PLACEMENT AGENT AGREEMENT

This Placement Agent Agreement, dated as of November 17, 2020 (this “Agreement”), is entered into by and between the Colorado Springs Urban Renewal Authority (the “Authority”), a body corporate and politic duly existing under the laws of the State of Colorado, and D.A. Davidson & Co., a Montana corporation (the “Agent”).

**RECITALS**

**WHEREAS**, the Authority is a body corporate and politic and has been duly created, organized, established and authorized by the City of Colorado Springs, Colorado (the “City”), to transact business and exercise its powers as an urban renewal authority, all under and pursuant to the Colorado Urban Renewal Law, constituting Sections 31-25-101 et seq., Colorado Revised Statutes, as amended (the “Act”); and

**WHEREAS**, an urban renewal plan, known as the North Nevada Avenue Corridor Urban Renewal Plan, as amended from time to time (the “Urban Renewal Plan”), has been duly and regularly approved by the City Council of the City for urban renewal projects under the Act located in the area included in the Urban Renewal Plan (the “Urban Renewal Area”); and

**WHEREAS**, in order to provide funds to finance certain public improvements within the Urban Renewal Area, the Authority issued $47,125,000 in aggregate principal amount of its “Colorado Springs Urban Renewal Authority Tax Increment Revenue Bonds (University Village Colorado Project), Series 2008A Senior,” and $7,505,000 in aggregate principal amount of its “Colorado Springs Urban Renewal Authority Tax Increment Revenue Bonds (University Village Colorado Project), Series 2008B Subordinate (Convertible to Senior)” (collectively, the “2008 Bonds”); and

**WHEREAS**, in order to provide funds to refinance all of the then-outstanding 2008 Bonds, the Authority: (a) entered into a 2016 Senior Loan Agreement dated as of August 24, 2016, with U.S. Bank National Association, as lender (in such capacity, the “Bank”), pursuant to which the Bank made a senior tax increment revenue term loan (the “2016 Senior Loan” and, together with the below-defined Refunded Junior Lien Obligations, the “Refunded Obligations”) in the principal amount of $56,000,000; and (b) issued the “Colorado Springs Urban Renewal Authority Subordinate Tax Increment Revenue Bonds (University Village Colorado Project Refunding), Series 2016,” in the principal amount of $5,879,000 (the “2016 Subordinate Bonds”), pursuant to a Subordinate Indenture of Trust dated as of August 24, 2016, between the Authority and UMB Bank, n.a., as trustee for the 2016 Subordinate Bonds (the “2016 Subordinate Indenture”); and

**WHEREAS**, in order to provide a hedge against interest rate risk with respect to the 2016 Senior Loan, the Authority entered into an interest rate swap transaction (the “2016 Senior Swap”) pursuant to an ISDA Master Agreement, including the Schedule thereto, and a Confirmation with respect thereto, each dated as of August 24, 2016 (collectively, the “2016 Senior Swap Agreement”) with U.S. Bank National Association; and

**WHEREAS**, in connection with the refunding of the 2008 Bonds, the Authority entered into: (a) a First Amendment dated August 24, 2016, amending the Advanced Funds Note dated February 1, 2008 (as so amended, the “Developer Junior Lien Note”), made by the Authority to University Village Developers, LLC; (b) a Second Loan Agreement Amendment dated as of August 24, 2016, amending the Loan Agreement dated as of March 20, 2008, between the University of Colorado, as lender, and the Authority, as borrower, as previously amended by the Loan Agreement Amendment dated as of November 10, 2015 (as so amended, the “UCCS Junior Lien Loan Agreement” and, collectively with the Developer Junior Lien Note, the “Refunded Junior Lien Obligations”); and (c) an Acknowledgement and Agreement dated as of August 24, 2016, regarding the Memorandum of Understanding dated January 15, 2009, between the Authority and the City (as so modified, the “City Junior Lien MOU”); and

**WHEREAS**, the 2016 Subordinate Bonds have been defeased pursuant to Section 7.01(b)(i) of the 2016 Subordinate Indenture by the deposit to the Subordinate Bond Fund held pursuant to the 2016 Subordinate Indenture of sufficient Subordinate Pledged Revenue (as defined in the 2016 Subordinate Indenture) to defease the 2016 Subordinate Bonds, and the same will be redeemed on December 15, 2020; and

**WHEREAS**, with the assistance of the Agent, the Authority solicited bids from prospective lenders to provide financing for the purpose of refunding the Refunded Obligations and funding the termination of the 2016 Senior Swap Agreement (collectively, the “Refunding Project”); and

**WHEREAS**, upon the refunding of the 2016 Senior Loan, the amounts held in the funds and accounts maintained under the Custodial Agreement relating to the 2016 Senior Loan Agreement dated as of August 24, 2016 will be released, with a portion thereof applied to the payment in full of the amount due to the City under the City Junior Lien MOU and the remainder contributed to the refunding of the Refunded Obligations; and

**WHEREAS**, the Authority has determined to accomplish the Refunding Project by entering into a Loan Agreement (the “2020 Loan Agreement”) with U.S. Bank National Association (the “Lender”), which will make a loan to the Authority for the purposes of accomplishing the Refunding Project (the “2020 Loan”); and

**WHEREAS**, the Agent has performed and is continuing to perform certain agreed-upon services as agent of the Authority in connection with the placement and structuring of the 2020 Loan, and the parties desire to enter into this Agreement to acknowledge and confirm such duties and services, to acknowledge certain disclosures contained herein which are required by law, and to confirm the amount of the fee to which the Agent is entitled as compensation for serving as placement agent; and

**WHEREAS**, this Agreement is intended to be entered into in accordance with Municipal Securities Rulemaking Board (“MSRB”) Rule G-23 to the extent such rule is applicable to this transaction; and

**WHEREAS**, the Agent is also providing a separate disclosure letter (the “Disclosure Letter”) to the Authority containing certain disclosures required to comply with MSRB Rule G-17; and

**NOW, THEREFORE**, for and in consideration of the covenants made herein, the parties hereto hereby agree as follows:

# **Appointment of Agent as Placement Agent; Scope of Services.** The Authority hereby confirms the appointment of the Agent as placement agent, and the Agent hereby accepts such appointment and agrees to serve as placement agent in connection with the 2020 Loan. The parties hereby agree that the Agent’s services as placement agent have been and shall be limited to:

# assisting the Authority in negotiating the terms of the 2020 Loan with the Lender;

# on behalf of the Authority, discussing with the Lender any financial and other information about the Authority that is or was provided by the Authority; and

# providing such certificates as to factual matters as may be reasonably requested by bond counsel to the Authority.

# The Authority hereby acknowledges that since the time the Authority requested that the Agent provide assistance in connection with the 2020 Loan, the services provided by the Agent to the Authority have been consistent with the scope of services set forth in this Section 1. This engagement pertains only to the making of the 2020 Loan, and not to any other bonds, notes, loans, or other obligations which may be issued by the Authority, and any obligations issued concurrently with the 2020 Loan. The Authority acknowledges that it has made the determination, and also been informed by the Lender, that no disclosure document is necessary or desired in connection with the 2020 Loan and, therefore, the Agent’s duties shall not include assisting the Authority in the preparation of such disclosure document or any other disclosure package for use by the Lender in making its decision to enter into the 2020 Loan Agreement.

# **MSRB Rule G-23.** By signing this Agreement, the Authority acknowledges and agrees that:

# the transaction contemplated by this Agreement will be an arm’s length, commercial transaction between the Authority and the Agent, in which the Agent’s primary role will be to arrange for the placement of the 2020 Loan.

# the Agent has not assumed any fiduciary responsibility and as such is not acting as a financial advisor or municipal advisor to the Authority with respect to the 2020 Loan, the transaction contemplated hereby, or the discussions, undertakings, and procedures leading thereto;

1. the Agent has financial and other interests that differ from those of the Authority;

# **Additional Disclosures Regarding the Placement Agent’s Role.**

# (a) The only obligations the Agent will have to the Authority with respect to the 2020 Loan and the transactions contemplated hereby are expressly set forth in this Agreement.

# (b) The Authority has consulted and will continue to consult with its own legal, accounting, tax, financial, and other advisors, as applicable, to the extent it deems appropriate.

# **MSRB Rule G-17.** Disclosures regarding the Agent’s role will be set forth in the Disclosure Letter.

# **Placement Agent Fee.** The parties acknowledge and agree that the Agent shall be entitled to the payment by the Authority of a fee for performing the services of placement agent in connection with the placement of the 2020 Loan, calculated as follows: the Agent’s fee for acting as placement agent in connection with the 2020 Loan shall be an amount equal to one and one-half percent (1.5%) of the original principal amount of the 2020 Loan. The Agent’s fee is contingent on the making of the 2020 Loan, and shall be payable on the date of execution and delivery of the 2020 Loan Agreement. The Authority hereby acknowledges the existence of a conflict of interest arising from the Agent’s form of compensation as described in this Section and that the Authority has been given the opportunity to raise questions and discuss the foregoing with the Agent.

# **Term and Termination.** This Agreement shall become effective upon the execution and delivery hereof by the Agent and the Authority, and shall continue in full force and effect to and including the date of execution and delivery of the 2020 Loan Agreement.

# **Entire Agreement.** It is hereby agreed that this Agreement constitutes the only agreement between the Agent and the Authority pertaining to the placement of the 2020 Loan, and shall supersede and replace any previous engagement letters or agreement(s) between the Authority and the Agent pertaining to such matter. The only obligations the Agent will have to the Authority with respect to the placement of the 2020 Loan are expressly set forth in this Agreement. There are no other prior or contemporaneous oral or written agreements that are not set out in this Agreement. Each party acknowledges and represents that it is not relying on any oral or written promises or representations made by any other party or such party’s representative that are not set forth in this Agreement.

# **Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. The obligations of the respective parties hereto may not be assigned or delegated to any other person without the consent of the other party hereto.

# **Authority Acknowledgement.** The undersigned official of the Authority has the authority to bind the Authority by contract, and is not a party to any conflict with the Agent.

# **Severability.** If any section, paragraph, clause, or provision of this Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Agreement, the intent being that the same are severable.

# **Counterparts.** This 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.

# **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

**IN WITNESS WHEREOF**, the parties hereto have caused this Placement Agent Agreement to be duly executed as of the day and year first above written.

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|  | **D.A. DAVIDSON & CO.**By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |