2013-22: An Ordinance Authorizing the Execution and Delivery Of Certain Certificates of Participation Pursuant to a Lease Transaction; Authorizing the Execution and Delivery by the Town of a Site and Improvement Lease, a Lease Agreement, a Disclosure Certificate, and Other Documents Related Thereto; Setting Forth Certain Parameters and Restrictions; Authorizing Officials of the Town to Take All Action Necessary to Carry Out the Transactions Contemplated Hereby; Ratifying Actions Previously Taken; and Providing Other Matters Related Thereto; and Providing for its Emergency Adoption On Second And Final Reading (First Reading)
- 8:10 pm 11. Resolution No. 2013-43: A Resolution of the Town of Castle Rock, Colorado, Expressing the Intent of the Town to be Reimbursed for Certain Expenses Relating to the Construction of Public Improvements
- 8:20 pm **BREAK**
- 8:30 pm 12. Resolution No, 2013-44: A Resolution Approving the Guaranteed Maximum Price Amendment to the Contract for Construction Between the Town of Castle Rock and Turner Construction, Inc., and Establishing the Guaranteed Maximum Price for the Philip S. Miller Park and Fieldhouse Project Work Package 2
- 8:45 pm 13. Discussion / Direction: Potential Tax and/or Rate and Fee Reductions
- 9:05 pm 14. Discussion / Direction: Initial Council Feedback; Additional Topics for Financial Discussion
- 9:25 pm 15. Discussion / Direction: Amendment 64



**Town of Castle Rock  
Town Council Meeting Agenda  
100 North Wilcox  
Castle Rock, Colorado 80104**

**July 16, 2013**

**Mayor Paul Donahue  
Mayor Pro Tem Joe Procopio  
Mark Heath  
Jennifer Green  
Chip Wilson  
Renee Valentine  
Clark Hammelman**

***This meeting is open to the public. All times indicated on the agenda are approximate and interested parties are encouraged to be present earlier than the posted time.***

**5:00 pm COUNCIL DINNER & INFORMAL DISCUSSION – 2<sup>nd</sup> Floor Conference Room**

**INVOCATION – Senior Pastor Dr. Harlan Betz, Grace Chapel Castle Rock**

**6:00 pm CALL TO ORDER / ROLL CALL – Council Chambers**

**PLEDGE OF ALLEGIANCE**

**6:05 pm COUNCIL COMMENTS**

1. Teen Advisory Group Recommendation for Parks and Recreation Commission Appointment for 2013 Term

**UNSCHEDULED PUBLIC APPEARANCES** (Reserved for members of the public to make a presentation to Council on items or issues that are not scheduled on the agenda. As a general practice, the Council will not discuss/debate these items, nor will Council make any decisions on items presented during this time, rather will refer the items to staff for follow up. Comments limited to four (4) minutes per speaker.)

**6:10 pm TOWN MANAGER'S REPORT**

2. Quasi-Judicial Projects Update
3. Monthly Department Reports

**TOWN ATTORNEY'S REPORT**

**ACCEPTANCE OF AGENDA**

**6:20 pm CONSENT CALENDAR** (These items are generally routine in nature and will be voted on a single motion without discussion. Any member of Town Council may remove an item from the Consent Calendar.)

4. Minutes of the July 2, 2013 Town Council Meeting

5. Resolution No. 2013-45: A Resolution Supporting the Agreement Between the Town of Castle Rock and the State Board of the Great Outdoors Colorado Trust Fund

**ADVERTISED PUBLIC HEARINGS & DISCUSSION ACTION ITEMS** (Public comment will be taken on items and limited to four (4) minutes per speaker)

- 6:25 pm 6. Ordinance No. 2013-22: An Ordinance Authorizing the Execution and Delivery Of Certain Certificates of Participation Pursuant to a Lease Transaction; Authorizing the Execution and Delivery by the Town of a Site and Improvement Lease, a Lease Agreement, a Disclosure Certificate, and Other Documents Related Thereto; Setting Forth Certain Parameters and Restrictions; Authorizing Officials of the Town to Take All Action Necessary to Carry Out the Transactions Contemplated Hereby; Ratifying Actions Previously Taken; and Providing Other Matters Related Thereto; and Providing for its Emergency Adoption On Second And Final Reading (Second Reading/Emergency Adoption)
- 7:10 pm 7. Discussion / Direction: Philip S. Miller Park and Fieldhouse Funding
- 8:00 pm **BREAK**
- 8:10 pm 8. Discussion / Direction: Vision 2020 Check Executive Summary
- 8:20 pm 9. Discussion / Direction: Preparation of Local Election Code to Cover Initiatives, Referendums and Recalls
- 8:30 pm **ADJOURN**

# AFFIDAVIT OF PUBLICATION

State of Colorado )  
County of Douglas ) ss

This Affidavit of Publication for the DOUGLAS COUNTY NEWS-PRESS, a weekly newspaper, printed and published for the County of Douglas, State of Colorado, hereby certifies that the attached legal notice was published in said newspaper once in each week, for 1 successive week(s), the last of which publication was made the 27th day of June A.D., 2013, and that copies of each number of said paper in which said Public Notice was published were delivered by carriers or transmitted by mail to each of the subscribers of said paper, according to their accustomed mode of business in this office.

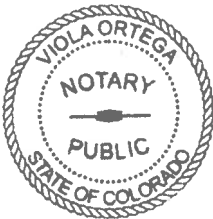


for the Douglas County News-Press  
State of Colorado )  
County of Douglas ) ss

The above Affidavit and Certificate of Publication was subscribed and sworn to before me by the above-named Jerry Healey, publisher of said newspaper, who is personally known to me to be the identical person in the above certificate on this 27th day of June A.D., 2013.



Notary Public, Notary Public, 9137 S . Ridgeline Blvd., No. 210  
Highlands Ranch, Colorado 80129



My Commission Expires 6.11.16

## Public Notice

### NOTICE OF PROPOSED ORDINANCE

Pursuant to Section 7-3 of the Town of Castle Rock Home Rule Charter, notice is hereby given that the Town Council will consider adoption of the following named and described ordinance during its meeting on July 2, 2013, at 6:00 P.M. at the Town of Castle Rock Town Hall, 100 North Wilcox, Castle Rock, CO 80104.

**Title of Proposed Ordinance:**  
AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN CERTIFICATES OF PARTICIPATION PURSUANT TO A LEASE TRANSACTION; AUTHORIZING THE EXECUTION AND DELIVERY BY THE TOWN OF A SITE AND IMPROVEMENT LEASE, A LEASE AGREEMENT, A DISCLOSURE CERTIFICATE, AND OTHER DOCUMENTS RELATED THERETO; SETTING FORTH CERTAIN PARAMETERS AND RESTRICTIONS; AUTHORIZING OFFICIALS OF THE TOWN TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HEREBY; RATIFYING ACTIONS PREVIOUSLY TAKEN; AND PROVIDING OTHER MATTERS RELATED THERETO; AND PROVIDING FOR ITS EMERGENCY ADOPTION ON SECOND AND FINAL READING.

**Subject matter summary:**  
Said Ordinance would authorize the execution and delivery of a Site Lease and a Lease, each with UMB Bank, n.a., and related documents, and the execution and delivery of Certificates of Participation, Series 2013 (the "Certificates") subject to the parameters and restrictions set forth in said Ordinance. Proceeds of the Certificates will be used by the Town for the purpose of financing the acquisition, construction, installation, equipping and improving of certain public facilities of the Town, which may include but are not limited to the construction of a field house facility for Town purposes (the "Project"), and such financing shall be accomplished pursuant to the terms of the Lease and the Site Lease. Pursuant to the Constitution, the laws of the State of Colorado and the Charter, the acquisition, construction and implementation of the Project and financing the costs thereof pursuant to the terms set forth in the Site Lease and the Lease are necessary, convenient, and in furtherance of the Town's purposes and are in the best interests of the inhabitants of the Town. The Town's obligation under the Lease to pay Base Rentals and Additional Rentals shall be from year to year only; shall constitute currently budgeted expenditures of the Town; shall not constitute a mandatory charge or requirement in any ensuing budget year, and shall not constitute a general obligation or other indebtedness or multiple fiscal year financial obligation of the Town within the meaning of any constitutional, statutory or Charter limitation or requirement concerning the creation of indebtedness or multiple fiscal year financial obligation, nor a mandatory payment obligation of the Town in any ensuing fiscal year beyond any fiscal year during which the Lease shall be in effect. In order to take advantage of the currently favorable conditions in the municipal bond market, the continuation of which cannot be predicted, the Council has determined that this ordinance is necessary for the immediate preservation of the public peace, health or safety and will be adopted as an emergency measure on second reading.

The entire text of the proposed ordinance is available for public inspection at the office of the Town Clerk, 100 North Wilcox, Castle Rock, Colorado 80104 during normal working hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

Legal Notice No.: 921734  
First Publication: June 27, 2013  
Last Publication: June 27, 2013  
Publisher: Douglas County News-Press

# AFFIDAVIT OF PUBLICATION

State of Colorado )  
County of Douglas )

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This Affidavit of Publication for the DOUGLAS COUNTY NEWS-PRESS, a weekly newspaper, printed and published for the County of Douglas, State of Colorado, hereby certifies that the attached legal notice was published in said newspaper once in each week, for 1 successive week(s), the last of which publication was made the 25th day of July A.D., 2013, and that copies of each number of said paper in which said Public Notice was published were delivered by carriers or transmitted by mail to each of the subscribers of said paper, according to their accustomed mode of business in this office.



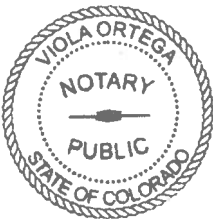
for the Douglas County News-Press  
State of Colorado )  
County of Douglas )

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The above Affidavit and Certificate of Publication was subscribed and sworn to before me by the above-named Jerry Healey, publisher of said newspaper, who is personally known to me to be the identical person in the above certificate on this 25th day of July A.D., 2013.



Notary Public, Notary Public, 9137 S . Ridgeline Blvd., No. 210  
Highlands Ranch, Colorado 80129



My Commission Expires 6.11.16

## Public Notice

### NOTICE OF ADOPTED ORDINANCE

Pursuant to Section 7-3 of the Town of Castle Rock Home Rule Charter, notice is hereby given that the Town Council did adopt the following named and described Ordinance during its Regular meeting on July 16, 2013, which commenced at 6:00 P.M. at the Castle Rock Town Council Chambers, 100 N. Wilcox St., Castle Rock, CO 80104

#### Title of Adopted Ordinance:

##### Ordinance No. 2013-22

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN CERTIFICATES OF PARTICIPATION PURSUANT TO A LEASE TRANSACTION; AUTHORIZING THE EXECUTION AND DELIVERY BY THE TOWN OF A SITE AND IMPROVEMENT LEASE, A LEASE AGREEMENT, A DISCLOSURE CERTIFICATE, AND OTHER DOCUMENTS RELATED THERETO; SETTING FORTH CERTAIN PARAMETERS AND RESTRICTIONS; AUTHORIZING OFFICIALS OF THE TOWN TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HEREBY; RATIFYING ACTIONS PREVIOUSLY TAKEN; AND PROVIDING OTHER MATTERS RELATED THERETO; AND PROVIDING FOR ITS EMERGENCY ADOPTION ON SECOND AND FINAL READING.

#### Subject matter summary:

Said Ordinance would authorize the execution and delivery of a Site Lease and a Lease, each with UMB Bank, n.a., and related documents, and the execution and delivery of Certificates of Participation, Series 2013 (the "Certificates") subject to the parameters and restrictions set forth in said Ordinance. Proceeds of the Certificates will be used by the Town for the purpose of financing the acquisition, construction, installation, equipping and improving of certain public facilities of the Town, which may include but are not limited to the construction of a field house facility for Town purposes (the "Project"), and such financing shall be accomplished pursuant to the terms of the Lease and the Site Lease. Pursuant to the Constitution, the laws of the State of Colorado and the Charter, the acquisition, construction and implementation of the Project and financing the costs thereof pursuant to the terms set forth in the Site Lease and the Lease are necessary, convenient, and in furtherance of the Town's purposes and are in the best interests of the inhabitants of the Town. The Town's obligation under the Lease to pay Base Rentals and Additional Rentals shall be from year to year only; shall constitute currently budgeted expenditures of the Town; shall not constitute a mandatory charge or requirement in any ensuing budget year; and shall not constitute a general obligation or other indebtedness or multiple fiscal year financial obligation of the Town within the meaning of any constitutional, statutory or Charter limitation or requirement concerning the creation of indebtedness or multiple fiscal year financial obligation, nor a mandatory payment obligation of the Town in any ensuing fiscal year beyond any fiscal year during which the Lease shall be in effect. In order to take advantage of the currently favorable conditions in the municipal bond market, the continuation of which cannot be predicted, the Council has determined that this ordinance is necessary for the immediate preservation of the public peace, health or safety and will be adopted as an emergency measure on second reading.

Legal Notice No.: 921830

First Publication: July 25, 2013

Last Publication: July 25, 2013

Publisher: Douglas County News-Press



Meeting Date: July 16, 2013

## **AGENDA MEMORANDUM**

**To:** Honorable Mayor and Members of Town Council

**From:** Rob Hanna, Director of Parks and Recreation  
Trish Muller, Director of Finance

**Title:** Ordinance No. 2013-22: An Ordinance Authorizing the Execution and Delivery of Certain Certificates of Participation Pursuant to a Lease Transaction; Authorizing the Execution and Delivery by the Town of a Site and Improvement Lease, a Lease Agreement, a Disclosure Certificate, and Other Documents Related Thereto; Setting Forth Certain Parameters and Restrictions; Authorizing Officials of the Town to Take All Action Necessary To Carry Out the Transactions Contemplated Hereby; Ratifying Actions Previously Taken; and Providing Other Matters Related Thereto; and Providing for its Emergency Adoption on Second and Final Reading (Second Reading/ Emergency Adoption)

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### **Executive Summary**

On July 2, 2013, this ordinance passed on first reading with a vote of 7-0. Please note, while the ordinance has not changed since the first reading, the documents this ordinance references have changed due to the addition of the Service Center as an additional piece of collateral.

Town Council has specified the construction of the Philip S. Miller Park ("P.S. Miller Park") as one of the five strategic priorities for the Town. P. S. Miller Park is a 223 acre parcel of real property that is located on the southwest side of Castle Rock and within one quarter mile of Interstate 25, and less than one mile from downtown Castle Rock. The Town intends to develop the property with turf playfields, picnic pavilions, amphitheater, playgrounds, and a recreation Fieldhouse ("Project").

With approval of Ordinance No. 2013-22, (***Attachment A***) Town Council will authorize a 20 year term for the repayment of the sale of the \$10 million in Certificates of Participation ("COPS") to supplement revenue for the construction of the Fieldhouse at the P.S. Miller Park.

### **Discussion**

The Fieldhouse will be operated as a Municipal fitness/recreation facility with a wide variety of athletic programs and field rentals available to the public. Construction of the Fieldhouse has been estimated at \$8.0 million dollars with another \$1.0 million associated with parking lots

and site improvements for a total of \$9.0 million in value. This value has been established as part of the Schematic Design Estimate submitted by Turner Construction dated April 1, 2013.

The Fieldhouse, as designed, will be approximately 65,000 square feet and includes a synthetic turf field with dasher boards, a synthetic turf workout area, a trampoline area, children's play space, and an indoor leisure pool and four lap lanes that are 25 yards long. Approximately 4,000 square feet of administrative space is included. Support facilities, including locker rooms, storage, and two party rooms have also been included in the design. Given our recent engineer's estimate on increased costs for the entire project, decisions will be made over the next month on whether to cut elements within the Fieldhouse, bring additional funds to the project, or some combination thereof.

Construction on the Park is scheduled to start in June, 2013 with a planned opening in summer, 2014. As part of the financing package for the project, the Town plans on issuing COPs to fund the construction of the Fieldhouse. Revenues from the Park and Recreation Capital Improvement Fund will be used to retire the COP obligation. In 2012, the impact fee revenue to this fund was approximately \$1,438,000 based on an issuance of 534 single family permits. Impact Fee revenues comprise the majority of the revenues in the Park and Recreation Capital Improvement Fund, accounting for approximately 98.3% of revenue in that fund in 2012. Town staff has been working with legal counsel (Sherman & Howard) and our investment banker (Stifel Nicolaus) to structure the financing.

COPs are different from General Obligation Debt or Revenue Bonds in many ways. This method of funding does not require voter authorization and is not considered a general obligation, other indebtedness, or multiple fiscal year financial obligation of the Town within the meaning of any constitutional, statutory or Charter debt limit. Rather, the debt service on the COPs is subject to annual appropriation by Town Council.

COPs are structured as a "lease, lease back" of an essential Town asset. In other words, the Town enters into a lease of a current asset which the Town currently owns (the "Site Lease") with the COP purchasers, utilizing a bank (in this case UMB Bank) as the Trustee for the benefit of the COP purchasers for a defined term of time (i.e. 30 years). In exchange, the COP purchasers agree to pay a lump sum payment (i.e. \$10 million) for the use of Site Lease, which the Trustee pays to the Town to finance the Fieldhouse project. Concurrently, the Town enters into an annually renewable lease with the Trustee to lease the Site Lease back over a 20-year time period. The annual lease payments (the "Base Rental Payments") made by the Town are equal to the annual debt service on the COPs. The Base Rental Payments received from the Town go to the Trustee bank and are used to pay the COP purchasers. Once the Base Rental Payments are paid in full, or at the end of the Site Lease, whichever occurs first, the Site Lease is terminated and the asset reverts back to the Town. Should the Town decide anytime during the Lease not to annually appropriate Base Rental Payments, the Town is required to vacate the Site Lease premises and the Trustee is charged with renting or selling the Site Lease in order to generate revenues to pay back the COP purchasers.

Part of any COP issuance is the identification of an essential Town asset or assets to be used as collateral for the COP purchasers and the Trustee. The term "essential" in this case refers to an asset used for core operations of the government and not easily vacated. We

originally considered using the Fieldhouse as the collateral in the transaction. However, after discussions with our underwriters and legal counsel, too many issues came up that would potentially run afoul of the IRS tax regulations and jeopardize the tax-exempt nature of the COP. Rather, it was recommended we use a combination of Town Hall and the Service Center properties as collateral. This collateral designation will be transparent for the operations of both properties. In addition, we are working with legal counsel to ensure we have the ability to remodel or construct additional office space within either property to accommodate space needs. It would be the intention of the Town to have the Service Center released as collateral once the principal amount of the COP has been paid down to approximately \$6.5 million and at that time have only Town Hall acting as collateral.

We expect to have a bond rating on the COPs of "AA-". All-in True Interest Costs will be at or near 4.15% and will generate approximately \$9,000,000 in construction revenue. More information on interest rates will be provided at the Council meeting. The estimated Cost of Issuance expenses are expected to be approximately \$275,000, including the cost of a Debt Service Reserve Fund Surety Policy rather than a fully cash funded Reserve Fund. The Ordinance, however, includes maximum parameters that cannot be exceeded due to unpredictability of interest rates and document review fees. The Ordinance uses 4.25% as the maximum net effective interest rate on the COPs; a Site Lease not to exceed 31 years; an aggregate principal amount not to exceed \$9,750,000; a maximum annual repayment of Base Rentals not to exceed \$750,000; maximum total repayment amount of Base Rentals not to exceed \$14,000,000; a lease term not to exceed 21 years; the Lease shall be subject to prepayment at the option of the Town, without penalty, no later than December 1, 2023; and the total amount of rental payments to be received by the Town from the Trustee under the Site Lease shall be not less than \$8,500,000 as not to exceed parameters.

Staff is recommending capping the Certificates at \$10 million due to the projected revenue (annual impact fees) available to pay the annual debt payments. Increasing the debt above \$10 million could increase the annual payments above the point in which we could conservatively feel comfortable in recommending over the next 20-years and any future downturns in the economy.

Staff will be asking for Emergency Adoption at Second Reading to facilitate construction of the Fieldhouse in late 2013.

### Emergency Adoption

It is proposed that this ordinance take effect immediately after second reading, and therefore requires an emergency adoption on second reading. This timing would allow COP sales to proceed and be completed with funding available prior to the start of the early construction package this summer.

### COP Planning and Preparation

When the Town began the planning process for the issuance of the COPs, an experienced team was developed to help with the financing strategy. The team is comprised of the following individuals:

Steve Jeffers – Stifel Nicolaus, the investment banker for the Town  
Dee Wisor– Sherman and Howard, Bond and Disclosure Counsel  
Town Staff – Parks and Recreation Department, Finance Department, and Legal Department

Together, this team has produced the documents for Council's consideration and approval with this Ordinance.

### **Notification and Outreach Efforts**

This Ordinance has been properly published for public information and full disclosure. Its contemplated action and anticipated revenue and related expenditure were included in the adopted 2013 budget. Both first and second readings are encouraged to allow public comment.

### **Document Overview**

The following documents are discussed briefly to give Council an understanding of each of the documents which are required to issue these bonds:

#### **Ordinance No. 2013–22**

An Ordinance Authorizing the Execution and Delivery of Certain Certificates of Participation Pursuant to a Lease Transaction; Authorizing the Execution and Delivery by the Town of a Site and Improvement Lease, a Lease Agreement, a Disclosure Certificate and Other Documents Related Thereto; Setting Forth Certain Parameters and Restrictions; Authorizing Officials of the Town to Take All Action Necessary to Carry Out the Transactions Contemplated Hereby; Ratifying Actions Previously Taken; and Providing Other Matters Related Thereto; and Providing for its Emergency Adoption on Second and Final Reading.

The Ordinance authorizes Town staff to approve and enter into the various financing documents for the issuance of the Bonds:

#### **Preliminary Official Statement**

The Official Statement is the offering document used to solicit orders from potential investors to purchase the COPs. In addition, it contains brief economic and demographic information about the Town.

#### **Indenture of Trust**

The Indenture is an agreement between the Trustee (UMB Bank, N.A.) and the beneficial Owners of the COPs to provide for the execution, delivery and payment of the security for the COPs, the proceeds of which will be used to finance the Project. The Trustee will hold the Revenues and the Leased Property and will exercise the Trustee's rights under the Site Lease and the Lease for the benefit of the COP owners, and will disburse monies received by the Trustee in accordance with the Indenture.

#### **Certificate Purchase Agreement**

The Certificate Purchase Agreement is the contract between the Town and Stifel Nicolaus which establishes the final pricing for the COPs.

#### **Site and Improvement Lease**

The Site Lease is an agreement between the Town (Lessor) and UMB Bank N.A. (Lessee), whereby UMB Bank will issue the 2013 COPs to fund the construction of the Project.

#### Continuing Disclosure Certificate

The Continuing Disclosure Certificate establishes the Town's obligations to update certain information related to the COPs and the Town for investors pursuant to SEC Rule 15c2-12.

#### Budget Impact

The approval of the documents above generates overall revenue available for construction of approximately \$9 million.

Unlike revenue bonds previously issued by the Town, COPs are subject to annual appropriation by the Town during the budget process, and do not have pledged revenue source for the payment of Base Rentals due on the COPs. Instead, Base Rental Payments due under the Lease are payable from all general revenues of the Town and no particular revenues of the Town. However, it is expected that the Town will pay the Base Rentals from legally available funds in its Parks and Recreation Capital Fund.

#### Steps and Timeline

The following timetable is a preliminary schedule of events covering the major steps in developing and marketing the financing. The time allocated between each step is normal for the work associated with that activity, although additional time can be allocated if this schedule does not work for any of the participants. There may be additional elements of the schedule that we are not currently aware of which may need to be incorporated into the time line at the appropriate place.

<u>Event</u>	<u>Date</u>	<u>Responsible Party*</u>
First draft of Preliminary Official Statement (POS) distributed	May 31	SH
Document Review Session	June 7	All
First draft of Certificate Documents distributed <ul style="list-style-type: none"><li>• Indenture of Trust</li><li>• Lease Purchase Agreement</li><li>• Certificate Ordinance</li><li>• Certificate Purchase Agreement</li><li>• Continuing Disclosure Agreement</li></ul>		
Document review session of Certificate Documents	June 11	All
Second draft of Certificate Documents distributed	June 13	SH
Second draft of POS distributed		
Second document review session of Certificate Documents	June 17	All
Certificate Ordinance (and Title) distributed to Town Clerk	June 18	SH
Final Certificate Documents distributed	June 20	SH

Second document review session – POS		All
First reading of Certificate Ordinance (as Emergency)	July 2	Town, SN
Final POS distributed	July 5	SH
Distribute Financing Documents to Rating Agency / Insurance Companies		SN
Second reading of Bond Ordinance as Emergency	July 16	Town, SN
Rating and Insurance commitments received	July 2	Rating agency
Print / Post POS	July 23	SN/SH
Bond Offering	July 30	SN, Town
Bond Purchase Agreement Signed		
Distribution of Closing Documents	Aug. 2	SH
Post Final Official Statement		SH
Bond Closing	Aug. 9	All
<u>Responsible Parties</u>		
SH – Sherman and Howard, Bond and Disclosure Counsel		
SN – Stifel Nicolaus, Underwriter		
Bank – UMB Bank N.A., Paying Agent/Registrar		
Rating Agency – Standard and Poor's Corporation, Moody's Investor Service		

### **Staff Recommendation**

Staff is recommending Council approve Ordinance No. 2013-22 and direct staff to proceed with the negotiations and preparations for the issuance of the Certificates of Participation in an amount not to exceed \$10 million dollars.

### **Proposed Motion**

I move to approve Ordinance No. 2013-22: An Ordinance Authorizing the Execution and Delivery of Certain Certificates of Participation Pursuant to a Lease Transaction; Authorizing the Execution and Delivery by the Town of a Site and Improvement Lease, a Lease Agreement, a Disclosure Certificate; and Other Documents Related Thereto: Setting Forth Certain Parameters and Restrictions, Authorizing Officials of the Town to Take All Action Necessary to Carry Out The Transactions Contemplated Hereby; Ratifying Actions Previously Taken; and Providing Other Matters Related Thereto; and Providing For its Emergency Adoption on Second and Final Reading.

### **Attachments**

ATTACHMENT A: Ordinance