



8000 Forsyth Boulevard, Suite 510  
Saint Louis, Missouri 63105-1797

June 11, 2021

Denise Rademacher  
Town of Lochbuie, Colorado  
703 Weld County Road 37  
Lochbuie, Colorado 80603-9537

RE: State & Municipal Lease/Purchase Agreement No. 5000308-002, dated June 1, 2021

Dear Ms. Rademacher,

We would like to thank you for choosing Clayton Holdings, LLC for your recent equipment financing.

For your files, we have enclosed copies or originals (as stated below) of the various documents executed by Town of Lochbuie, Colorado and Clayton Holdings, LLC in connection with the above-referenced transaction.

- Municipal Lease with all Schedules
- Schedule C payment schedule

Invoices will be sent to you approximately 15 days prior to the payment due date as shown on Schedule C.

Please be aware that ALL payments will be due on the dates indicated on Schedule C. You should contact us immediately if this information differs from your understanding of our agreement. According to the agreement and our records, your next payment in the amount of \$11,302.91 is due June 11, 2021.

We appreciate the opportunity to serve you and would like to do so again in the future. Should you have any questions regarding your account, please contact Lauren Midden at 314-746-3752, and she will be happy to assist you.

Very truly yours,

A handwritten signature in black ink that reads "Frank D. Hill". The signature is written in a cursive style with a large, prominent "F" and "H".

Frank D. Hill  
Director, Tax Exempt-Leasing  
Phone: 785-587-1541  
frank.hill@commercebank.com

A handwritten signature in black ink that reads "Lauren Midden". The signature is written in a cursive style with a large, prominent "L" and "M".

Lauren Midden  
Contract Administrator  
Phone: 314-746-3752  
lauren.midden@commercebank.com



## CLAYTON HOLDINGS, LLC

### STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT

Lease Number: 5000308-002

This State and Municipal Lease/Purchase Agreement (the "Lease") is made and entered into on this, the First day of June, 2021 by and between Clayton Holdings, LLC with offices at 8000 Forsyth Boulevard, Suite 510, St. Louis, Missouri 63105 (together with its successors and assigns, herein called the "Lessor"), and the Town of Lochbuie, Colorado with its principal address at 703 Weld County Road 37, Lochbuie, Colorado 80603 (together with its permitted successors and assigns, herein called the "Lessee"), wherein it is agreed as follows:

1. **LEASE OF EQUIPMENT:** Lessee hereby requests Lessor to acquire the equipment described in Schedule A attached hereto and made a part hereof. Subject to the terms and conditions hereof, Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor the equipment described in Schedule A, with all replacements, repairs, additions and accessories incorporated therein or affixed thereto (herein collectively called the "Equipment").
2. **DELIVERY AND ACCEPTANCE:** Lessee agrees to order the Equipment on behalf of Lessor from the supplier of such Equipment. Lessor will not be liable for specific performance of this Lease or for damages if for any reason the supplier delays or fails to fill the order. Lessee will cause the Equipment to be delivered at the location specified in Schedule A (the "Equipment Location"). Lessee is solely responsible for the selection of the Equipment and the vendor from which the Equipment is purchased. Lessee will pay all transportation and other costs, if any, incurred in connection with the delivery and installation of the Equipment. Any delay in such delivery will not affect the validity of this Lease. To the extent funds are deposited with a bank or trust company in an escrow fund for the acquisition of the Equipment, such funds shall be disbursed as provided in the agreement pursuant to which such fund is established (the "Escrow Agreement"). Lessee will immediately accept the Equipment as soon as it has been delivered and is operational, or as soon as any manufacturer or vendor pre-acceptance test period has expired. In the event the Equipment is not accepted by Lessee within thirty (30) days from the date of its delivery, Lessor, at Lessor's sole option, will have the right to terminate this Lease. Lessee will evidence its acceptance of the Equipment by executing and delivering to Lessor a delivery and acceptance certificate in the form of Exhibit B or C, as applicable, to the Escrow Agreement (the "Acceptance Certificate"). Lessee hereby authorizes the Lessor to add to this Lease and to any other description of the Equipment the serial number of each item of Equipment, when available.
3. **TERM:** This Lease will become effective upon the execution hereof by Lessee and Lessor. Lessee's obligation to pay rent under this Lease will commence on the date that funds are advanced by Lessor to pay the vendor of the Equipment or are deposited with a bank or trust company in an escrow fund pursuant to the Escrow Agreement, if any (the "Start Date"), and will extend for an initial term through the end of Lessee's fiscal year containing the Start Date. The term of this Lease is subject to renewal on a year-to-year basis for the number of annual fiscal periods necessary to comprise the lease term as set forth in Schedule C attached hereto and made a part hereof (the "Lease Term"). At the end of the initial term and any renewal term, Lessee will be deemed to have exercised its option to renew this Lease for the next annual renewal term, unless Lessee has exercised its right to terminate the Lease pursuant to Section 8 below.
4. **RENT:** Lessee agrees to pay Lessor the rental payments for the Equipment as set forth in Schedule C (the "Rental Payments"). A portion of each Rental Payment is paid as and represents the payment of interest as set forth in Schedule C. The Rental Payments will be payable without notice or demand, at the office of Lessor (or such other place as Lessor may designate in writing, from time to time) and will commence on the Start Date. For clarity, Lessee hereby authorizes Lessor to update Schedule C with the Start Date and actual due dates for Rental Payments based upon the frequency of payments stated on Schedule C. Any notice, invoicing, purchase orders, quotations or other forms or procedures requested by Lessee in connection with payment will be fully explained and provided to Lessor sufficiently in advance of the payment due date for the completion thereof by Lessor prior to such payment date, but none of the foregoing will be a condition to Lessee's obligation to make any such payment. If Lessee fails to pay any Rental Payment or any other sums under this Lease within ten (10) days when the same becomes due, Lessee shall pay to Lessor (in addition to and not in lieu of other rights of Lessor) a late charge equal to the greater of five (5%) percent of such delinquent amount or Twenty-Five Dollars (\$25.00), but in any event not more than the maximum amount permitted by law. Such late charge shall be payable by Lessee upon demand by Lessor and shall be deemed rent hereunder. Lessee acknowledges and agrees that the late charge (i) does not constitute interest, (ii) is an estimate of the costs Lessor will incur as a result of the late payment and (iii) is reasonable in amount. Lessor and Lessee understand and intend that the obligation of Lessee to pay Rental Payments hereunder will constitute a current expense of Lessee and will 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. EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 8 HEREOF, LESSEE'S OBLIGATION TO MAKE RENTAL PAYMENTS SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS AND WILL NOT BE SUBJECT TO ANY SETOFF, DEFENSE, COUNTERCLAIM, ABATEMENT OR RECOUPMENT FOR ANY REASON WHATSOEVER.

Notwithstanding the foregoing, the interest portion of the Rental Payments on Schedule C will be adjusted, and Lessor will provide Lessee a revised Schedule C reflecting such adjustment in the event that it is determined that any of the interest portions of Rental Payments set forth in Schedule C may not be excluded from Lessor's gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). Lessee agrees that the interest portion of the Rental Payments on Schedule C will be adjusted commencing with the first day of the next succeeding fiscal year of the Lessee, but only if this Lease is renewed for such fiscal year, and thereafter, so that Lessor will be in the same after-tax position that it would have been in had such payment been excluded from the gross income of Lessor under Section 103 of the Code.

5. **AUTHORITY AND AUTHORIZATION:** Lessee represents, warrants and covenants that (a) it will do or cause to be done all things necessary to preserve and keep in full force and effect (i) its existence, and (ii) subject to Section 8 hereof, this Lease; (b) it has complied with all bidding and

budgeting requirements where necessary and by due notification has presented this Lease to Lessee's governing body for approval and adoption as a valid obligation on its part and that all requirements have been met and procedures have been followed to ensure the enforceability of this Lease; (c) it has sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal year period; (d) no event has occurred and no condition exists which, upon the execution of this Lease or with notice or the passage of time or both, would constitute a default under any debt, revenue or purchase obligation which it has issued or to which it is a party (the "Obligation") nor has it been in default under any Obligation at any time during the past five (5) years, and (e) no lease, rental agreement or contract for purchase, to which Lessee has been a party, at any time during the past five (5) years, has been terminated by Lessee as a result of insufficient funds being appropriated in any fiscal period.

6. **REPRESENTATIONS, COVENANTS AND WARRANTIES REGARDING TAX-EXEMPT STATUS:** Lessee warrants and covenants that (i) it is a state, or a political subdivision thereof, within the meaning of Section 103 of the Code, and the related regulations and rulings thereunder; (ii) subject to Section 8 hereof, Lessee intends that its obligation under this Lease will constitute an enforceable obligation issued by or on behalf of a state, or political subdivision thereof, such that the interest portions of Rental Payments as shown in Schedule C, will not be includable in the gross income of Lessor for the purposes of federal income taxation; (iii) this Lease represents a valid deferred payment obligation of Lessee for the amount herein set forth; (iv) Lessee has the legal capacity to enter into this Lease and is not in contravention of any state, county, district, city or town statute, rule, regulation or other governmental provision; (v) during the Lease Term, the Equipment will not be used in a trade or business of any other person or entity; (vi) Lessee will complete and file on a timely basis, Internal Revenue Service form 8038G or 8038GC, as appropriate, in the manner set forth in Section 149(e) of the Code; and (vii) Lessee will not take any action or permit the omission of any action reasonably within its control which action or omission will cause the interest portion of any Rental Payment hereunder to be includable in gross income for federal income taxation purposes.

Lessee hereby designates the Lease as a "qualified tax-exempt obligation" as defined in Section 265(b)(3)(B) of the Code. The aggregate face amount of all tax-exempt obligations (including the Lease, but excluding private activity bonds other than qualified 501(c)(3) bonds) issued or to be issued by Lessee and all subordinate entities thereof during the calendar year in which the Start Date occurs is not reasonably expected to exceed \$10,000,000. Lessee and all subordinate entities thereof will not issue in excess of \$10,000,000 of tax-exempt obligations (including the Lease, but excluding private activity bonds other than qualified 501(c)(3) bonds) during the calendar year in which the Start Date occurs, without first providing Lessor with an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations acceptable to Lessor, that the designation of the Lease as a "qualified tax-exempt obligation" will not be adversely affected.

Lessee further represents as follows:

- (a) The estimated total costs of the Equipment will not be less than the total principal amount of the Rental Payments.
- (b) The Equipment has been ordered or is expected to be ordered within six months of the effective date of this Lease, and the Equipment is expected to be delivered and installed, and the Vendor fully paid, within eighteen months of the effective date of this Lease.
- (c) Lessee has not created or established, and does not expect to create or establish, any sinking fund or other similar fund (i) that is reasonably expected to be used to pay the Rental Payments, or (ii) that may be used solely to prevent a default in the payment of Rental Payments.
- (d) The Equipment has not been, and is not expected to be, sold or otherwise disposed of by Lessee, either in whole or in major part, prior to the final Rental Payment.
- (e) To the best of Lessee's knowledge, information and belief, the above expectations are reasonable.

7. **APPROPRIATIONS AND ESSENTIAL USE:** Lessee reasonably believes that sufficient funds can be obtained to make all Rental Payments during the Lease Term. The responsible financial officer of Lessee will do all things lawfully within his or her power to obtain funds from which the Rental Payments, including any Rental Payments required by Section 4 hereof, may be made, including making provisions for such payments, to the extent necessary, in each proposed annual budget submitted for approval in accordance with applicable procedures of Lessee. Notwithstanding the foregoing, the decision whether or not to budget or appropriate funds or to extend this Lease for any subsequent annual fiscal period is solely within the discretion of the then current governing body of Lessee. Lessee currently intends to make the Rental Payments for the full Lease Term if funds are legally available therefor, and in that regard Lessee represents that (a) the use of the Equipment is essential to its proper, efficient, and economic functioning or to the services that it provides to its citizens; (b) Lessee has an immediate need for and expects to make immediate use of substantially all the Equipment, which need is not temporary or expected to diminish in the foreseeable future; and (c) the Equipment will be used by the Lessee only for the purpose of performing one or more of its governmental or proprietary functions consistent with the permissible scope of its authority.

8. **NONAPPROPRIATION OF FUNDS:** In the event insufficient funds are appropriated and budgeted to pay Rental Payments required by Section 4 hereof and any other amounts payable under this Lease, for any fiscal period in which the Rental Payments for the Equipment are due under this Lease, then, without penalty, liability or expense to Lessee, this Lease will thereafter terminate on the last day of the fiscal period for which appropriations were made, except as to (i) the portions of the Rental Payments herein agreed upon for which funds have been appropriated and budgeted or are otherwise available and (ii) Lessee's other obligations and liabilities under this Lease relating to, accruing or arising prior to such termination. Lessee will, not less than sixty (60) days prior to the end of such applicable fiscal period, in writing, notify Lessor of such occurrence, but failure to give such notice will not prevent such termination. In the event of such termination, Lessee agrees to immediately cease use of the Equipment and peacefully surrender possession of the Equipment to Lessor on the day of such termination, packed for shipment in accordance with manufacturer's specifications and eligible for manufacturer's maintenance, and freight prepaid and insured to any location in the continental United States designated by Lessor, all at Lessee's expense. Lessor may exercise all available legal and equitable rights and remedies in retaking possession of the Equipment. If Lessee fails to cease use and deliver possession of the Equipment to Lessor upon termination of this Lease under this section, the termination shall nevertheless be effective but Lessee shall be responsible for the payment of damages in an amount equal to (a) the portion of Rental Payments thereafter coming due that is attributable to the number of days after the termination during which Lessee fails to cease use and deliver possession of the Equipment and (b) any other loss suffered by Lessor as a result of Lessee's failure to deliver possession of the Equipment.

9. **EXCLUSION OF WARRANTIES; LIMITATIONS OF LIABILITY; DISCLAIMER OF CONSEQUENTIAL DAMAGES:** LESSEE HAS SELECTED BOTH THE EQUIPMENT AND THE VENDOR(S) FROM WHOM LESSOR IS TO PURCHASE THE EQUIPMENT IN RELIANCE HEREON. LESSEE ACKNOWLEDGES AND AGREES THAT THE EQUIPMENT IS OF A SIZE, DESIGN AND CAPACITY SELECTED BY LESSEE, THAT LESSOR IS NOT A MANUFACTURER, VENDOR, DISTRIBUTOR OR LICENSOR OF SUCH EQUIPMENT, AND THAT LESSOR LEASES THE EQUIPMENT AS IS AND 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 INCLUDING ANY WARRANTIES OF TITLE OR AGAINST INFRINGEMENT OR ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR PRACTICE, ALL OF WHICH ARE SPECIFICALLY DISCLAIMED BY LESSOR AND IN NO EVENT SHALL LESSOR 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 EQUIPMENT, INCLUDING BUT NOT LIMITED TO THE SALE, LEASE, USE, PERFORMANCE OR MAINTENANCE OF THE EQUIPMENT, INCLUDING INTERRUPTION OF SERVICE, LOSS OF DATA, LOSS OF REVENUE OR PROFIT, LOSS OF TIME OR BUSINESS, OR ANY SIMILAR LOSS, EVEN IF ANY SUCH PERSON IS ADVISED IN ADVANCE OF THE POSSIBILITY OR CERTAINTY OF SUCH DAMAGES AND EVEN IF LESSEE ASSERTS OR ESTABLISHES A FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED IN THIS LEASE.

Lessee acknowledges that neither the original vendor nor licensor of the Equipment (including the salespersons of any of them) is an agent of Lessor, nor are they authorized to waive or alter any terms of this Lease. Lessee hereby waives any claim (including any claim based on strict or absolute liability in tort) it might have against Lessor or any assignee of the Lessor for any loss, damage or expense caused by or with respect to the Equipment. Lessor hereby assigns to Lessee during the Lease Term, to the extent permitted by law and so long as no Event of Default has occurred pursuant to Section 20 below, all manufacturer's warranties, if any, that it may have with respect to the Equipment, and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties at Lessee's expense. Lessor authorizes Lessee, to the extent permitted by law, to enforce in its own name any warranty, representation or other claim enforceable against the manufacturer. Lessor assumes no responsibility for shipment, delivery, installation or maintenances, and all claims of Lessee with respect thereto, whether for delay, damage or otherwise, will be made against the manufacturer. Lessor, at its option, may provide in its purchase order that the manufacturer agrees that any of such claims may be made by Lessee directly against the manufacturer. The obligation of Lessee to pay the Rental Payments as defined in Section 4 will not be abated, impaired or reduced by reason of any claims of Lessee with respect to the Equipment, including but not limited to its condition, quality, workmanship, delivery, shipment, installation, defects or otherwise.

10. **TITLE, SECURITY INTEREST:** During the Lease Term, title to the Equipment is deemed to be in Lessee so long as no Event of Default pursuant to Section 20 below has occurred and/or this Lease has not been terminated pursuant to the provisions of Section 8 above, subject to a first priority security interest in the Equipment which is retained by Lessor. Upon the earlier of (i) termination of this Lease in accordance with Section 8 above or (ii) the occurrence of an Event of Default by Lessee pursuant to Section 20 below, title will immediately revert to Lessor free of any right, title or interest of Lessee unless Lessor elects otherwise. In order to secure all of Lessee's obligations hereunder, Lessee hereby (a) to the extent permitted by law, grants to Lessor a first and prior security interest in any and all rights, titles and interest of Lessee in this Lease, the Equipment and in all additions, attachments, accessions, accessories, replacements and improvements thereto, now or hereafter acquired, together with all rents, issues, income, profits and proceeds thereof, including insurance proceeds; (b) agrees that financing statements evidencing Lessor's security interest may be filed; and (c) agrees to execute and deliver all certificates of title and other instruments necessary or appropriate to evidence and perfect such security interest. As further security therefor, Lessee grants to Lessor a first priority security interest in the cash and negotiable instrument from time to time comprising the escrow fund, if any, established under the Escrow Agreement and all proceeds (cash and non-cash) thereof, and agrees with respect thereto that Lessor shall have all the rights and remedies of a secured party.
11. **PERSONAL PROPERTY:** Lessor and Lessee agree that the Equipment is, and will remain, personal property and will not be deemed to be affixed or attached to real property or any building thereon. Notwithstanding the foregoing, for purposes of providing notice to third parties, Lessee agrees that, upon Lessor's request, it will provide the legal description of all real property where any of the Equipment is or will be installed, and Lessee agrees that financing statements evidencing Lessor's security interest may be filed in the real property records. If requested by Lessor, Lessee will, at Lessee's expense, furnish to Lessor landlord or mortgagee waiver with respect to the Equipment.
12. **USE; REPAIRS:** Lessee will use the Equipment in a careful manner for the use contemplated by the manufacturer of the Equipment and will comply with all laws, ordinances, insurance policies and regulations relating to, and will pay all costs, claims, damages, fees and charges arising out of, its possession, use or maintenance. Lessee, at its sole costs and expense, will maintain the Equipment according to the manufacturer's recommended guidelines or the equivalent and meet any and all recertification requirements and will furnish proof of such maintenance, if requested by Lessor and will furnish all needed servicing and parts, which parts will become part of the Equipment. If the Equipment is such as is customarily covered by a maintenance agreement, Lessee will furnish Lessor with a maintenance agreement with a party satisfactory to Lessor.
13. **ALTERATIONS:** Lessee will not make any alterations, additions or improvements to the Equipment without Lessor's prior written consent, and any permitted alteration or attachment which cannot be readily removed without damaging the Equipment's originally intended function or value will become part of the Equipment.
14. **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 consent 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 operations.
15. **LIENS AND TAXES:** Lessee will keep the Equipment free and clear of all levies, liens and encumbrances except those created under this Lease. Lessee will pay, when due, all charges and taxes (federal, state and local) which may 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 will have the right, but will not be obligated, to pay said charges and taxes. If Lessor pays any charges or taxes for which Lessee is responsible or liable under this Lease, Lessee will, upon demand, reimburse Lessor therefor.
16. **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 will relieve Lessee of the obligation to make the Rental 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 (the proceeds of any insurance recovery will be 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 (a) replace the same with like equipment in good repair; or (b) on the next Rental Payment date pay to Lessor (i) all amounts owed by Lessee under this Lease, including the Rental Payment due on such date, and (ii) an amount not less than the

balance of the Rental Payments then remaining unpaid hereunder. 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 Rental Payment and the balance of the Rental Payments then remaining unpaid hereunder, as applicable, to be made by Lessee with respect to the Equipment which has suffered the event of loss.

17. **INSURANCE:** Lessee will, at its expense, maintain at all times during the Lease Term (a) fire and extended coverage, public liability and property damage insurance with respect to the Equipment in such amounts, covering such risks, and with such insurers as will be satisfactory to Lessor. In no event will the insurance limits be less than the greater of (i) an amount equal to the balance of the Rental Payments then remaining for the Lease Term or (ii) any minimum required by any co-insurance provisions of such insurance, (b) liability insurance that protects Lessor from liability in all events in form and amount satisfactory to Lessor, and (c) workers' compensation coverage as required by the laws of the state in which Lessee is located. Each insurance policy required by clause (b) of the preceding sentence will name Lessee as an insured and Lessor or its assigns as an additional insured and loss payee, as appropriate, and each insurance policy required by the preceding sentence 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 the 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 of any loss, damage, injury or accident involving the Equipment, Lessee will promptly provide Lessor with written notice hereof and make available to Lessor all information and documentation relating thereto. Notwithstanding the foregoing, with Lessor's prior written consent, Lessee may self-insure against any and all risks for which insurance is required.
18. **ADVANCES:** In the event Lessee fails to maintain the insurance required by this Lease or fails to keep the Equipment in good repair and operating condition, Lessor may (but will be under no obligation to) purchase the required policies of insurance and pay the premiums on the same and make such repairs or replacements as are necessary and pay the cost thereof. All amounts so advanced by Lessor will become additional rent payable by Lessee. Lessee agrees to pay such amounts with interest thereon from the date paid at the rate of 1.5% per month or the maximum permitted by law, whichever is less. Unless Lessee provides evidence of the insurance coverage required by this Lease, Lessor may purchase insurance at Lessee's expense to protect Lessor's interests hereunder. This insurance may, but need not, protect Lessee's interests. The coverage that Lessor may purchase may not pay any claim that Lessee may make or any claim that may be made against Lessee in connection with the Equipment. Lessee may later cancel any insurance purchased by Lessor, but only after providing evidence that Lessee has obtained insurance as required by this Lease. If Lessor purchases insurance for the Equipment, Lessee will be responsible for the costs of that insurance, including the insurance premium, interest and any other charges Lessor may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance will be added as additional rent. The costs of the insurance may be more than the cost of insurance Lessee may be able to obtain on its own.
19. **INDEMNIFICATION:** To the extent permitted by law, without waiving its sovereign immunity rights, and solely from legally available funds, Lessee agrees to indemnify Lessor against, and hold Lessor harmless from, any and all claims, actions, proceedings, expenses, damages, liabilities or losses (including, but not limited to, attorneys' fees and court costs) arising in connection with the Equipment, including, but not limited to, its selection, purchase, delivery, possession, use, operation or return and the recovery of claims under insurance policies thereon.
20. **EVENTS OF DEFAULT:** The Term "Event of Default" as used in this Lease, means the occurrence of any one or more of the following events: (a) Lessee fails to make any Rental Payment (or any other payment) as it becomes due in accordance with the terms of this Lease, and any such failure continues for ten (10) days after the date thereof; (b) 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 ten (10) days after written notice thereof by Lessor; (c) the discovery by Lessor that any statement, representation or warranty made by Lessee in this Lease or in any document delivered by Lessee pursuant hereto or in connection herewith is false, misleading or erroneous in any material respect; (d) Lessee becomes insolvent, is unable to pay its debts as they become due, makes an assignment for the benefit of creditors, applies or consents to the appointment of a receiver, trustee, conservator or liquidator of Lessee or of all or substantial part of its assets, a petition for relief is filed by Lessee under federal bankruptcy, insolvency or similar laws, or a petition in a proceeding under any bankruptcy, insolvency or similar laws, is filed against Lessee and is not dismissed within thirty (30) days thereafter; (e) Lessee suffers an adverse material change in its financial condition or operations from the date hereof and, as a result, Lessor deems itself insecure; or (f) Lessee is in default under any other agreement executed at any time with Lessor or its affiliates, or under any other agreement or instrument by which it is bound.
21. **REMEDIES:** Upon the occurrence of an Event of Default, Lessor shall have the right, at its sole option, to exercise any one or more of the following remedies: (a) by written notice to Lessee, declare an amount equal to all amounts then due under this Lease and all remaining Rental Payments which will become due during the then current fiscal year of Lessee to be immediately due and payable, whereupon the same will become immediately due and payable and such amounts shall thereafter bear interest at the rate of 1.5% per month or the maximum rate permitted by applicable law, whichever is less; (b) by written notice to Lessee, request Lessee to (and Lessee agrees that it will), at Lessee's expense, promptly cease use and return the Equipment to Lessor in the manner set forth in Section 8 hereof, or Lessor, at its option and with or without terminating the Lease Term, may enter upon the premises where the Equipment is located and take immediate possession of and remove the same, without liability to Lessor or its agents for such entry or for damage to property or otherwise; (c) sell or lease the Equipment or sublease it for the account of Lessee, holding Lessee liable for (i) all Rental Payments and other payments due to the effective date of such selling, leasing or subleasing, and (ii) for the difference between the net purchase price, rental and other amounts paid by the purchaser, lessee or sublessee pursuant to such sale, lease or sublease and the remaining amounts payable by the Lessee through the end of the then current fiscal year of Lessee hereunder; and (d) exercise any other right, remedy or privilege which may be available to it under applicable law, including the right to (i) proceed by appropriate court action to enforce the terms of this Lease, (ii) recover damages for the breach of this Lease, and (iii) rescind this Lease as to any or all of the Equipment. If Lessee fails to cease use and deliver possession of the Equipment upon the occurrence of an Event of Default, Lessee shall be responsible for the payment of damages in an amount equal to (a) the portion of Rental Payments that is attributable to the number of days after the termination during which Lessee fails to cease use and deliver possession of the Equipment and (b) any other loss suffered by Lessor as a result of Lessee's failure to cease use and deliver possession 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.

22. **EARLY PURCHASE OPTION; PREPAYMENT:** Lessee may, upon sixty (60) days prior written notice to Lessor, and provided Lessee has fully paid and performed all other obligations hereunder and provided no Event of Default has occurred and is continuing, pay to Lessor on any regularly scheduled Rental Payment date the applicable amount set forth on Schedule C attached hereto, whereupon title to the Equipment will become unconditionally vested in Lessee, and Lessor will transfer any and all of its right, title and interest in the Equipment to Lessee as is, where is, without warranty, express or implied, except that Lessor will warrant to Lessee that the Equipment is free and clear of any liens created by Lessor.

Upon delivery by Lessee of a final acceptance certificate, any remaining monies in any escrow fund established under the Escrow Agreement shall be paid to Lessor, for credit, first, to the next Rental Payment due, and, second, to the prepayment of the principal portion of future Rental Payments hereunder in the manner directed by Lessor, in its sole discretion, unless Lessor directs that payment of such amount be made in such other manner directed by Lessor that, in the opinion of nationally recognized counsel in the area of tax-exempt municipal obligations satisfactory to Lessor, will not adversely affect the exclusion of the interest portions of Rental Payments from gross income for federal income tax purposes. If any amount is applied against the outstanding principal components of Rental Payments, Schedule C attached hereto will be revised accordingly.

**23. DETERMINATION OF FAIR PURCHASE PRICE:** Lessee and Lessor hereby agree and determine that the Rental Payments payable during the Lease Term represent the fair value of the use of the Equipment and that the amount required to exercise Lessee's option to purchase the Equipment pursuant to Section 22 represents the fair purchase price of the Equipment. Lessee hereby determines that the Rental Payments do not exceed a reasonable amount so as to place Lessee under a practical economic compulsion to renew this Lease or to exercise its option to purchase the Equipment. In making such determinations, Lessee and Lessor have given consideration to (a) the costs of the Equipment, (b) the uses and purposes for which the Equipment will be employed by Lessee, (c) the benefit to Lessee by reason of the acquisition and installation of the Equipment and the use of the Equipment pursuant to the terms and provisions of this Lease, and (d) Lessee's option to purchase the Equipment. Lessee hereby determines and declares that this Lease will result in equipment of comparable quality and meeting the same requirements and standards as would be necessary if the acquisition and installation of the Equipment were performed by Lessee other than pursuant to this Lease. Lessee hereby determines and declares that the Lease Term does not exceed the useful life of the Equipment.

**24. ASSIGNMENT:** Except as expressly provided herein, Lessee will not (a) 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 or (b) sublet or lend the Equipment or permit the Equipment to be used by anyone other than Lessee or Lessee's employees, unless Lessee obtains the prior written consent of Lessor and an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations satisfactory to Lessor that such action will not adversely affect the exclusion of the interest portions of the Rental Payments from gross income for federal income tax purposes.

Lessor, without the consent of Lessee, may assign all or any portion or portions of its right, title and interest in and to this Lease, the Equipment and any other documents executed with respect to this Lease, and/or grant or assign all or any portion or portions of its security interest in this Lease and the Equipment, in whole or in part to various assignees, their agents or trustees (each and any one hereinafter referred to as an "Assignee"). Any such assignment to an Assignee may provide that the Lessor or the Assignee will act as a collection and paying agent for owners of certificates of participation in this Lease, or may provide that a third-party trustee or agent will act as collection and paying agent for any Assignee, provided that any such trustee or agent will maintain registration books as a register of all persons who are owners of certificates of participation or other interest in Rental Payments and Lessee receives written notification of the name and address of the trustee or agent and a copy of the pooling and fractionalization agency or trustee agreement, if any. Any such Assignee will have all of the assigned rights of Lessor under this Lease. Subject to the foregoing, this Lease will inure to the benefit of and will be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto. Any assignment or reassignment of any of Lessor's right, title or interest in this Lease or the Equipment will be effective upon receipt by Lessee of a duplicate original of the counterpart document by which the assignment or reassignment is made, disclosing the name and address of each such Assignee and, where applicable, to whom further payments hereunder should be made. During the Lease Term, Lessee covenants that it will keep a complete and accurate record of all assignments in form necessary to comply with Section 149(a) of the Code and the regulations, proposed or existing, from time to time promulgated thereunder. Lessee agrees to acknowledge in writing any assignments if so required.

Lessee agrees that, upon notice of assignment, if so instructed it will pay directly to the Assignee, or its trustee or agent without abatement, deduction or setoff all amounts which become due hereunder. Lessee further agrees that it will not assert against any Assignee, or its trustee or agent, any defense, claim, counterclaim or setoff Lessee may have against Lessor.

**25. FINANCIAL STATEMENTS:** Each year during the term of this Lease, Lessee hereby agrees to deliver to Lessor a copy of: (i) annual audited financial statements within one hundred twenty (120) days of Lessee's fiscal year-end; and (ii) within a reasonable period of time, any other financial information Lessor requests from time to time.

**26. NATURE OF AGREEMENT:** Lessor and Lessee agree that upon the due and punctual payment and performance of the installments of Rental Payments and other amounts and obligations under this Lease, title to the Equipment will vest permanently in Lessee as provided in this Lease, free and clear of any interest, lien or security of Lessor therein.

**27. AMENDMENTS:** This Lease may be amended or any of its terms modified in any manner by written agreement of Lessee and Lessor. Any waiver of any provision of this Lease or of any right or remedy hereunder must be affirmatively and expressly made in writing and will not be implied from inaction, course of dealing or otherwise.

**28. NOTICES:** All notices to be given under this Lease must be made in writing and mailed by certified mail 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 is effective upon receipt.

**29. 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.

**30. GOVERNING LAW:** This Lease will be governed by the provisions hereof and by the laws of the State where Lessee is located.

**31. FURTHER ASSURANCES:** Lessee will deliver to Lessor (i) an opinion of counsel in substantially the form of Schedule D attached hereto or as Lessor may otherwise request; and (ii) if applicable, a certificate of a duly authorized official as to designation as a qualified tax-exempt obligation. Moreover, Lessee will execute or provide, as requested by Lessor, any documents and information that are reasonably necessary with respect to the transaction contemplated by this Lease.


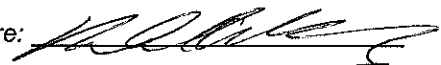
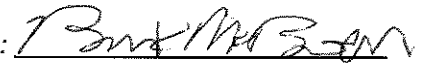
**32. ENTIRE AGREEMENT:** This Lease, together with the Schedules attached hereto and made a part hereof and other attachments hereto and other documents or instruments executed by Lessee and Lessor in connection herewith, constitute the entire agreement between the parties with respect to the lease of the Equipment, and this Lease will not be modified, amended, altered or changed except with the written consent of Lessee or Lessor.

**33. SEVERABILITY:** Any provision of this Lease found to be prohibited by law will be ineffective to the extent of such prohibition without invalidating the remainder of this Lease.

34. **WAIVER:** The waiver by Lessor of any breach by Lessee of any term, covenant or condition, hereof will not operate as a waiver of any subsequent breach hereof.
35. **ELECTRONIC TRANSACTIONS.** The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.
36. **ROLE OF LESSOR:** Lessor has not acted and will not act as a fiduciary for Lessee or as Lessee's agent or municipal advisor. Lessor has not and will not provide financial, legal, tax, accounting or other advice to Lessee or to any financial advisor or placement agent engaged by Lessee with respect to this Lease. Lessee, its financial advisor, placement agent or municipal advisor, if any, shall each seek and obtain its own financial, legal, tax, accounting and other advice with respect to this Lease from its own advisors (including as it relates to structure, timing, terms and similar matters).

ORAL AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT, ARE NOT ENFORCEABLE. TO PROTECT YOU (LESSEE(S) AND US (LESSOR) FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS WE REACH COVERING SUCH MATTERS ARE CONTAINED IN THIS WRITING, WHICH IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN US EXCEPT AS WE MAY LATER AGREE IN WRITING TO MODIFY IT.

BY SIGNING BELOW, YOU AND WE AGREE THAT THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN US.

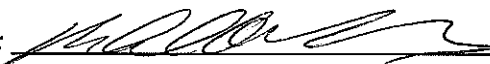
<p>Lessor: <u>Clayton Holdings, LLC</u></p> <p>Authorized Signature: </p> <p>Printed Name: <u>Beth Blumenthal</u></p> <p>Title: <u>Officer</u></p> <p>Date: <u>6-11-2021</u></p>	<p>Lessee: <u>Town of Lochbuie, Colorado</u></p> <p>Authorized Signature: </p> <p>Printed Name: <u>Michael Mahoney</u></p> <p>Title: <u>Mayor</u></p> <p>Date: <u>6/11/21</u></p> <p>Authorized Signature: </p> <p>Printed Name: <u>Brian McBroom</u></p> <p>Title: <u>Town Administrator</u></p> <p>Date: <u>6/11/21</u></p> <p>EIN: <u>84-0743323</u></p>
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**SCHEDULE A TO  
STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT  
Lease No. 5000308-002**

<b>Location of Equipment</b>	
Street: 703 Weld County Road 37 City: Lochbuie State: CO Zip Code: 80603	
<b>Description of Equipment</b>	<b>Equipment Cost</b>
2020 Ford Police Interceptor VIN: 1FM5K8AW6LGA83426	\$53,327.00
<b>Total</b>	<b>\$53,327.00</b>

Lessee hereby certifies that the description of the property set forth above constitutes a complete and accurate description of all Equipment as subject to in the Lease.


Lessee: Town of Lochbuie, Colorado

Authorized Signature: 

Printed Name: Michael Mahoney

Title: Mayor

Date: 6/1/21

Authorized Signature: 

Printed Name: Brian McBroom

Title: Town Administrator

Date: 6/1/21



**SCHEDULE B TO  
STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT  
Lease No. 5000308-002  
DELIVERY AND ACCEPTANCE CERTIFICATE**

TO: Clayton Holdings, LLC

Reference is made to the State and Municipal Lease/Purchase Agreement between the undersigned Town of Lochbuie, Colorado ("Lessee"), and Clayton Holdings, LLC ("Lessor"), dated the First day of June, 2021 ("Lease") and to the Equipment, as such term is defined therein. In connection therewith, we hereby certify as follows:

**Acceptance Certifications:**

1. All of the Equipment has been delivered to and received by the undersigned; all installation or other work necessary prior to the use thereof has been completed; said Equipment has been examined and/or tested and is in good operating order and condition and is in all respects satisfactory to the undersigned and as represented, and said Equipment has been accepted by the undersigned and complies with all terms of the Lease. Consequently, you are hereby authorized to pay for the Equipment in accordance with the terms of any purchase orders for the same.
2. In the future, in the event the Equipment fails to perform as expected or represented we will continue to honor the Lease in all respects and continue to make our rental and other payments thereunder in the normal course of business and we will look solely to the vendor, distributor or manufacturer for recourse.
3. We acknowledge that Lessor is neither the vendor nor manufacturer or distributor of the Equipment and has no control, knowledge or familiarity with the condition, capacity, functioning or other characteristics of the Equipment.
4. No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Lease) exists at the date hereof.
5. We are currently maintaining the insurance coverage required by **Section 17** of the Lease.
6. The serial number for each item of Equipment which is set forth on Schedule A to the Lease is correct.


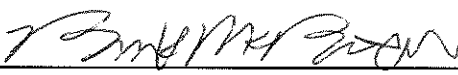
**Payment Direction:**

Lessor is directed to disburse the following amounts to pay the costs of the Equipment and related costs pursuant to the Lease and the below instructions. Lessee agrees that the "Start Date" for Rental Payments under the Lease will be the date on which Lessor makes such disbursement, and Lessor is authorized to complete that date on the Payment Schedule attached as **Schedule C** to the Lease.

Payee Name and Address & Description of Cost Paid <i>(if not to Vendor)</i>	Amount to be Paid	Payment Delivery Instructions <i>(if not provided on attached invoice)</i>
Spradley Barr Ford Lincoln of Greeley 4901 29 <sup>th</sup> Street Greeley, CO 80634	\$53,327.00	<b>First National Bank</b> <b>ABA Number: 107-000-262</b> <b>Account Number: 43035190</b>

**Total Disbursement** **\$53,327.00**

This certificate will not be considered to alter, construe, or amend the terms of the Lease.

Lessee: <u>Town of Lochbuie, Colorado</u>
Authorized Signature: <u></u>
Printed Name: <u>Michael Mahoney</u>
Title: <u>Mayor</u>
Date: <u>6/1/21</u>
Authorized Signature: <u></u>
Printed Name: <u>Brian McBroom</u>
Title: <u>Town Administrator</u>
Date: <u>6/1/21</u>

**SCHEDULE C  
PAYMENT SCHEDULE**

Lessee: Town of Lochbuie, Colorado  
 Lessor: Clayton Holdings, LLC  
 Lease Number: 5000308-002  
 Capital Cost of Equipment (Principal Portion of Rental Payments): \$53,327.00  
 Start Date: June 11, 2021

Subject to Section 8 of the Lease, Rental Payments are due on the dates and in the amounts shown below:

Rental Payment Date	Payment Amount	Amount Credited to Interest	Amount Credited to Capital Cost	Outstanding Principal Balance
6/11/2021	\$ 11,302.91	\$ -	\$ 11,302.91	\$ 42,024.09
6/11/2022	\$ 11,302.91	\$ 1,256.52	\$ 10,046.39	\$ 31,977.70
6/11/2023	\$ 11,302.91	\$ 956.13	\$ 10,346.78	\$ 21,630.92
6/11/2024	\$ 11,302.91	\$ 646.76	\$ 10,656.15	\$ 10,974.77
6/11/2025	\$ 11,302.91	\$ 328.14	\$ 10,974.77	\$ -
	\$ 56,514.55	\$ 3,187.55	\$ 53,327.00	

In the event Lessee desires to prepay this Lease, it may do so in whole, but not in part, at a purchase price equal to (a) the then current outstanding principal balance shown above; plus (b) a prepayment premium calculated as a percentage of the then current outstanding principal balance, in the following amount: 3%, with respect to any prepayment during the first full year of the Lease Term; 2%, with respect to any prepayment during the second full year of the Lease Term; and 1%, with respect to any prepayment during the third full year of the Lease Term and thereafter; plus (c) unpaid interest accrued on the outstanding principal balance to the prepayment date; and plus (d) all other amounts then payable under this Lease. There is no prepayment penalty if Lessee is using funds other than proceeds of a grant or an actual or anticipated refinancing.

Lessee: Town of Lochbuie, Colorado

Authorized Signature: 

Printed Name: Michael Mahoney

Title: Mayor

Date: 6/11/21

Authorized Signature: 

Printed Name: Brian McBroom

Title: Town Administrator

Date: 6/11/21



June 3, 2021

Clayton Holdings, LLC  
8000 Forsyth Blvd., Ste. 510  
St. Louis, MO 63105

Town of Lochbuie  
Lochbuie, Colorado

Re: State & Municipal Lease/Purchase Agreement dated as of June 1, 2021, between Clayton Holdings, LLC, as lessor, and the Town of Lochbuie, as lessee

Greetings:

We have acted as counsel to the Town of Lochbuie, in connection with the above referenced State & Municipal Lease/Purchase Agreement dated as of June 1, 2021 (the "Lease"), between Clayton Holdings, LLC, a Missouri limited liability company, as lessor, (the "Lessor") and the Town of Lochbuie, a Colorado municipality, as lessee (the "Town"). Capitalized terms used herein and not otherwise defined herein will have the meanings assigned to such terms in the Lease.

We have examined (a) the Lease, (b) an executed counterpart of Town of Lochbuie Resolution 2021-3 adopted by the Board of Trustees of the Town that, among other things, authorizes the Town to execute the Lease, and (c) such other opinions, documents and matters of law as we have deemed necessary in connection with the following opinions.

The opinions stated herein are given in our limited capacity as legal counsel to the Town for general matters. Whenever our opinion with respect to the existence or absence of facts is indicated to be based on our knowledge, it shall mean that during the course of our representation as described above no information has come to our attention which has given us actual knowledge of the existence or absence of such facts. We have not undertaken any independent investigation to determine the existence or absence of such facts, nor have we undertaken any such investigation with respect to facts certified by anyone, and no inference as to our knowledge of the existence or absence of such facts may be drawn from our representation of the Town.

#### ASSUMPTIONS

In connection herewith, we have assumed, without independent verification or investigation as to the same: (1) the genuineness and authenticity of all documents submitted to us as originals; (2) the originality and conformance to the originals of all photocopies provided to us in connection with rendering this opinion; (3) that the signatures of persons signing all documents in connection with which this opinion is rendered are genuine and are authorized by the entity on whose behalf such persons have signed, provided, however, that no such assumptions as to such authorization are made as to signatures on behalf of the Town; and (4) that all parties to the documents reviewed by us have full power and authority, and have obtained all consents and/or approvals necessary to execute, deliver and perform thereunder, and all such documents have been duly authorized by all necessary corporate or other action on the part of

such parties, have been duly executed by such parties and have been duly delivered by such parties.

### OPINION

Based on the foregoing, we are of the following opinions:

1. The Town is a political subdivision, duly organized and existing under the laws of the State of Colorado. The Town has the power to tax.

2. The Town has the requisite power and authority to execute and deliver the Lease and to perform its obligations thereunder.

3. The Lease have been duly authorized, approved and executed by and on behalf of the Town and are valid and binding obligations of the Town enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent applicable.

4. The authorization, approval and execution of the Lease and all other proceedings of District relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable state and federal laws.

5. There is no proceeding pending or, to our knowledge, threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by the Lease or the Lease or the interest of the Town or its assigns in the Leased Property.

6. The authorization, execution, delivery and performance of the Lease by the Town do not require submission to, approval of, or other action by any governmental authority or agency which action has not been taken and is final and non-appealable.

The addressee hereof and its successors and assigns and any counsel rendering an opinion on the exclusion of the interest components of Rental Payments from gross income for purposes of federal income taxation are entitled to rely on this opinion only and it is not to be quoted in whole or in part or otherwise referred to (except in a list of closing documents), nor is it to be delivered to any other person (except as a part of a closing book memorializing the closing on the Lease) without our prior written consent. Our firm represents only the Town; delivery of this letter does not establish an attorney-client relationship with any other party. We expressly undertake no responsibility or duty to inform any party, whether addressees hereof or not, as to any change in fact, circumstance or law occurring after the date hereof which may affect or alter any of the opinions, statements or information set forth above.

Very truly yours,

  
Widner Juran LLP

cc: Brian McBroom, Town Administrator  
Michael Mahoney, Mayor

**TOWN OF LOCHBUIE, COLORADO  
RESOLUTION NO. 2021 - 3**

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN  
OF LOCHBUIE, COLORADO, APPROVING THE FORM OF THE  
LEASE/PURCHASE AGREEMENT WITH CLAYTON HOLDINGS,  
LLC, ST. LOUIS, MISSOURI AND AUTHORIZING THE  
EXECUTION AND DELIVERY THEREOF**

**WHEREAS**, the Town of Lochbuie (the "Town") is a duly organized statutory municipality and political subdivision of the State of Colorado; and

**WHEREAS**, the Town Board of Trustees finds that it is necessary and desirable and in the best interest of the Town to enter into the State & Municipal Lease/Purchase Agreement with Clayton Holdings, LLC, as lessor ("Lessor") for the property ("Equipment") described therein (the "Lease") attached hereto as Exhibit A; and

**WHEREAS**, the Town has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current fiscal year to make the "Rental Payments," as defined in the Lease, scheduled to come due during the current fiscal year and to its other obligations, and such funds have not been expended for other purposes.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF LOCHBUIE, AS FOLLOWS:**

**Section 1.** The meeting at which this Resolution was considered was open to the public and held following posting of legal public notice.

**Section 2.** The Lease, in substantially the same form as attached to this Resolution, and the terms and performance thereof are hereby approved, and the Mayor and Town Administrator are hereby authorized to execute and deliver the Lease and related documents, on behalf of the Town, with such changes therein as shall be approved by the Mayor and Town Attorney, with such approval to be conclusively evidenced by the Mayor's execution thereof.

**Section 3.** The officers, officials, agents and employees of the Town are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution, and to carry out, comply with and perform the duties of the Town with respect to the Lease.

**Section 4.** The Town hereby designates the Lease as a "qualified tax-exempt obligation" as defined in Section 265(b)(3)(B) of the Internal Revenue Code. The aggregate face amount of all tax-exempt obligations (including the Lease, but excluding private activity bonds other than qualified 501(c)(3) bonds) issued or to be issued by the Town and all subordinate entities thereof during the current calendar year is not reasonably expected to exceed \$10,000,000. The Town and all subordinate entities thereof will not issue in excess of \$10,000,000 of tax-exempt

obligations (including the Lease, but excluding private activity bonds other than qualified 501(c)(3) bonds) during the current calendar year without first providing Lessor with an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations acceptable to Lessor, that the designation of the Lease as a "qualified tax-exempt obligation" will not be adversely affected.


**Section 5.** Moneys sufficient to pay all Rental Payments required to be paid under the Lease during Lessee's current fiscal year are hereby appropriated to such payment, and such moneys will be applied in payment of all Rental Payments due and payable during the current fiscal year.

**Section 6. Severability.** If any part, section, subsection, sentence, clause, or phrase adopted by this Resolution is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining parts, sections, subsections, sentences, clauses, or phrases adopted by this Resolution. The Board of Trustees hereby declares that it would have passed the Resolution, including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentences, clauses or phrases could subsequently be declared invalid.

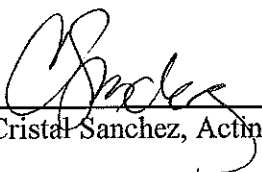
**Section 7. Effective Date.** This Resolution shall be effective upon adoption.

ADOPTED THIS 1 DAY OF June, 2021.

TOWN OF LOCHBUIE, COLORADO

  
Michael Mahoney, Mayor

ATTEST:

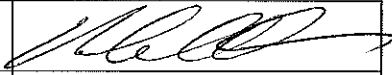

By:   
Cristal Sanchez, Acting Town Clerk

**SCHEDULE E-2 TO  
STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT  
Lease No. 5000308-002**

**INCUMBENCY AND AUTHORIZATION CERTIFICATE**

The undersigned, a duly elected or appointed and acting Town Clerk of Town of Lochbuie, Colorado ("Lessee") certifies as follows:

A. **Authorized Signers.** The following listed persons are duly elected or appointed and acting officials of Lessee (the "Officials") in the capacity set forth opposite their respective names below, and the signature of each such Official appearing below is the true and genuine signature of that Official. By order of Lessee's governing body, the Officials identified below have been duly authorized, on behalf of Lessee, to negotiate, execute and deliver the Equipment Lease/Purchase Agreement dated as of June 1, 2021, by and between Lessee and Clayton Holdings, LLC ("Lessor") and all documents related thereto and delivered in connection therewith (collectively, the "Agreements").

Name of Official	Title	Signature
Michael Mahoney	Mayor	
Brian McBroom	Town Administrator	

B. **Call-Back Verification.** Lessor may, but is not required, to call back any one of the below-named employees or officials of Lessee prior to approving the disbursement of any funds from the Acquisition Fund established under the Escrow Agreement to verify the request for disbursement, including but not limited to amount, payee, address, ABA and account numbers of the payee or Lessee.

Name	Title	Phone Number
Michael Mahoney	Mayor	720 421 7446
Brian McBroom	Town Administrator	303-990-5785

Dated: 6/1/21

By: 

Name: Cristal Sanchez

Title: Acting Town Clerk

(The signer of this Certificate cannot be listed under Paragraph A above as authorized to execute the Agreements.)



**SCHEDULE F  
STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT  
Lease No. 5000308-002**

**ESSENTIAL USE/SOURCE OF FUNDS LETTER**

**June 1, 2021**

Clayton Holdings, LLC  
8000 Forsyth Boulevard, Suite 510  
St. Louis, Missouri 63105

Re: State and Municipal Lease/Purchase Agreement No. 5000308-002, dated the First day of June, 2021 (the "Lease"), between Clayton Holdings, LLC ("Lessor") and Town of Lochbuie, Colorado ("Lessee")

Ladies and Gentlemen:

This confirms and affirms that the Equipment described in the Lease is essential to the function of the undersigned or to the service we provide to our citizens.

Further, we have an immediate need for, and expect to make immediate use of, substantially all such Equipment, which need is not temporary or expected to diminish in the foreseeable future. Such Equipment will be used by us only for the purpose of performing one or more of our governmental or proprietary functions consistent with the permissible scope of our authority. Specifically, such Equipment was selected by us to be used as follows:

for law enforcement.

The estimated useful life of such Equipment based upon manufacturer's representations and our projected needs is not less than the maximum Lease Term.

Our source of funds for payments of the Rental Payments due under the Lease for the current fiscal year is

general fund

We currently expect and anticipate adequate funds to be available for all future payments of rent due after the current fiscal year for the following reasons:

payments will be appropriated in general fund budgets

Very truly yours,

Lessee: Town of Lochbuie, Colorado

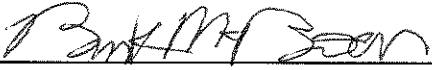
Authorized Signature: \_\_\_\_\_

Printed Name: Michael Mahoney

Title: Mayor

Date: 6/1/21

Lessee: Town of Lochbuie, Colorado

Authorized Signature: 

Printed Name: Brian McBroom

Title: Town Administrator

Date: 6.1.21

**SCHEDULE G  
PROOF OF INSURANCE**

Insurance Agent Name: Jill Padbury  
Agency Name: CIRSA  
Address: 3665 Cherry Creek Drive North, Denver Co. 80209  
Phone Number: 800-226-7136  
E-Mail: jillp@cirsa.org

Ladies and Gentlemen:

Please add CLAYTON HOLDINGS, LLC as both co-loss payee and additional insured under the property insurance covering the Equipment listed on attached Schedule A, and as additional insured under the general liability insurance policy. The minimum liability coverage is \$1,000,000.00. Please mail or fax an insurance certificate to:

Clayton Holdings, LLC  
P.O. Box 11309  
St. Louis, MO 63105  
Fax # 314-746-3744

Upon acceptance of the Equipment and upon each insurance renewal date, Lessee will deliver to Lessor a certificate evidencing such insurance.

Please note that the Bank requires 30 day written notice of cancellation of the policy covering leased equipment.

Lessee: Town of Lochbuie, Colorado

Authorized Signature: 

Printed Name: Michael Mahoney

Title: Mayor

Date: 11/1/11

Authorized Signature: 

Printed Name: Brian McBroom

Title: Town Administrator

Date: 11/1/11



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
05/20/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER LIC #N/A CIRSA	1-303-757-5475	CONTACT NAME:	
3665 Cherry Creek North Drive		PHONE (A/C, No, Ext):	FAX (A/C, No):
Denver, CO 80209		E-MAIL ADDRESS:	
INSURED Town of Lochbuie		INSURER(S) AFFORDING COVERAGE	
703 Weld County Road 37		INSURER A: CIRSA	NAIC #
Lochbuie, CO 80603		INSURER B: See Attached Schematic	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES CERTIFICATE NUMBER: 62241798 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input checked="" type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> \$10m POI, E&O Aggregate  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			LIAB 01-2021	01/01/21	01/01/22	EACH OCCURRENCE \$ 10,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 10,000,000 MED EXP (Any one person) \$ 0 PERSONAL & ADV INJURY \$ 10,000,000 GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ 10,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY			LIAB 01-2021	01/01/21	01/01/22	COMBINED SINGLE LIMIT (Ea accident) \$ 5,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> RETENTION \$						<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE EACH OCCURRENCE \$ AGGREGATE \$ \$
	<input type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY <input type="checkbox"/> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B	Property (Excess Prop)			See Attached Schematic	01/01/21	01/01/22	Prop Pool Limit 500,000,000
A	Property (Primary)			PR 01-2021	01/01/21	01/01/22	1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
Certificate Holder is Additional Insured on Liability Policies and Loss Payee on Property if required by contract. As respects to a lease purchase agreement for one 2020 Ford Explorer Police AWD, VIN 1FM5K8AW6LGA83426.

<b>CERTIFICATE HOLDER</b>	<b>CANCELLATION</b>
Clayton Holdings, LLC	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
P.O. Box 11309	AUTHORIZED REPRESENTATIVE
St. Louis, MO 63105	<i>Neil Padbury</i>
USA	

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SCHEDULE H

ACH Payment Authorization Form

Lease No. / Loan No: 5000308-002

Lessee / Borrower: Town of Lochbuie, Colorado

I authorize Commerce Bank ("Commerce") to initiate debit entries and to initiate, if necessary, credit entries and adjustments for any debit entries in error on behalf of CBI Equipment Finance, Clayton Holdings or Commerce Bank as lender or lessor in the amount shown, and from the checking or savings account with the depository institution ("Bank") named below, on the payment due date.

Bank Name: JP Morgan Chase

Address: 1301 Canyon Blvd Boulder CO 80302

ABA Routing No.: 102001017

Account No.: 235000195 (X) Checking ( ) Savings

This is a (X) New or ( ) Updated authorization form.  
Annual Debit Amount(s): In Accordance with Schedule C  
Begin Auto Debit with Invoice Date Due: In Accordance with Schedule C

The final or balloon payment, if different from the Annual payment, will not be auto debited.

I understand that this authorization will remain in full force and effect until I notify COMMERCE BANK at the address or phone number below that I wish to revoke this authorization. I understand that COMMERCE BANK requires at least 5 days prior notice in order to process any such cancellation.

X [Signature] X 6-1-2021  
Borrower / Lessee Signature Date

Note that there is NO charge for this service.  
Also, your "Bank" need not be Commerce Bank to benefit from this feature. Any bank account can be auto debited. To commence service please return this form with your document package or **send this signed form and a voided check (unless COMMERCE BANK is already currently debiting this same account for another lease schedule) to:**

COMMERCE BANK  
P.O. Box 11309  
Clayton, MO 63105 or  
LeasingACH@Commercebank.com

To discontinue or amend service, please email the request to the address above or call COMMERCE BANK at 314.746.3726.

**8038-GC QUESTIONNAIRE**

Name of Lessee: Town of Lochbuie, Colorado  
 Address of Lessee: 703 Weld County Road 37, Lochbuie, Colorado 80603  
 Contact Person: Denise Rademacher  
 Telephone Number: 303-990-5775  
 Email Address: finance@lochbuie.org  
 Lessee's FEIN: 84-0743323

**GENERAL**

*In January 2012, the Internal Revenue Service ("IRS") updated Form 8038-GC (the form used by Lessees to report the issuance of a tax-exempt obligation). The revised Form 8038-GC asks specific questions about written procedures to: (1) monitor private use of assets financed with proceeds of a tax-exempt obligation and, as necessary, to take remedial actions to correct any violations of federal tax restrictions on the use of financed assets; and (2) monitor the yield on the investment of gross proceeds of tax-exempt obligations and, as necessary, make payments of arbitrage rebate earned to the United States. In addition, the revised Form 8038-GC asks Lessees to report whether any proceeds will be used to reimburse the Lessee for an expenditure paid prior to issuance. This questionnaire is designed to obtain the information necessary to complete Form 8038-GC for the Lease. Lessee will be required to review and approve the information entered prior to signing the 8038-GC form.*

*At this time, the consequences of not having adopted written procedures to monitor private use of financed assets and yield on the investment of gross proceeds of tax-exempt obligations are unknown. If you have further questions, please consult your regular bond or legal counsel.*

**Part 1 – Written Tax Compliance Procedures**

**Note: If either of these questions is not answered, we will assume the Lessee has not adopted the described procedures.**

1. Has the Lessee established written procedures to monitor compliance with federal tax restrictions for the term of the lease? The written procedures should identify a particular individual within Lessee's organization to monitor compliance with the federal tax requirements related to use of the financed assets and describe actions to be taken in the event failure to comply with federal tax restrictions is contemplated or discovered. **Yes** \_\_\_ **No** \_\_\_
2. Has the Lessee established written procedures to monitor the yield on the investment of proceeds of the Lease on deposit in an escrow account or similar fund prior to being spent and to ensure that any positive arbitrage rebate earned is paid to the United States? **Yes** \_\_\_ **No** \_\_\_

**Part 2 – Reimbursement of Prior Expenditures**

1. As of the funding date, were any of the proceeds of the Lease used to reimburse Lessee for expenditures paid to acquire the financed assets prior to the funding date of the Lease? **Yes** \_\_\_ **No** X

*If yes, please attach a spreadsheet listing the expenditure(s) together with the date paid, vendor paid and purpose of the expenditure or other proof of the expenditure(s) containing this information (i.e. invoices, receipts, cancelled checks).*

**Items 2 and 3 need to be completed ONLY if the answer to item 1 above is YES.**

2. Please attach a copy of Lessee's resolution of intent to finance the financed assets, which includes date of adoption.
3. What is the amount of proceeds of the Lease reimbursed to Lessee? \$ \_\_\_\_\_

BY: 

NAME: Michael Mahoney

TITLE: Mayor

DATE: 6/11/07

BY: Brian McBroom

NAME: Brian McBroom

TITLE: Town Administrator

DATE: 4/1/01

**Information Return for Small Tax-Exempt  
 Governmental Bond Issues, Leases, and Installment Sales**

OMB No. 1545-0720

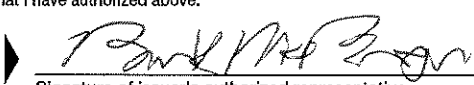
▶ Under Internal Revenue Code section 149(e)

Caution: If the issue price of the issue is \$100,000 or more, use Form 8038-G.

<b>Part I Reporting Authority</b>		Check box if Amended Return <input type="checkbox"/>
1 Issuer's name Town of Lochbuie, Colorado		2 Issuer's employer identification number (EIN) 8 4   0 7 4 3 3 2 3
3 Number and street (for P.O. box if mail is not delivered to street address) 703 Weld County Road 37		Room/suite
4 City, town, or post office, state, and ZIP code Lochbuie, Colorado 80603		5 Report number (For IRS Use Only) <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
6 Name and title of officer or other employee of issuer or designated contact person whom the IRS may call for more information Denise Rademacher, Finance Director		7 Telephone number of officer or legal representative 303-990-5775

<b>Part II Description of Obligations</b> Check one: a single issue <input checked="" type="checkbox"/> or a consolidated return <input type="checkbox"/>	
8a Issue price of obligation(s) (see instructions)	8a
b Issue date (single issue) or calendar date (consolidated). Enter date in mm/dd/yyyy format (for example, 01/01/2009) (see instructions) ▶ 08/11/2021	
9 Amount of the reported obligation(s) on line 8a that is:	
a For leases for vehicles	9a 53,327 00
b For leases for office equipment	9b
c For leases for real property	9c
d For leases for other (see instructions)	9d
e For bank loans for vehicles	9e
f For bank loans for office equipment	9f
g For bank loans for real property	9g
h For bank loans for other (see instructions)	9h
i Used to refund prior issue(s)	9i
j Representing a loan from the proceeds of another tax-exempt obligation (for example, bond bank)	9j
k Other	9k
10 If the issuer has designated any issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check this box ▶ <input checked="" type="checkbox"/>	
11 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check this box (see instructions) ▶ <input type="checkbox"/>	
12 Vendor's or bank's name: Clayton Holdings, LLC	
13 Vendor's or bank's employer identification number: 0 3   0 4 7 9 1 3 4	

**Signature and Consent**  
 Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person(s) that I have authorized above.

 6-1-21  
 Signature of issuer's authorized representative Date

Brian McBroom, Town Administrator  
 Type or print name and title

<b>Paid Preparer Use Only</b>	Print/Type preparer's name Thomas Hotard	Preparer's signature	Date	Check <input checked="" type="checkbox"/> if self-employed	PTIN P01980904
	Firm's name ▶ Thomas Hotard	Firm's EIN ▶		Phone no. (314) 746-3876	
	Firm's address ▶ 8000 Forsyth Blvd, Suite 510, St. Louis, MO 63105				

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**What's New**

The IRS has created a page on IRS.gov for information about the Form 8038 series and its instructions, at [www.irs.gov/form8038](http://www.irs.gov/form8038). Information about any future developments affecting the Form 8038 series (such as legislation enacted after we release it) will be posted on that page.

**Purpose of Form**

Form 8038-GC is used by the issuers of tax-exempt governmental obligations to provide the IRS with the information required by section 149(e) and to monitor the requirements of sections 141 through 150.

**Who Must File**

Issuers of tax-exempt governmental obligations with issue prices of less than \$100,000 must file Form 8038-GC.

Issuers of a tax-exempt governmental obligation with an issue price of \$100,000 or more must file Form 8038-G, Information Return for Tax-Exempt Governmental Obligations.

**Filing a separate return for a single issue.** Issuers have the option to file a separate Form 8038-GC for any tax-exempt governmental obligation with an issue price of less than \$100,000.

An issuer of a tax-exempt bond used to finance construction expenditures must file a separate Form 8038-GC for each issue to give notice to the IRS that an election was made to

pay a penalty in lieu of arbitrage rebate (see the line 11 instructions).

**Filing a consolidated return for multiple issues.** For all tax-exempt governmental obligations with issue prices of less than \$100,000 that are not reported on a separate Form 8038-GC, an issuer must file a consolidated information return including all such issues issued within the calendar year.

Thus, an issuer may file a separate Form 8038-GC for each of a number of small issues and report the remainder of small issues issued during the calendar year on one consolidated Form 8038-GC. However, if the issue is a construction issue, a separate Form 8038-GC must be filed to give the IRS notice of the election to pay a penalty in lieu of arbitrage rebate.