

CITY AND COUNTY OF DENVER, COLORADO
for and on behalf of its Department of Aviation
AIRPORT SYSTEM REVENUE REFUNDING BONDS
SERIES 2001A

ESCROW AGREEMENT

DATED as of October ___, 2011, made by and between the CITY AND COUNTY OF DENVER, COLORADO, for and on behalf of its Department of Aviation, party of the first part, and ZIONS FIRST NATIONAL BANK, having and exercising full and complete trust powers, duly organized and existing under the laws of the United States of America, being a member of the Federal Deposit Insurance Corporation and the Federal Reserve System and having an office and a principal place of business in Denver, Colorado, party of the second part.

(1) **WHEREAS**, the City and County of Denver (the “City”), in the State of Colorado (the “State”), is a municipal corporation duly organized and existing as a home rule city under Article XX, State Constitution and under the Charter of the City (the “Charter”), and is a political subdivision of the State; and

(2) **WHEREAS**, subject to certain exceptions, all legislative powers possessed by the City, conferred by Article XX, State Constitution or contained in the Charter, as either has from time to time been amended, or otherwise existing by operation of law, are vested in the City Council (the “Council”); and

(3) **WHEREAS**, pursuant to the Charter and its plenary grant of powers as a home-rule City, the City, by Ordinance No. 755, Series of 1993 (the “Enterprise Ordinance”), has designated the Department of Aviation (the “Department”) as an enterprise within the meaning of Section 20, Article X, State Constitution; and

(4) **WHEREAS**, the Enterprise Ordinance provides that the City owns the Department; the Manager of the Department (the “Manager”) is the governing body of the Department; and the Department has the authority to issue its own bonds or other financial obligations in the name of the City, payable solely from revenues derived or to be derived from the functions, services, benefits or facilities of the Department or from any other available funds, as authorized by ordinance after approval and authorization by the Manager; and

(5) **WHEREAS**, the bonds designated as the “City and County of Denver, Colorado, for and on behalf of its Department of Aviation, Airport System Revenue Refunding Bonds, Series 2001A” (the “Series 2001A Bonds”), as authorized by Ordinance No. 539, Series of 2001 (the “Series 2001A Airport System Supplemental Bond Ordinance”), were issued in the original aggregate principal amount of \$395,635,000 for the purposes of defraying a portion of the cost of refunding certain outstanding Airport System Revenue Bonds and other obligations; and

(6) **WHEREAS**, as contemplated by the Enterprise Ordinance, the Manager has executed a resolution approving, authorizing and requesting the issuance by the City of the issue designated as the “City and County of Denver, Colorado, for and on behalf of its Department of Aviation, Airport System Revenue Bonds, Series 2011B” (the “Series 2011B Bonds” or the “Bonds”), as authorized by Ordinance No. 626, Series of 1984, cited as the “1984 Airport System General Bond Ordinance” as heretofore supplemented and amended and as further amended by Ordinance No. ____, Series of 2011 (the “Series 2011B Supplemental Bond Ordinance” and collectively the “Ordinance”); for the purpose of, among other things, defraying a portion of the cost of refunding those outstanding Series 2001A Bonds as are more specifically identified in Exhibit 1 hereto (the “Refunded Bonds”); and

(7) **WHEREAS**, the Council has determined heretofore that it is in the best interest of the City, for and on behalf of the Department, to issue the Bonds; and

(8) **WHEREAS**, a proposed bond purchase agreement (the “2011B Purchase Contract” or the “Purchase Contract”) has been submitted to the City by the underwriters identified in the Ordinance (the “Series 2011B Underwriters” or the “Underwriters”), providing for the purchase of the Series 2011B Bonds, as such term is defined in the Ordinance; and

(9) **WHEREAS**, the Bonds are to be sold to the Underwriters subject to the approving opinions of the City’s bond counsel, Hogan Lovells US LLP, Denver, Colorado and Bookhardt & O’Toole, Denver, Colorado (“Bond Counsel”); and

(10) **WHEREAS**, the Council by the Ordinance, among other matters:

A. Formally authorized the execution and delivery of the Purchase Contract;

B. Created the Escrow Account (as defined below), to be maintained by Zions First National Bank (the “Escrow Bank”);

C. Provided for the deposit in the Escrow Account of a portion of the proceeds of the Bonds, and other Airport System funds, if any;

D. Authorized the execution and delivery of this Series 2001A Escrow Agreement (this “Escrow Agreement”); and

(11) **WHEREAS**, copies of the Ordinance have been delivered to the Escrow Bank and the provisions set forth therein are herein incorporated by reference as if set forth herein verbatim in full; and

(12) **WHEREAS**, the Securities described in Exhibit 3 hereto (the “Initial Securities”) have appropriate maturities and yields to ensure the payment, together with the initial cash (as described below), of the principal, interest and premium in respect of the Refunded Bonds (the “Refunded Debt Service Requirements”), as set forth in Exhibit 2 hereto; and

(13) **WHEREAS**, a schedule of the Initial Securities and a schedule of required disbursements in a [certificate from Jefferies & Company, Inc.] attached as Exhibit 4 hereto and dated October ___, 2011, relating to the Refunded Bonds demonstrate the sufficiency of the Initial Securities for the payment of the Refunded Debt Service Requirements, as the same become due; and

(14) **WHEREAS**, the Escrow Bank represents that it is empowered to undertake the obligations and commitments on its part herein set forth; and

(15) **WHEREAS**, the undersigned officer of the Escrow Bank is duly authorized to execute and deliver this Escrow Agreement in the Escrow Bank's name and on its behalf; and

(16) **WHEREAS**, the City, for and on behalf of its Department of Aviation, is empowered to undertake the obligations and commitments on its part herein set forth; and

(17) **WHEREAS**, the undersigned officers of the City are duly authorized to execute and deliver this Escrow Agreement, for and on behalf of its Department.

NOW, THEREFORE, THIS ESCROW AGREEMENT WITNESSETH:

That in consideration of the mutual agreements herein contained, in consideration of the fee described in Section 9 of this Escrow Agreement duly paid by the City, for and on behalf of its Department, to the Escrow Bank at or before the ensembling and delivery of these presents, the receipt of which is hereby acknowledged, and in order to secure the payment of the Refunded Debt Service Requirements, as the same become due, the parties hereto mutually undertake, promise and agree for themselves, their respective representatives, successors, and assigns, as follows:

Section 1. Creation of Escrow.

A. Simultaneously with the delivery of the Bonds and subject to their issuance, the City, for and on behalf of its Department of Aviation, with \$_____ of proceeds of the Bonds [together with other available Airport System funds in the amount of \$_____ transferred from the Bond Fund and the Bond Reserve Fund,] shall purchase the Initial Securities, if any, and shall cause such Initial Securities to be credited to the trust account designated as the City and County of Denver, Colorado, for and on behalf of its Department of Aviation, Airport System Revenue Refunding Bonds, Series 2001A Escrow Account (the "Series 2001A Bonds Escrow Account" or the "Escrow Account"), created with the Escrow Bank pursuant to the Ordinance. [An amount equal to the initial cash balance of \$_____ shall remain uninvested.]

B. Other securities (together with the Initial Securities, the "Securities") which comply with Section 4 hereof may be substituted for any Initial Securities if such Initial Securities are unavailable for purchase at the time of issuance of the Bonds if such substitution is required or permitted by the Tax Code and the applicable regulations thereunder, subject in any case to sufficiency demonstrations and yield proofs in a certified public accountant's report, and subject to favorable opinions of Bond Counsel as to the legality of any such substitution, and its

effect, if any, on the status for federal income tax purposes of interest on the Bonds, and in any event in such a manner so as not to increase the price which the City pays for the initial acquisition of Securities for the Escrow Account. Similarly, any temporary advancement of moneys to the Escrow Account to pay designated Refunded Debt Service Requirements, because of a failure to receive promptly the principal of and interest on any Securities at their respective fixed maturity dates, or otherwise, may be repaid to the person advancing such moneys upon the receipt by the Escrow Bank of such principal and interest payments on such Securities and the written direction of the City. Nothing herein shall be construed to require the advancement of moneys by the Escrow Bank. Any Securities withdrawn from the Escrow Account as provided in this paragraph shall be returned to the City's Manager of Finance, Chief Financial Officer, *ex officio* Treasurer (the "Treasurer").

C. The initial cash, the proceeds of the Initial Securities (and of any other Securities acquired as an investment or reinvestment of moneys accounted for in the Escrow Account), and any such Securities themselves (other than Securities, including the Initial Securities, held in book-entry form), shall be deposited with the Escrow Bank and credited to and accounted for in the Escrow Account. The Securities and moneys accounted for therein shall be redeemed and paid out and otherwise administered by the Escrow Bank for the benefit of the registered owners of the Refunded Bonds and of the City as provided in this Escrow Agreement and the Ordinance.

Section 2. Purpose of Escrow.

A. The Escrow Bank shall hold the initial cash, all Securities accounted for in the Escrow Account (provided that certain of such Securities, including the Initial Securities, may be held in book-entry form), and all moneys received from time to time as interest on and principal of such Securities, subject to any reinvestment as provided in Section 5 hereof, in trust to secure and for the payment of the Refunded Debt Service Requirements, as set forth in Exhibit 2 to this Escrow Agreement, as the same become due at the respective payment, maturity or redemption dates set forth therein.

B. Except as provided in Subsection B of Section 1 hereof, the Escrow Bank shall collect the principal of and interest on the Securities promptly as such principal and interest become due and, subject to any reinvestment as provided in Section 5 hereof, shall apply all money so collected to the payment of the Refunded Debt Service Requirements, as aforesaid.

Section 3. Accounting for Escrow.

A. The moneys and Securities accounted for in the Escrow Account shall not be subject to checks drawn by the City or otherwise subject to its order except as otherwise provided in Subsection B of Section 1 hereof.

B. The Escrow Bank, however, shall disburse as provided herein from the Escrow Account, solely from funds available in the Escrow Account, to the Treasurer as paying agent (the "Paying Agent") for the Refunded Bonds sufficient moneys to permit the payment, without default, of the Refunded Debt Service Requirements, as the same become due, as provided herein.

C. Except as otherwise provided in Subsection B of Section 1 hereof, there shall be no sale of any Securities held hereunder, and no Securities held hereunder and callable for prior redemption at the option of the City shall be called at any time for prior redemption, except if necessary to avoid a default in the payment of the Refunded Debt Service Requirements. In such case, the Escrow Bank shall not be liable for any loss due to any sale or prior redemption of any Securities.

Section 4. Maturities of Securities.

A. Any Securities shall be purchased in such manner:

(1) So that such Securities may be redeemed at their respective maturities to meet such Refunded Debt Service Requirements, as the same become due, and

(2) So that any sale or prior redemption of such Securities shall be unnecessary.

Section 5. Reinvestments.

A. The Escrow Bank, at the written direction of the Treasurer, shall reinvest in Securities any moneys (except the initial cash) received in payment of the principal of and interest on any Securities accounted for in the Escrow Account, subject to the limitations of Section 1, Section 4 and Section 6 hereof and the following limitations:

(1) Any such Securities shall not be subject to redemption prior to their respective maturities at the option of the issuer thereof.

(2) Any such Securities shall mature on or prior to the date or dates when the proceeds thereof must be available for the prompt payment of the Refunded Debt Service Requirements, as the same become due.

(3) Under no circumstances shall any reinvestment be made under this Subsection A if such reinvestment, alone or in combination with any other investment or reinvestment, violates the applicable provisions of the Internal Revenue Code of 1986, as amended (the "Tax Code"), and the applicable rules and regulations thereunder.

(4) The Escrow Bank shall make no such reinvestment under this Subsection A unless the City first obtains and furnishes to the Escrow Bank (a) written opinions of Bond Counsel, to the effect that such reinvestment, as described in the opinions, complies with subparagraph (3) of this Subsection A, and (b) [a certificate of Jefferies & Company, Inc.] demonstrating that after such reinvestment the moneys and Securities accounted for in the Escrow Account comply with Section 6 hereof.

B. Except as provided in this Section 5, the Escrow Bank shall have no obligation by virtue of this Escrow Agreement, general trust law, or otherwise to make any reinvestment of any moneys in the Escrow Account at any time.

Section 6. Transfers for Refunded Debt Service Requirements. As provided in Section 3B hereof, the Escrow Bank shall make such arrangements as will assure, to the extent of money in the Escrow Account properly allocable to and available therefor, the timely payment of the Refunded Debt Service Requirements.

Section 7. Termination of Escrow Account. When payment or provision for payment shall have been made so that all Refunded Debt Service Requirements shall be or shall have been paid in full and discharged, the Escrow Bank shall immediately transfer the moneys, if any, then remaining in the Escrow Account as directed by the Treasurer, and the Escrow Bank shall make forthwith a final report to the Treasurer and shall terminate the Escrow Account.

Section 8. Defeasance and Redemption. As contemplated by the Series 2011B Refunding Project authorized by the Ordinance, the Refunded Bonds are to be redeemed on November 15, 2011, as set forth in Exhibit 2 hereto. After the issuance of the Bonds, the Treasurer shall give notice that the Refunded Bonds have been called for prior redemption on October ___, 2011, as provided by the Ordinance and this Escrow Agreement.

Section 9. Fees and Costs.

A. The Escrow Bank's total fees and costs for and in carrying out the provisions of this Escrow Agreement have been approved by the parties hereto, which amount is to be billable at closing and treated as payment in full of all charges of the Escrow Bank relating to this Escrow Agreement for services performed hereunder (except as such services relate to any reinvestment directed by the Treasurer pursuant to Section 5A and to any amendment pursuant to Section 14B hereof).

B. Such payment for services rendered and to be rendered by the Escrow Bank shall not be for deposit in the Escrow Account, and the fees of and costs incurred by the Escrow Bank (including any fees and costs relating to any reinvestment directed by the Treasurer pursuant to Section 5A hereof) shall not be deducted from the Escrow Account.

Section 10. Possible Deficiencies.

A. If at any time it shall appear to the Escrow Bank that the moneys and any interest on or principal of the Securities in escrow allocable for such use under this Escrow Agreement will not be sufficient to make any required payment of the Refunded Debt Service Requirements as the same becomes due, the Escrow Bank shall notify the Treasurer in writing as soon as reasonably practicable of such fact and the amount of such deficiency.

B. Thereupon the City shall forthwith deposit with the Escrow Bank for deposit in the Escrow Account, from legally available Airport System funds, such additional moneys as may be required.

Section 11. Character of Deposit.

A. It is recognized that title to the Securities and moneys accounted for in the Escrow Account from time to time shall remain vested in the City but subject always to the prior charge

and lien thereon of this Escrow Agreement and the use thereof required to be made by the provisions of this Escrow Agreement and the Ordinance.

B. The Escrow Bank shall hold all such Securities (except as they may be held in book-entry form) and money in the Escrow Account as a special trust fund and account separate and wholly segregated from all other securities and funds of the Escrow Bank, or deposits therein and shall never commingle such Securities or money with other securities or money.

Section 12. Securing Deposit.

A. The Escrow Bank may cause the Securities accounted for in the Escrow Account (except as they may be held in book-entry form) to be registered in the name of the City for payment, if they are registrable for payment, and in such event shall obtain the necessary endorsements from the duly authorized official of the City as the Securities become due.

B. The City, in connection with any Securities accounted for in the Escrow Account and held in book-entry form, shall cooperate with the Escrow Bank and shall forthwith make arrangements with an appropriate representative of the issuer of such Securities, so that the interest on and the principal of the Securities shall be promptly transmitted, as the same become due from time to time, to the Escrow Bank for the benefit of the City.

C. All uninvested money held at any time in the Escrow Account shall be continuously secured by a pledge of Federal Securities or of such securities as are permitted by Section 9.10 of Title 12 of the Code of Federal Regulations.

D. Any Securities (except as they may be held in book-entry form) and any uninvested moneys accounted for in the Escrow Account may from time to time be placed by the Escrow Bank for safekeeping wholly or in part in any such trust bank, only if prior to such transfer the City consents thereto in writing.

E. Such Securities so held as a pledge shall be used whenever necessary to enable the Paying Agent for the Refunded Bonds to pay the Refunded Debt Service Requirements, as the same become due, to the extent other moneys are not transferred or caused to be transferred for such purpose by the Escrow Bank.

F. Each such trust bank holding any Securities accounted for in the Escrow Account or any uninvested moneys accounted for therein, shall be furnished by the Escrow Bank with a copy of this Escrow Agreement prior to such deposit.

G. By the acceptance of such Securities or such uninvested moneys each such trust bank shall be bound in the same manner as the Escrow Bank, as herein provided.

H. The Escrow Bank, however, shall remain solely responsible to the City:

(1) For any investment or reinvestments of moneys pursuant to Section 1 and Section 5 hereof,

(2) For transfers of moneys pursuant to Section 6 hereof,

(3) For the termination of the Escrow Account pursuant to Section 7 hereof,

(4) For any notification of possible deficiencies pursuant to Section 10 hereof,

(5) For defraying any charges of any branch of the Federal Reserve Bank or any trust bank for any deposits of Securities pledged to secure uninvested moneys, of Securities in escrow and of uninvested moneys in escrow (or in any combination thereof) or for any other services relating to this Escrow Agreement or the Escrow Account.

I. Subject to the continuing responsibilities of the Escrow Bank as stated in paragraph H of this Section, the Escrow Bank may cause any one, all, or any combination of the duties stated in paragraph H to be performed on its behalf by any trust bank. If the Escrow Bank wishes to transfer any of its duties to be performed to another trust bank, the Escrow Bank shall notify the Treasurer prior to any transfer of such duties.

J. If at any time the Escrow Bank fails to account for any moneys or Securities held by it or by any such trust bank failing to account therefore shall be impressed with a trust for the amount thereof, and the City shall be entitled to a preferred claim upon such assets.

K. If for any reason such moneys or Securities cannot be identified, all other assets of the Escrow Bank and of each such trust bank failing to account therefore shall be impressed with a trust for the amount thereof, and the City shall be entitled to a preferred claim upon such assets.

L. No money paid into and accounted for in the Escrow Account shall ever be considered as a banking deposit, and neither the Escrow Bank nor any such trust bank shall have any right or title with respect thereto.

Section 13. Purchaser's Responsibility. The purchasers and registered owners from time to time of the Bonds shall in no manner be responsible for the application or disposition of the proceeds thereof or any moneys or Securities accounted for in the Escrow Account.

Section 14. Amendment.

A. The Bonds shall be issued in reliance upon this Escrow Agreement, and, except as herein provided, this Escrow Agreement shall be irrevocable and not subject to amendment after any of the Bonds shall have been issued.

B. The City and the Escrow Bank may agree upon any amendment to this Escrow Agreement which is necessary to correct any formal (as opposed to substantive) defect, omission, ambiguity or inconsistent provision herein and which does not adversely affect the interest of the registered owners of the Bonds or the registered owners of the Refunded Bonds. If the City or the Escrow Bank shall find that by reason of some error or omission or otherwise in the provisions hereof a substantive amendment is desirable in order to give effect to the true intention and purpose of this Escrow Agreement, one or more amendments may be proposed by the Escrow Bank or the City, respectively, in a court of competent jurisdiction requesting the consideration and approval of such amendment, provided that no such amendment may be prejudicial to or otherwise adversely affect the rights of the holders or registered owners of the

Bonds or the Refunded Bonds. The City shall pay all reasonable costs of the Escrow Bank, including attorneys' fees, in connection with any such proceeding proposed by the City.

C. When a court has jurisdiction over the parties to such action by proper service of process or otherwise, written notice of the pendency of such action shall be given to holders and registered owners of the Refunded Bonds and holders and registered owners of the Bonds by first-class, as well as such other manner (if any) as may be required by court rule or statute of the jurisdiction.

D. Within a period of 30 days following the completion of such publication any holder or registered owner of any Bonds or any holder or registered owner of any Refunded Bond may intervene in such action and ask to be heard.

E. When the court shall have heard all such persons wishing to be heard and shall have considered the evidence and the facts, if it shall enter a judgment finding that the proposed amendment or amendments may legally be made and will effectuate the intention and purposes of this Escrow Agreement, and will not adversely affect the holders or registered owners of the Refunded Bonds, this Escrow Agreement may be so amended, and the amendment or amendments so made shall be effective, subject, however, to a favorable opinion of nationally recognized bond counsel experienced in matters relating to exemption of interest on municipal bonds as to the legality of such amendment or amendments and the effect thereof on the tax-exempt status of the Bonds and an acceptable sufficiency demonstration in a certified public accountant's report.

Section 15. Exculpatory Provisions.

A. The duties and responsibilities of the Escrow Bank are limited to those expressly and specifically stated in this Escrow Agreement.

B. The Escrow Bank shall not be liable or responsible for any loss resulting from any investment or reinvestment made pursuant to this Escrow Agreement and made in compliance with the provisions thereof.

C. The Escrow Bank shall not be personally liable or responsible for any act that it may do or omit to do hereunder, while acting with reasonable care, except for duties expressly imposed upon the Escrow Bank hereunder or as otherwise expressly provided herein.

D. The Escrow Bank shall neither be under any obligation to inquire into or be in any way responsible for the performance or nonperformance by the City of any of its obligations, nor shall the Escrow Bank be responsible in any manner for the recitals or statements contained in this Escrow Agreement, in the Ordinance, in the Refunded Bonds, or in any proceedings taken in connection therewith, such recitals and statements being made solely by the City.

E. Nothing in this Escrow Agreement shall create any obligation or liabilities on the part of the Escrow Bank to anyone other than the City, the holders and registered owners of the Bonds and holders and registered owners of the Refunded Bonds.

Section 16. Time of Essence. Time is of the essence in the performance of the obligations from time to time imposed upon the Escrow Bank by this Escrow Agreement.

Section 17. Successors.

A. Whenever in this Escrow Agreement the City or the Escrow Bank is named or referred to, such provisions are deemed to include any successor of the City or the Escrow Bank, respectively, immediate or intermediate, whether so expressed or not.

B. All of the stipulations, obligations, and agreements by or on behalf of, and other provisions for the benefit of, the City or the Escrow Bank contained in this Escrow Agreement:

(1) Shall bind and inure to the benefit of any such successor, and

(2) Shall bind and inure to the benefit of any officer, board, authority, agent, or instrumentality to whom or to which there shall be transferred by or in accordance with law any relevant right, power, or duty of the City or the Escrow Bank, respectively, or of its successor.

Section 18. Counterparts. This Escrow Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Signature pages to follow]

IN WITNESS WHEREOF, the City, for and on behalf of its Department of Aviation, has caused this Escrow Agreement to be signed by the Mayor and the Clerk and Recorder of the City and with the seal of the City hereunto affixed; and the Escrow Bank has caused this Escrow Agreement to be signed in its corporate name by an authorized officer, all as of the day and year first above written.

CITY AND COUNTY OF DENVER, COLORADO

For and on behalf of its Department of Aviation

By: _____
Mayor

(SEAL)

ATTEST:

By: _____
Debra Johnson, Clerk and Recorder,
ex officio Clerk of the
City and County of Denver

REGISTERED AND COUNTERSIGNED:

By: _____
Auditor

APPROVED AS TO FORM:

By: _____
City Attorney

RECOMMENDED AND APPROVED:

By: _____
Manager of Finance, Chief Financial Officer,
ex officio Treasurer

ZIONS FIRST NATIONAL BANK, as Escrow Bank

By: _____
Authorized Officer

EXHIBIT 1

REFUNDED BONDS

Series 2001A \$ _____

EXHIBIT 2

REFUNDED DEBT SERVICE REQUIREMENTS

[Page Follows]

EXHIBIT 3

INITIAL CASH AND INITIAL SECURITIES

Initial Cash: \$_____

[Initial Securities on following page]

EXHIBIT 4

[CERTIFICATE OF JEFFERIES & COMPANY, INC.]