

§ _____
State of Colorado
Colorado Department of Transportation
Headquarters Facilities Lease Purchase Agreement
Certificates of Participation, Series 2016

KUTAK ROCK LLP
DRAFT 11/9/16

CONTINUING DISCLOSURE UNDERTAKING

This Continuing Disclosure Undertaking (this “Disclosure Undertaking”) is delivered by the State of Colorado, acting by and through the State Treasurer (the “State”), in connection with the execution and delivery of the captioned certificates of participation (the “Series 2016 Certificates”) evidencing assignments of proportionate interests in the right to receive certain payments payable under the annually renewable State of Colorado Colorado Department of Transportation Headquarters Facilities Lease Purchase Agreement, dated as of [Closing Date] (the “Lease”), entered by and between Zions Bank, a division of ZB, National Association, as Trustee under the State of Colorado Colorado Department of Transportation Headquarters Facilities Indenture of Trust, dated as of [Closing Date] (the “Indenture”), as lessor, and the State of Colorado, acting by and through the Colorado Department of Transportation, as lessee. The Series 2016 Certificates are being delivered pursuant to the Indenture and under authority granted by the laws of the State.

The State covenants and agrees as follows:

Section 1. Purpose of the Disclosure Undertaking. This Disclosure Undertaking is being executed and delivered by the State for the benefit of the Owners of the Series 2016 Certificates and in order to allow the Participating Underwriter (as defined by Rule 15c2-12) to comply with Rule 15c2-12.

Section 2. Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Undertaking unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Annual Financial Information” means the financial information or operating data with respect to the State, delivered at least annually pursuant to Section 3 hereof, of the type set forth in the Official Statement in “APPENDIX B – SELECTED STATE AND CDOT FINANCIAL INFORMATION” and “APPENDIX F – STATE PENSION SYSTEM.”

“Audited Financial Statements” means the annual financial statements for the State, prepared in accordance with generally accepted accounting principles as applicable to governmental entities as in effect from time to time, audited by the State Auditor.

“Events” means any of the events listed in Section 4(a) of this Disclosure Undertaking.

“MSRB” means the Municipal Securities Rulemaking Board. The address of the MSRB as of the date hereof is 1900 Duke Street, Suite 600, Alexandria, Virginia 22314; fax 703-683-1930. As of the date hereof, the MSRB’s required method of filing is electronically via its Electronic Municipal Market Access (EMMA) system, with a portal at <http://emma.msrb.org>.

“Official Statement” means the final Official Statement delivered in connection with the original offering and sale of the Series 2016 Certificates.

“Owner of the Series 2016 Certificates” means the registered owner of the Series 2016 Certificates, and so long as the Series 2016 Certificates are subject to the book entry system, any Beneficial Owner as such term is defined in the Indenture.

“Rule 15c2-12” shall mean Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

Section 3. Provision of Annual Information.

(a) Commencing with the Fiscal Year ended June 30, 2016, and annually while the Series 2016 Certificates remain outstanding, the State shall provide to the MSRB the Annual Financial Information and Audited Financial Statements.

(b) Such Annual Financial Information shall be provided by the State not later than 270 days after the end of each Fiscal Year of the State. The Audited Financial Statements will be provided when available but in no event later than 270 days after the end of each Fiscal Year; provided, however, that in the event the Audited Financial Statements are not available within the time specified, such Audited Financial Statements will be provided as soon as they are available.

(c) The State may provide Annual financial Information and Audited Financial Statements by specific cross-reference to other documents which have been submitted to the MSRB or filed with the Securities and Exchange Commission. If the document so referenced is a final official statement within the meaning of Rule 15c2-12, such final official statement must also be available from the MSRB. The State shall clearly identify each such other document so incorporated by cross-reference.

Section 4. Reporting of Events.

(a) The State shall file or cause to be filed with the MSRB, in a timely manner not in excess of ten business days after the occurrence of the Event, notice of any of the Events listed below with respect to the Series 2016 Certificates:

1. Principal and interest payment delinquencies.
2. Non-payment related defaults, if material.
3. Unscheduled draws on debt service reserves reflecting financial difficulties.
4. Unscheduled draws on credit enhancement relating to the Series 2016 Certificates reflecting financial difficulties.
5. Substitution of credit or liquidity providers, or their failure to perform.
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Series 2016 Certificates, or other material events or events affecting the tax status of the Series 2016 Certificates.
7. Modifications to the rights of the security holders, if material.
8. Certificate calls (other than mandatory sinking fund redemption), if material, and tender offers.
9. Defeasances.
10. Release, substitution or sale of property securing repayment of the securities, if material.

11. Rating changes.
12. Bankruptcy, insolvency, receivership or similar event of the obligated person (as defined in Rule 15c2-12).
13. The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material.

(b) At any time when the Series 2016 Certificates are Outstanding and the State obtains knowledge of the occurrence of an Event, the State shall determine if any Event under paragraphs 2, 7, 8 (with respect to calls, but not tender offers), 10, 13 or 14 of subsection 4(a) would constitute material information for Owners of Certificates.

(c) At any time the Series 2016 Certificates are outstanding, the State shall provide, in a timely manner after the occurrence thereof, to the MSRB, notice of any failure of the State to timely provide the Annual Financial Information as specified in Section 3 hereof.

Section 5. Format; Identifying Information. All documents provided to the MSRB pursuant to this Disclosure Undertaking shall be in the format prescribed by the MSRB and accompanied by identifying information as prescribed by the MSRB.

As of the date of this Disclosure Undertaking, all documents submitted to the MSRB must be in portable document format (PDF) files configured to permit documents to be saved, viewed, printed and retransmitted by electronic means. In addition, such PDF files must be word-searchable, provided that diagrams, images and other non-textual elements are not required to be word-searchable.

Section 6. Term. This Disclosure Undertaking shall be in effect from and after the execution and delivery of the Series 2016 Certificates and shall extend to the earliest of: (a) the date all principal and interest on the Series 2016 Certificates shall have been deemed paid pursuant to the terms of the Indenture; (b) the date that the State shall no longer constitute an “obligated person” with respect to the Series 2016 Certificates within the meaning of Rule 15c2-12; and (c) the date on which those portions of Rule 15c2-12 which require this Disclosure Undertaking are determined to be invalid by a court of competent jurisdiction in a non-appealable action, have been repealed retroactively or otherwise do not apply to the Series 2016 Certificates, which determination shall be evidenced by an opinion of an attorney selected by the State, a copy of which opinion shall be given to the representative of the Participating Underwriter. The State shall file or cause to be filed a notice of any such termination with the MSRB.

Section 7. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Undertaking, the State may amend this Disclosure Undertaking, and any provision of this Disclosure Undertaking may be waived, if such amendment or waiver is required or permitted by Rule 15c2-12. Written notice of any such amendment or waiver shall be provided by the State to the MSRB, and the Annual Financial Information shall explain the reasons for the amendment and the impact of any change in the type of information being provided.

Section 8. Additional Information. Nothing in this Disclosure Undertaking shall be deemed to prevent the State from disseminating any other information, using the means of dissemination set forth in

this Disclosure Undertaking or any other means of communication, or including any other annual information or notice of occurrence of an event which is not an Event, in addition to that which is required by this Disclosure Undertaking; provided that the State shall not be required to do so. If the State chooses to include any annual information or notice of occurrence of an event in addition to that which is specifically required by this Disclosure Undertaking, the State shall have no obligation under this Disclosure Undertaking to update such information or include it in any future annual filing or notice of occurrence of an Event.

Section 9. Default and Enforcement. If the State fails to comply with any provision of this Disclosure Undertaking, any Owner of the Series 2016 Certificates may take action to seek specific performance by court order to compel the State to comply with its undertaking in this Disclosure Undertaking; provided that any Certificate Owner seeking to require the State to so comply shall first provide at least 30 days' prior written notice to the State Treasurer of the State's failure (giving reasonable details of such failure), following which notice the State shall have 30 days to comply and, provided further, that only the Owners of no less than a majority in aggregate principal amount of the Series 2016 Certificates may take action to seek specific performance in connection with a challenge to the adequacy of the information provided by the State in accordance with this Disclosure Undertaking, after notice and opportunity to comply as provided herein, and such action shall be taken only in a court of jurisdiction in the State. A DEFAULT UNDER THIS DISCLOSURE UNDERTAKING SHALL NOT BE DEEMED AN EVENT OF DEFAULT UNDER THE LEASE, THE INDENTURE OR THE SERIES 2016 CERTIFICATES, AND THE SOLE REMEDY UNDER THIS DISCLOSURE UNDERTAKING IN THE EVENT OF ANY FAILURE OF THE STATE TO COMPLY WITH THIS DISCLOSURE UNDERTAKING SHALL BE AN ACTION TO COMPEL PERFORMANCE.

Section 10. Beneficiaries. The Disclosure Undertaking shall inure solely to the benefit of the State, the Participating Underwriter and Owners from time to time of the Series 2016 Certificates, and shall create no rights in any other person or entity

Date: [Closing Date]

**STATE OF COLORADO,
acting by and through the State Treasurer**

By: _____
Jonathan Forbes, Deputy State Treasurer