

COLORADO SPRINGS URBAN RENEWAL AUTHORITY
RESOLUTION NO. 01-22

TITLE: A RESOLUTION OF THE COLORADO SPRINGS URBAN RENEWAL AUTHORITY APPROVING THE THIRD AMENDED WAIVER AND RELEASE AGREEMENT BETWEEN THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO ECONOMIC DEVELOPMENT COMMISSION, THE CITY OF COLORADO SPRINGS AND THE COLORADO SPRINGS URBAN RENEWAL AUTHORITY

WHEREAS, by application dated November 25, 2013, the City of Colorado Springs, Colorado (the "City") sought a state sales tax increment revenue award under the Colorado Regional Tourism Act, §§ 24-46-301, through -310, C.R.S. (2019) ("Act") to support a regional tourism project known as the "City for Champions Project" ("Project"), which is comprised of four Project Elements known as the U.S. Olympic Museum and Hall of Fame, the Colorado Sports & Event Center, the University of Colorado Colorado Springs Sports Medicine and Performance Center, and the United States Air Force Academy Gateway Visitors Center ("USAFA Visitors Center");

WHEREAS, after determining that the proposed Project materially met each of the criteria for approval set forth in C.R.S. § 24-46-304(3) of the Act, the Colorado Economic Development Commission (the "Commission") voted to approve an award of state sales tax increment revenue for the Project on December 16, 2013, and authorized the Colorado Springs Urban Renewal Authority (the "Authority") to act as the Financing Entity for the Project;

WHEREAS, pursuant to the Act, effective December 16, 2013, the Commission adopted Resolution No. 3 governing the award of state sales tax increment revenue to the Project, including a Minimum Element Allocation Percentage dedicated to each Project Element, effective as of December 16, 2013, as heretofore amended (the "Resolution")(capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Resolution);

WHEREAS, on November 15, 2018, the Commission extended the original December 16, 2018 Commencement of Substantial Work deadline for the USAFA Visitors Center Project Element by one year to December 16, 2019;

WHEREAS, as of November 21, 2019, the City and the Authority had made significant progress toward the Commencement of Substantial Work for the USAFA Visitors Center Project Element, and the Commission considered and adopted a motion that, among other things, deemed the USAFA Visitors Center Project Element to have commenced substantial work by the December 16, 2019 deadline subject to the satisfaction of the following conditions by or before March 31, 2020: (1) the Visitors Center Business Improvement District ("BID") will issue at least \$65,185,000.00 in Bonds to support the USAFA Visitors Center and related master infrastructure improvements; (2) the Authority will enter into a pledge agreement with the BID in which the Dedicated Revenue for USAFA Visitors Center will be remitted to the BID and pledged to the payment of the Series A, B, and C Bonds; (3) the City and/or the Authority will deliver to the Commission a fully executed copy of the guaranteed maximum price construction contract between the BID and its general contractor for the construction of the USAFA Visitors Center that has been reviewed and approved by the United States Government (the "Government"); and (4) the City and/or the Authority will deliver to the Commission a fully executed copy of a sublease between the USAFA Visitors Center Project Element Developer and the BID for the parcel of land

designated for the purposes of developing and constructing the USAFA Visitors Center Project Element that has been reviewed and approved by the Government; provided that if any of the foregoing conditions of approval failed to obtain by or before March 31, 2020, Resolution No. 3, as amended by the motion, provided that the Commission's approval of the USAFA Visitors Center Project Element would be automatically modified without further action on the part of the Commission to (1) reduce that MEAP of state sales tax increment revenue dedicated to the USAFA Visitors Center Project Element to as close to zero as possible, (2) make a corresponding reduction to the aggregate cap of \$120,500,000.00 and (3) prohibit the City and the Authority from utilizing any Dedicated Revenue in the flexible Sub-Account to pay for any Eligible Costs of the USAFA Visitors Center Project Element, all as further specified in the Original Agreement (as defined below);

WHEREAS, in connection with the foregoing-described motion by the Commission, the Commission requested that the Authority and the City enter into a Waiver and Release Agreement (the "Original Agreement") whereby the Authority and the City agreed to release and waive certain claims in exchange for the Commission allowing the City and the Authority to have until March 31, 2020 for all of the conditions of approval listed in the Original Agreement to be satisfied, which Original Agreement was considered and approved by the Board of Commissioners of the Authority (the "Board") by Resolution No. 15-19 on November 20, 2019;

WHEREAS, in the midst of the City's and the Authority's diligent efforts to fulfill all of the conditions of approval in Resolution No. 3, as previously amended, by or before March 31, 2020, the Governor of the State of Colorado verbally declared a disaster emergency due to the presence of coronavirus disease 2019 ("COVID-19") in Colorado on March 10, 2020, and the next day issued Executive Order D 2020 003 declaring a disaster emergency due to the presence of COVID-19 in Colorado;

WHEREAS, the Governor's declaration of a disaster emergency in Colorado coincided with nationwide and worldwide declarations of disaster emergencies due to the COVID-19 pandemic, which in turn triggered significant turmoil in global, national, and local financial markets, including an usually high degree of bond market volatility, just as the BID was preparing to offer the Bonds for sale;

WHEREAS, the City and the Authority requested that the Commission modify the condition of approval in Resolution No. 3, as previously amended, requiring the BID to issue at least \$65,185,000.00 in Bonds to support the USAFA Visitors Center and related master infrastructure improvements by the March 31, 2020 deadline by further extending the deadline through December 31, 2020 to allow the unusually high degree of bond market volatility to subside;

WHEREAS, on April 16, 2020, the Commission considered and adopted a motion providing that, if the modified condition of approval listed in the immediately preceding recital fails to obtain by or before December 31, 2020, Resolution No. 3, as amended by the motion, provides that the Commission's approval of the USAFA Visitors Center Project Element is automatically modified without further action on the part of the Commission as follows: (1) reduce that MEAP of state sales tax increment revenue dedicated to the USAFA Visitors Center Project Element to as close to zero as possible, (2) make a corresponding reduction to the aggregate cap of \$120,500,000.00 and (3) prohibit the City and the Authority from utilizing any Dedicated

Revenue in the flexible Sub-Account to pay for any Eligible Costs of the USAFA Visitors Center Project Element, all as further specified in the Amended Agreement (as defined below);

WHEREAS, in connection with the foregoing-described motion by the Commission, the Commission, the Authority and the City entered into an Amended Waiver and Release Agreement (the "Amended Agreement"), on substantially similar terms as the Original Agreement, whereby the Authority and the City agreed to release and waive certain claims in exchange for the Commission allowing the City and the Authority to have until December 31, 2020 for all of the conditions of approval listed in the Amended Agreement to be satisfied;

WHEREAS, the disaster emergency due to the COVID-19 pandemic persisted throughout 2020 and the BID was not able to issue the Bonds during this emergency situation despite good faith efforts to do so;

WHEREAS, on December 17, 2020, the Commission adopted a motion to extend the deadline to satisfy all of the conditions of approval listed in the Amended Agreement by one year, to December 31, 2021, to allow the BID additional time to market the Bonds and the uncertainty in the market arising from the disaster emergency due to the COVID-19 pandemic to subside;

WHEREAS, in connection with the foregoing-described motion by the Commission, the Commission, the Authority and the City entered into a Second Amended Waiver and Release Agreement (the "Second Amended Agreement"), on substantially similar terms as the Amended Agreement, whereby the Authority and the City agreed to release and waive certain claims in exchange for the Commission allowing the City and the Authority to have until December 31, 2021 for all of the conditions of approval listed in the Second Amended Agreement to be satisfied;

WHEREAS, the disaster emergency due to the COVID-19 pandemic has persisted throughout 2021 and seemingly will continue for the foreseeable future as of the date hereof, and the BID has not been able to issue the Bonds during this emergency situation despite good faith efforts to do so;

WHEREAS, additionally, the uncertainty in the market arising from the disaster emergency due to the COVID-19 pandemic and associated new virulent strains has contributed to an increased cost of materials and required more capital investment to fully place Bonds that would support the USAFA Visitors Center and related master infrastructure;

WHEREAS, at the request of the City, the Commission will be considering a motion to extend the deadline to satisfy all of the conditions of approval listed in the Second Amended Agreement by two months, to February 28, 2022 to allow the BID additional time to market the Bonds and the uncertainty in the market arising from the disaster emergency due to the COVID-19 pandemic to subside;

WHEREAS, in connection with the foregoing-described motion by the Commission, the Commission has requested that the Authority and the City enter into a Third Amended Waiver and Release Agreement (the "Third Amended Agreement"), on substantially similar terms as the Second Amended Agreement, whereby the Authority and the City agree to release and waive certain claims in exchange for the Commission allowing the City and the Authority to have until February 28, 2022 for all of the conditions of approval listed in the Third Amended Agreement to be satisfied;

WHEREAS, the Board has reviewed the proposed Third Amended Agreement and determined that it furthers the goals and objectives of the Authority, the Project and Resolution No. 3, and desires to authorize and direct the Authority to execute and deliver the Third Amended Agreement substantially in the form attached hereto as Exhibit A; and

Approval of Third Amended Agreement.

NOW, THEREFORE, BE IT RESOLVED, that the Board deems it in the best interests of the Authority to formally approve the Third Amended Agreement;

FURTHER RESOLVED, that the Third Amended Agreement be, and hereby is, authorized, approved and ratified and the Chair of the Authority, or, if directed by the Chair, the Executive Director of the Authority, be, and hereby is, authorized to execute and deliver the Third Amended Agreement substantially in the form reviewed by the Board, but with such changes therein as shall be consistent with this Resolution and as the Chair or Vice Chair of the Authority shall approve, the execution thereof being deemed conclusive of the approval of any such changes, and cause the Authority to perform its obligations under the Third Amended Agreement in the name and on behalf of the Authority; and

FURTHER RESOLVED, that the Authority's performance of its obligations under the Third Amended Agreement, together with all actions heretofore or hereafter taken by each and any authorized person of the Authority, in connection with such Third Amended Agreement be, and the same hereby are, authorized, approved, ratified and confirmed in all respects.

General Authorization.

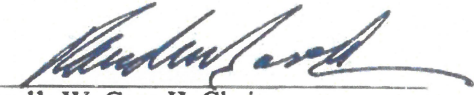
RESOLVED, that the Chair, Vice Chair and the officers of the Authority be, and each of them hereby is, individually, authorized, empowered and directed, in the name and on behalf of the Authority, to execute and deliver such other documents, certificates and instruments and to take all such actions as they deem necessary or appropriate in connection with the transactions contemplated by the foregoing resolutions; and

FURTHER RESOLVED, that all actions previously taken in connection with the foregoing by any officer or agent of the Authority, in the name or on behalf of the Authority or any of its affiliates, be, and each of the same hereby is, authorized, adopted, ratified, confirmed and approved in all respects as the act and deed of the Authority.


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ADOPTED the 5th day of January, 2022.

COLORADO SPRINGS URBAN RENEWAL
AUTHORITY

By: 
Randle W. Case II, Chairperson

ATTEST:


Secretary

APPROVED AS TO FORM:

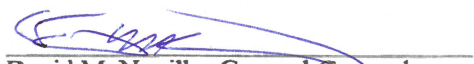

David M. Neville, General Counsel

Exhibit A

Form of Third Amended Agreement