



**TOWN OF LARKSPUR, COLORADO  
ORDINANCE NO. 9.05**

**AN ORDINANCE AUTHORIZING THE SALE AND CONVEYANCE OF CERTAIN REAL PROPERTY OF THE TOWN; AUTHORIZING THE EXECUTION AND DELIVERY BY THE TOWN OF A LEASE PURCHASE AGREEMENT AND RELATED DOCUMENTS IN CONNECTION WITH FINANCING THE COSTS OF ACQUIRING A NEW TOWN HALL AND CERTAIN OPEN SPACE FOR THE TOWN; RATIFYING ACTION PREVIOUSLY TAKEN; AND PROVIDING OTHER MATTERS RELATING THERETO.**

**WHEREAS**, the Town of Larkspur, in the County of Douglas and State of Colorado (the "Town"), is a home rule municipality duly organized and operating under the Constitution and laws of the State of Colorado and the home rule charter of the Town (the "Charter"); and

**WHEREAS**, the Town is authorized pursuant to Article XX, Section 6 of the Colorado Constitution and Section 1.03 of the Charter to purchase, lease, receive, hold and enjoy, or sell and dispose of real and personal property, and the Town Council of the Town (the "Council") is authorized pursuant to Section 3.23 of the Charter to sell, exchange or dispose of permanent public buildings or real or personal property, with or without first obtaining the approval of a majority of the registered electors thereon, as shall be determined by the Council; and

**WHEREAS**, the Council is authorized pursuant to Section 3.23 of the Charter to lease, for such term as the Council may determine, any real or personal property to or from any person, firm or corporation, public or private, governmental or otherwise, and the Town is authorized pursuant to Section 8.05 of the Charter to enter into long-term rental or leasehold agreements in order to provide necessary land, equipment, buildings, and other property for governmental or proprietary purposes, which agreements may include an option or options to purchase and acquire title to such leased or rented property within a period not exceeding the useful life of such property, and in no case exceeding forty (40) years; and

**WHEREAS**, the Council has determined and hereby determines that it is necessary and in the best interests of the inhabitants of the Town that the Town acquire certain property for the benefit of the Town for use as a new town hall to be located at 8720 Spruce Mountain Road, Larkspur, Colorado (the "New Town Hall") and acquire approximately five acres of open space property adjacent to New Town Hall (the "Open Space Property" and together with New Town Hall, the "Project"); and

**WHEREAS**, the Council has determined and hereby determines that is in the best interests of the Town and its inhabitants that in order to finance the acquisition of the Project that the Town sell and convey certain real property owned or to be owned by the Town, consisting of the Old Town Hall and the New Town Hall (collectively, the "Leased Property") to Peoples National Bank, a national banking association (the "Bank"); and

**WHEREAS**, the Council has determined and hereby determines that it is in the best interests of the Town and its inhabitants that the Town lease the Leased Property from the Bank pursuant to a Lease Purchase Agreement (the "Lease") between the Bank, as lessor, and the Town, as lessee; and

**WHEREAS**, the Council has determined and hereby determines that it is in the best interest of the Town and its inhabitants that the Town use the proceeds from the sale of the Leased Property to pay the costs of the Project and that the Town enter into the Lease to provide for the leasing of the Leased Property by the Town from the Bank; and

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

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

**WHEREAS**, there has been presented to this meeting of the Council a proposed form of the Lease; and

**WHEREAS**, Section 11-57-204 of the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, C.R.S., as amended (the "Supplemental Act"), provides that a public entity, including the Town, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act.

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LARKSPUR, COLORADO:**

Section 1. Ratification and Approval of Prior Actions. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Council, or the officers, employees or agents of the Council or the Town, relating to the financing of the Project, including without limitation, the sale and conveyance of the Leased Property to the Bank, the execution and delivery of the Lease, the leasing of the Leased Property pursuant to the Lease, and the acquisition of the Project from a third party seller, is hereby ratified, approved and confirmed.

Section 2. Finding of Best Interests. The Council hereby finds and determines, pursuant to the Constitution, the laws of the State of Colorado and the Charter, that the sale and conveyance of the Leased Property to the Bank, the acquisition of the Project, and the leasing of the Leased Property from the Bank pursuant to the terms set forth in the Lease are necessary, convenient, and in furtherance of the Town's purposes and is in the best interests of the inhabitants of the Town and the Council hereby authorizes and approves the same.

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

(a) the aggregate principal amount of the Rent payable by the Town pursuant to the Lease shall not exceed \$525,000;

(b) the Lease Term shall not extend beyond December 31, 2034; and

(c) the initial Applicable Rate shall be 4.67% through January 31, 2019, and thereafter the Applicable Rate shall be subject to adjustment on each February 1 to an interest rate equal to the 5-year Treasury rate plus 3.32%, at a floor rate of 4% and with a maximum rate of 10.00%.

The delegation set forth in this Section 3 shall be effective for one year following the date hereof.

Section 4. Acquisition of Project. The Council hereby approves the acquisition of the Project, which consists of the New Town Hall and the Open Space Property, at a price equal to \$500,000 plus applicable closing costs, and the appropriate officers of the Town are hereby authorized and directed to execute and deliver any and all such documents as may be necessary to acquire the Project.

Section 5. Conveyance of Leased Property to Bank. The Council hereby approves the sale and conveyance to the Bank of the Leased Property, which consists of the Old Town Hall and the New Town Hall, at a price that is not less than \$515,000, which is hereby determined by the Council to be reasonable and adequate consideration for the sale of the Leased Property to the Bank. The Council hereby further authorizes the leasing back of the Leased Property by the Town pursuant to the Lease. The appropriate officers of the Town are hereby authorized and directed to execute and deliver such deeds and other instruments as may be necessary to effect said sale and conveyance of the Leased Property to the Bank. The Council hereby authorizes and directs that the net proceeds of such sale of the Leased Property be applied to financing the acquisition of the Project and paying the costs of execution and delivery of the Lease and related documents.

Section 6. Approval of Documents. The Lease, in substantially the form presented to this meeting of the Council, is in all respects approved, authorized and confirmed, and the Mayor and the Town Clerk or Deputy Clerk (the "Clerk") are hereby authorized and directed, for and on behalf of the Town, to execute and deliver the Lease in substantially the form on file with the Town, with such changes thereto as are not inconsistent with the provisions of this Ordinance. The approval hereby given to the Lease includes an approval of such additional details therein as may be necessary and appropriate for its completion, deletions therefrom and additions thereto as may be approved by the Mayor or the Town Manager prior to the execution of the Lease. The execution of

any instrument by the appropriate officers of the Town herein authorized shall be conclusive evidence of the approval by the Town of such instrument in accordance with the terms hereof.

Section 7. Authorization to Execute Collateral Documents and To Perform Additional Acts. The Mayor and Clerk, and other appropriate officials, employees or agents of the Council or the Town, are hereby authorized and directed to execute and deliver for and on behalf of the Town any and all additional certificates, documents, instruments and other papers, and to perform all other acts that they may deem necessary or appropriate, in order to implement and carry out the transactions and other matters authorized by this Ordinance. The execution of any instrument by the aforementioned officers or members of the Council shall be conclusive evidence of the approval by the Town of such instrument in accordance with the terms hereof and thereof.

Section 8. No General Obligation Debt. No provision of this Ordinance or the Lease shall be construed as creating or constituting a general obligation or other indebtedness or multiple fiscal year financial obligation of the Town within the meaning of any constitutional, statutory or Charter provision, nor a mandatory charge or requirement against the Town in any ensuing fiscal year beyond the then current fiscal year. The Town shall have no obligation to make any payment with respect to the Lease except in connection with the payment of the Rent and certain other payments under the Lease, which payments may be terminated by the Town in accordance with the provisions of the Lease. The Lease shall not constitute a mandatory charge or requirement of the Town in any ensuing fiscal year beyond the then current fiscal year or constitute or give rise to a general obligation or other indebtedness or multiple fiscal year financial obligation of the Town within the meaning of any constitutional, statutory or Charter debt limitation and shall not constitute a multiple fiscal year direct or indirect Town debt or other financial obligation whatsoever. No provision of the Lease shall be construed or interpreted as creating an unlawful delegation of governmental powers nor as a donation by or a lending of the credit of the Town within the meaning of Sections 1 or 2 of Article XI of the Colorado Constitution. The Lease shall not directly or indirectly obligate the Town to make any payments beyond those budgeted and appropriated for the Town's then current fiscal year.

Section 9. Bank Qualification. The Town hereby determines that neither the Town nor any entity subordinate thereto reasonably anticipates issuing more than \$10,000,000 face amount of tax-exempt governmental bonds or any other similar obligations during calendar year 2014, which obligations are taken into account in determining if the Town can designate the obligation to pay the Rent under the Lease as a qualified tax-exempt obligation as provided in the following sentence. For the purpose of Section 265(b)(3)(B) of the Internal Revenue Code, the Town hereby designates the obligation to pay Rent under the Lease as a qualified tax-exempt obligation.

Section 10. Reasonableness of Rentals. The Council hereby determines and declares that the Rent, as provided in the Lease and as subject to the parameters set forth in Section 3 hereof, constitutes the fair rental value of the Leased Property and does not exceed a reasonable amount so as to place the Town under an economic compulsion to renew the Lease or to exercise its option to purchase the Leased Property pursuant to the Lease. The Council hereby determines and declares that the period during which the Town has an option to prepay the Lease (i.e., the entire maximum term of the Lease) does not exceed the useful life of the Leased Property.

Section 11. Authorized Town Representative. The Council hereby authorizes the Mayor and the Town Manager to each act as Town Representative under the Lease, or such other person or persons who may be so designated in writing from time to time by the Council, as further provided in the Lease.

Section 12. No Recourse against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Council, or any officer or agent of the Town acts in good faith, no civil recourse shall be available against such member, officer or agent for payment of the Rent. Such recourse shall not be available either directly or indirectly through the Council or the Town, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise.

Section 13. Severability. If any section, subsection, paragraph, clause or provision of this Ordinance or the documents hereby authorized and approved (other than provisions as to the payment of Rent by the Town during the Lease Term, provisions for the quiet enjoyment of the Leased Property by the Town during the Lease Term, provisions for the prepayment of the Lease and the release of the Leased Property from the provisions of the Lease under the conditions provided in the Lease) shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance or such documents, the intent being that the same are severable.

Section 14. Repealer. All bylaws, orders, ordinances and resolutions of the Town, or parts thereof, inconsistent with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, ordinance or resolution of the Town, or part thereof, heretofore repealed.

Section 15. Charter. Pursuant to Article XX of the State Constitution and the Charter, all State statutes that might otherwise apply in connection with the provisions of this Ordinance are hereby superseded to the extent of any inconsistencies between the provisions of this Ordinance and such statutes. Any such inconsistency is intended by the Council and shall be deemed made pursuant to the Charter.

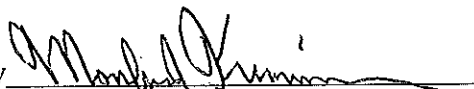
Section 16. Effective Date. This Ordinance shall take effect five days after posting following final passage pursuant to Section 3.14 of the Charter.


Section 17. Referendum Period. This Ordinance shall be subject to a referendum period for thirty (30) days following posting of this Ordinance after final passage.

INTRODUCED, READ, PASSED, ADOPTED AND ORDERED POSTED THIS 9<sup>th</sup>  
DAY OF JANUARY, 2014.

ATTEST:

TOWN OF LARKSPUR, COLORADO

By   
Manfred Krimmer, Town Clerk

  
Gerry Been, Mayor

[SEAL]



STATE OF COLORADO )  
 )  
 COUNTY OF DOUGLAS ) SS.  
 )  
 TOWN OF LARKSPUR )

I, the undersigned, the duly qualified Town Clerk of the Town of Larkspur, Colorado, do hereby certify:

1. That the foregoing pages are a true, perfect and complete copy of an ordinance (the "Ordinance") adopted by the Town Council constituting the governing board of the Town of Larkspur (the "Town Council"), by vote had and taken at an open, regular meeting of the Town Council held at the Town Hall on January 9, 2014, as recorded in the regular book of official records of the proceedings of said Town of Larkspur kept in my office.

2. The Ordinance was duly moved and seconded, and the Ordinance was finally adopted at the meeting of the Town Council on January 9, 2014 by an affirmative vote of a quorum of the members of the Town Council as follows:

Name	"Yes"	"No"	Absent	Abstain
Gerry Been, Mayor	X			
Shannon Buss, Mayor Pro Tem	X			
Joseph Jeske	X			
Matias Cumsille	X			
Sandy McKeown	X			
Lester Burch	X			
Jennelle VanGorder			X	

3. The members of the Town Council were present at the meeting and voted on the passage of such Ordinance as set forth above.

4. There are no bylaws, rules or regulations of the Town Council which might prohibit the adoption of said Ordinance.

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

6. The notice of the regular meeting of January 9, 2014 attached hereto as Exhibit A was posted within the Town at least 24 hours before such meeting as required by law.

7. The Ordinance was posted in accordance with the requirements of Sections 3.15 and 3.20 of the Town's Home Rule Charter.

WITNESS my hand and the seal of said Town affixed this January 10, 2014.

(SEAL)



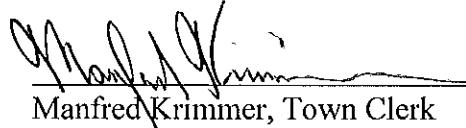
  
Manfred Krimmer, Town Clerk



EXHIBIT A

(Notice of the Meeting on January 9, 2014)

Posted 01/07/14

**TOWN OF LARKSPUR  
REGULAR COUNCIL MEETING  
January 9, 2014  
Town Hall  
9524 Spruce Mountain Road  
Following Public Hearing**

**AGENDA**

**MEETING CALLED TO ORDER/ROLL CALL:**

**PRESENT**

**ABSENT**

**Jennelle VanGorder  
Lester Burch  
Sandy McKeown  
Matias Cumsille  
Joseph Jeske  
Mayor Pro-tem Shannon Buss  
Mayor Gerry Been**

- I. PLEDGE OF ALLEGIANCE:**
- II. UNSCHEDULED PUBLIC APPEARANCES (3 min limit):**
- III. SCHEDULED PUBLIC APPEARANCES (5 min limit): None.**
- IV. NEW WELL PROJECT:**
  - **CWRPDA Loan Agreement Status**
- V. NEW TOWN HALL:**
  - **Ordinance 9.05 Authorizing the Lease-Purchase of Real Property**
  - **Town/Peoples Bank Lease Purchase Agreement**
- VI. PARK UPDATES:**
  - **Hand Dryers/Towels**
  - **Cable fencing in Park**
- VII. MINUTES: December 19**

**VIII. CONTINUING BUSINESS:**

- **Directional Signs update**
- **2014 Water Rates/Capital Improvement Surcharge**
- **Dump Cameras vs. Key Card IDs**

**IX. LEGAL UPDATES:**

- **Perry Park Water & Sanitation Settlement**
- **OSI Subdivision**

**X. NEW BUSINESS:**

- **April Election**
  - ✓ **Polling Place Election**
  - ✓ **Ballot Question**
  - ✓ **2014 Elections Calendar**
  - ✓ **Nomination Petitions**

**XI. MANAGER'S REPORT:**

**XII. COUNCIL COMMENTS:**

**XIII. MAYOR'S COMMENTS:**

**XIV. ADJOURN:**

**LARKSPUR VISION STATEMENT**

*"Larkspur, a small friendly town. A town that works together by:  
Fostering a Government of Integrity that Responds  
to its People,  
Directing Future Growth within Larkspur's Small  
Town Values,  
Providing Community Facilities and Activities for All  
Ages, and  
Preserving the Natural Environment that is Unique  
to the Larkspur Area."*

Please note: This agenda may be subject to change. Items may be added or deleted as required. The Town of Larkspur has adopted rules governing the public participation process in Town Council Meetings. All audience members must refrain from commenting during meetings unless recognized to speak. Loud speech and boisterous behavior from audience members is not permitted and constitutes grounds for removal from the meeting. Please deactivate all cell phones during the meeting.