

1  
2  
3  
4 **New Castle Town Council Meeting**  
5 **Tuesday, September 1, 2015, 7:00 p.m.**  
6

7 **Call to Order**

8 Mayor Gordon called the meeting to order a 7:00 p.m.  
9

10 **Pledge of Allegiance**  
11

12 **Roll Call**

13 Present	Councilor Means
14	Councilor Riddile
15	Councilor Metzger
16	Mayor Gordon
17	Councilor Leland
18	Councilor Stuckey
19 Absent	Councilor Breslin

20

21 Also present at the meeting were Town Administrator Tom Baker, Town Clerk  
22 Melody Harrison, Town Finance Director Lyle Layton, Accounting Technician Debra  
23 Guccini, and Town Planner Tim Cain.  
24

25 **Meeting Notice**

26 Clerk Harrison verified that her office gave notice of the meeting in accordance with  
27 Resolution TC-2015-1.  
28

29 **Conflicts of Interest**

30 Councilor Stuckey said he had a potential conflict with the Warrior item and asked  
31 to be recused. The council agreed.  
32

33 **Agenda Changes**

34 Clerk Harrison asked that the Police Department Vehicle Lease item be removed  
35 from the consent agenda because it was not ready for approval. The council agreed.  
36

37 **Citizen Comments on Items not on the Agenda**

38 There were no citizen comments.  
39

40 **Consultant Reports**

41 Consultant Attorney – not present

42 Consultant Engineer – present for agenda items

43 Code Enforcement – Planner Cain reported that the weeds on the Anderson  
44 property were being cut and he agreed to make certain the piles were removed.

45 Planner Cain said he had sent notices of violation to a number of addresses and had  
46 some moderate success encouraging people to comply. He described the various  
47 areas of concern and what had been done thus far, and what the next steps were.  
48  
49

1 **Items for Consideration**

2  
3 **Consider a Motion to Accept the 2014 Audit as Presented by J. Cutler &**  
4 **Associates**

5 **MOTION: Councilor Leland made a motion to accept the 2014 Audit as**  
6 **presented by J. Cutler & Associates. Councilor Means seconded the motion**  
7 **and it passed unanimously.**

8  
9 **Consider a Bid Award for Downtown Streetscape Project**

10 Town Administrator Tom Baker explained to the council that Johnson Construction  
11 was the low bidder on the Downtown Streetscape project. Unfortunately, there was  
12 a shortfall of approximately \$42k. Administrator Baker showed the council a map of  
13 the proposed changes to the project to adjust the financing. He explained that  
14 schedule D in the bid package was the item that could be eliminated. Engineer  
15 Simonson told the council that the project included snow melt in the gutter pans,  
16 water to the planters, power and old-fashioned street lights.

17 **MOTION: Councilor Leland made a motion to award the bid for the**  
18 **downtown streetscape project to Johnson Construction, removing bid**  
19 **schedule D and authorizing the Mayor to sign necessary documents.**  
20 **Councilor Stuckey seconded the motion and it passed unanimously.**

21  
22 Councilor Stuckey left council chambers at 7:27 p.m.

23  
24 **Consider a Motion to Release the Letter of Credit from Warrior Acquisitions**

25 Engineer Simonson explained to the council the remaining items that the  
26 construction company had to complete. Propose that staff have the ability to  
27 release the funds once work is done. Councilor Leland noted for the record that the  
28 warranty work in Lakota was first discussed at council in 2009, and that the town  
29 being somewhat more responsive than the original developer and the current  
30 developer, was prepared to release the letter of credit within moments of  
31 completion of the work. Councilor Leland said he felt this reflected the incredible  
32 good will of the town

33 **MOTION: Councilor Riddile made a motion to release the letter of credit**  
34 **from Warrior Acquisitions for the road warranty work in Lakota Canyon**  
35 **Ranch and authorized either the Town Administrator or Mayor to sign the**  
36 **release upon approval from Town Engineer Jeff Simonson. Councilor**  
37 **Metzger seconded the motion and it passed unanimously.**

38  
39 Councilor Stuckey returned to council chambers at 7:32 p.m.

40  
41 **Health & Wellness Campus/Kuersten Update**

42 Engineer Simonson said the mapping and soil survey had been done. He described  
43 the variations of the site. He felt that much of the materials on the site could be  
44 sold but had not yet determined how much would first be needed for preparation of  
45 the site for development.

46 Administrator Baker said that the site analysis to help council understand what the  
47 cost of development would be was well under way. Another piece of the  
48 development will be a market analysis. This would demonstrate to potential  
49 businesses that there is something for them to look at in New Castle. He asked the

1 council if they felt the September 15 meeting would be appropriate to bring in a  
2 professional to discuss the industry with them. The council felt it was a good idea.  
3 Administrator Baker asked the council to authorize him to sign the letter of  
4 engagement included in the packet to bring Elisabeth Borden to speak at the  
5 September 15 council meeting.

6 **MOTION: Councilor Leland made a motion to instruct the Town**  
7 **Administrator to engage Elisabeth Borden to come to the September 15**  
8 **meeting to discuss a market study with the council. Councilor Means**  
9 **seconded the motion and it passed unanimously.**

10  
11 **Policy Discussion 2016 Budget Revenue & Expenditure Projections**

12 Administrator Baker told the council that he and Finance Director Lyle Layton had  
13 created a framework for the staff to prepare the budget. For expenditures, the  
14 operations budgets were expected to be within two percent. On the revenues side,  
15 he and Director Layton have studied the trends and tried to make a reasonable  
16 determination what revenues will be through the end of 2015 and into 2016.

17 Administrator Baker reviewed the various revenues with the council and explained  
18 how they came up with their numbers.

19 Mayor Gordon said he appreciated the approach staff was taking with the budget.

20  
21 Councilor Riddile passed out photographs of a prototype of the statute proposed for  
22 the Will Dubois memorial. He also passed out a sample of brochure that will go out  
23 about Will Dubois to begin the fundraising efforts.

24 Councilor Riddile said that the sculptor was honored to be part of the project.

25 Mayor Gordon Thanked Councilor Riddile for his efforts regarding the memorial.  
26  
27

28 **Consider Ordinance TC-2015-3 – An Ordinance of the New Castle Town**  
29 **Council Amending Portions of Chapters 17.20, 17.36, and 15.44 of the New**  
30 **Castle Municipal Code Concerning the Certificate of Approval Process in the**  
31 **C-1 and R-1 Zone Districts (second reading)**

32  
33 **MOTION: Councilor Riddile made a motion to approve Ordinance TC-2015-3**  
34 **- An Ordinance of the New Castle Town Council Amending Portions of**  
35 **Chapters 17.20, 17.36, and 15.44 of the New Castle Municipal Code**  
36 **Concerning the Certificate of Approval Process in the C-1 and R-1 Zone**  
37 **Districts on second reading. Councilor Stuckey seconded the motion and it**  
38 **passed on a roll-call vote: Councilor Leland: yes; Mayor Gordon: yes;**  
39 **Councilor Stuckey: yes; Councilor Metzger: yes; Councilor Means: yes;**  
40 **Councilor Riddile: yes.**

41  
42 **Consider Ordinance TC-2015-4 – An Ordinance of the New Castle Town**  
43 **Council Amending Chapter 1.16 of the New Castle Municipal Code**  
44 **Concerning Elections (second reading)**

45  
46 **MOTION: Councilor Riddile made a motion to approve Ordinance TC-2015-4**  
47 **- An Ordinance of the New Castle Town Council Amending Chapter 1.16 of**  
48 **the New Castle Municipal Code Concerning Elections on second reading.**  
49 **Councilor Means seconded the motion and it passed on a roll-call vote:**

1 **Councilor Riddile: yes; Councilor Metzger: yes; Councilor Leland: yes;**  
2 **Councilor Means: yes; Councilor Stuckey: yes; Mayor Gordon: yes;**  
3 **Councilor Breslin: yes.**

4  
5 Recess Council, Convene as Water & Sewer Enterprise

6  
7 **MOTION: Councilor Riddile made a motion to recess the council meeting**  
8 **and convene as the Water & Sewer Enterprise. Councilor Stuckey seconded**  
9 **the motion and it passed unanimously.**

10  
11 **Consider a Motion to Approve a Grant Agreement with DOLA for**  
12 **Improvements to the Water Treatment Plant**

13  
14 **MOTION: Councilor Leland made a motion to authorize mayor to sign a**  
15 **grant agreement with the Department of Local Affairs (DOLA) for**  
16 **Improvements to the Water Treatment Plant. Councilor Means seconded**  
17 **the motion and it passed unanimously.**

18  
19 Adjourn Water & Sewer Enterprise, reconvene as Council

20  
21 **MOTION: Councilor Riddile made a motion to adjourn the Water & Sewer**  
22 **Enterprise and to reconvene the Council meeting. Councilor Stuckey**  
23 **seconded the motion and it passed unanimously.**

24  
25 **Garfield Clean Energy Update & 2016 Funding**

26 Leo McKinney – City of Glenwood Springs Council, and Board Member of Garfield  
27 Clean Energy.

28 Heather McGregor – Administrative Manager of Garfield Clean Energy and a  
29 resident of Glenwood Springs.

30 Ms. McGregor provided handouts to the council regarding air quality monitoring and  
31 a 2011 through 2013 progress report.

32 Ms. McGregor gave the council information about how GCE had stimulated the local  
33 economy while saving energy for consumers. She reminded the council that local  
34 government partners received free technical advice for energy savings in their  
35 facilities. She said GCE had assisted RFTA in converting their busses to compressed  
36 natural gas (CNG), and that the Grand Hogback route now used a CNG bus. The  
37 Traveler was also going to use a CNG bus.

38 GCE was working towards public CNG fueling in the county as well.

39 Ms. McGregor said an inventory of solar arrays owned by government had been  
40 done, and there are twenty-seven with a generating capacity of 8.4 gigawatts of  
41 electricity. Enough to power almost 1200 homes.

42 Ms. McGregor invited everyone to a solar workshop on Friday, September 25 at  
43 10:30 a.m. at Colorado Mountain College in Rifle.

44 She also said that GCE would be funding a study for renewable energy sources in  
45 Garfield County.

46 Mr. McKinney thanked Mayor Gordon for the time he dedicated to GCE and was  
47 sorry to see him leave. He also said that GCE was a source of economic  
48 development, and hoped the council would consider them in their 2016 budget. The  
49 GCE board was proposing a slight increase in all the member's contributions, and

1 Mr. McKinney asked the council to consider an increase of \$1,500.00, for a total  
2 contribution of \$17,000.00 in 2016.  
3 Mr. McKinney also asked the council to consider sending a letter of support to the  
4 Garfield County Commissioners to express the value of the program and what it has  
5 meant to New Castle and to ask the commissioners to continue funding their  
6 portion of the GCE efforts.  
7 Mr. McKinney and Ms. McGregor thanked the council for their time.

8  
9 **Consent Agenda**

10 Minutes of the August 18, 2015 meeting  
11 August Bills of \$547,465.43  
12 New Castle Diner Liquor License Renewal  
13 Hacienda El Patron Liquor License Renewal  
14 ~~PD Vehicle Lease~~ **Removed from consent agenda**  
15 **MOTION: Councilor Means made a motion to approve the consent agenda.**  
16 **Councilor Stuckey seconded the motion and it passed unanimously.**

17  
18 **Staff Reports**

19 Town Administrator – gave his report during work session  
20 Town Clerk – Clerk Harrison told the council she had written a memo and provided  
21 some general information regarding EQRs and water use. The memo was in the  
22 information folder, and she said she had found that the EQR table the town used  
23 seemed to be more accurate than previously thought. Clerk Harrison also reviewed  
24 her memo regarding the land use process. She described the different types of  
25 applications and who reviewed them as well as the process for public notifications.  
26 Clerk Harrison said her office had received transfer applications for both Lazy Bear  
27 restaurant and Elmer Suds, who were both under new ownership. Both liquor  
28 applications would come to council on October 20.  
29 Clerk Harrison told the council that she and Deputy Town Clerk Mindy Andis would  
30 be attending the International Institute of Municipal Clerks Region VIII conference  
31 in November. Last, Clerk Harrison told the council that the annual joint meeting  
32 with the Garfield County Commissioners would be on February 2, 2016.  
33 Town Planner – not present  
34 Public Works Director – not present

35  
36 **Commission Reports**

37 Planning & Zoning Commission – nothing to report  
38 Historic Preservation Commission – nothing to report  
39 Economic Advisory Committee – nothing to report  
40 Senior Program – Councilor Metzger told the council that the Traveler had ordered  
41 C&G Busses, but they were unable to accommodate two wheelchairs and will need  
42 to be retrofitted.  
43 RFTA – nothing to report  
44 AGNC – nothing to report  
45 GCE – nothing to report

46  
47 **Council Comments**

1 Councilor Stuckey said he had attended a webinar for the CML Policy Committee  
2 and it seemed the committee was a way to include municipalities in assisting the  
3 state to enact laws. Every municipality had the opportunity to propose something.  
4 Councilor Means said that someone had ridden a horse on the Alder Park Trail and  
5 some trail cleanup was necessary.  
6 Councilor Means asked if plans for remodeling the town hall were still being  
7 considered. Administrator Baker confirmed that progress was being made plans  
8 were in progress.  
9 Councilor Means asked if the town was considering annexation of the Anderson  
10 property. Mayor Gordon said the property had been annexed in to the town some  
11 years ago.  
12 Councilor Means asked about the RFTA Park and Ride in New Castle. Mayor Gordon  
13 said it would likely happen in 2016.  
14 Councilor Means asked if there were any updates from CRHDC, and Administrator  
15 Baker said he had not gotten an update since they heard about not winning the  
16 award for the tax credit program. Councilor Means said that CRHDC was moving  
17 forward with the project. They would sit down with neighboring properties to  
18 discuss the project. They will also meet with CHFA to better understand any  
19 weaknesses in the tax credit application. He said it really did not make sense to  
20 CHFA to fund the project in 2015 because the funds will sit for two years before it  
21 was used. Administrator Baker said it was good they were still moving forward with  
22 the project because no time would be lost.  
23 Councilor Riddile said at the Garfield County Energy Advisory meeting, the health  
24 department gave a presentation on air quality. He passed out a synopsis. He said  
25 the report indicated the county's air quality had improved since 2008.  
26 Councilor Metzger asked what was being done with website marketing.  
27 Administrator Baker said that there was a marketing strategy for 2015 and 2016,  
28 and that there was \$20k available for it. He said the committee would meeting in  
29 September to discuss the strategy and to conduct interviews.  
30 Councilor Metzger asked about the dentist who had come to council a while back, if  
31 she had found a place for her practice. Administrator Baker said she looked at a  
32 residence, but dentistry was not a home occupation. She had also looked at the  
33 unit owned by Patty Ringer, but he did not know if that would work either.  
34 Councilor Metzger said during the last few rain storms, there seemed to be a lot of  
35 water in the gutters, and she asked if there was something the town could do to  
36 better mitigate storm water. Administrator Baker said that urban storm water  
37 runoff was something mountain communities had to deal with. There was capacity  
38 in the gutter system, but a cloudburst often exceeded the capacity for a short time.  
39 Councilor Leland reminded the council of the prior discussion about the Apple Tree  
40 community garden, and the problematic video. He said that he, Mayor Gordon, and  
41 Administrator Baker had met with the Talbotts and the meeting went very well.  
42 Ross Mark will create a garden board that will include someone from the town, the  
43 Talbott Industries property manager and some Apple Tree residents. They have  
44 decided they will lay out plots that people can use. He said the problem video was  
45 taken down, and that Administrator Baker had spoken to Kim Willey about it, and  
46 told her Mr. Talbott had disinvited her from the garden. Ms. Willey wrote an apology  
47 letter to the board. Administrator Baker said he did not know if she would be invited  
48 back, but he felt the meeting was good to reinforce the town's relationship with the  
49 Talbotts.

1 Councilor Leland said that Councilor Means was the council representative on  
2 Climate Action Advisory Committee (CAAC), and he thought that perhaps it was  
3 time to recruit members and to have CAAC work with GCE. Clerk Harrison said she  
4 would provide Councilor Means with information about CAAC.  
5 Councilor Leland felt it would be a good idea to invite Representative Bob Rankin to  
6 a council meeting.  
7 Councilor Stuckey said he spoke to Engineer Simonson and offered him some  
8 information that had been developed for the Kuersten property several years ago, if  
9 it was acceptable to the council. The council agreed.  
10 Councilor Stuckey said that the Clubhouse Trail had been resealed and he thanked  
11 the town for doing it.  
12 Councilor Stuckey said that Lakota Canyon Ranch had hired a new management  
13 company and had a new HOA representative and he felt they were good changes  
14 that will be beneficial for the subdivision.

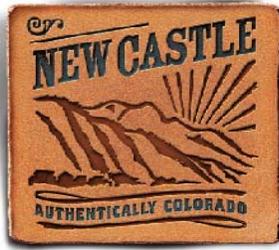
15  
16 **MOTION: Mayor Gordon made a motion to adjourn. Councilor Metzger**  
17 **seconded the motion and it passed unanimously.**  
18

19 The meeting adjourned at 9:27 p.m.  
20

21  
22 Respectfully Submitted,  
23  
24  
25

26  
27 \_\_\_\_\_  
28 Mayor Bob Gordon  
29

30  
31 \_\_\_\_\_  
32 Town Clerk Melody Harrison, CMC  
33



**Town of New Castle**  
450 W. Main Street  
PO Box 90  
New Castle, CO 81647

**Administration Department**  
**Phone:** (970) 984-2311  
**Fax:** (970) 984-2716  
[www.newcastlecolorado.org](http://www.newcastlecolorado.org)

---

September 15, 2015

Garfield County Commissioners  
Chairman John Martin  
Commissioner Tom Jankovsky  
Commissioner Mike Samson  
108 8<sup>th</sup> Street, Suite 101  
Glenwood Springs, CO 81601

Dear Garfield County Board of County Commissioners,

I am writing this letter to encourage the Board of County Commissioners to continue their support for Garfield Clean Energy.

As you are aware, Garfield Clean Energy has provided the county governments, residents and businesses with an unparalleled opportunity to be forerunners in the nationwide effort to become energy efficient.

Since their creation in 2008, Garfield Clean Energy has helped all six municipalities in the county as well as the Library District, both RE-1 and RE-2 school districts, RFTA, Colorado Mountain College, numerous senior housing facilities, churches, businesses and commercial properties and hundreds of residences improve their energy efficiency. In addition, they have a revolving loan fund to assist with financing energy upgrades, energy upgrade rebates, grant programs, education and training opportunities, a government solar array purchase program and many other beneficial programs.

Garfield Clean Energy is an impressive asset to Garfield County and all its constituents. The County Commissioners play an important, leading role in the development of traditional and renewable energy. Your continued support of Garfield Clean Energy will encourage the governments and people of Garfield County to continue the pursuit of local, renewable energy sources, and to maintain a strong financial base from which Garfield Clean Energy can reach the goal of 20% by 2020.

On behalf of the New Castle Town Council, and the Citizens of New Castle, I send our thanks for your support of Garfield Clean Energy.

Best,

Mayor Bob Gordon

# Memo

**To:** Mayor and Town Council  
**From:** Lyle L Layton   
**Date:** September 14, 2015  
**Re:** PS Vehicle Lease/Purchase Agreements (2)

---

Staff is presenting two Ally Financial Municipal lease agreements for Public Safety SUV's.

Both of these agreements are for 2016 4WD Chevrolet Tahoe's. The cost of each unit is \$34,669, with a lease purchase agreement of 4 years including interest.

Town attorney David McConaughy has reviewed these agreements and signed the opinion of counsel that is required.

Council previously approved purchasing the additional equipment (radar, radio, light bar, etc.) to complete outfitting these vehicles as police vehicles.

Staff recommends approval of these agreements as the first years payments are included in the 2015 budget.



**INSTRUCTIONS FOR COMPLETING THE ALLY MUNICIPAL LEASE AGREEMENT**

Outlined below are the instructions to properly complete the Agreement.

1. First payment of \$9551.74 will be due upon delivery. Dealer should keep the first payment.
2. Proceeds in the amount of \$ 25463.95 should be drafted or Smartcashed. This amount includes Dealer Commission of \$346.69.
3. Please have the Municipal Official *SIGN* and *DATE* the signature lines on the right side of:  
Page 5 (only the top right signature line);  
the Municipal Certificate; Page 6;  
the Delivery & Acceptance Certificate; Page 7; and  
the Schedule B - Amortization Schedule; Page 8.  
The Municipal Official is the person who has the authority to obligate the municipality.
4. The Attorney for the Municipality must sign and date the Opinion of Counsel on the bottom right side of page 5.
5. A person (other than the authorized Municipal Official) must sign on the left side of the **Municipal Certificate - Page 6** to Attest to the truth of the statement. Also, write or type the name of the authorized Municipal Official in the first blank spot on Page 6.
6. Fill in the Equipment Location on the Delivery & Acceptance Certificate. This is the address where the vehicle will be garaged.
7. Leave all Ally signature spots blank; an Ally representative will sign there.

**IMPORTANT:** Vehicles must be titled in the NAME of the MUNICIPALITY with Ally Financial P.O. Box 23020, Jacksonville, FL., 32241 recorded as LIENHOLDER.

Once the Agreements have been executed as outlined above (with no alteration), forward both originals to Ally Contract Processing Center at 2911 Lake Vista Dr, Lewisville, TX 75067 with the following:

- a copy of the application(s) for title
- a copy of the manufacturer's invoice(s), chassis & body (if applicable)
- evidence of insurance, form 685 DLP
- a signed Ally Financial Credit Application

If you have any questions, please call me at 1-800-471-4622



## MUNICIPAL LEASE-PURCHASE AGREEMENT

LESSEE: Town of New Castle

LESSOR: Ally Financial

Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor, the Equipment described in any Delivery and Acceptance Certificate now or hereafter attached hereto ("Equipment") in accordance with the following terms and conditions of this Lease-Purchase Agreement ("Lease").

1. **TERM.** This Lease will become effective upon the execution hereof by Lessor. The term of this Lease will commence on the date the Equipment is accepted pursuant to Section 3 hereunder and, unless earlier terminated as expressly provided for in this Lease, will continue for the term set forth in Schedule B attached hereto ("Lease Term").

2. **RENT.** Lessee agrees to pay to Lessor or its assignee the Lease Payments, including the interest portion, equal to the amounts specified in the Delivery and Acceptance Certificate. The Lease Payments will be payable without notice or demand at the office of the Lessor (or such other place as Lessor or its assignee may from time to time designate in writing), and will commence upon acceptance of the vehicle(s) and continue on the same date periodically thereafter for the number of time periods reflected on the Delivery and Acceptance Certificate. Any payments received later than ten (10) days from the due date will bear interest at the highest lawful rate from the due date. Except as specifically provided in Section 5 hereof, the Lease Payments will be absolute and unconditional in all events and will not be subject to any setoff, defense, counterclaim, or recoupment for any reason whatsoever including, without limitation, any failure of the Equipment to be delivered or installed, any defects, malfunctions, breakdowns or infirmities in the Equipment or any accident, condemnation or unforeseen circumstances. Lessee reasonably believes that funds can be obtained sufficient to make all Lease Payments during the Lease Term and hereby covenants that it will do all things lawfully within its power to obtain, maintain and properly request and pursue funds from which the Lease Payments may be made, including making provisions for such payments to the extent necessary in each budget submitted for the purpose of obtaining funding, using its bona fide best efforts to have such portion of the budget approved and exhausting all available administrative reviews and appeals in the event such portion of the budget is not approved. It is Lessee's intent to make Lease Payments for the full Lease Term if funds are legally available therefor and in that regard, Lessee represents that the use of the Equipment is essential to its proper, efficient and economic operation. Lessor and Lessee understand and intend that the obligation of Lessee to pay Lease Payments hereunder shall constitute a current expense of Lessee and shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Lessee, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or monies of Lessee.

3. **DELIVERY AND ACCEPTANCE.** Lessee, or if Lessee so requests, Lessor, will cause the Equipment to be delivered to Lessee at the location specified in the Delivery and Acceptance Certificate ("Equipment Location"). Lessee will pay all transportation and other costs, if any, incurred in connection with the delivery and installation of the Equipment. Lessee will accept the Equipment as soon as it has been delivered and is operational. Lessee will evidence its acceptance of the Equipment by executing and delivering to Lessor a Delivery and Acceptance Certificate in the form provided by Lessor.

4. **DISCLAIMER OF WARRANTIES.** Lessee acknowledges and agrees that the Equipment is of a size, design and capacity selected by Lessee, that Lessor is neither a manufacturer nor a vendor of such equipment, and that LESSOR HAS NOT MADE, AND DOES NOT HEREBY MAKE, ANY REPRESENTATION, WARRANTY, OR COVENANT, EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, QUALITY, DURABILITY, DESIGN OPERATION, FITNESS FOR USE, OR SUITABILITY OF THE EQUIPMENT IN ANY RESPECT WHATSOEVER OR IN CONNECTION WITH OR FOR THE PURPOSES AND USES OF LESSEE, OR ANY OTHER REPRESENTATION, WARRANTY, OR COVENANT OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT THERETO, AND LESSOR SHALL NOT BE OBLIGATED OR LIABLE FOR ACTUAL, INCIDENTAL, CONSEQUENTIAL, OR OTHER DAMAGES OF OR TO LESSEE OR ANY OTHER PERSON OR ENTITY ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE EQUIPMENT AND THE MAINTENANCE THEREOF. Lessor hereby assigns to Lessee during the Lease Term, so long as no Event of Default has occurred hereunder and is continuing, all manufacturer's warranties, if any, expressed or implied with respect to the Equipment, and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties at Lessee's expense. Lessee's sole remedy for the breach of any such manufacturer's warranty shall be against the manufacturer of the Equipment, and not against Lessor, nor shall such matter have any effect whatsoever on the rights and obligations of Lessor with respect to this Lease, including the right to receive full and timely payments hereunder. Lessee expressly acknowledges that Lessor makes, and has made, no representations or warranties whatsoever as to the existence or the availability of such warranties of the manufacturer of the Equipment.

5. **NON-APPROPRIATION OF FUNDS; NON-SUBSTITUTION.** Notwithstanding anything contained in this Lease to the contrary, in the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable by any means whatsoever in any fiscal period for Lease Payments due under this Lease, Lessee will immediately notify the Lessor or its assignee of such occurrence and this Lease shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to Lessee of any kind whatsoever, except as to the portions of Lease Payments herein agreed upon for which funds shall have been appropriated and budgeted or are otherwise available. In the event of such termination, Lessee agrees to peaceably surrender possession of the Equipment to Lessor or its assignee on the date of such termination.

Lessor will have all legal and equitable rights and remedies to take possession of the Equipment. Notwithstanding the foregoing, Lessee agrees (i) that it will not cancel this Lease under the provisions of this Section if any funds are appropriated to it, or by it, for the acquisition, retention or operation of the Equipment or other equipment performing functions similar to the Equipment for the fiscal period in which such termination occurs or the next succeeding fiscal period thereafter, and (ii) that it will not during the Lease Term give priority in the application of funds to any other functionally similar equipment. This paragraph will not be construed so as to permit Lessee to terminate this Lease in order to acquire or lease any other equipment or to allocate funds directly or indirectly to perform essentially the same application for which the Equipment is intended.

**6. CERTIFICATION AND AUTHORIZATION.** Lessee represents, covenants and warrants that it is a state, or a political subdivision thereof, or that Lessee's obligation under this Lease constitutes an obligation issued on behalf of a state or political subdivision thereof, such that any interest derived under this Lease will qualify for exemption from Federal income taxes under Section 103 of the Internal Revenue Code. Lessee further warrants that this Lease represents a valid deferred payment obligation for the amount herein set forth of a Lessee having legal capacity to enter into the same and is not in contravention of any Town, City, District, County, or State statute, rule, regulation, or other governmental provision. In the event that a question arises as to Lessee's qualification as a political subdivision, Lessee agrees to execute a power of attorney authorizing Lessor to make application to the Internal Revenue Service for a letter ruling with respect to the issue. Lessee agrees that (i) it will do or cause to be done all things necessary to preserve and keep the Lease in full force and effect, (ii) it has complied with all bidding requirements where necessary and by due notification presented this Lease for approval and adoption as a valid obligation on its part, and (iii) it has sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal period.

**7. TITLE TO EQUIPMENT; SECURITY INTEREST.** Upon acceptance of the Equipment by Lessee hereunder, title to the Equipment will vest in Lessee subject to Lessor's rights under this Lease, provided, however, that (i) in the event of termination of this Lease by Lessee pursuant to Section 5 hereof; (ii) upon the occurrence of an Event of Default hereunder, and as long as such Event of Default is continuing; or (iii) in the event that the purchase option has not been exercised prior to the Expiration Date, title will immediately vest in Lessor or its assignee without any action by Lessee and Lessee shall immediately surrender possession of the Equipment to Lessor. In order to secure all of its obligations hereunder, Lessee hereby (i) grants to Lessor a first and prior security interest in any and all right, title and interest of Lessee in the Equipment and in all additions, attachments, accessions, and substitutions thereto, and on any proceeds therefrom, (ii) agrees that this Lease may be filed as a financing statement evidencing such security interest, and (iii) agrees to execute and deliver all financing statements, certificates of title and other instruments in form satisfactory to Lessor necessary or appropriate to evidence such security interest.

**8. USE; REPAIRS.** Lessee will use the Equipment in a careful manner for the use contemplated by the manufacturer for the Equipment and shall comply with all laws, ordinances, insurance policies regulations relating to, and will pay all costs, claims, damages, fees and charges arising out of its possession, use or maintenance. Lessee, at its expense will keep the Equipment in good working order and repair and furnish all parts, mechanisms and devices required therefor.

**9. ALTERATIONS.** Lessee will not make any alterations, additions or improvements to the Equipment without Lessor's prior written consent unless such alterations, additions or improvements may be readily removed without damage to the Equipment.

**10. LOCATION; INSPECTION.** The Equipment will not be removed from, or if the Equipment consists of rolling stock, its permanent base will not be changed from the Equipment Location without Lessor's prior written consent which will not be unreasonably withheld. Lessor will be entitled to enter upon the Equipment location or elsewhere during reasonable business hours to inspect the equipment or observe its use and operation.

**11. LIENS AND TAXES.** Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances except those created under this Lease. Lessee shall pay, when due, all charges and taxes (local, state and federal) which now or hereafter be imposed upon the ownership, leasing, rental, sale, purchase, possession or use of the Equipment, excluding however, all taxes on or measured by Lessor's income. If Lessee fails to pay said charges, and taxes when due, Lessor shall have the right, but shall not be obligated, to pay said charges and taxes. If Lessor pays any charges or taxes, Lessee shall reimburse Lessor therefor.

**12. RISK OF LOSS; DAMAGE; DESTRUCTION.** Lessee assumes all risk of loss of or damage to the Equipment from any cause whatsoever, and no such loss of or damage to the Equipment nor defect therein nor unfitness or obsolescence thereof shall relieve Lessee of the obligation to make Lease Payments or to perform any other obligation under this Lease. In the event of damage to any Item of Equipment, Lessee will immediately place the same in good repair with the proceeds of any insurance recovery applied to the cost of such repair. If Lessor determines that any Item of Equipment is lost, stolen, destroyed or damaged beyond repair, Lessee, at the option of Lessor, will either (a) replace the same with like Equipment in good repair, or (b) on the next Lease Payment date, pay Lessor: (i) all amounts then owed by Lessee to Lessor under this Lease, including the Lease Payment due on such date, and (ii) an amount equal to the applicable Customers Balance set forth in Schedule B. In the event that Lessee is obligated to make such payment with respect to less than all of the Equipment, Lessor will provide Lessee with the pro rata amount of the Lease Payment and the Customers Balance to be made by Lessee with respect to the Equipment which has suffered the event of loss.

**13. PERSONAL PROPERTY.** The Equipment is and will remain personal property and will not be deemed to be affixed or attached to real estate or any building thereon. If requested by Lessor, Lessee will, at Lessee's expense, furnish a waiver of interest in the Equipment from any party having an interest in such real estate or building.

14. **INSURANCE.** Lessee, will, at its expense, maintain at all times during the Lease Term, fire and extended coverage, public liability and property damage insurance with respect to the Equipment in such amounts, covering such risks, and with such insured as shall be satisfactory to Lessor, or, with Lessor's consent may self-insure against any or all such risks. In no event will the insurance limits be less than the amount of the then applicable Customers Balance with respect to such Equipment. Each insurance policy will name Lessee as an insured and Lessor or its assigns as an additional insured, and will contain a clause requiring the insurer to give Lessor at least thirty (30) days prior written notice of any alteration in the terms of such policy or cancellation thereof. The proceeds of any such policies will be payable to Lessee and Lessor or its assigns as their interest may appear. Upon acceptance of the Equipment and upon each insurance renewal date, Lessee will deliver to Lessor a certificate evidencing such insurance. In the event that Lessee has been permitted to self-insure, Lessee will furnish Lessor with letter or certificate to such effect. In the event of any loss, damage, injury or accident involving the Equipment, Lessee will promptly provide Lessor with written notice thereof and make available to Lessor all information and documentation related thereto.

15. **INDEMNIFICATION:** Lessee shall indemnify Lessor against, and hold Lessor harmless from, any and all claims, actions, proceedings, expenses, damages or liabilities, including attorney's fees and court costs, arising in connection with the Equipment, including, but not limited to, its selection, purchase, delivery, possession, use operation, rejection, or return and the recovery of claims under insurance policies thereon. The indemnification arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the termination of the Lease Term for any reason.

#### 16. ASSIGNMENT AND SUBLEASE.

(a) Without Lessor's prior written consent, Lessee will not either (i) assign, transfer, pledge, hypothecate, or grant any security interest in or otherwise dispose of this Lease or the Equipment or any interest in this Lease or the Equipment; (ii) sublet or lend the Equipment or permit it to be used by anyone other than Lessee or Lessee's employees. No assignment or sublease shall relieve the Lessee of any of its obligations or duties hereunder, which shall remain those of a principal and not a guarantor.

(b) Lessor shall not assign, transfer, pledge, or dispose of this Agreement or any interest therein, whether as security for any of its indebtedness or otherwise. Subject to the foregoing, this Lease inures to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

17. **EVENT OF DEFAULT.** The term "Event of Default", as used herein, means the occurrence of any one or more of the following events: (i) Lessee fails to make any Lease Payment (or any other payment) as it becomes due in accordance with the terms of the Lease, and any such failure continues for ten (10) days after the due date thereof; (ii) Lessee fails to perform or observe any other covenant, condition, or agreement to be performed or observed by it hereunder and such failure is not cured within twenty (20) days after written notice thereof by Lessor; (iii) the discovery by Lessor that any statement, representation, or warranty made by Lessee in this Lease or in writing ever delivered by Lessee pursuant hereto or in connection herewith is false, misleading, or erroneous in any material respect; (iv) proceedings under any bankruptcy, insolvency, reorganization or similar legislation shall be instituted against or by Lessee, or a receiver or similar officer shall be appointed for Lessee or any of its property, and such proceedings or appointments shall not be vacated, or fully stayed, within twenty (20) days after the institution or occurrence thereof; or (v) an attachment, levy or execution is threatened or levied upon or against the Equipment.

18. **REMEDIES.** Upon the occurrence of an Event of Default, and as long as such Event of Default is continuing, Lessor may, at its option, exercise any one or more of the following remedies: (i) by written notice to Lessee, declare an amount equal to all amounts then due under the Lease, and all remaining Lease Payments due during the Fiscal Year in effect when the default occurs to be immediately due and payable, whereupon the same shall become immediately due and payable, (ii) by written notice to the Lessee, request Lessee to (and Lessee agrees that it will), at Lessee's expense, promptly return the equipment to Lessor in the manner set forth in Section 5 hereof, or Lessor, at its option, may enter upon the premises where the Equipment is located and take immediate possession of and remove the same; (iii) sell or lease the Equipment or sublease it for the account of Lessee, holding Lessee liable for all Lease Payments and other payments due to the effective date of such selling, leasing or subleasing and for the difference between the purchase price, rental and other amounts paid by the purchaser, lessee or sublessee pursuant to such sale, lease or sublease and the amounts payable by Lessee hereunder; and (iv) exercise any other right, remedy or privilege which may be available to it under applicable laws of the State of the Equipment Location or any other applicable law or proceed by appropriate court action to enforce the terms of the Lease or to recover damages for the breach of this Lease or to rescind this Lease as to any or all of the Equipment. In addition, Lessee will remain liable for all covenants and indemnities under this Lease and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor.

19. **PURCHASE OPTION.** Upon thirty (30) days prior written notice from Lessee to Lessor, and provided that there is no Event of Default, or an event which with notice to lapse of time, or both, could become an Event of Default, then existing, Lessee will have the right to purchase the Equipment on any Lease Payment due date by paying to Lessor, on such date, the Customers Balance amount set forth opposite the appropriate number of payments made as reflected on Schedule B to the Lease. Upon satisfaction by Lessee of such purchase conditions, Lessor will transfer any and all of its right, title and interest in the Equipment to Lessee as is, without warranty, express or implied, except that the Equipment is free and clear of any liens created by Lessor.

20. REPORTING REQUIREMENTS. Lessee agrees to comply with the information reporting requirements of Section 149(e) of the Internal Revenue Code of 1986 (the "Code"). In the event Lessor, solely on account of Lessee's failure to comply with such information reporting requirements, is not entitled to treat the Lease Payments and the Customers Balances received from Lessee hereunder as interest and principal payments on a state or local bond, the interest of which is exempt from Federal income tax under Section 103(a) of the Code, then Lessee shall pay to Lessor, as additional rentals, a sum which, after deduction of all taxes which are or will be payable by Lessor in respect of the receipt thereof under the Laws of the United States or any state or local government or taxing authority in the United States, or under the laws of any taxing authority or political or governmental subdivision of a foreign country, shall be equal to the additional Federal income tax which is or will be payable by Lessor as a result of the loss of such interest exemption, together with any interest, addition to tax or penalty which may be assessed by the United States Government against Lessor in connection with the loss of such interest exemption, which amounts shall be payable on written demand by Lessor, together with interest thereon at the highest lawful rate from the date of payment of the additional Federal income tax to the date of payment by Lessee.

21. NOTICES. All notices to be given under this Lease shall be made in writing and mailed by certified mail, return receipt requested, to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been received five (5) days subsequent to mailing.

22. SECTION HEADINGS. All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

23. GOVERNING LAW. This Lease shall be construed in accordance with, and governed by the laws of, the state of the Equipment Location.

24. DELIVERY OF RELATED DOCUMENTS. Lessee will execute or provide, as requested by Lessor, such other documents and information as are reasonably necessary with respect to the transaction contemplated by this Lease.

25. ENTIRE AGREEMENT; WAIVER. This Lease, together with the Delivery and Acceptance Certificate and other attachments hereto, and other documents or instruments executed by Lessee and Lessor in connection herewith, constitute the entire agreement between the parties with respect to the lease of the Equipment, and this Lease shall not be modified, amended, altered, or changed except with the written consent of Lessee and Lessor. Any provision of this Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Lease. The waiver by Lessor of any breach by Lessee of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach thereof.

(Lessor)  
Ally Financial

(Lessee)  
Town of New Castle  
801 W Main St  
New Castle CO 81647

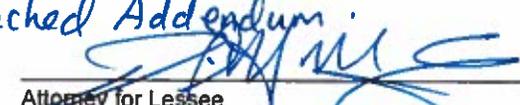
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

OPINION OF COUNSEL

With respect to that certain Municipal Lease-Purchase Agreement (Lease) dated \_\_\_\_\_ by and between Ally Financial and the Lessee, I am of the opinion that: (i) the Lessee is a tax-exempt entity under Section 103 of the Internal Revenue Code; (ii) the execution, delivery and performance by the Lessee of the Lease have been duly authorized by all necessary action on the part of the Lessee; (iii) the Lease constitutes a legal, valid and binding obligation of the Lessee enforceable in accordance with its terms and all statements contained in the Lease and all related instruments are true; (iv) Lessee has sufficient monies available to make all payments required to be paid under the Lease during the current fiscal year of the Lease, and such monies have been properly budgeted and appropriated for this purpose in accordance with State law; and (v) the Uniform Commercial Code of the state where the Equipment is located and or the certificate of title laws of such state will govern the method of perfecting Lessor's security interest in the Equipment.

*Opinions are subject to the attached Addendum.*

By:   
Attorney for Lessee  
Date: 9/10/15

**MUNICIPAL CERTIFICATE**

I, \_\_\_\_\_ of Town of New Castle, hereby certify that the Municipal Lease Purchase Agreement, dated \_\_\_\_\_, between Ally Financial, as Lessor and Town of New Castle as Lessee, leasing the Equipment described, was executed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_; and that I have full power and authority to execute the Municipal Lease Purchase Agreement, and that the power to enter into the Lease Purchase Agreement granted to me by the Town of New Castle has not been withdrawn, and that all required procedures necessary to make the Municipal Lease Purchase Agreement a legal and binding obligation of the Lessee have been followed.

I also certify that payment due by Town of New Castle under the Municipal Lease Purchase Agreement referred herein for the current lease term are within the current budget and within an available, unexhausted and unencumbered appropriation of the municipality of the Town of New Castle.

IN WITNESS WHEREOF, I have set my hand this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.

Attest:

Agency Official

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

**Delivery and Acceptance Certificate**

1 Vehicle (s) for Municipal Lease/Purchase

Payment Structure: 4, Annual

An annual rate of: 6.89%

---

#	Year	Make	Model	Vin	Application#	Cost	Payment
0.	2016	Chevrolet	Tahoe 4wd Police	1GSKDEC8GR112216	1038336903	34669.00	9551.74

Total Cost of the vehicle (s): \$ 34669.00 Total Payments: \$ 9551.74

---

Equipment Location (Garaged at) : \_\_\_\_\_  
\_\_\_\_\_

Under the Municipal Lease Agreement dated \_\_\_\_\_, (Lease) between Ally Financial (the Lessor) and the undersigned Lessee, the Lessee hereby certifies that the vehicle (s) listed above has (have) been delivered to Lessee, tested and inspected by Lessee, found to be in good order and accepted as Equipment under the Lease, all on the date indicated below.

The Lessee hereby agrees to lease/purchase the vehicles as described.

(Lessor)

(Lessee)

Ally Financial

Town of New Castle

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

SCHEDULE B

Payment Schedule to the Lease Agreement dated \_\_\_\_\_.

Customer: Town of New Castle  
 Dealer: MOUNTAIN CHEVROLET LLC  
 Equipment 0: Chevrolet Tahoe 4wd Police  
 Term: 4, Annual  
 Annual Percentage Rate: 6.89 %  
 First Payment: Advance  
 Amount Financed: \$34669.00  
 Payment Amount: \$ 9551.74  
 Total Interest: \$ 3537.96  
 End of Lease Purchase Option: \$1 per unit

# OF PMTS MADE	PAYMENT	CUSTOMERS BALANCE	BALANCE: PERCENT OF COST	REDUCTION IN PRINCIPAL	INTEREST ON PRINCIPAL
0	<u>\$9551.74</u>	<u>\$25117.26</u>	<u>72.45%</u>	<u>\$9551.74</u>	<u>\$0.00</u>
0	<u>\$9551.74</u>	<u>\$17296.10</u>	<u>49.89%</u>	<u>\$7821.16</u>	<u>\$1730.58</u>
0	<u>\$9551.74</u>	<u>\$8936.06</u>	<u>25.78%</u>	<u>\$8360.04</u>	<u>\$1191.70</u>
0	<u>\$9551.74</u>	<u>\$0.02</u>	<u>0.00%</u>	<u>\$8936.05</u>	<u>\$615.69</u>

(Lessor)  
 Ally Contract Processing Center  
 2911 Lake Vista Dr,  
 Lewisville, TX 75067

(Lessee)  
 Town of New Castle  
 801 W Main St  
 New Castle, CO 81647

By: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

By: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

**ADDENDUM TO OPINION OF COUNSEL**

The "Opinion of Counsel" set forth in the Municipal Lease-Purchase Agreement ("Lease") between Town of New Castle ("Lessee") and Ally Financial ("Lessor") dated \_\_\_\_\_, 2015, is subject to the following limitations, qualifications, and caveats:

Opinion (iii) provides in part that "all statements contained in the Lease and all related instruments are true." Opinion (iv) provides that "Lessee has sufficient monies available to make all payments required to be paid under the Lease during the current fiscal year of the Lease." The foregoing quotes are factual representations, not legal opinions, and are given to the best of our knowledge. With respect the "sufficient monies" representation we rely solely on the Lessee's budget for the year ending December 31, 2015. The words "our knowledge" signify that, in the course of our representation of Lessee in matters with respect to which we have been engaged by Lessee as counsel, no information has come to our attention that would give us actual knowledge or actual notice that any such representations are not accurate or that any of the relevant documents and information on which we have relied are not accurate and complete. We have undertaken no independent investigation or verification of such matters.

These opinions and representations are furnished by us, in our capacity, as Counsel to Lessee. We disclaim any obligation to update these opinions and representations regarding changes in applicable laws or we should become aware of any facts that might change such opinions or representations. The opinions and representations are given to Lessor solely for its benefit and are not to be used, circulated, quoted or otherwise referred to or relied upon for any other purpose or by any other person. The opinions and representations expressed by us are limited to the matters expressly set forth, and no other opinions and representations should be inferred beyond the matters expressly stated.

Notwithstanding anything to the contrary in the "Opinion of Counsel", it is our opinion that Section 15 of the Lease entitled "Indemnification" is not enforceable under Colorado law nor can Lessor rely on Section 15 in entering into the Lease. The enforceability opinion appearing in the "Opinion of Counsel" does not extend to Section 15 of the Lease.

Except as set forth in opinion (v), we express no opinion on the filing, perfection or priority of any lien or security interest. We express no opinion as to the laws of any jurisdiction other than the laws of the State of Colorado and the laws of the United States of America. The opinions given herein concern only the effect of the laws of the State of Colorado and the United States of America as currently in effect.

Notwithstanding anything to the contrary herein or elsewhere, Lessor, by entering into the Lease, agrees that any claims in connection the "Opinion of Counsel" as qualified by this addendum shall only be asserted against Garfield & Hecht, P.C. as the opinion giver and shall not be asserted against any of its shareholders, lawyers or other employees. The "Opinion of Counsel" and this addendum constitute one document and the "Opinion of Counsel" cannot be relied upon or enforced separately from this addendum.

By:   
Attorney for Lessee

Date: 9/10/15



## **INSTRUCTIONS FOR COMPLETING THE ALLY MUNICIPAL LEASE AGREEMENT**

Outlined below are the instructions to properly complete the Agreement.

1. First payment of \$9462.98 will be due upon delivery. Dealer should keep the first payment.
2. Proceeds in the amount of \$ 25552.71 should be drafted or Smartcashed. This amount includes Dealer Commission of \$346.69.
3. Please have the Municipal Official *SIGN* and *DATE* the signature lines on the right side of:  
Page 5 (only the top right signature line);  
the Municipal Certificate; Page 6;  
the Delivery & Acceptance Certificate; Page 7; and  
the Schedule B - Amortization Schedule; Page 8.  
The Municipal Official is the person who has the authority to obligate the municipality.
4. The Attorney for the Municipality must sign and date the Opinion of Counsel on the bottom right side of page 5.
5. A person (other than the authorized Municipal Official) must sign on the left side of the Municipal Certificate - Page 6 to Attest to the truth of the statement. Also, write or type the name of the authorized Municipal Official in the first blank spot on Page 6.
6. Fill in the Equipment Location on the Delivery & Acceptance Certificate. This is the address where the vehicle will be garaged.
7. Leave all Ally signature spots blank; an Ally representative will sign there.

**IMPORTANT:** Vehicles must be titled in the NAME of the MUNICIPALITY with Ally Financial P.O. Box 23020, Jacksonville, FL., 32241 recorded as LIENHOLDER.

Once the Agreements have been executed as outlined above (with no alteration), forward both originals to Ally Contract Processing Center at 2911 Lake Vista Dr, Lewisville, TX 75067 with the following:

- a copy of the application(s) for title
- a copy of the manufacturer's invoice(s), chassis & body (if applicable)
- evidence of insurance, form 685 DLP
- a signed Ally Financial Credit Application

If you have any questions, please call me at 1-800-471-4622



## MUNICIPAL LEASE-PURCHASE AGREEMENT

LESSEE: Town of New Castle

LESSOR: Ally Financial

Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor, the Equipment described in any Delivery and Acceptance Certificate now or hereafter attached hereto ("Equipment") in accordance with the following terms and conditions of this Lease-Purchase Agreement ("Lease").

1. **TERM.** This Lease will become effective upon the execution hereof by Lessor. The term of this Lease will commence on the date the Equipment is accepted pursuant to Section 3 hereunder and, unless earlier terminated as expressly provided for in this Lease, will continue for the term set forth in Schedule B attached hereto ("Lease Term").

2. **RENT.** Lessee agrees to pay to Lessor or its assignee the Lease Payments, including the interest portion, equal to the amounts specified in the Delivery and Acceptance Certificate. The Lease Payments will be payable without notice or demand at the office of the Lessor (or such other place as Lessor or its assignee may from time to time designate in writing), and will commence upon acceptance of the vehicle(s) and continue on the same date periodically thereafter for the number of time periods reflected on the Delivery and Acceptance Certificate. Any payments received later than ten (10) days from the due date will bear interest at the highest lawful rate from the due date. Except as specifically provided in Section 5 hereof, the Lease Payments will be absolute and unconditional in all events and will not be subject to any setoff, defense, counterclaim, or recoupment for any reason whatsoever including, without limitation, any failure of the Equipment to be delivered or installed, any defects, malfunctions, breakdowns or infirmities in the Equipment or any accident, condemnation or unforeseen circumstances. Lessee reasonably believes that funds can be obtained sufficient to make all Lease Payments during the Lease Term and hereby covenants that it will do all things lawfully within its power to obtain, maintain and properly request and pursue funds from which the Lease Payments may be made, including making provisions for such payments to the extent necessary in each budget submitted for the purpose of obtaining funding, using its bona fide best efforts to have such portion of the budget approved and exhausting all available administrative reviews and appeals in the event such portion of the budget is not approved. It is Lessee's intent to make Lease Payments for the full Lease Term if funds are legally available therefor and in that regard, Lessee represents that the use of the Equipment is essential to its proper, efficient and economic operation. Lessor and Lessee understand and intend that the obligation of Lessee to pay Lease Payments hereunder shall constitute a current expense of Lessee and shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Lessee, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or monies of Lessee.

3. **DELIVERY AND ACCEPTANCE.** Lessee, or if Lessee so requests, Lessor, will cause the Equipment to be delivered to Lessee at the location specified in the Delivery and Acceptance Certificate ("Equipment Location"). Lessee will pay all transportation and other costs, if any, incurred in connection with the delivery and installation of the Equipment. Lessee will accept the Equipment as soon as it has been delivered and is operational. Lessee will evidence its acceptance of the Equipment by executing and delivering to Lessor a Delivery and Acceptance Certificate in the form provided by Lessor.

4. **DISCLAIMER OF WARRANTIES.** Lessee acknowledges and agrees that the Equipment is of a size, design and capacity selected by Lessee, that Lessor is neither a manufacturer nor a vendor of such equipment, and that LESSOR HAS NOT MADE, AND DOES NOT HEREBY MAKE, ANY REPRESENTATION, WARRANTY, OR COVENANT, EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, QUALITY, DURABILITY, DESIGN OPERATION, FITNESS FOR USE, OR SUITABILITY OF THE EQUIPMENT IN ANY RESPECT WHATSOEVER OR IN CONNECTION WITH OR FOR THE PURPOSES AND USES OF LESSEE, OR ANY OTHER REPRESENTATION, WARRANTY, OR COVENANT OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT THERETO, AND LESSOR SHALL NOT BE OBLIGATED OR LIABLE FOR ACTUAL, INCIDENTAL, CONSEQUENTIAL, OR OTHER DAMAGES OF OR TO LESSEE OR ANY OTHER PERSON OR ENTITY ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE EQUIPMENT AND THE MAINTENANCE THEREOF. Lessor hereby assigns to Lessee during the Lease Term, so long as no Event of Default has occurred hereunder and is continuing, all manufacturer's warranties, if any, expressed or implied with respect to the Equipment, and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties at Lessee's expense. Lessee's sole remedy for the breach of any such manufacturer's warranty shall be against the manufacturer of the Equipment, and not against Lessor, nor shall such matter have any effect whatsoever on the rights and obligations of Lessor with respect to this Lease, including the right to receive full and timely payments hereunder. Lessee expressly acknowledges that Lessor makes, and has made, no representations or warranties whatsoever as to the existence or the availability of such warranties of the manufacturer of the Equipment.

5. **NON-APPROPRIATION OF FUNDS; NON-SUBSTITUTION.** Notwithstanding anything contained in this Lease to the contrary, in the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable by any means whatsoever in any fiscal period for Lease Payments due under this Lease, Lessee will immediately notify the Lessor or its assignee of such occurrence and this Lease shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to Lessee of any kind whatsoever, except as to the portions of Lease Payments herein agreed upon for which funds shall have been appropriated and budgeted or are otherwise available. In the event of such termination, Lessee agrees to peaceably surrender possession of the Equipment to Lessor or its assignee on the date of such termination.

Lessor will have all legal and equitable rights and remedies to take possession of the Equipment. Notwithstanding the foregoing, Lessee agrees (i) that it will not cancel this Lease under the provisions of this Section if any funds are appropriated to it, or by it, for the acquisition, retention or operation of the Equipment or other equipment performing functions similar to the Equipment for the fiscal period in which such termination occurs or the next succeeding fiscal period thereafter, and (ii) that it will not during the Lease Term give priority in the application of funds to any other functionally similar equipment. This paragraph will not be construed so as to permit Lessee to terminate this Lease in order to acquire or lease any other equipment or to allocate funds directly or indirectly to perform essentially the same application for which the Equipment is intended.

**6. CERTIFICATION AND AUTHORIZATION.** Lessee represents, covenants and warrants that it is a state, or a political subdivision thereof, or that Lessee's obligation under this Lease constitutes an obligation issued on behalf of a state or political subdivision thereof, such that any interest derived under this Lease will qualify for exemption from Federal income taxes under Section 103 of the Internal Revenue Code. Lessee further warrants that this Lease represents a valid deferred payment obligation for the amount herein set forth of a Lessee having legal capacity to enter into the same and is not in contravention of any Town, City, District, County, or State statute, rule, regulation, or other governmental provision. In the event that a question arises as to Lessee's qualification as a political subdivision, Lessee agrees to execute a power of attorney authorizing Lessor to make application to the Internal Revenue Service for a letter ruling with respect to the issue. Lessee agrees that (i) it will do or cause to be done all things necessary to preserve and keep the Lease in full force and effect, (ii) it has complied with all bidding requirements where necessary and by due notification presented this Lease for approval and adoption as a valid obligation on its part, and (iii) it has sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal period.

**7. TITLE TO EQUIPMENT; SECURITY INTEREST.** Upon acceptance of the Equipment by Lessee hereunder, title to the Equipment will vest in Lessee subject to Lessor's rights under this Lease, provided, however, that (i) in the event of termination of this Lease by Lessee pursuant to Section 5 hereof; (ii) upon the occurrence of an Event of Default hereunder, and as long as such Event of Default is continuing; or (iii) in the event that the purchase option has not been exercised prior to the Expiration Date, title will immediately vest in Lessor or its assignee without any action by Lessee and Lessee shall immediately surrender possession of the Equipment to Lessor. In order to secure all of its obligations hereunder, Lessee hereby (i) grants to Lessor a first and prior security interest in any and all right, title and interest of Lessee in the Equipment and in all additions, attachments, accessions, and substitutions thereto, and on any proceeds therefrom, (ii) agrees that this Lease may be filed as a financing statement evidencing such security interest, and (iii) agrees to execute and deliver all financing statements, certificates of title and other instruments in form satisfactory to Lessor necessary or appropriate to evidence such security interest.

**8. USE; REPAIRS.** Lessee will use the Equipment in a careful manner for the use contemplated by the manufacturer for the Equipment and shall comply with all laws, ordinances, insurance policies regulations relating to, and will pay all costs, claims, damages, fees and charges arising out of its possession, use or maintenance. Lessee, at its expense will keep the Equipment in good working order and repair and furnish all parts, mechanisms and devices required therefor.

**9. ALTERATIONS.** Lessee will not make any alterations, additions or improvements to the Equipment without Lessor's prior written consent unless such alterations, additions or improvements may be readily removed without damage to the Equipment.

**10. LOCATION; INSPECTION.** The Equipment will not be removed from, or if the Equipment consists of rolling stock, its permanent base will not be changed from the Equipment Location without Lessor's prior written consent which will not be unreasonably withheld. Lessor will be entitled to enter upon the Equipment location or elsewhere during reasonable business hours to inspect the equipment or observe its use and operation.

**11. LIENS AND TAXES.** Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances except those created under this Lease. Lessee shall pay, when due, all charges and taxes (local, state and federal) which now or hereafter be imposed upon the ownership, leasing, rental, sale, purchase, possession or use of the Equipment, excluding however, all taxes on or measured by Lessor's income. If Lessee fails to pay said charges, and taxes when due, Lessor shall have the right, but shall not be obligated, to pay said charges and taxes. If Lessor pays any charges or taxes, Lessee shall reimburse Lessor therefor.

**12. RISK OF LOSS; DAMAGE; DESTRUCTION.** Lessee assumes all risk of loss of or damage to the Equipment from any cause whatsoever, and no such loss of or damage to the Equipment nor defect therein nor unfitness or obsolescence thereof shall relieve Lessee of the obligation to make Lease Payments or to perform any other obligation under this Lease. In the event of damage to any Item of Equipment, Lessee will immediately place the same in good repair with the proceeds of any insurance recovery applied to the cost of such repair. If Lessor determines that any Item of Equipment is lost, stolen, destroyed or damaged beyond repair, Lessee, at the option of Lessor, will either (a) replace the same with like Equipment in good repair, or (b) on the next Lease Payment date, pay Lessor: (i) all amounts then owed by Lessee to Lessor under this Lease, including the Lease Payment due on such date, and (ii) an amount equal to the applicable Customers Balance set forth in Schedule B. In the event that Lessee is obligated to make such payment with respect to less than all of the Equipment, Lessor will provide Lessee with the pro rata amount of the Lease Payment and the Customers Balance to be made by Lessee with respect to the Equipment which has suffered the event of loss.

**13. PERSONAL PROPERTY.** The Equipment is and will remain personal property and will not be deemed to be affixed or attached to real estate or any building thereon. If requested by Lessor, Lessee will, at Lessee's expense, furnish a waiver of interest in the Equipment from any party having an interest in such real estate or building.

14. **INSURANCE.** Lessee, will, at its expense, maintain at all times during the Lease Term, fire and extended coverage, public liability and property damage insurance with respect to the Equipment in such amounts, covering such risks, and with such insured as shall be satisfactory to Lessor, or, with Lessor's consent may self-insure against any or all such risks. In no event will the insurance limits be less than the amount of the then applicable Customers Balance with respect to such Equipment. Each insurance policy will name Lessee as an insured and Lessor or its assigns as an additional insured, and will contain a clause requiring the insurer to give Lessor at least thirty (30) days prior written notice of any alteration in the terms of such policy or cancellation thereof. The proceeds of any such policies will be payable to Lessee and Lessor or its assigns as their interest may appear. Upon acceptance of the Equipment and upon each insurance renewal date, Lessee will deliver to Lessor a certificate evidencing such insurance. In the event that Lessee has been permitted to self-insure, Lessee will furnish Lessor with letter or certificate to such effect. In the event of any loss, damage, injury or accident involving the Equipment, Lessee will promptly provide Lessor with written notice thereof and make available to Lessor all information and documentation related thereto.

15. **INDEMNIFICATION:** Lessee shall indemnify Lessor against, and hold Lessor harmless from, any and all claims, actions, proceedings, expenses, damages or liabilities, including attorney's fees and court costs, arising in connection with the Equipment, including, but not limited to, its selection, purchase, delivery, possession, use operation, rejection, or return and the recovery of claims under insurance policies thereon. The indemnification arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the termination of the Lease Term for any reason.

16. **ASSIGNMENT AND SUBLEASE.**

(a) Without Lessor's prior written consent, Lessee will not either (i) assign, transfer, pledge, hypothecate, or grant any security interest in or otherwise dispose of this Lease or the Equipment or any interest in this Lease or the Equipment; (ii) sublet or lend the Equipment or permit it to be used by anyone other than Lessee or Lessee's employees. No assignment or sublease shall relieve the Lessee of any of its obligations or duties hereunder, which shall remain those of a principal and not a guarantor.

(b) Lessor shall not assign, transfer, pledge, or dispose of this Agreement or any interest therein, whether as security for any of its indebtedness or otherwise. Subject to the foregoing, this Lease inures to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

17. **EVENT OF DEFAULT.** The term "Event of Default", as used herein, means the occurrence of any one or more of the following events: (i) Lessee fails to make any Lease Payment (or any other payment) as it becomes due in accordance with the terms of the Lease, and any such failure continues for ten (10) days after the due date thereof; (ii) Lessee fails to perform or observe any other covenant, condition, or agreement to be performed or observed by it hereunder and such failure is not cured within twenty (20) days after written notice thereof by Lessor; (iii) the discovery by Lessor that any statement, representation, or warranty made by Lessee in this Lease or in writing ever delivered by Lessee pursuant hereto or in connection herewith is false, misleading, or erroneous in any material respect; (iv) proceedings under any bankruptcy, insolvency, reorganization or similar legislation shall be instituted against or by Lessee, or a receiver or similar officer shall be appointed for Lessee or any of its property, and such proceedings or appointments shall not be vacated, or fully stayed, within twenty (20) days after the institution or occurrence thereof; or (v) an attachment, levy or execution is threatened or levied upon or against the Equipment.

18. **REMEDIES.** Upon the occurrence of an Event of Default, and as long as such Event of Default is continuing, Lessor may, at its option, exercise any one or more of the following remedies: (i) by written notice to Lessee, declare an amount equal to all amounts then due under the Lease, and all remaining Lease Payments due during the Fiscal Year in effect when the default occurs to be immediately due and payable, whereupon the same shall become immediately due and payable, (ii) by written notice to the Lessee, request Lessee to (and Lessee agrees that it will), at Lessee's expense, promptly return the equipment to Lessor in the manner set forth in Section 5 hereof, or Lessor, at its option, may enter upon the premises where the Equipment is located and take immediate possession of and remove the same; (iii) sell or lease the Equipment or sublease it for the account of Lessee, holding Lessee liable for all Lease Payments and other payments due to the effective date of such selling, leasing or subleasing and for the difference between the purchase price, rental and other amounts paid by the purchaser, lessee or sublessee pursuant to such sale, lease or sublease and the amounts payable by Lessee hereunder; and (iv) exercise any other right, remedy or privilege which may be available to it under applicable laws of the State of the Equipment Location or any other applicable law or proceed by appropriate court action to enforce the terms of the Lease or to recover damages for the breach of this Lease or to rescind this Lease as to any or all of the Equipment. In addition, Lessee will remain liable for all covenants and indemnities under this Lease and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor.

19. **PURCHASE OPTION.** Upon thirty (30) days prior written notice from Lessee to Lessor, and provided that there is no Event of Default, or an event which with notice to lapse of time, or both, could become an Event of Default, then existing, Lessee will have the right to purchase the Equipment on any Lease Payment due date by paying to Lessor, on such date, the Customers Balance amount set forth opposite the appropriate number of payments made as reflected on Schedule B to the Lease. Upon satisfaction by Lessee of such purchase conditions, Lessor will transfer any and all of its right, title and interest in the Equipment to Lessee as is, without warranty, express or implied, except that the Equipment is free and clear of any liens created by Lessor.

20. REPORTING REQUIREMENTS. Lessee agrees to comply with the information reporting requirements of Section 149(e) of the Internal Revenue Code of 1986 (the "Code"). In the event Lessor, solely on account of Lessee's failure to comply with such information reporting requirements, is not entitled to treat the Lease Payments and the Customers Balances received from Lessee hereunder as interest and principal payments on a state or local bond, the interest of which is exempt from Federal income tax under Section 103(a) of the Code, then Lessee shall pay to Lessor, as additional rentals, a sum which, after deduction of all taxes which are or will be payable by Lessor in respect of the receipt thereof under the Laws of the United States or any state or local government or taxing authority in the United States, or under the laws of any taxing authority or political or governmental subdivision of a foreign country, shall be equal to the additional Federal income tax which is or will be payable by Lessor as a result of the loss of such interest exemption, together with any interest, addition to tax or penalty which may be assessed by the United States Government against Lessor in connection with the loss of such interest exemption, which amounts shall be payable on written demand by Lessor, together with interest thereon at the highest lawful rate from the date of payment of the additional Federal income tax to the date of payment by Lessee.

21. NOTICES. All notices to be given under this Lease shall be made in writing and mailed by certified mail, return receipt requested, to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been received five (5) days subsequent to mailing.

22. SECTION HEADINGS. All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

23. GOVERNING LAW. This Lease shall be construed in accordance with, and governed by the laws of, the state of the Equipment Location.

24. DELIVERY OF RELATED DOCUMENTS. Lessee will execute or provide, as requested by Lessor, such other documents and information as are reasonably necessary with respect to the transaction contemplated by this Lease.

25. ENTIRE AGREEMENT; WAIVER. This Lease, together with the Delivery and Acceptance Certificate and other attachments hereto, and other documents or instruments executed by Lessee and Lessor in connection herewith, constitute the entire agreement between the parties with respect to the lease of the Equipment, and this Lease shall not be modified, amended, altered, or changed except with the written consent of Lessee and Lessor. Any provision of this Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Lease. The waiver by Lessor of any breach by Lessee of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach thereof.

(Lessor)  
Ally Financial

(Lessee)  
Town of New Castle  
801 W Main St  
New Castle CO 81647

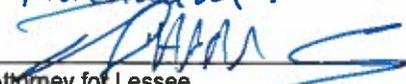
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

OPINION OF COUNSEL

With respect to that certain Municipal Lease-Purchase Agreement (Lease) dated \_\_\_\_\_ by and between Ally Financial and the Lessee, I am of the opinion that: (i) the Lessee is a tax-exempt entity under Section 103 of the Internal Revenue Code; (ii) the execution, delivery and performance by the Lessee of the Lease have been duly authorized by all necessary action on the part of the Lessee; (iii) the Lease constitutes a legal, valid and binding obligation of the Lessee enforceable in accordance with its terms and all statements contained in the Lease and all related instruments are true; (iv) Lessee has sufficient monies available to make all payments required to be paid under the Lease during the current fiscal year of the Lease, and such monies have been properly budgeted and appropriated for this purpose in accordance with State law; and (v) the Uniform Commercial Code of the state where the Equipment is located and or the certificate of title laws of such state will govern the method of perfecting Lessor's security interest in the Equipment.

*Opinions are subject to the attached Addendum.*

By:   
Attorney for Lessee

Date: 9/14/15

**MUNICIPAL CERTIFICATE**

I, \_\_\_\_\_ of Town of New Castle, hereby certify that the Municipal Lease Purchase Agreement, dated \_\_\_\_\_, between Ally Financial, as Lessor and Town of New Castle as Lessee, leasing the Equipment described, was executed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_; and that I have full power and authority to execute the Municipal Lease Purchase Agreement, and that the power to enter into the Lease Purchase Agreement granted to me by the Town of New Castle has not been withdrawn, and that all required procedures necessary to make the Municipal Lease Purchase Agreement a legal and binding obligation of the Lessee have been followed.

I also certify that payment due by Town of New Castle under the Municipal Lease Purchase Agreement referred herein for the current lease term are within the current budget and within an available, unexhausted and unencumbered appropriation of the municipality of the Town of New Castle.

IN WITNESS WHEREOF, I have set my hand this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.

Attest:

Agency Official

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

**Delivery and Acceptance Certificate**

1 Vehicles (s) for Municipal Lease/Purchase

Payment Structure: 4, Annual

An annual rate of 6.19%

---

#	Year	Make	Model	Vin	Application#	Cost	Payment
0.	<u>2016</u>	<u>Chevrolet</u>	<u>Tahoe 4wd Po</u> <u>lice</u>	<u>1GNSKDECXGR129891</u>	<u>1038336903</u>	<u>34669.00</u>	<u>9462.98</u>

Total Cost of the vehicle (s): \$ 34669.00 Total Payments: \$ 9462.98

---

Equipment Location (Garaged at) : \_\_\_\_\_

---

Under the Municipal Lease Agreement dated \_\_\_\_\_, (Lease) between Ally Financial (the Lessor) and the undersigned Lessee, the Lessee hereby certifies that the vehicle (s) listed above has (have) been delivered to Lessee, tested and inspected by Lessee, found to be in good order and accepted as Equipment under the Lease, all on the date indicated below.

The Lessee hereby agrees to lease/purchase the vehicles as described.

(Lessor)

(Lessee)

Ally Financial

Town of New Castle

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**SCHEDULE B**

Payment Schedule to the Lease Agreement dated \_\_\_\_\_.

Customer: Town of New Castle  
 Dealer: MOUNTAIN CHEVROLET LLC  
 Equipment 0: Chevrolet Tahoe 4wd Police  
 Term: 4, Annual  
 Annual Percentage Rate: 6.19 %  
 First Payment: Advance  
 Amount Financed: \$34669.00  
 Payment Amount: \$ 9462.98  
 Total Interest: \$ 3182.92  
 End of Lease Purchase Option: \$1 per unit

# OF PMTS MADE	PAYMENT	CUSTOMERS BALANCE	BALANCE: PERCENT OF COST	REDUCTION IN PRINCIPAL	INTEREST ON PRINCIPAL
0	<u>\$9462.98</u>	<u>\$25206.02</u>	<u>72.70%</u>	<u>\$9462.98</u>	<u>\$0.00</u>
0	<u>\$9462.98</u>	<u>\$17303.29</u>	<u>49.91%</u>	<u>\$7902.73</u>	<u>\$1560.25</u>
0	<u>\$9462.98</u>	<u>\$8911.39</u>	<u>25.70%</u>	<u>\$8391.91</u>	<u>\$1071.07</u>
0	<u>\$9462.98</u>	<u>\$0.02</u>	<u>0.00%</u>	<u>\$8911.37</u>	<u>\$551.61</u>

(Lessor)  
 Ally Contract Processing Center  
 2911 Lake Vista Dr,  
 Lewisville, TX 75067

(Lessee)  
 Town of New Castle  
 801 W Main St  
 New Castle, CO 81647

By: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

By: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

**ADDENDUM TO OPINION OF COUNSEL**

The "Opinion of Counsel" set forth in the Municipal Lease-Purchase Agreement ("Lease") between Town of New Castle ("Lessee") and Ally Financial ("Lessor") dated \_\_\_\_\_, 2015, is subject to the following limitations, qualifications, and caveats:

Opinion (iii) provides in part that "all statements contained in the Lease and all related instruments are true." Opinion (iv) provides that "Lessee has sufficient monies available to make all payments required to be paid under the Lease during the current fiscal year of the Lease." The foregoing quotes are factual representations, not legal opinions, and are given to the best of our knowledge. With respect the "sufficient monies" representation we rely solely on the Lessee's budget for the year ending December 31, 2015. The words "our knowledge" signify that, in the course of our representation of Lessee in matters with respect to which we have been engaged by Lessee as counsel, no information has come to our attention that would give us actual knowledge or actual notice that any such representations are not accurate or that any of the relevant documents and information on which we have relied are not accurate and complete. We have undertaken no independent investigation or verification of such matters.

These opinions and representations are furnished by us, in our capacity, as Counsel to Lessee. We disclaim any obligation to update these opinions and representations regarding changes in applicable laws or we should become aware of any facts that might change such opinions or representations. The opinions and representations are given to Lessor solely for its benefit and are not to be used, circulated, quoted or otherwise referred to or relied upon for any other purpose or by any other person. The opinions and representations expressed by us are limited to the matters expressly set forth, and no other opinions and representations should be inferred beyond the matters expressly stated.

Notwithstanding anything to the contrary in the "Opinion of Counsel", it is our opinion that Section 15 of the Lease entitled "Indemnification" is not enforceable under Colorado law nor can Lessor rely on Section 15 in entering into the Lease. The enforceability opinion appearing in the "Opinion of Counsel" does not extend to Section 15 of the Lease.

Except as set forth in opinion (v), we express no opinion on the filing, perfection or priority of any lien or security interest. We express no opinion as to the laws of any jurisdiction other than the laws of the State of Colorado and the laws of the United States of America. The opinions given herein concern only the effect of the laws of the State of Colorado and the United States of America as currently in effect.

Notwithstanding anything to the contrary herein or elsewhere, Lessor, by entering into the Lease, agrees that any claims in connection the "Opinion of Counsel" as qualified by this addendum shall only be asserted against Garfield & Hecht, P.C. as the opinion giver and shall not be asserted against any of its shareholders, lawyers or other employees. The "Opinion of Counsel" and this addendum constitute one document and the "Opinion of Counsel" cannot be relied upon or enforced separately from this addendum.

By:   
Attorney for Lessee  
Date: 9/14/15 

**Memorandum**

**To:** Mayor and Council  
**From:** Tom Baker, Town Administrator  
**Date:** September 15, 2015  
**Re:** Support Letter to Governor for LoVA Trail – 16 by 16 Initiative

---

**Purpose:** The purpose of this item is to request Council authorize the Mayor to sign the attached support letter for the LoVA Trail.

**Background and Discussion:** Recently, Governor Hickenlooper announced 16 by 16, a statewide trails initiative is designed to fund 16 important trail segments/gaps in 2016. Larry Dragon, LoVA Executive Director is taking the lead and asking all Garfield County governments (towns, cities, county, RFTA) to sign this letter as a way to demonstrate our unified support for this trail. Parachute, Rifle and Silt have agreed to sign this letter. Glenwood Springs will consider this letter on Sept 17<sup>th</sup> and the County Commissioners will consider it on September 21<sup>st</sup>. If the Commissioners agree to sign this letter then it will be put on Garfield County letterhead with signature lines for all the elected bodies.

**Request:** Staff requests Council authorize the Mayor sign this letter (allowing for minor language changes). Staff also requests that the Mayor attend the commissioners' meeting on the 21<sup>st</sup> as a show of support for this effort.

John Hickenlooper, Governor  
State of Colorado  
200 E. Colfax Ave., # 136  
Denver, Colorado 80203

September 30, 2015

Dear Governor Hickenlooper,

We are writing to you in regards to your recently announced trails initiative, 16 by 16. As the governmental leaders of our respective communities in western Garfield County, we want to make certain that you are aware of the LoVa Trail. This regional effort was conceived in 1999 by a group of concerned citizens, which eventually became the non-profit, Lower Valley Trails Group (LoVa), with the vision of creating a 47-mile non-motorized trail through the Colorado River Valley, connecting the communities of Glenwood Springs, New Castle, Silt, Rifle, and Parachute, all in western Garfield County. LoVa worked with all of our communities and developed the LoVa Trail Master Plan, which was completed in 2003. All of our communities have adopted this plan. This plan may be viewed at [http://www.lovatrails.org/master\\_plan.html](http://www.lovatrails.org/master_plan.html). LoVa has been facilitating efforts to build the LoVa Trail County-wide.

The trails group in Mesa County has done a remarkable job of constructing bike trails from Grand Junction to Fruita and points west, and has plans to one day go east to meet up with the LoVa Trail at the Mesa-Garfield line.

In addition to being the most needed regional trail in this area, the LoVa Trail is part of a much larger dream. It is a key component to a bike trail system, running east to west, paralleling I-70 through the entire state from Kansas to Utah. And, without the LoVa Trail, the dream of a having a safe route to ride a multi-day bike trek from Denver to Grand Junction is impossible without this trail's completion.

There are wonderful bike trails in this area: to the east of Glenwood Springs lies the Glenwood Canyon Trail, which connects to the trail systems in Eagle and Summit Counties; to the south of Glenwood Springs is the 42-mile Rio Grande Trail, which connects Glenwood to Carbondale, Basalt, and Aspen; south and west of Carbondale, the Crystal River Trail has begun with the hope of one day linking all the way to Crested Butte. However, the hoped-for bike trail to the west of Glenwood Springs, the LoVa Trail, along the Colorado River through beautiful western Garfield County, is the missing link.

Though each community has planned and constructed trails within their corporate limits, there are no bike trail connections linking these neighboring towns. And of particular note, since there is not a trail or even another roadway through South Canyon for 5 miles west of Glenwood Springs, the only way to ride a bike from Glenwood Springs to New Castle is on the windy, high-speed, and dangerous Interstate 70. Then, it is another 4 miles to New Castle, 7 miles between New Castle and Silt, 7 miles between Silt and Rifle, about 15 miles between Rifle and Parachute, and another 13 miles west of Parachute to the Mesa County line. Because this may

Governor Hickenlooper, September 30, 2015, Page 2 of 3...

be difficult to envision, we are hopeful that you and/or your staff would come for a site visit and let us show you this area so that you may better understand our plans.

It is important to note that the Roaring Fork Transportation Authority (RFTA) recently completed a Regional Bike-Ped Access to Transit Plan. In its Stakeholder Engagement Summary of findings, the highest priority identified in Town Work Sessions was "Trail Connections." And, "100% of the cities and towns on the I-70 corridor felt the LoVa Trail from Glenwood to Parachute is a priority project."

We are hopeful that this important trail will be one of the identified bike trails to be a part of this worthy initiative. For more information, please feel free to contact any of us, or contact the LoVa's Executive Director, Larry Dragon, who can be reached at 970-379-9889 or [ldragon@lovatrails.org](mailto:ldragon@lovatrails.org).

Thank you for your consideration.

Governor Hickenlooper, September 30, 2015, Page 3 of 3...

Respectfully submitted by,

---

John Martin, Chair, Garfield County Board of County Commissioners

---

Mike Gamba, Mayor, City of Glenwood Springs

---

Bob Gordon, Mayor, Town of New Castle

---

Richard Aluise, Mayor, Town of Silt

---

Randy Winkler, Mayor, City of Rifle

---

Roy B. McClung, Mayor, Town of Parachute