

ORDINANCE NO. 14-2014

**AN ORDINANCE OF THE TOWN OF WELLINGTON, COLORADO, AUTHORIZING A LOAN, EVIDENCED BY THE ISSUANCE OF A PARK NOTE, FOR THE PURPOSE OF DESIGNING AND IMPROVING THE WELLINGTON COMMUNITY PARK; PROVIDING THE FORM OF THE NOTE AND LOAN REPAYMENT; AND MAKING COVENANTS, ESTABLISHING DETAILS AND APPROVING DOCUMENTS RELATING TO THE LOAN**

WHEREAS, the Town of Wellington, Colorado, is a municipal corporation duly organized and operating as a statutory town under the Constitution and laws of the State of Colorado; and

WHEREAS, pursuant to Part 3 of Article 25 of Title 31 of the Colorado Revised Statutes, as amended ("C.R.S."), the Town has the power to incur indebtedness for parks and recreation purposes such as the construction and improvement of parks and park facilities and, pursuant to Article X, Section 20 and Article XI, Section 6 of the Constitution, the Town must receive voter approval prior to the issuance of such obligations; and

WHEREAS, pursuant to an election held on April 1, 2014, the electors of the Town voted in favor of the following ballot question (the "Ballot Question"):

SHALL TOWN OF WELLINGTON DEBT BE INCREASED BY UP TO \$2,400,000 WITH A MAXIMUM REPAYMENT COST OF \$3,000,000 (WITHOUT INCREASING ANY EXISTING TAX OR IMPOSING ANY NEW TAX) FOR THE EXCLUSIVE PURPOSE OF DESIGN AND CONSTRUCTION OF THE WELLINGTON COMMUNITY PARK; WITH ALL OR A PORTION SUCH DEBT TO BE PAYABLE FROM THE TOWN'S PARK FUND REVENUE INCLUDING SALES AND USE TAXES PAYABLE TO SUCH PARK FUND AND FROM SUCH OTHER REVENUES AS WELLINGTON'S TOWN BOARD OF TRUSTEES MAY PLEDGE FOR SUCH REPAYMENT; AND ALL SUCH DEBT HAVE SUCH TERMS AND CONDITIONS AND BE SUBJECT TO REDEMPTION PRIOR TO MATURITY WITH OR WITHOUT PAYMENT OF ANY PREMIUM AS DETERMINED BY THE TOWN'S BOARD OF TRUSTEES ?

WHEREAS, the Town has received a proposal from First National Bank (the "Bank") to make a loan to the Town in an amount not to exceed \$2,400,000 (the "Loan") at a stated interest rate not to exceed 3.30%, excluding penalties and interest applied to defaulted payments (which shall accrue at a rate not exceeding the highest rate permitted by law), for the purpose of financing the construction and improvement of the Wellington Community Park (the "Project"), and, after consideration, the Board of Trustees of the Town (the "Board") has determined that the Loan is in the best interests of the Town and its inhabitants; and

WHEREAS, the Town desires to provide for the preparation of a loan agreement between the Town and the Bank (the "Loan Agreement"), including the form of note (the "Note") to be delivered to the Bank by the Town (the Loan Agreement and the Note being referred to collectively herein as the "Loan Documents"); and

WHEREAS, the Board has determined that it is necessary and advisable at this time to authorize the contracting of the Loan and the execution and delivery of the Loan Documents as provided herein;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF WELLINGTON, COLORADO, THAT:

**Section 1. Definitions.** The following terms shall have the following meanings as used in this Ordinance:

*“Authorized Denomination”* means the outstanding principal amount of the Note.

*“Ballot Question”* means Ballot Question 2B approved by Town voters at an election held on November 5, 2002.

*“Bank”* means First National Bank or the Person in whose name the Note is registered on the registration books maintained by the Paying Agent pursuant to this Ordinance.

*“Board”* means the Board of Trustees of the Town.

*“Bond Account”* means the “Street Capital Improvement Fund Bond Account” originally established by the Series 2003 Ordinance and affirmed pursuant to the Section of this Ordinance entitled “Establishment and Reaffirmation of Fund and Accounts.”

*“Bond Counsel”* means (a) as of the Dated Date, Kutak Rock LLP, and (b) as of any other date, Kutak Rock LLP or such other attorneys selected by the Town with nationally recognized expertise in the issuance of municipal bonds.

*“C.R.S.”* means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

*“Enabling Laws”* means Part 2, Article 57 of Title 11, Colorado Revised Statutes, as amended; Part 3 of Article 25 of Title 31, Colorado Revised Statutes, as amended; the Municipal Code; and all other laws of the State thereunto enabling.

*“Financing Documents”* means the Loan Agreement and the Note.

*“Lender”* means the Bank.

*“Loan”* means the loan to be made by the Lender pursuant to the Loan Agreement.

*“Loan Agreement”* means that certain Loan Agreement between the Town and the Lender pursuant to which the Lender is to loan the Town moneys pursuant to the terms thereof.

*“Note”* means the Note to be issued by the Town to the Lender pursuant to the Loan Agreement, the form of which is set forth as an Exhibit to the Loan Agreement.

“*Project*” means any purpose for which proceeds of the Loan may be expended under the Enabling Law, which purposes are expected to include the construction and improvement of a reservoir and related appurtenances and connection lines.

“*Project Costs*” means the Town’s costs properly attributable to the Project, or any parts thereof, and permitted by the provisions of the Enabling Law.

“*State*” means the State of Colorado.

“*Town*” means the Town of Wellington, Colorado.

**Section 2. Authorization of Loan.** The Town hereby elects to apply the provisions of Part 2 of Article 57, Title 11, Colorado Revised Statutes (the “Supplemental Public Securities Act”) to the Loan Agreement and the Note. The Loan, in a principal amount not to exceed \$700,000, maturing in not more than 10 years from the date of issuance of the Note and bearing interest at a stated interest rate, excluding penalties and interest applicable to defaulted payments (which shall accrue at a rate not exceeding the highest rate permitted by law), not to exceed 4.00% and a maximum net effective interest rate, based on the stated maturity and payment terms of the Note, not to exceed 4.25% per annum, is hereby authorized. The Loan shall be made subject to prepayment as provided in the Loan Agreement. Before the Loan Documents are delivered to the Lender, the final details of the Loan, including the name of the Lender, not inconsistent herewith, shall be approved by the Secretary/Treasurer of the Board. To the fullest extent permitted by the Supplemental Public Securities Act, any such approval may include such additional details pertaining to the Loan and not inconsistent herewith as may be reasonably required.

**Section 3. Form and Execution of Loan Documents.** The execution and delivery of the Loan Documents, in substantially the form contemplated at this meeting with such changes, not inconsistent herewith, as are approved by bond counsel to the Town or the Town Attorney of the Town, are hereby authorized. The Loan Documents shall include such appropriate variations as are necessary to conform to the final Loan terms approved by the Town Administrator/Clerk or, in the absence of the Town Administrator/Clerk, the Town Treasurer.

**Section 4. Disposition of Note.** When the Note has been duly executed as authorized by this Resolution, and the Lender has either disbursed the Loan proceeds or certified in writing that the moneys to be borrowed under the Loan Agreement are available for disbursement, the Note shall be delivered to the Lender.

**Section 5. Payment of Principal and Interest.** The Town pledges and covenants to apply any legally available funds and revenues of its Park Fund (as defined in the Loan Agreement) to pay the interest on and the principal of the Note as the same respectively become due and payable; provided, however, that for any fiscal year of the Town when the legally available funds and revenues of the Park Fund would be insufficient to satisfy the debt service coverage covenants contained in Section 5.07 of the Loan Agreement, the Town hereby covenants to transfer an amount equal to such shortfall amount from legally available moneys of its General Fund to the Park Fund.

**Section 6. Various Findings, Determinations, Declarations and Covenants.** The Board, having been fully informed of and having considered all the pertinent facts and circumstances, hereby finds, determines, declares and covenants that:

(a) The Town has no outstanding debt, bonds, loans or other multiple fiscal year obligations which are secured by the Park Fund or the moneys therein.

(b) The Board elects to apply all of the provisions of Part 2, Article 57 of Title 11, Colorado Revised Statutes to the execution of the Loan Agreement and to the issuance of the Note. Pursuant to and in accordance with Section 11-57-212, C.R.S., no action or proceeding concerning the issuance of the Note shall be maintained against the Town unless commenced within 30 days after the date of passage of this Resolution.

(c) The issuance of the Note and all procedures undertaken incident thereto are in full compliance and conformity with all applicable requirements, provisions and limitations prescribed by the Constitution and laws of the State, including all provisions and limitations in the Enabling Laws, imposed upon the issuance of the Note have been met.

(d) It is in the best interests of the Town and its residents that the Note be authorized, issued and delivered at the time, in the manner and for the purposes provided in this Ordinance.

**Section 7. No Covenant to Levy Taxes.** Nothing herein shall be construed to authorize the levying of any taxes for the payment of the principal of the Note or interest thereon, the obligations thereunder being payable solely from the legally available funds and revenues of the Park Fund when and as available.

**Section 8. Limitation of Actions.** In accordance with Section 11-57-212, C.R.S., no legal or equitable action can be brought with respect to any legislative acts or proceedings in connection with the authorization or issuance of the Note more than thirty days after the authorization of the Note.

**Section 9. Headings.** The headings to the various sections and paragraphs to this Ordinance have been inserted solely for the convenience of the reader, are not a part of this Ordinance, and shall not be used in any manner to interpret this Ordinance.

**Section 10. Ordinance Irrepealable.** After the Note has been issued, this Ordinance shall constitute a contract between the Owner and the Town, and shall be and remain irrepealable until the Note and the interest accruing thereon shall have been fully paid, satisfied, and discharged, as herein provided.

**Section 11. Severability.** It is hereby expressly declared that all provisions hereof and their application are intended to be and are severable. In order to implement such intent, if any provision hereof or the application thereof is determined by a court or administrative body to be invalid or unenforceable, in whole or in part, such determination shall not affect, impair or invalidate any other provision hereof or the application of the provision in question to any other situation; and if any provision hereof or the application thereof is determined by a court or

administrative body to be valid or enforceable only if its application is limited, its application shall be limited as required to most fully implement its purpose.

**Section 12. Repealer.** All orders, bylaws, ordinances, and resolutions of the Town, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed to the extent only of such inconsistency or conflict.

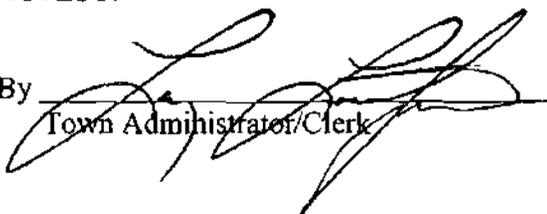
**Section 13. Effective Date.** Upon final passage by the Board, this Ordinance shall be in full force and effect thirty days following the date of final publication.

Read and approved at a meeting of the Board of Trustees of the Town of Wellington, Colorado, this 22<sup>nd</sup> day of July, 2014.

TOWN OF WELLINGTON, COLORADO

By  \_\_\_\_\_  
Mayor

ATTEST:

By  \_\_\_\_\_  
Town Administrator/Clerk

ORDINANCE NO. 14

**AN ORDINANCE OF THE TOWN OF WELLINGTON, COLORADO, AUTHORIZING A LOAN, EVIDENCED BY THE ISSUANCE OF A PARK NOTE, FOR THE PURPOSE OF DESIGNING AND IMPROVING THE WELLINGTON COMMUNITY PARK; PROVIDING THE FORM OF THE NOTE AND LOAN REPAYMENT; MAKING COVENANTS, ESTABLISHING DETAILS AND APPROVING DOCUMENTS RELATING TO THE LOAN; AND DECLARING AN EMERGENCY IN CONNECTION THEREWITH.**

WHEREAS, the Town of Wellington, Colorado, is a municipal corporation duly organized and operating as a statutory town under the Constitution and laws of the State of Colorado; and

WHEREAS, pursuant to Part 3 of Article 25 of Title 31 of the Colorado Revised Statutes, as amended ("C.R.S."), the Town has the power to incur indebtedness for parks and recreation purposes such as the construction and improvement of parks and park facilities and, pursuant to Article X, Section 20 and Article XI, Section 6 of the Constitution, the Town must receive voter approval prior to the issuance of such obligations; and

WHEREAS, pursuant to an election held on April 1, 2014, the electors of the Town voted in favor of the following ballot question (the "Ballot Question"):

SHALL TOWN OF WELLINGTON DEBT BE INCREASED BY UP TO \$2,400,000 WITH A MAXIMUM REPAYMENT COST OF \$3,000,000 (WITHOUT INCREASING ANY EXISTING TAX OR IMPOSING ANY NEW TAX) FOR THE EXCLUSIVE PURPOSE OF DESIGN AND CONSTRUCTION OF THE WELLINGTON COMMUNITY PARK; WITH ALL OR A PORTION SUCH DEBT TO BE PAYABLE FROM THE TOWN'S PARK FUND REVENUE INCLUDING SALES AND USE TAXES PAYABLE TO SUCH PARK FUND AND FROM SUCH OTHER REVENUES AS WELLINGTON'S TOWN BOARD OF TRUSTEES MAY PLEDGE FOR SUCH REPAYMENT; AND ALL SUCH DEBT HAVE SUCH TERMS AND CONDITIONS AND BE SUBJECT TO REDEMPTION PRIOR TO MATURITY WITH OR WITHOUT PAYMENT OF ANY PREMIUM AS DETERMINED BY THE TOWN'S BOARD OF TRUSTEES ?

WHEREAS, the Town has received a proposal from First National Bank of Omaha (the "Bank") to make a loan to the Town in an amount not to exceed \$2,400,000 (the "Loan") at a stated interest rate not to exceed 3.30%, excluding penalties and interest applied to defaulted payments (which shall accrue at a rate not exceeding the highest rate permitted by law), for the purpose of financing the construction and improvement of the Wellington Community Park (the "Project"), and, after consideration, the Board of Trustees of the Town (the "Board") has determined that the Loan is in the best interests of the Town and its inhabitants; and

WHEREAS, the Town desires to provide for the preparation of a loan agreement between the Town and the Bank (the "Loan Agreement"), including the form of note (the "Note") to be

delivered to the Bank by the Town (the Loan Agreement and the Note being referred to collectively herein as the "Loan Documents"); and

WHEREAS, the Board has determined and hereby declares that, due to the immediate need for the Project and the impending expiration of the Bank's offer of favorable interest rates, it is in the best interests of the Town and its inhabitants that the Loan be obtained from, and the Note be issued to, the Bank as soon as practicable; and

WHEREAS, the Board hereby declares an emergency to exist and deems the passage of this Ordinance to be necessary for the immediate preservation of the public peace, health or safety of the Town pursuant to C.R.S. Section 31-16-105 for the reason that the work of financing and constructing the Project contemplated by Ordinance No. 14-2014 must be timely completed and paid for;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF WELLINGTON, COLORADO, THAT:

**Section 1. Definitions.** The following terms shall have the following meanings as used in this Ordinance:

*"Authorized Denomination"* means the outstanding principal amount of the Note.

*"Ballot Question"* means the Ballot Question approved by Town voters at an election held on April 1, 2014.

*"Bank"* means First National Bank of Omaha or the Person in whose name the Note is registered on the registration books maintained by the Paying Agent pursuant to this Ordinance.

*"Board"* means the Board of Trustees of the Town.

*"Bond Account"* means the "Park Capital Improvement Fund Bond Account" originally established by the Series 2003 Ordinance and affirmed pursuant to the Section of this Ordinance entitled "Establishment and Reaffirmation of Fund and Accounts."

*"Bond Counsel"* means (a) as of the Dated Date, Kutak Rock LLP, and (b) as of any other date, Kutak Rock LLP or such other attorneys selected by the Town with nationally recognized expertise in the issuance of municipal bonds.

*"C.R.S."* means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

*"Enabling Laws"* means Part 2, Article 57 of Title 11, Colorado Revised Statutes, as amended; Part 3 of Article 25 of Title 31, Colorado Revised Statutes, as amended; the Municipal Code; and all other laws of the State thereunto enabling.

*"Financing Documents"* means the Loan Agreement and the Note.

*"Lender"* means the Bank.

"Loan" means the loan to be made by the Lender pursuant to the Loan Agreement.

"Loan Agreement" means that certain Loan Agreement between the Town and the Lender pursuant to which the Lender is to loan the Town moneys pursuant to the terms thereof.

"Note" means the Note to be issued by the Town to the Lender pursuant to the Loan Agreement, the form of which is set forth as an Exhibit to the Loan Agreement.

"Project" means any purpose for which proceeds of the Loan may be expended under the Enabling Law, which purposes are expected to include the construction and improvement of a reservoir and related appurtenances and connection lines.

"Project Costs" means the Town's costs properly attributable to the Project, or any parts thereof, and permitted by the provisions of the Enabling Law.

"State" means the State of Colorado.

"Town" means the Town of Wellington, Colorado.

**Section 2. Authorization of Loan.** The Town hereby elects to apply the provisions of Part 2 of Article 57, Title 11, Colorado Revised Statutes (the "Supplemental Public Securities Act") to the Loan Agreement and the Note. The Loan, in a principal amount not to exceed \$2,400,000, maturing in not more than 11 years from the date of issuance of the Note and bearing interest at a stated interest rate, excluding penalties and interest applicable to defaulted payments (which shall accrue at a rate not exceeding the highest rate permitted by law), not to exceed 4.00% and a maximum net effective interest rate, based on the stated maturity and payment terms of the Note, not to exceed 4.00% per annum, is hereby authorized. The Loan shall be made subject to prepayment as provided in the Loan Agreement. Before the Loan Documents are delivered to the Lender, the final details of the Loan, including the name of the Lender, not inconsistent herewith, shall be approved by the Town Administrator/Clerk, or in his absence, the Town Finance Director. To the fullest extent permitted by the Supplemental Public Securities Act, any such approval may include such additional details pertaining to the Loan and not inconsistent herewith as may be reasonably required.

**Section 3. Form and Execution of Loan Documents.** The execution and delivery of the Loan Documents, in substantially the form contemplated at this meeting with such changes, not inconsistent herewith, as are approved by bond counsel to the Town or the Town Attorney of the Town, are hereby authorized. The Loan Documents shall include such appropriate variations as are necessary to conform to the final Loan terms approved by the Town Administrator/Clerk or, in the absence of the Town Administrator/Clerk, the Town Treasurer.

**Section 4. Disposition of Note.** When the Note has been duly executed as authorized by this Resolution, and the Lender has either disbursed the Loan proceeds or certified in writing that the moneys to be borrowed under the Loan Agreement are available for disbursement, the Note shall be delivered to the Lender.

**Section 5. Payment of Principal and Interest.** The Town pledges and covenants to apply any legally available funds and revenues of its Park Fund (as defined in the Loan

Agreement) to pay the interest on and the principal of the Note as the same respectively become due and payable; provided, however, that for any fiscal year of the Town when the legally available funds and revenues of the Park Fund would be insufficient to satisfy the debt service coverage covenants contained in Section 5.07 of the Loan Agreement, the Town hereby covenants to transfer an amount equal to such shortfall amount from legally available moneys of its General Fund to the Park Fund.

**Section 6. Various Findings, Determinations, Declarations and Covenants.** The Board, having been fully informed of and having considered all the pertinent facts and circumstances, hereby finds, determines, declares and covenants that:

(a) The Town has no outstanding debt, bonds, loans or other multiple fiscal year obligations which are secured by the Park Fund or the moneys therein.

(b) The Board elects to apply all of the provisions of Part 2, Article 57 of Title 11, Colorado Revised Statutes to the execution of the Loan Agreement and to the issuance of the Note. Pursuant to and in accordance with Section 11-57-212, C.R.S., no action or proceeding concerning the issuance of the Note shall be maintained against the Town unless commenced within 30 days after the date of passage of this Resolution.

(c) The issuance of the Note and all procedures undertaken incident thereto are in full compliance and conformity with all applicable requirements, provisions and limitations prescribed by the Constitution and laws of the State, including all provisions and limitations in the Enabling Laws, imposed upon the issuance of the Note have been met.

(d) It is in the best interests of the Town and its residents that the Note be authorized, issued and delivered at the time, in the manner and for the purposes provided in this Ordinance.

**Section 7. No Covenant to Levy Taxes.** Nothing herein shall be construed to authorize the levying of any taxes for the payment of the principal of the Note or interest thereon, the obligations thereunder being payable solely from the legally available funds and revenues of the Park Fund when and as available.

**Section 8. Limitation of Actions.** In accordance with Section 11-57-212, C.R.S., no legal or equitable action can be brought with respect to any legislative acts or proceedings in connection with the authorization or issuance of the Note more than thirty days after the authorization of the Note.

**Section 9. Headings.** The headings to the various sections and paragraphs to this Ordinance have been inserted solely for the convenience of the reader, are not a part of this Ordinance, and shall not be used in any manner to interpret this Ordinance.

**Section 10. Ordinance Irrepealable.** After the Note has been issued, this Ordinance shall constitute a contract between the Owner and the Town, and shall be and remain irrepealable until the Note and the interest accruing thereon shall have been fully paid, satisfied, and discharged, as herein provided.

**Section 11. Emergency Declaration.** The Board hereby declares an emergency to exist and deems the passage of this Ordinance to be necessary for the immediate preservation of the public peace, health or safety of the Town pursuant to C.R.S. Section 31-16-105 for the reasons stated in the preamble to this Ordinance.

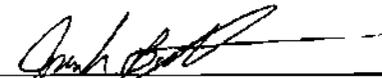
**Section 12. Severability.** It is hereby expressly declared that all provisions hereof and their application are intended to be and are severable. In order to implement such intent, if any provision hereof or the application thereof is determined by a court or administrative body to be invalid or unenforceable, in whole or in part, such determination shall not affect, impair or invalidate any other provision hereof or the application of the provision in question to any other situation; and if any provision hereof or the application thereof is determined by a court or administrative body to be valid or enforceable only if its application is limited, its application shall be limited as required to most fully implement its purpose.

**Section 13. Repealer.** All orders, bylaws, ordinances, and resolutions of the Town, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed to the extent only of such inconsistency or conflict.

**Section 14. Effective Date.** This Ordinance shall be in full force and effect immediately upon final passage by the Board.

Read and approved at a meeting of the Board of Trustees of the Town of Wellington, Colorado, this 28<sup>th</sup> day of December, 2014.

TOWN OF WELLINGTON, COLORADO

By  \_\_\_\_\_  
Mayor

ATTEST:

By  \_\_\_\_\_  
Town Administrator/Clerk

**LOAN AGREEMENT**

by and between

**TOWN OF WELLINGTON, COLORADO**  
as Borrower

and

**FIRST NATIONAL BANK**  
as Lender

**\$2,400,000**  
**Town of Wellington, Colorado**  
**Park Fund Loan 2014**

Dated as of August \_\_, 2014

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## LOAN AGREEMENT

**THIS LOAN AGREEMENT** (this "Agreement") is made and entered into as of the \_\_\_<sup>st</sup> day of August, 2014, by and between **TOWN OF WELLINGTON, COLORADO**, a municipal corporation and political subdivision of the State of Colorado (as more specifically defined below, the "Town"), and **FIRST NATIONAL BANK**, as lender (the "Bank").

### WITNESSETH:

WHEREAS, the Town is a municipal corporation and political subdivision of the State of Colorado, duly organized and existing under the constitution and laws of the State of Colorado, (all capitalized terms used and not otherwise defined herein shall have the respective meanings assigned in Article I hereof); and

WHEREAS, at an election of the qualified electors of the District duly called and held on April 1, 2014 (the "Election"), in accordance with law and pursuant to due notice, a majority of those qualified to vote and voting at the Election voted in favor of a question authorizing the issuance of \$ up to 2,400,000 aggregate principal amount of indebtedness without the imposition of taxes for the payment thereof, for the purpose of designing and constructing the Wellington Community Park; and

WHEREAS, the returns of the Election were duly canvassed and the results thereof duly declared; and

WHEREAS, the Board of Trustees of the Town, acting as the governing body of the Enterprise, has determined that it is in the best interests of the Town and, particularly, the residents of the Town, to finance the construction and improvement of the Wellington Community Park (the "Project"); and

WHEREAS, the Bank has agreed, subject to the terms and conditions of this Agreement and the other Financing Documents, to make a loan to the Town in an amount not to exceed \$2,400,000 (the "Loan") at a stated interest rate of \_\_\_%, excluding penalties and interest applied to defaulted payments (which shall accrue at a rate not exceeding the highest rate permitted by law), for the purpose of funding the Project.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the parties hereto agree as follows.

### ARTICLE I

#### DEFINITIONS

*"Agreement"* means this Loan Agreement, as amended or supplemented from time to time.

*"Authorized Person"* means any member of the Board or any other individual authorized by the Board to act as an Authorized Person hereunder.

“*Authorizing Ordinance*” means the ordinance adopted by the Board on July 22, 2014 authorizing the Town to incur the indebtedness of the Loan and to execute and deliver the Note, this Agreement, and the other Financing Documents to which the Town is a party.

“*Bank*” means First National Bank, in its capacity as lender of the Loan.

“*Board*” means the Board of Trustees of the Town, acting as the governing body of the Enterprise.

“*Bond Counsel*” means (a) as of the Closing Date, Kutak Rock LLP, Denver, Colorado, and (b) as of any other date, Kutak Rock LLP, Denver, Colorado, or such other attorneys selected by the Town and acceptable to the Bank with nationally recognized expertise in the issuance of tax-exempt debt.

“*Business Day*” means any day of the week on which the Bank is conducting its banking operations nationally and on which day the Bank's offices are open for business in Denver, Colorado.

“*Closing*” means the concurrent execution and delivery of the Note, this Agreement, and the other Financing Documents by the respective parties thereto and the issuance and disbursement of the Loan and application of the proceeds thereof in accordance with the provisions hereof and the other Financing Documents.

“*Closing Date*” means the date on which the Closing occurs, estimated to be on or about August \_\_, 2014.

“*Code*” means the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder.

“*County*” means Larimer County, Colorado.

“*C.R.S.*” means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

“*Debt*” of any Person means on any date, without duplication, (a) all obligations of such Person for borrowed money and reimbursement obligations which are not contingent; (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments; (c) all obligations of such Person to pay the deferred purchase price of property or services; (d) all obligations of such Person as lessee under capital leases in principal amount in excess of \$10,000; (e) all Debt of others guaranteed by such Person; (f) all obligations of such Person which are payable from year to year, subject to appropriation of the amounts sufficient to do so, and (g) all payment obligations of such Person, in addition to any obligations set forth in clauses (a) through (f) above arising under any swap, cap, collar, interest rate futures contract, interest rate option contract or other similar arrangement and under any foreign exchange contract, currency swap agreement, foreign exchange futures contract, foreign exchange option contract, synthetic cap or other similar agreement; provided that it is understood that Debt does not include contingent obligations of such Person to reimburse any other Person in respect of surety bonds or letters of credit to the extent that such surety bonds or letters of credit support

Debt of such Person or any operating leases, payroll obligations, accounts payable, or taxes incurred or payable in the ordinary course of business of such Person; and further provided, that for purposes of this definition, if any of the agreements or contracts set forth in clause (g) above relate to any other obligation of a Person which is otherwise included in this definition of Debt, such agreements and contracts shall constitute Debt only to the extent that the payment obligations of such Person thereunder, less any amounts receivable by such Person thereunder, exceed or are expected to exceed the interest payable on the related Debt; provided however, that for purposes of Section 4.10 hereof, the term "Debt" shall only include the items described in this definition that have a lien on the legally available funds and revenues of the Park Fund which is on a parity with the lien of the Note.

"*Default*" means an event, act or occurrence which, with the giving of notice or the lapse of time (or both), would become an Event of Default.

"*Default Rate*" has the meaning set forth in Section 2.02(b)(ii)

"*Town*" means Town of Wellington, Colorado.

"*Event of Default*" has the meaning set forth in Section 7.01 hereof.

"*Financing Documents*" means this Agreement, the Note, and the Authorizing Ordinance, as the same may be amended or supplemented from time to time.

"*Fixed Rate*" has the meaning set forth in Section 2.02(b)(i) hereof.

"*Interest Payment Date*" means each date set forth as a payment date according to the schedule attached hereto as Exhibit B.

"*Interest Period*" means the period commencing on the applicable Interest Payment Date to (but not including) the next succeeding Interest Payment Date.

"*Loan*" is the Loan Amount bearing interest pursuant to the terms of this Agreement.

"*Loan Amount*" means Two Million Four Hundred Thousand and 00/100 U.S. Dollars (\$2,400,000).

"*Loan Balance*" means the Loan Amount less any payments of principal received by the Bank for application to the Loan.

"*Loan Fee*" means a fee in an amount equal to \$10,000 payable by the Town to the Bank on or before the Closing Date.

"*Maturity Date*" means [DATE]

"*Note*" means the promissory note evidencing the indebtedness of the Loan, dated of even date herewith, from the Town, as Maker, to the Bank, as Payee, issued in an original principal amount equal to the Loan Amount in substantially the form of Exhibit A hereto.

“*Park Fund*” means that special fund of the Town established and maintained pursuant to Section 4-2-100 of the Municipal Code.

“*Participant*” has the meaning set forth in Section 8.02(c) hereof.

“*Patriot Act*” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Title III of Pub. L. 107 56 (signed into law October 26, 2001).

“*Permitted Investments*” means any investment or deposit permissible for the Town under then applicable law.

“*Person*” means an individual, a corporation, a partnership, an association, a joint venture, a trust, an unincorporated organization or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

“*Project*” means the acquisition, construction, reconstruction, betterment or extension of certain improvements to the System, as determined by the Board, and all necessary or appropriate appurtenances, property rights, and equipment.

“*Project Account*” means the account established by the provisions hercof for the purpose of paying the Project Costs.

“*Project Costs*” means the Town’s costs properly attributable to the Project or any part thereof and permitted by the provisions of § 31-35-403(2), C.R.S., including without limitation, any lawful costs as determined by the Board.

“*Supplemental Public Securities Act*” means Title 11, Article 57, Part 2, C.R.S.

“*Tax Certificate*” means the tax compliance certificate to be signed by the Town, in a form acceptable to Bond Counsel, relating to the requirements of Sections 103 and 141-150 of the Code.

## ARTICLE II

### LOAN

#### Section 2.01. Loan In General.

(a) ***Agreement to Make Loan.*** The Bank hereby agrees to extend the Loan to the Town in the aggregate original principal amount of \$2,400,000 (as previously defined, the “Loan Amount”) subject to the terms and conditions of this Agreement. The Loan shall be evidenced by the Note, the form of which is set forth in Exhibit A attached hereto.

(b) ***Payment of Loan Fee.*** The Town shall pay to the Bank, on the Closing Date, the Loan Fee in the amount equal to \$10,000.

(c) **Application of Loan Proceeds.** On the Closing Date the Bank shall fund the Loan by crediting the gross proceeds thereof in the amount of \$2,400,000 (net of the Loan Fee) to the Project Account pursuant to Section 3.02 below.

**Section 2.02. Interest Rates; Interest Payments; Principal Payments.**

(a) **Interest Computations; Compounding.** All interest due and payable under this Agreement shall be calculated on the basis of a 360-day year and actual number of days elapsed in the applicable Interest Period. Unless otherwise agreed or required by applicable law, payments will be applied first to any accrued unpaid interest, then to principal, then to any late charges, and then to any collection costs. The Bank's internal records of applicable interest rates shall be determinative in the absence of manifest error.

(b) **Interest Rates.**

(i) **Fixed Rate.** The Loan Balance shall bear interest at a fixed rate equal to \_\_\_% per annum (the "Fixed Rate").

(ii) **Default Rate.** Upon the occurrence of any Event of Default, the Town shall have ten (10) days following receipt of notice of such Event of Default to cure the Default. If the Default is not cured within such time, the Loan Balance shall bear interest at a rate per annum of \_\_\_% (the "Default Rate"). If the event of Default is a default in payment, then the Loan Balance shall bear interest at the Default Rate retroactive to the date such payment was due. The Default Rate shall remain in effect until such time as the applicable Event of Default is cured.

(iii) **Late Charge.** If a payment is ten (10) or more days late, the Town shall be charged 5.00% of the unpaid portion of the scheduled payment amount.

(c) **Interest Payments.** Interest payments on the Loan shall be due and payable monthly on the payment dates set forth in the Exhibit B (as previously defined in Section 1.01 hereof, each, an "Interest Payment Date"). To the extent not paid when due, interest will continue to accrue daily and may affect the accuracy of the interest and principal components set forth in the Exhibit B.

(d) **Principal Payments.** Principal payments on the Loan shall be due and payable monthly on the dates and in the amounts set forth on Exhibit B attached hereto.

(e) **Maximum Interest Rate.** The Town is only authorized to incur debt that bears interest at a rate not in excess of 4.00% per annum. Notwithstanding the foregoing provisions in this Section 2.02, the Loan shall not bear interest at a rate in any particular Interest Period that would exceed 4.00% per annum.

**Section 2.03. Reserved.**

**Section 2.04. Prepayment of Loan.**

(a) **Prepayment in Whole or in Part.** The Town may prepay all or any portion of the Loan Balance prior to the maturity date and redeem the Note to the extent of such prepayment at any time upon 30 days prior notice to the Bank. Such prepayment shall include the principal amount of the Loan Balance and accrued interest on such Loan Balance to the date of prepayment.

(b) **Compliance with State Law.** Notwithstanding the prepayment of the Loan discussed in this Section 2.04, the Town may only prepay the loan if such prepayment is in compliance with the limitations contained in C.R.S. 11-56-108(5).

**Section 2.05. Manner of Payments.** All interest, fees, and other payments to be made hereunder by or on behalf of the Town to the Bank shall be made, and shall not be considered made until received, in lawful money of the United States of America in immediately available funds. The Town shall make each payment hereunder in the manner and at the time necessary so that each such payment is received not later than 12:00 p.m., Denver time, on the day when due. Any payment received after 12:00 p.m., Denver time, shall be deemed made on the next succeeding Business Day. All payments made hereunder by or on behalf of the Town to the Bank may be applied to amounts due hereunder in such order of priority as the Bank shall elect. Unless otherwise directed by the Bank all payments shall be made to: First National Bank, [ADDRESS], Loan Number [#] FBO Town of Wellington, Colorado.

**Section 2.06. Costs and Expenses.** The Town agrees to pay such reasonable costs and expenses of the Bank in connection with the preparation, execution and delivery of this Agreement or any other documents, including the other Financing Documents, which may be delivered by any party in connection with the transactions contemplated under this Agreement and the other Financing Documents. Without prejudice to the survival of any other agreement of the Town hereunder, the agreements and obligations contained in this Section 2.06 shall survive the payment in full of all amounts owing to the Bank hereunder.

**Section 2.07. Special Obligation.** The Loan Balance together with the interest thereon, shall be payable solely out of legally available funds and revenues of the Park Fund. The Loan shall constitute an irrevocable and first lien on the legally available funds and revenues of the Park Fund, but not an exclusive such lien, and the legally available funds and revenues of the Park Fund are hereby pledged to the payment of the Loan. The Bank may not look to any general or other fund of the Town for the payment of the principal of and interest on the Loan, and the Loan shall not constitute a general obligation of the Town. Pursuant to Section 11-57-208, C.R.S., the legally available funds and revenues of the Park Fund shall immediately be subject to the lien granted pursuant to this Section without any physical delivery, filing, or further act.

**Section 2.08. Pledge.** The Town hereby assigns, transfers, pledges, hypothecates, delivers and grants to the Bank a first priority security interest (but not necessarily an exclusive such interest) in and to the legally available funds and revenues of the Park Fund to secure the payment of the principal of, premium, if any, and interest on the Loan.

**Section 2.09. Conditions to Closing.** The making by the Bank of the Loan is conditioned upon the satisfaction of each of the following on or prior to the Closing Date:

(a) ***Financing Documents.*** All Financing Documents and other instruments applicable to the Loan are in form and content satisfactory to the Bank; have been duly executed and delivered in form and substance satisfactory to the Bank and have not been modified, amended or rescinded and are in full force and effect on and as of the Closing Date and executed original or certified copies of each thereof shall have been delivered to the Bank.

(b) ***Certified Proceedings.*** The Bank is in receipt of an executed original or certified copy of the Authorizing Ordinance of the Town, which shall be in form and content satisfactory to the Bank and duly and properly authorize the Town to enter into the Loan, to execute and deliver the this Agreement and the other Financing Documents to which the Town is a party, and perform all acts contemplated hereunder and thereunder, together with such other certifications as to the specimen signatures of the officers of the Town authorized to sign this Agreement and the other Financing Documents to be delivered by the Town hereunder and as to other matters of fact as shall reasonably be requested by the Bank.

(c) ***Town Certificate.*** The Town has provided the Bank with a certificate certifying that on the Closing Date each representation and warranty on the part of the Town contained in this Agreement and in any other Financing Document to which the Town is a party is true and correct and no Event of Default, or event which would, with the passage of time or the giving of notice, constitute an Event of Default, has occurred and is continuing and no default exists under any other Financing Document to which the Town is a party, or under any other agreement by and between the Town and the Bank relating to the Loan and certifying as to such other matters as the Bank might reasonably request.

(d) ***Other Proceedings.*** All proceedings of any Party taken in connection with the transactions contemplated by this Agreement and the other Financing Documents, and all instruments, authorizations and other documents applicable thereto, are satisfactory to the Bank and its counsel.

(e) ***Opinion of Bond Counsel.*** The Bank shall have received an opinion of Bond Counsel dated as of the Closing Date and addressed to the Bank, with respect to such matters as the Bank may require, including opinions to the effect that the obligation of the Town to pay principal of, premium, if any, and interest on the Loan constitutes a legal, valid and binding special obligation of the Town and the Loan Agreement and the Note are valid and binding obligations of the Town, enforceable against the Town in accordance with their respective terms; and which opinion shall address the tax exemption of the interest on the Loan for state and federal purposes including, without limitation, an opinion to the effect that the Loan constitutes a qualified tax-exempt obligation under Section 265(b)(3)(B) of the Code; and otherwise in form and substance satisfactory to the Bank and its counsel.

(f) **No Change in Law.** No law, regulation, ruling or other action of the United States, the State of Colorado or any political subdivision or authority therein or thereof shall be in effect or shall have occurred, the effect of which would be to prevent the Town from fulfilling its obligations under this Agreement or the other Financing Documents to which the Town is a party.

(g) **Payment of Costs and Expenses.** All fees and expenses due and payable in connection with the execution and delivery of this Agreement and the other Financing Documents and the transactions contemplated hereunder and thereunder shall have been paid by the Town.

(h) **No Breach or Other Violation.** The Town shall not, as of the Closing Date, be in violation or breach of any other agreement with the Bank or of any third party of any nature or kind.

(i) **No Material Adverse Change.** No material adverse change has, in the sole opinion of the Bank based on its business expertise, occurred with respect to the Town's business operations, financial condition or performance, as reflected in the most recent financial statements provided to the Bank or as otherwise known by the Bank.

(j) **Colorado Municipal Bond Supervision Act.** The Bank shall be in receipt of evidence satisfactory to the Bank that the Loan is exempt from the registration requirements of the Colorado Municipal Bond Supervision Act.

(k) **Other Certificates and Approvals.** The Bank shall have received such other certificates, approvals, filings, opinions and documents as shall be reasonably requested by the Bank.

(l) **Other Legal Matters.** All other legal matters pertaining to the execution and delivery of this Agreement and the other Financing Documents and the full and timely performance of the transactions contemplated hereunder and thereunder shall be reasonably satisfactory to the Bank.

### ARTICLE III

#### PARK FUND

**Section 3.01. Creation and Reaffirmation of Fund and Accounts.** There is hereby reaffirmed the Park Fund and hereby created and established within the Park Fund the Project Account, which shall be maintained by the Town in accordance with the provisions of this Resolution.

**Section 3.02. Use of Proceeds in Project Account.** Immediately upon the Closing, the Town shall credit to the Project Account the gross proceeds of the Loan in the amount of \$2,400,000 (net of the Loan Fee). All moneys credited to the Project Account shall be applied solely to the payment of the Project Costs. Upon the determination of the Board that all Project Costs have been paid or are determinable, any balance remaining in the Project Account (less

any amounts necessary to pay Project Costs not then due and owing) shall be credited to the Park Fund.

Moneys credited to the Project Account may be invested or deposited in securities or obligations which are Permitted Investments. The investment of moneys credited to the Project Account shall, however, be subject to the covenants and provisions of Section 5.03 below. Except to the extent otherwise required by such Section, interest income from the investment or reinvestment of moneys credited to the Project Account shall remain in and become part of the Project Account.

#### ARTICLE IV

#### REPRESENTATIONS AND WARRANTIES OF THE TOWN

While any obligations hereunder are unpaid or outstanding, the Town continuously represents and warrants to the Bank as follows:

**Section 4.01. Due Organization.** The Town is a municipal corporation and political subdivision of the State of Colorado, duly organized and validly existing under the laws of the State of Colorado.

**Section 4.02. Power and Authorization.** The Town has all requisite power and authority to carry on its business as now conducted and as contemplated to be conducted under the Financing Documents; to execute, deliver and perform its obligations under this Agreement and the other Financing Documents; and to cause the execution, delivery and performance of the Financing Documents.

**Section 4.03. No Legal Bar.** The Town is not in violation of any of the provisions of the laws of the State of Colorado or the United States of America or any of the provisions of any order of any court of the State of Colorado or the United States of America which would affect its existence or its powers referred to in the preceding Section 4.02. The execution, delivery and performance by the Town of this Agreement and of the other Financing Documents (a) will not violate any provision of any applicable law or regulation or of any order, writ, judgment or decree of any court, arbitrator or governmental authority; (b) will not violate any provisions of any document constituting, regulating or otherwise affecting the operations or activities of the Town; and (c) will not violate any provision of, constitute a default under, or result in the creation, imposition or foreclosure of any lien, mortgage, pledge, charge, security interest or encumbrance of any kind other than liens created or imposed by the Financing Documents, on any of the revenues or other assets of the Town which could have a material adverse effect on the assets, financial condition, business or operations of the Town, on the Town's power to cause the Financing Documents to be executed and delivered, or its ability to pay in full in a timely fashion the obligations of the Town under this Agreement or the other Financing Documents.

**Section 4.04. Consents.** The Town has obtained all consents, permits, licenses and approvals of, and has made all registrations and declarations with any governmental authority or regulatory body required for the execution, delivery and performance by the Town of this Agreement and the other Financing Documents.

**Section 4.05. Enforceability.** This Agreement and each other Financing Document to which the Town is a party constitute the legal, valid and binding obligation of the Town, enforceable against the Town in accordance with its terms (except as such enforceability may be limited by bankruptcy, moratorium or other similar laws affecting creditors' rights generally and provided that the application of equitable remedies is subject to the application of equitable principles).

**Section 4.06. Reserved.**

**Section 4.07. Financial Information and Statements.** The financial statements and other information previously provided to the Bank or provided to the Bank in the future are or will be complete and accurate and prepared in accordance with generally accepted accounting principles.

**Section 4.08. Accuracy of Information.** All information, certificates or statements given to the Bank pursuant to this Agreement and the other Financing Documents will be, to the best of the Town's knowledge, true and complete when given.

**Section 4.09. Default, Etc.** The Town is not in default in the performance, observance, or fulfillment of any of the obligations, covenants or conditions contained in any Financing Document or other resolution, agreement or instrument to which it is a party which would have a material adverse effect on the ability of the Town to perform its obligations hereunder or under the other Financing Documents, or which would affect the enforceability hereof or thereof.

**Section 4.10. Outstanding Debt.** Except for the indebtedness of the Loan, the Town will have no Debt outstanding as of the date hereof.

## ARTICLE V

### COVENANTS OF THE TOWN

While any obligations hereunder or under any of the other Financing Documents are unpaid or outstanding, the Town continuously warrants and agrees as follows:

**Section 5.01. Performance of Covenants, Authority.** The Town covenants that it will faithfully perform and observe at all times any and all covenants, undertakings, stipulations, and provisions contained in this Agreement and the other Financing Documents to which it is a party and all its proceedings pertaining thereto as though such covenants, undertakings, stipulations, and provisions were set forth in full herein (for the purpose of this provision the Financing Documents shall be deemed to continue in full force and effect notwithstanding any earlier termination thereof so long as any obligation of the Town under this Agreement shall be unpaid or unperformed). The Town covenants that it is duly authorized under the constitution and laws of the State of Colorado, including, particularly and without limitation, the Refunding Act, to issue the Loan and to execute and deliver this Agreement and the other Financing Documents to which it is a party, and that all action on its part for the issuance of the Loan and the execution and delivery of the Financing Documents to which it is a party has been duly and effectively taken and will be duly taken as provided herein, and that the Loan, the Note, and this Agreement are and will be valid and enforceable special obligations of the Town according to the terms

hereof and thereof; provided, however, only the legally available funds and revenues of the Park Fund shall be pledged to pay the principal of, premium, if any, and interest on the Loan.

**Section 5.02. Laws, Permits and Obligations.** The Town will comply in all material respects with all applicable laws, rules, regulations, orders and directions of any governmental authority and all agreements and obligations binding on the Town, noncompliance with which would have a material adverse effect on the Town, its financial condition, assets or ability to perform its obligations under this Agreement and/or the other Financing Documents to which it is a party; provided that the Town may in good faith contest such laws, rules, regulations, orders and directions and the applicability thereof to the Town to the extent that such action would not be likely to have a material adverse effect on the Town's ability to perform its obligations hereunder.

**Section 5.03. Tax Covenants.**

(a) The Town covenants for the benefit of the Bank that it will not take any action or omit to take any action with respect to the Loan, any funds of the Town, or any facilities refinanced with the proceeds of the Loan, if such action or omission (i) would cause the interest on the Loan to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Code, (ii) would cause interest on the Loan to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Code except to the extent such interest is required to be included in the adjusted current earnings adjustments applicable to corporations under Section 56 of the Code in calculating corporate alternative minimum taxable income, or (iii) would cause interest on the Loan to lose its exclusion from Colorado taxable income or Colorado alternative minimum taxable income under present Colorado law.

(b) In the event that at any time the Town is of the opinion that for purposes of this Section 5.03 it is necessary to restrict or to limit the yield on the investment of any moneys held by the Bank or held by the Town, the Town shall so restrict or limit the yield on such investment or shall so instruct the Bank in a detailed certificate.

(c) The Town specifically covenants to comply with the provisions and procedures of the Tax Certificate.

(d) The covenants contained in this Section 5.03 shall remain in full force and effect until the date on which all obligations of the Town in fulfilling such covenants under the Code and Colorado law have been met, notwithstanding the payment in full or defeasance of the Loan.

(e) The Town hereby designates the Loan as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code.

**Section 5.04. Proper Books and Records.** The Town shall keep or cause to be kept adequate and proper records and books of account in which complete and correct entries shall be made with respect to the Town and the Park Fund in particular. The Town shall maintain accounting records in accordance with generally recognized and accepted principles of accounting consistently applied throughout the accounting periods involved.

**Section 5.05. Reporting Requirements.**

(a) The Town shall notify the Bank promptly of all interim litigation or administrative proceedings, threatened or pending, against the Town which would, if adversely determined, in Town's reasonable opinion, have a material effect on the Town's ability to perform its payment obligations under this Agreement arising after the date hereof.

(b) The Town agrees to the following:

(i) as soon as available, but not later than 270 days following each Fiscal Year, the Town shall make available to the Bank by any reasonable means, including but not limited to posting such information on the Town's official website, its unqualified audited financial statements prepared in accordance with generally accepted accounting principles consistently applied, in reasonable detail and audited by a firm of independent certified public accountants selected by the Town;

(ii) as soon as available, but in no event later than January 31 of each Fiscal Year, the Town shall make available to the Bank by any reasonable means, including but not limited to posting such information on the Town's official website, the Town's annual budget for such Fiscal Year and, as soon as available, shall furnish a copy of any proposed amendments thereto;

(iii) promptly upon request of the Bank, the Town shall make available to the Bank by any reasonable means, including but not limited to posting such information on the Town's official website, such other reports or information regarding the Park Fund as the Bank may reasonably request.

(c) The Town shall notify the Bank as soon as possible after the Town acquires knowledge of the occurrence of any event which, in the reasonable judgment of the Town, is likely to have a material adverse effect on the ability of the Town to perform its payment obligations under this Agreement.

**Section 5.06. Further Assurances.** The Town shall do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged and delivered, such amendments hereto and such further acts, instruments, and transfers as the Bank may reasonably require for the better assuring, transferring, and pledging unto the Bank the legally available funds and revenues of the Park Fund.

**Section 5.07. Coverage.** The Town hereby covenants that it will maintain sufficient fund balances in the Park Fund, together with revenues flowing therein but net of any unrelated expenditures therefrom, to generate in each Fiscal Year an amount (the "Park Fund Coverage Amount") equal to not less than 125% of the amount necessary to pay when due the principal of and interest on the Loan and any other indebtedness of the Town having a lien on the Park Fund on a parity with that of the Loan coming due during such Fiscal Year. In the event that the Park Fund Coverage Amount is equal to less than 125% of the amount necessary to pay when due the principal of and interest on the Loan and any other indebtedness of the Town having a lien on the

Park Fund on a parity with that of the Loan coming due during such Fiscal Year, the Town has covenanted and does here by covenant to transfer an amount equal to such shortfall amount from legally available moneys of its General Fund to the Park Fund.

## **ARTICLE VI**

### **RESERVED**

## **ARTICLE VII**

### **EVENTS OF DEFAULT AND REMEDIES**

**Section 7.01. Events of Default.** The occurrence of any one or more of the following events or the existence of any one or more of the following conditions shall constitute an Event of Default under this Agreement (whatever the reason for such event or condition and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree, rule, regulation or order of any court or any administrative or governmental body):

- (a) The Town fails to pay interest on the Loan when due at the applicable rate then borne by the Loan;
- (b) The Town fails to pay principal on the Loan when due;
- (c) the Town fails to appropriate moneys sufficient to pay all amounts when due hereunder;
- (d) the Town fails to observe or perform any of the covenants, agreements or conditions on the part of the Town in this Agreement or the other Financing Documents and such failure is not remedied to the satisfaction of the Bank within 30 days after such failure;
- (e) any representation or warranty made by the Town in this Agreement or in any other Financing Document to which the Town is a party or any certificate, instrument, financial or other statement furnished by the Town to the Bank in relation hereto, proves to have been untrue or incomplete in any material respect when made or deemed made;
- (f) the Town shall initiate, acquiesce or consent to any proceedings to dissolve the Town or to consolidate the Town with other similar entities into a single entity or the Town shall otherwise cease to exist;
- (g) a change occurs in the financial or operating conditions of the Town, or the occurrence of any other event that, in the Bank's reasonable judgment, will have a materially adverse impact on the ability of the Town to satisfy the Town's obligations under this Agreement and the Town fails to cure such condition within the time specified by the Bank in a written notice from the Bank informing the Town of an occurrence under this subsection (k);

(h) the Town shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it or seeking to adjudicate it insolvent or a bankrupt or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts; or (B) seeking appointment of a receiver, trustee, custodian or other similar official for itself or for any substantial part of its property, or the Town shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against the Town any case, proceeding or other action of a nature referred to in clause (i) above and the same shall remain undismissed; or (iii) there shall be commenced against the Town any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its property which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal, within 60 days from the entry thereof; or (iv) the Town shall take action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii) or (iii) above; or (v) the Town shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due;

(i) any determination, decision, or decree is made by the Commissioner or any Director of the Internal Revenue Service, or by any court of competent jurisdiction, that the interest payable on the Loan is includable in the gross income for federal income tax purposes of the Bank by virtue of the occurrence of any event, including any change in the Constitution or laws of the United States of America or the State of Colorado, which results in interest payable on the Loan becoming includable in the gross income of the Bank pursuant to Section 103(b) of the Internal Revenue Code, and the rules and regulations promulgated thereunder if and so long as such determination, decision or decree is not being appealed or otherwise contested in good faith by the Town.

**Section 7.02. Remedies.** Upon the occurrence and during the continuance of any Event of Default, the Bank at its option, may do any one or more of the following:

(a) apply all legally available amounts in the Park Fund to the unpaid principal of the Loan and all interest accrued and unpaid thereon, and all other amounts owing or payable to the Bank hereunder or under any other Financing Document, in any order of priority determined by the Bank; and

(b) take any other action or remedy available under the other Financing Documents or any other document, or at law or in equity.

Notwithstanding anything to the contrary herein, acceleration shall *not* be a remedy for the occurrence or continuance of an Event of Default.

**Section 7.03. Notice of Default.** Notwithstanding any cure period described above, the Town will immediately notify the Bank in writing when the Town obtains knowledge of the occurrence of any Event of Default or any event which would, with the passage of time or the giving of notice, constitute an Event of Default.

**Section 7.04. Delay or Omission No Waiver.** No delay or omission of the Bank to exercise any right or power accruing upon any default shall exhaust or impair any such right or power or shall be construed to be a waiver of any such default, or acquiescence therein; and every power and remedy given by this Agreement may be exercised from time to time and as often as may be deemed expedient.

**Section 7.05. No Waiver of One Default To Affect Another; All Remedies Cumulative.** No waiver of any Event of Default hereunder shall extend to or affect any subsequent or any other then existing Event of Default or shall impair any rights or remedies consequent thereon. All rights and remedies of the Bank provided herein shall be cumulative and the exercise of any such right or remedy shall not affect or impair the exercise of any other right or remedy.

**Section 7.06. Other Remedies.** Nothing in this Article VII is intended to restrict the Bank's rights under any of the Financing Documents or at law or in equity, and the Bank may exercise all such rights and remedies as and when they are available.

## ARTICLE VIII

### MISCELLANEOUS

**Section 8.01. Loan Agreement and Relationship to Other Documents.** The warranties, covenants and other obligations of the Town (and the rights and remedies of the Bank) that are outlined in this Agreement and the other Financing Documents are intended to supplement each other. In the event of any inconsistencies in any of the terms in the Financing Documents, the terms of this Agreement will control.

**Section 8.02. Assignments, Participations, etc. by the Bank.** Any assignment or participation by the Bank is not subject to the Town's consent, but shall be subject to Section 8.15 hereof. In connection with any such assignment or participation, the Bank may disclose to any proposed assignee or participant any information that the Town discloses pursuant to this Agreement and the other Financing Documents. Any such assignment or participation is also subject to the following conditions:

(a) Subject to Section 8.15 hereof, the rights, options, powers and remedies granted in this Agreement and the other Financing Documents will extend to the Bank and to its successors and assigns, will be binding upon the Town and its successors and assigns and will be applicable hereto and to all renewals and/or extensions hereof.

(b) Subject to Section 8.15 hereof, in addition, the Bank may collaterally assign and pledge, without the consent of the Town, all or any portion of the obligations owing to it to any Federal Home Loan Bank, any Federal Reserve Bank, or the United States Treasury as collateral security pursuant to Regulation A of the Board of Governors of the Federal Reserve System and any Operating Circular issued by any such Federal Home Loan Bank or Federal Reserve Bank; provided that any payment in respect of such assigned obligations made by the Town to the Bank in accordance with the terms of this Agreement shall satisfy the Town's obligations hereunder in respect of such assigned

obligation to the extent of such payment. No such collateral assignment shall release the Bank from its obligations hereunder.

(c) Subject to Section 8.15 hereof, the Bank may at any time, without the consent of the Town, sell to one or more commercial banks or other Persons not affiliates of the Town (a "Participant") participating interests in its rights and obligations hereunder or under the other Financing Documents; provided, however, that (i) the Bank's obligations hereunder shall remain unchanged, (ii) the Bank shall remain solely responsible for the performance of such obligations, and (iii) the participation of one or more Participants shall not reduce or alter the Bank's obligations hereunder or affect in any way the rights or obligations of the Town hereunder and the Town has the right to continue to deal solely with the Bank. The Bank will give notice of the sale of such participation and the name of the Participant to the Town within 30 days of the date of such sale.

**Section 8.03. Litigation/Indemnification.** The Town agrees, to the extent permitted by law and as set forth herein, to completely indemnify and hold harmless the Bank and its agents, employees, officers, directors and controlling Persons, together with any Participant and its agents, employees, officers, directors and controlling Persons (hereinafter collectively referred to in this Section 8.03 as the "Indemnitees") from and against any and all claims, damages, liabilities, settlements, judgments, losses, legal fees and costs or expenses incurred (including all reasonable fees and disbursements of the Indemnitees' legal counsel and allocated cost of in-house counsel and staff and all of the Indemnitees' reasonable travel and other out-of-pocket expenses incurred in connection with the investigation of and preparation for any such pending or threatened claims and any litigation and other proceedings arising therefrom) arising out of or based upon (a) the Loan; or (b) the holding or owning by the Bank, the Participant, or their respective nominees of any collateral securing the obligations of the Town hereunder; or (c) any matters for which neither the Bank nor any Participant has any liability as set forth under Section 8.16 of this Agreement; provided, however, that the Town shall not be required to indemnify the Indemnitees pursuant to Section 8.03(c) above for any claims, damages, losses, liabilities, settlements, judgments, legal fees or costs or expenses to the extent proven to be caused by the Bank's negligent failure to make lawful payment under the Loan. Nothing in this Section 8.03 is intended to limit the Town's obligations contained in Article II hereof.

If any action, lawsuit or claim shall be brought or asserted against the Indemnitees in respect of which indemnity may be sought by the Indemnitees from the Town under this Section 8.03, the Indemnitees shall promptly notify the Town in writing, and the Town shall promptly assume the defense thereof, including, but not limited to, the employment of counsel (the selection of which has been approved by the Indemnitees and such approval shall not be unreasonably withheld), the payment of all legal fees and expenses and the right to negotiate and consent to settlement; provided, however, that the Town shall not settle any such action which may adversely affect the Bank without the Bank's written consent, which consent shall not be unreasonably withheld.

In the event that the Indemnitees shall be advised by counsel experienced in matters of banking or securities laws that the Indemnitees have defenses or causes of action separate from those of the Town, or that there is otherwise a conflict of interest, the Indemnitees have the right



Telephone: (303) 297-2400  
Facsimile: (303) 297-7799  
Attention: Mario Trimble, Esq.

if to the Bank: First National Bank  
[ADDRESS]  
[TELEPHONE]  
[FACSIMILE]  
Attention: [NAME]

**Section 8.06. Payments.** Payments due on the Loan shall be made in lawful money of the United States. All payments may be applied by the Bank to principal, interest and other amounts due under the Note and this Agreement in any order which the Bank elects.

**Section 8.07. Applicable Law and Jurisdiction; Interpretation; Severability.** This Agreement and all other Financing Documents will be governed by and interpreted in accordance with the internal laws of the State of Colorado, except to the extent superseded by Federal law. Invalidity of any provisions of this Agreement will not affect any other provision. THE TOWN AND THE BANK HEREBY CONSENT TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT SITUATED IN [LARIMER] COUNTY, COLORADO, AND WAIVE ANY OBJECTIONS BASED ON *FORUM NON CONVENIENS*, WITH REGARD TO ANY ACTIONS, CLAIMS, DISPUTES OR PROCEEDINGS RELATING TO THIS AGREEMENT, THE NOTE, THE PARK FUND, ANY OTHER FINANCING DOCUMENT, OR ANY TRANSACTIONS ARISING THEREFROM, OR ENFORCEMENT AND/OR INTERPRETATION OF ANY OF THE FOREGOING. Nothing in this Agreement will affect the Bank's rights to serve process in any manner permitted by law. This Agreement, the other Financing Documents and any amendments hereto (regardless of when executed) will be deemed effective and accepted only at the Bank's offices, and only upon the Bank's receipt of the executed originals thereof. Invalidity of any provision of this Agreement shall not affect the validity of any other provision.

**Section 8.08. Copies; Entire Agreement; Modification.** The Town hereby acknowledges the receipt of a copy of this Agreement and all other Financing Documents.

**IMPORTANT: READ BEFORE SIGNING.** THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING, EXPRESSING CONSIDERATION AND SIGNED BY THE PARTIES ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. THE TERMS OF THIS AGREEMENT MAY ONLY BE CHANGED BY ANOTHER WRITTEN AGREEMENT. THIS NOTICE SHALL ALSO BE EFFECTIVE WITH RESPECT TO ALL OTHER CREDIT AGREEMENTS NOW IN EFFECT BETWEEN THE TOWN AND THE BANK. A MODIFICATION OF ANY OTHER CREDIT AGREEMENT NOW IN EFFECT BETWEEN THE TOWN AND THE BANK, WHICH OCCURS AFTER RECEIPT BY THE TOWN OF THIS NOTICE, MAY BE MADE ONLY BY ANOTHER WRITTEN INSTRUMENT. ORAL OR IMPLIED MODIFICATIONS TO ANY SUCH CREDIT AGREEMENT ARE NOT ENFORCEABLE AND SHOULD NOT BE RELIED UPON.

**Section 8.09. Waiver of Jury Trial.** THE TOWN AND THE BANK HEREBY JOINTLY AND SEVERALLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO ANY OF THE FINANCING DOCUMENTS, THE OBLIGATIONS THEREUNDER, THE AVAILABLE AMOUNTS WITHIN THE PARK FUND SECURING THE OBLIGATIONS, OR ANY TRANSACTION ARISING THEREFROM OR CONNECTED THERETO. THE TOWN AND THE BANK EACH REPRESENTS TO THE OTHER THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY GIVEN.

**Section 8.10. Attachments.** All documents attached hereto, including any appendices, schedules, riders and exhibits to this Agreement, are hereby expressly incorporated by reference.

**Section 8.11. No Recourse Against Officers and Agents.** Pursuant to Section 11-57-209 of the Supplemental Public Securities Act, if a member of the Board, or any officer or agent of the Town, acts in good faith in the performance of his duties as a member, officer, or agent of the Board or the Town and in no other capacity, no civil recourse shall be available against such member, officer or agent for payment of the principal of, premium, if any, and interest on the Loan. Such recourse shall not be available either directly or indirectly through the Board 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 delivery of the Note evidencing the Loan and as a part of the consideration for such transfer, the Bank and any Person purchasing or accepting the transfer of the obligation representing the Loan specifically waives any such recourse.

**Section 8.12. Conclusive Recital.** Pursuant to Section 11-57-210 of the Supplemental Public Securities Act, this Agreement is entered into pursuant to certain provisions of the Supplemental Public Securities Act. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of this Agreement after delivery for value.

**Section 8.13. Limitation of Actions.** Pursuant to Section 11-57-212 of the Supplemental Public Securities Act, no legal or equitable action brought with respect to any legislative acts or proceedings in connection with the authorization or issuance of the Loan shall be commenced more than 30 days after the authorization of the Loan.

**Section 8.14. Pledge of Revenues.** The creation, perfection, enforcement, and priority of the pledge of revenues to secure the payment of the principal of, premium, if any, and interest on the Loan as provided herein and in the Note shall be governed by Section 11-57-208 of the Supplemental Public Securities Act, this Agreement, the Note, and the Authorizing Ordinance. The amounts pledged to the payment of the principal of, premium, if any, and interest on the Loan shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge shall have a first priority. The lien of such pledge shall be valid, binding, and enforceable as against all Persons having claims of any kind in tort, contract, or otherwise against the Town irrespective of whether such Persons have notice of such liens.

**Section 8.15. No Liability.** Any action taken or omitted by the Bank under or in connection with the Financing Documents, if taken or omitted in good faith and without willful

misconduct or negligence, shall be binding upon the Town and shall not put the Bank under any resulting liability to the Town. The Bank, including its agents, employees, officers, directors and controlling Persons, shall not have any liability to the Town, and the Town assumes all risk, responsibility and liability for (a) the form, sufficiency, correctness, validity, genuineness, falsification and legal effect of any demands and other documents, instruments and other papers relating to the Loan even if such documents, should prove to be in any or all respects invalid, insufficient, fraudulent or forged; (b) the general and particular conditions stipulated therein; (c) the good faith acts of any Person whosoever in connection therewith; (d) failure of any Person (other than the Bank, subject to the terms and conditions hereof) to comply with the terms of the Loan; (e) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telex, telegraph, wireless or otherwise, whether or not they be in code; (f) errors in translation or errors in interpretation of technical terms; (g) for any other consequences arising from causes beyond the Bank's control; or (h) any use of which may be made of the proceeds of the Loan, except to the extent of any direct, as opposed to indirect, consequential, or special damages suffered by the Town which direct damages are proven by the Town to be caused by the Bank's willful or negligent failure to make lawful payment under the Loan.

**Section 8.16. No Waiver; Modifications in Writing.** No failure or delay on the part of the Bank in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other right, power or remedy. The remedies provided for herein are cumulative and are not exclusive of any remedies that may be available to the Bank at law or in equity or otherwise. No amendment, modification, supplement, termination or waiver of or to any provision of this Agreement, nor consent to any departure by the Town therefrom, shall be effective unless the same shall be in writing and signed by or on behalf of the Bank. Any amendment, modification or supplement of or to any provision of this Agreement, and any consent to any departure by the Town from the terms of any provision of this Agreement, shall be effective only in the specific instance and for the specific purpose for which made or given. No notice to or demand on the Town in any case shall entitle the Town to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the Bank to any other or further action in any circumstances without notice or demand.

**Section 8.17. Payment on Non-Business Days.** Whenever any payment hereunder shall be stated to be due on a day which is not a Business Day, such payment may be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of the amount due.

**Section 8.18. Document Imaging.** The Bank shall be entitled, in its sole discretion, to image all or any selection of the Financing Documents, other instruments, documents, items and records governing, arising from or relating to the Loan, and may destroy or archive the paper originals. The Town hereby waives any right to insist that the Bank produce paper originals; agrees that such images shall be accorded the same force and effect as the paper originals; and further agrees that the Bank is entitled to use such images in lieu of destroyed or archived originals for any purpose, including as admissible evidence in any demand, presentment or proceedings.

**Section 8.19. Execution in Counterparts.** This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same Agreement.

**Section 8.20. Severability.** Any provision of this Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or nonauthorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

**Section 8.21. Headings.** Article and Section headings used in this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

**Section 8.22. Waiver of Rules of Construction.** The Town hereby waives any and all provisions of law to the effect that an ambiguity in a contract or agreement should be interpreted against the party responsible for its drafting.

**Section 8.23. Integration.** This Agreement is intended to be the final agreement between the parties hereto relating to the subject matter hereof and this Agreement and any agreement, document or instrument attached hereto or referred to herein shall supersede all oral negotiations and prior writings with respect to the subject matter hereof.

**Section 8.24. Patriot Act Notice.** The Bank hereby notifies the Town that pursuant to the requirements of the Patriot Act it is required to obtain, verify and record information that identifies the Town, which information includes the name and address of the Town and other information that will allow the Bank to identify the Town in accordance with the Patriot Act. The Town hereby agrees that it shall promptly provide such information upon request by the Bank.

[End of Loan Agreement; Signatures on Following Page]

IN WITNESS WHEREOF, the undersigned have executed this Loan Agreement as of the date set forth above.

FIRST NATIONAL BANK, a Colorado  
Banking Corporation

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

TOWN OF WELLINGTON, COLORADO, a  
municipal corporation and political subdivision  
of the State of Colorado

By \_\_\_\_\_  
[NAME, TITLE]

By \_\_\_\_\_  
[NAME, TITLE]

By \_\_\_\_\_  
[NAME, TITLE]

By \_\_\_\_\_  
[NAME, TITLE]

Attest:

By \_\_\_\_\_  
[NAME, TITLE]

[Signature Page to Loan Agreement]



**EXHIBIT A**  
**FORM OF PROMISSORY NOTE**

**PROMISSORY NOTE  
LOAN NUMBER [#]**

**UNITED STATES OF AMERICA  
STATE OF COLORADO  
TOWN OF WELLINGTON**

**PROMISSORY NOTE  
IN THE AGGREGATE PRINCIPAL AMOUNT OF  
\$2,400,000**

**US \$2,400,000**

**AUGUST \_\_, 2014**

FOR VALUE RECEIVED, TOWN OF WELLINGTON, COLORADO a municipal corporation and political subdivision of the State of Colorado, duly organized and existing as a metropolitan Town under the constitution and laws of the State of Colorado (hereinafter referred to as "Maker"), promises to pay to the order of FIRST NATIONAL BANK, its successors and assigns (hereinafter referred to as "Payee"), at the office of Payee or its agent, designee, or assignee at First National Bank, [ADDRESS], Attention: [NAME], or at such place as Payee or its agent, designee, or assignee may from time to time designate in writing, the principal sum of TWO MILLION FOUR HUNDRED THOUSAND AND NO/100 DOLLARS (US \$2,400,000) (this "Note") pursuant to the terms of the Loan Agreement dated of even date herewith by and between Maker and Payee (the "Loan Agreement"), in lawful money of the United States of America.

This Note shall bear interest, be payable, and mature pursuant to the terms and provisions of the Loan Agreement. All capitalized terms used and not otherwise defined herein shall have the respective meanings ascribed in the Loan Agreement.

Amounts received by Payee under this Note shall be applied in the manner provided by the Loan Agreement. All amounts due under this Note shall be payable without setoff, counterclaim or any other deduction whatsoever by Maker.

Unless payments are made in the required amount in immediately available funds in accordance with the provisions of the Loan Agreement, remittances in payment of all or any part of the amounts due and payable hereunder shall not, regardless of any receipt or credit issued therefor, constitute payment until the required amount is actually received by Payee in funds immediately available at the place where this Note is payable (or any other place as Payee, in Payee's sole discretion, may have established by delivery of written notice thereof to Maker) and shall be made and accepted subject to the condition that any check or draft may be handled for collection in accordance with the practice of the collecting bank or banks. Acceptance by Payee of any payment in an amount less than the amount then due shall be deemed an acceptance on account only and any unpaid amounts shall remain due hereunder, all as more particularly provided in the Loan Agreement.

In the event of nonpayment of this Note, Payee shall be entitled to all remedies under the Loan Agreement and at law or in equity, and all remedies shall be cumulative.

It is expressly stipulated and agreed to be the intent of Maker and Payee at all times to comply with applicable state law and applicable United States federal law. If the applicable law (state or federal) is ever judicially interpreted so as to render usurious any amount called for under this Note or under the Loan Agreement, or contracted for, charged, taken, reserved or received with respect to the indebtedness evidenced by this Note, then it is Maker's and Payee's express intent that all excess amounts theretofore collected by Payee be credited on the principal balance of this Note (or, if this Note has been or would thereby be paid in full, refunded to Maker), and the provisions of this Note shall immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and under the Loan Agreement. All sums paid or agreed to be paid to Payee for the use, forbearance and detention of the indebtedness evidenced hereby and by the Loan Agreement shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the rate or amount of interest on account of such indebtedness does not exceed the maximum rate permitted under applicable law from time to time in effect and applicable to the indebtedness evidenced hereby for so long as such indebtedness remains outstanding.

Maker and any endorsers, sureties or guarantors hereof jointly and severally waive presentment and demand for payment, protest and notice of protest and nonpayment, all applicable exemption rights, valuation and appraisal, notice of demand, and all other notices in connection with the delivery, acceptance, performance, default or enforcement of the payment of this Note and the bringing of suit and diligence in taking any action to collect any sums owing hereunder or in proceeding against any of the rights and collateral securing payment hereof. Maker and any surety, endorser or guarantor hereof agree (a) that the time for any payments hereunder may be extended from time to time without notice and consent; (b) to the acceptance of further collateral; (c) to the release of any existing collateral for the payment of this Note; (d) to any and all renewals, waivers or modifications that may be granted by Payee with respect to the payment or other provisions of this Note; and/or (e) that additional makers, endorsers, guarantors or sureties may become parties hereto all without notice to them and without in any manner affecting their liability under or with respect to this Note. No extension of time for the payment of this Note shall affect the liability of Maker under this Note or any endorser or guarantor hereof even though Maker or such endorser or guarantor is not a party to such agreement.

Failure of Payee to exercise any of the options granted herein to Payee upon the happening of one or more of the events giving rise to such options shall not constitute a waiver of the right to exercise the same or any other option at any subsequent time in respect to the same or any other event. The acceptance by Payee of any payment hereunder that is less than payment in full of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the options granted herein or in the Loan Agreement to Payee at that time or at any subsequent time or nullify any prior exercise of any such option without the express written acknowledgment of Payee.

Maker (and the undersigned representative of Maker, if any) represents that Maker has full power, authority and legal right to execute, deliver and perform its obligations pursuant to this Note and this Note constitutes the legal, valid and binding obligation of Maker.

All notices or other communications required or permitted to be given hereunder shall be given in the manner and be effective as specified in the Loan Agreement, directed to the parties at their respective addresses as provided therein.

This Note is governed by and interpreted in accordance with the internal laws of the State of Colorado, except to the extent superseded by federal law. Invalidity of any provisions of this Note will not affect any other provision.

Pursuant to Section 11-57-210 of the Colorado Revised Statutes, as amended, this Note is entered into pursuant to and under the authority of certain provisions of the Supplemental Public Securities Act, being Title 11, Article 57, Part 2 of the Colorado Revised Statutes, as amended. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of this Note after delivery for value and shall conclusively impart full compliance with all provisions and limitations of said statutes, and this Note shall be incontestable for any cause whatsoever after delivery for value. This Note is issued pursuant to Title 11, Article 56 of the Colorado Revised Statutes (the "Refunding Act"), is in compliance with all provisions and limitations of the Refunding Act and this Note shall be incontestable for any cause whatsoever after delivery for value.

Maker hereby designates the Note as a "qualified tax exempt obligation" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder. Maker covenants that the aggregate face amount of all tax exempt obligations issued by Maker, together with governmental entities which derive their issuing authority from Maker or are subject to substantial control by Maker, shall not be more than \$10,000,000 during calendar year 2014. Maker recognizes that such tax exempt obligations include notes, leases, loans, warrants, and bonds. Maker further recognizes that any bank, thrift institution, or other financial institution that owns the Note will rely on Maker's designation of this Note as a qualified tax exempt obligation for the purpose of avoiding the loss of 100% of any otherwise available interest deduction attributable to such institution's tax exempt holdings.

MAKER HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT SITUATED IN [LARIMER] COUNTY, COLORADO, AND WAIVES ANY OBJECTION BASED ON FORUM NON CONVENIENS, WITH REGARD TO ANY ACTIONS, CLAIMS, DISPUTES OR PROCEEDINGS RELATING TO THIS NOTE, THE LOAN AGREEMENT, THE PARK FUND, ANY OTHER FINANCING DOCUMENT, OR ANY TRANSACTIONS ARISING THEREFROM, OR ENFORCEMENT AND/OR INTERPRETATION OF ANY OF THE FOREGOING.

MAKER HEREBY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO THIS NOTE, THE LOAN AGREEMENT, OR ANY OF THE OTHER FINANCING DOCUMENTS, THE OBLIGATIONS THEREUNDER, ANY COLLATERAL SECURING THE OBLIGATIONS, OR ANY TRANSACTION

ARISING THEREFROM OR CONNECTED THERETO. MAKER REPRESENTS TO PAYEE THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY GIVEN.

THE PROVISIONS OF THIS NOTE MAY BE AMENDED OR REVISED ONLY BY AN INSTRUMENT IN WRITING SIGNED BY MAKER AND PAYEE. THERE ARE NO ORAL AGREEMENTS BETWEEN MAKER AND PAYEE WITH RESPECT TO THE SUBJECT MATTER HEREOF.

IN WITNESS WHEREOF, an authorized representative of Town of Wellington, Colorado, as Maker, has executed this Note as of the day and year first above written.

TOWN OF WELLINGTON, COLORADO, a  
municipal corporation and political subdivision  
of the State of Colorado

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

[SEAL]

Attest:

By \_\_\_\_\_  
Secretary

[Signature Page to Promissory Note]

**CERTIFICATE OF AUTHENTICATION**

Date of Registration and Authentication:

\_\_\_\_\_

This Promissory Note constitutes the "Note" or "Promissory Note" as defined in the within-mentioned Loan Agreement.

First National Bank,  
[CITY, STATE], as Bank

By \_\_\_\_\_  
Authorized Signatory

**EXHIBIT B**  
**PRINCIPAL PAYMENT SCHEDULE**

	<b>Payment Date</b>	<b>Payment Amount</b>	<b>Interest Paid</b>	<b>Principal Paid</b>	<b>Remaining Balance</b>
	06-01-2014	\$ 7,022.14	\$ 2,260.42	\$ 4,761.72	\$695,238.28
	07-01-2014	7,022.14	2,172.62	4,849.52	690,388.76
	08-01-2014	7,022.14	2,229.38	4,792.76	685,596.00
	09-01-2014	7,022.14	2,213.90	4,808.24	680,787.76
	10-01-2014	7,022.14	2,127.46	4,894.68	675,893.08
	11-01-2014	7,022.14	2,182.57	4,839.57	671,053.51
	12-01-2014	<u>7,022.14</u>	<u>2,097.04</u>	<u>4,925.10</u>	<u>666,128.41</u>
<b>2014 Totals</b>		<b>\$ 49,154.98</b>	<b>\$ 15,283.39</b>	<b>\$ 33,871.59</b>	
	01-01-2015	\$ 7,022.14	\$ 2,151.04	\$ 4,871.10	\$661,257.31
	02-01-2015	7,022.14	2,135.31	4,886.83	656,370.48
	03-01-2015	7,022.14	1,914.41	5,107.73	651,262.75
	04-01-2015	7,022.14	2,103.04	4,919.10	646,343.65
	05-01-2015	7,022.14	2,019.82	5,002.32	641,341.33
	06-01-2015	7,022.14	2,071.00	4,951.14	636,390.19
	07-01-2015	7,022.14	1,988.72	5,033.42	631,356.77
	08-01-2015	7,022.14	2,038.76	4,983.38	626,373.39
	09-01-2015	7,022.14	2,022.66	4,999.48	621,373.91
	10-01-2015	7,022.14	1,941.79	5,080.35	616,293.56
	11-01-2015	7,022.14	1,990.11	5,032.03	611,261.53
	12-01-2015	<u>7,022.14</u>	<u>1,910.19</u>	<u>5,111.95</u>	<u>606,149.58</u>
<b>2015 Totals</b>		<b>\$ 84,265.68</b>	<b>\$ 24,286.85</b>	<b>\$ 59,978.83</b>	
	01-01-2016	\$ 7,022.14	\$ 1,957.36	\$ 5,064.78	\$601,084.80
	02-01-2016	7,022.14	1,941.00	5,081.14	596,003.66
	03-01-2016	7,022.14	1,738.34	5,283.80	590,719.86
	04-01-2016	7,022.14	1,907.53	5,114.61	585,605.25
	05-01-2016	7,022.14	1,830.02	5,192.12	580,413.13
	06-01-2016	7,022.14	1,874.25	5,147.89	575,265.24
	07-01-2016	7,022.14	1,797.70	5,224.44	570,040.80
	08-01-2016	7,022.14	1,840.76	5,181.38	564,859.42
	09-01-2016	7,022.14	1,824.03	5,198.11	559,661.31
	10-01-2016	7,022.14	1,748.94	5,273.20	554,388.11
	11-01-2016	7,022.14	1,790.21	5,231.93	549,156.18
	12-01-2016	<u>7,022.14</u>	<u>1,716.11</u>	<u>5,306.03</u>	<u>543,850.15</u>
<b>2016 Totals</b>		<b>\$ 84,265.68</b>	<b>\$ 21,966.25</b>	<b>\$ 62,299.43</b>	

	01-01-2017	\$ 7,022.14	\$ 1,756.18	\$ 5,265.96	\$538,584.19
	02-01-2017	7,022.14	1,739.18	5,282.96	533,301.23
	03-01-2017	7,022.14	1,555.46	5,466.68	527,834.55
	04-01-2017	7,022.14	1,704.47	5,317.67	522,516.88
	05-01-2017	7,022.14	1,632.87	5,389.27	517,127.61
	06-01-2017	7,022.14	1,669.89	5,352.25	511,775.36
	07-01-2017	7,022.14	1,599.30	5,422.84	506,352.52
	08-01-2017	7,022.14	1,635.10	5,387.04	500,965.48
	09-01-2017	7,022.14	1,617.70	5,404.44	495,561.04
	10-01-2017	7,022.14	1,548.63	5,473.51	490,087.53
	11-01-2017	7,022.14	1,582.57	5,439.57	484,647.96
	12-01-2017	<u>7,022.14</u>	<u>1,514.52</u>	<u>5,507.62</u>	<u>479,140.34</u>
2017 Totals		\$ 84,265.68	\$ 19,555.87	\$ 64,709.81	
	01-01-2018	\$ 7,022.14	\$ 1,547.22	\$ 5,474.92	\$473,665.42
	02-01-2018	7,022.14	1,529.54	5,492.60	468,172.82
	03-01-2018	7,022.14	1,365.50	5,656.64	462,516.18
	04-01-2018	7,022.14	1,493.54	5,528.60	456,987.58
	05-01-2018	7,022.14	1,428.09	5,594.05	451,393.53
	06-01-2018	7,022.14	1,457.62	5,564.52	445,829.01
	07-01-2018	7,022.14	1,393.22	5,628.92	440,200.09
	08-01-2018	7,022.14	1,421.48	5,600.66	434,599.43
	09-01-2018	7,022.14	1,403.39	5,618.75	428,980.68
	10-01-2018	7,022.14	1,340.56	5,681.58	423,299.10
	11-01-2018	7,022.14	1,366.90	5,655.24	417,643.86
	12-01-2018	<u>7,022.14</u>	<u>1,305.14</u>	<u>5,717.00</u>	<u>411,926.86</u>
2018 Totals		\$ 84,265.68	\$ 17,052.20	\$ 67,213.48	
	01-01-2019	\$ 7,022.14	\$ 1,330.18	\$ 5,691.96	\$406,234.90
	02-01-2019	7,022.14	1,311.80	5,710.34	400,524.56
	03-01-2019	7,022.14	1,168.20	5,853.94	394,670.62
	04-01-2019	7,022.14	1,274.46	5,747.68	388,922.94
	05-01-2019	7,022.14	1,215.38	5,806.76	383,116.18
	06-01-2019	7,022.14	1,237.15	5,784.99	377,331.19
	07-01-2019	7,022.14	1,179.16	5,842.98	371,488.21
	08-01-2019	7,022.14	1,199.60	5,822.54	365,665.67
	09-01-2019	7,022.14	1,180.80	5,841.34	359,824.33
	10-01-2019	7,022.14	1,124.45	5,897.69	353,926.64
	11-01-2019	7,022.14	1,142.89	5,879.25	348,047.39
	12-01-2019	<u>7,022.14</u>	<u>1,087.65</u>	<u>5,934.49</u>	<u>342,112.90</u>
2019 Totals		\$ 84,265.68	\$ 14,451.72	\$ 69,813.96	

	01-01-2020	\$ 7,022.14	\$ 1,104.74	\$ 5,917.40	336,195.50
	02-01-2020	7,022.14	1,085.63	5,936.51	330,258.99
	03-01-2020	7,022.14	963.26	6,058.88	324,200.11
	04-01-2020	7,022.14	1,046.90	5,975.24	318,224.87
	05-01-2020	7,022.14	994.45	6,027.69	312,197.18
	06-01-2020	7,022.14	1,008.14	6,014.00	306,183.18
	07-01-2020	7,022.14	956.82	6,065.32	300,117.86
	08-01-2020	7,022.14	969.13	6,053.01	294,064.85
	09-01-2020	7,022.14	949.58	6,072.56	287,992.29
	10-01-2020	7,022.14	899.98	6,122.16	281,870.13
	11-01-2020	7,022.14	910.21	6,111.93	275,758.20
	12-01-2020	<u>7,022.14</u>	<u>861.74</u>	<u>6,160.40</u>	<u>269,597.80</u>
2020	Totals	\$ 84,265.68	\$ 11,750.58	\$ 72,515.10	
	01-01-2021	\$ 7,022.14	\$ 870.58	\$ 6,151.56	\$263,446.24
	02-01-2021	7,022.14	850.71	6,171.43	257,274.81
	03-01-2021	7,022.14	750.38	6,271.76	251,003.05
	04-01-2021	7,022.14	810.53	6,211.61	244,791.44
	05-01-2021	7,022.14	764.97	6,257.17	238,534.27
	06-01-2021	7,022.14	770.27	6,251.87	232,282.40
	07-01-2021	7,022.14	725.88	6,296.26	225,986.14
	08-01-2021	7,022.14	729.75	6,292.39	219,693.75
	09-01-2021	7,022.14	709.43	6,312.71	213,381.04
	10-01-2021	7,022.14	666.82	6,355.32	207,025.72
	11-01-2021	7,022.14	668.52	6,353.62	200,672.10
	12-01-2021	<u>7,022.14</u>	<u>627.10</u>	<u>6,395.04</u>	<u>194,277.06</u>
2021	Totals	\$ 84,265.68	\$ 8,944.94	\$ 75,320.74	
	01-01-2022	\$ 7,022.14	\$ 627.35	\$ 6,394.79	\$187,882.27
	02-01-2022	7,022.14	606.70	6,415.44	181,466.83
	03-01-2022	7,022.14	529.28	6,492.86	174,973.97
	04-01-2022	7,022.14	565.02	6,457.12	168,516.85
	05-01-2022	7,022.14	526.62	6,495.52	162,021.33
	06-01-2022	7,022.14	523.19	6,498.95	155,522.38
	07-01-2022	7,022.14	486.01	6,536.13	148,986.25
	08-01-2022	7,022.14	481.10	6,541.04	142,445.21
	09-01-2022	7,022.14	459.98	6,562.16	135,883.05
	10-01-2022	7,022.14	424.63	6,597.51	129,285.54
	11-01-2022	7,022.14	417.48	6,604.66	122,680.88
	12-01-2022	<u>7,022.14</u>	<u>383.38</u>	<u>6,638.76</u>	<u>116,042.12</u>
2022	Totals	\$ 84,265.68	\$ 6,030.74	\$ 78,234.94	
	01-01-2023	\$ 7,022.14	\$ 374.72	\$ 6,647.42	\$109,394.70
	02-01-2023	7,022.14	353.25	6,668.89	102,725.81
	03-01-2023	7,022.14	299.62	6,722.52	96,003.29
	04-01-2023	7,022.14	310.01	6,712.13	89,291.16

	05-01-2023	7,022.14	279.03	6,743.11	82,548.05
	06-01-2023	7,022.14	266.56	6,755.58	75,792.47
	07-01-2023	7,022.14	236.85	6,785.29	69,007.18
	08-01-2023	7,022.14	222.84	6,799.30	62,207.88
	09-01-2023	7,022.14	200.88	6,821.26	55,386.62
	10-01-2023	7,022.14	173.08	6,849.06	48,537.56
	11-01-2023	7,022.14	156.74	6,865.40	41,672.16
	12-01-2023	<u>7,022.14</u>	<u>130.23</u>	<u>6,891.91</u>	<u>34,780.25</u>
2023		\$ 84,265.68	\$ 3,003.81	\$ 81,261.87	
Totals					
	01-01-2024	\$ 7,022.14	\$ 112.31	\$ 6,909.83	\$ 27,870.42
	02-01-2024	7,022.14	90.00	6,932.14	20,938.28
	03-01-2024	7,022.14	61.07	6,961.07	13,977.21
	04-01-2024	7,022.14	45.13	6,977.01	7,000.20
	05-01-2024	<u>7,022.14</u>	<u>21.94</u>	<u>7,000.20</u>	<u>0.00</u>
2024		\$ 35,110.70	\$ 330.45	\$ 34,780.25	
Totals					
Totals		<u>\$842,656.80</u>	<u>\$142,656.80</u>	<u>\$700,000.00</u>	