

**SUBORDINATE INDENTURE OF TRUST**

**DATED AS OF AUGUST [ ], 2016**

between

**COLORADO SPRINGS URBAN RENEWAL AUTHORITY**

and

**UMB BANK, N.A.  
DENVER, COLORADO  
AS TRUSTEE**

relating to

**SUBORDINATE TAX INCREMENT REVENUE BONDS  
(UNIVERSITY VILLAGE PROJECT REFUNDING)  
SERIES 2016B  
IN THE AGGREGATE PRINCIPAL AMOUNT OF  
\$[ ]**

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EXHIBIT A      FORM OF BOND

This **SUBORDINATE INDENTURE OF TRUST** (this “Indenture”) dated as of August [\_\_\_], 2016, by and between **COLORADO SPRINGS URBAN RENEWAL AUTHORITY**, a body corporate and politic duly existing under the laws of the State of Colorado (the “Authority”), and **UMB BANK, n.a.**, a banking institution authorized to accept and execute trusts of the character herein set out, having an office and corporate trust offices in Denver, Colorado, as trustee (the “Trustee”).

## **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, pursuant to Section 31-25-109 of the Act, the Authority has the power and authority to issue “bonds” (defined by the Act to mean and include notes, interim certificates or receipts, temporary bonds, certificates of indebtedness, debentures or other obligations) to finance the activities or operations permitted and authorized to be undertaken by the Authority under 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 Urban Renewal Area (as defined herein); and

WHEREAS, all applicable requirements of the Act and other provisions of law for and precedent to the adoption and approval by the Authority and the City of the Urban Renewal Plan have been duly complied with; 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”), which 2008 Bonds are special, limited obligations of the Authority; and

WHEREAS, the Board of Commissioners of the Authority (the “Board”) has determined and does hereby determine that it is in the best interests of the Authority and its taxpayers that all of the currently outstanding 2008 Bonds (the “Refunded Bonds”) be refunded and defeased (as more particularly defined herein, the “Refunding Project”) pursuant to the terms of the Refunding Escrow Agreement (the “Escrow Agreement”) by and between the Authority and UMB Bank, n.a. (the “Escrow Agent”), and that for such purposes, the Authority should authorize the incurrence of debt in the form of subordinate tax increment revenue bonds (as more particularly defined herein, the “2016 Subordinate Bonds” or the “Bonds”) in the principal amount of \$[\_\_\_\_\_]; and

WHEREAS, concurrently with the issuance of the Bonds, the Authority will incur a Senior Tax Increment Revenue Loan, as evidenced by a Senior Tax Increment Revenue Note (as more particularly defined herein, the “2016 Senior Loan” and the “2016 Senior Note,” respectively) pursuant to a Loan Agreement (the “2016 Senior Loan Agreement”) between the Authority and US Bank National Association, as lender, for the purpose of funding a portion of the Refunding Project, which 2016 Senior Loan shall have a pledge of and lien on the Incremental Tax Revenue (as defined herein) on a basis senior to that of the Bonds); and

WHEREAS, the Board specifically elects to apply all of the provisions of Title 11, Article 57, Part 2, C.R.S., to the Bonds; and

WHEREAS, the Bonds shall be special, limited obligations of the Authority, and shall be payable solely from the Subordinate Pledged Revenue (as defined herein); and

WHEREAS, the Authority has duly authorized the execution and delivery of this Indenture to provide for the issuance of the Bonds; and

WHEREAS, all things necessary to make the Bonds, when executed by the Authority and authenticated and delivered by the Trustee hereunder, the valid obligations of the Authority, and to make this Indenture a valid agreement of the Authority, in accordance with their and its terms, have been done;

**NOW, THEREFORE, THIS INDENTURE OF TRUST WITNESSETH:**

**GRANTING CLAUSES**

The Authority, in consideration of the premises and of the mutual covenants herein contained, the acceptance by the Trustee of the trusts hereby created, and of the purchase and acceptance of the Bonds by the Owners thereof and for other good and valuable consideration, the receipt of which is hereby acknowledged, in order to secure the payment of the principal of and interest on the Bonds at any time Outstanding under this Indenture, according to their tenor and effect, and to secure the performance and observance of all the covenants and conditions in the Bonds, the Authorizing Resolution, and this Indenture of Trust, and to declare the terms and conditions upon and subject to which the Bonds are issued and secured, does hereby grant and assign to the Trustee, and to its successors in trust, and to them and their assigns forever, the following (said property being referred to herein as the “Trust Estate”):

**GRANTING CLAUSE FIRST:**

The Subordinate Pledged Revenue, the Subordinate Bond Fund and all other moneys, securities, revenues, receipts, and funds from time to time held by the Trustee under the terms of this Indenture, other than the Costs of Issuance Fund, and a security interest therein; and

**GRANTING CLAUSE SECOND:**

All right, title, and interest of the Authority in any and all other revenue of every name and nature from time to time hereafter by delivery or by writing of any kind, given, granted, assigned, pledged, conveyed, mortgaged, or transferred by the Authority or by anyone on its

behalf as and for additional security hereunder, and the Trustee is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof;

**THE TRUSTEE SHALL HOLD** the Trust Estate for the benefit of the Owners from time to time of the Bonds, as their respective interests may appear; and the Trust Estate granted herein is also granted for the equal benefit, of all present and future Owners of the Bonds as if all the Bonds had been executed and delivered simultaneously with the execution and delivery of this Indenture;

**TO HAVE AND TO HOLD** the same with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended to be, to the Trustee and its successors in said trust and assigns forever;

**IN TRUST, NEVERTHELESS**, upon the terms herein set forth for the equal and proportionate benefit, security, and protection of all Owners of the Bonds issued under and secured by this Indenture without privilege, priority, or distinction as to the lien or otherwise (except as herein expressly provided) of any of the Bonds over any other of the Bonds, and as to the Subordinate Pledged Revenue (excluding the Subordinate Pledged Revenue described in clause (b) of the definition thereof), on a parity with the lien thereon of any Parity Bonds;

**PROVIDED, HOWEVER**, that if the Authority, its successors, or assigns, shall well and truly pay, or cause to be paid, the principal of, premium if any, and interest on the Bonds at the times and in the manner provided in the Bonds, according to the true intent and meaning thereof; or shall provide, as permitted hereby and in accordance herewith, for the payment thereof by depositing with the Trustee or placing in escrow and in trust the entire amount due or to become due thereon, or certain securities as herein permitted, and shall well and truly keep, perform, and observe all the covenants and conditions pursuant to the terms of this Indenture to be kept, performed, and observed by it, and shall pay or cause to be paid to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments this Indenture and the rights hereby granted shall cease, terminate, and be void; otherwise this Indenture shall be and remain in full force and effect;

**THIS INDENTURE FURTHER WITNESSETH** and it is expressly declared, that all Bonds issued and secured hereunder are to be issued, authenticated, and delivered, and all said moneys, securities, revenues, receipts, and funds hereby pledged and assigned are to be dealt with and disposed of under, upon, and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses, and purposes as hereinafter expressed, and the Authority has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the respective Owners, from time to time, of the Bonds as follows:

## ARTICLE I

### DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

**Section 1.01. Definitions.** In this Indenture, except as otherwise expressly provided or where the context indicates otherwise, the following capitalized terms shall have the respective meanings set forth below:

“*Act*” means the Colorado Urban Renewal Law, Title 31, Article 25, Part 1, C.R.S., and any successor statute thereto.

“*Additional Obligations*” means all obligations of the Authority payable from or constituting a lien or encumbrance upon Incremental Tax Revenue; provided that notwithstanding the foregoing, the term “Additional Obligations” does not include: (a) obligations which are payable solely from the proceeds of Additional Obligations, when and if issued; (b) obligations to reimburse any person in respect of surety bonds, financial guaranties, letters of credit, or similar credit enhancements so long as (i) such surety bonds, financial guaranties, letters of credit, or similar credit enhancements guarantee payment of principal or interest on any Parity Bonds or Senior Obligations, and (ii) such reimbursement obligations are payable from the same or fewer revenue sources, with the same or a subordinate lien priority as the Parity Bonds or Senior Obligations supported by the surety bonds, financial guaranties, letters of credit, or similar credit enhancements; and (iii) any operating leases, payroll obligations, accounts payable, or taxes incurred or payable in the ordinary course of business of the Authority.

“*Annual Senior Payment Cap*” means with respect to each of the Fiscal Years set forth below, the corresponding amount set forth below:

<u>Fiscal Year</u>	<u>Annual Senior Payment Cap</u>
2016	\$4,600,000
2017	4,650,000
2018	4,700,000
2019	4,750,000
2020	4,800,000
2021	4,850,000
2022	4,900,000
2023	4,950,000
2024	5,000,000
2025	5,050,000
2026	5,100,000
2027	5,150,000
2028	5,200,000
2029	5,600,000
2030	6,500,000



“*Authority*” means the Colorado Springs Urban Renewal Authority, a body corporate and politic duly existing under the laws of the State of Colorado.

“*Authority Representative*” means the Chair or the Executive Director of the Authority or any other Person designated in writing signed by the Chair to act on behalf of the Authority. The specimen signature of the Person or Persons designated as Authority Representative shall be contained in or be attached to such designating instrument and such designation shall be furnished to the Trustee. The designation of any Authority Representative shall remain effective until a new written instrument is filed with or actual notice is given to the Bank, and the Trustee that such designation has been revoked.

“*Authorized Denominations*” means, initially, the amount of \$500,000 or any integral multiple of \$1,000 in excess thereof, provided that:

(a) no individual Bond may be in an amount which exceeds the principal amount coming due on any maturity date; and

(b) in the event a Bond is partially redeemed and the unredeemed portion is less than \$500,000, such unredeemed portion of such Bond may be issued in the largest possible denomination of less than \$500,000, in integral multiples of not less than \$1,000 each or any integral multiple thereof.

“*Authorizing Resolution*” means the resolution authorizing the issuance of the Bonds and the execution of this Indenture, certified by the Secretary of the Authority to have been duly adopted by the Authority and to be in full force and effect on the date of such certification, including any amendments or supplements made thereto.

“*Beneficial Owner*” means any person for which a Participant acquires an interest in the Bonds.

“*Board*” means the Board of Commissioners of the Authority.

“*Bond Counsel*” means counsel to the Authority of national recognition in the field of tax-exempt obligations and public finance. As of the Closing Date, Kutak Rock LLP serves as Bond Counsel to the Authority.

“*Bonds*” or “*2016 Subordinate Bonds*” means the “Colorado Springs Urban Renewal Authority Subordinate Tax Increment Revenue Bonds (University Village Colorado Project Refunding), Series 2016,” in the aggregate principal amount of \$[\_\_\_\_\_] dated as of the date of issuance, and issued by the Authority pursuant to this Indenture and the Authorizing Resolution.

“*Business Day*” means a day on which the Trustee, the Paying Agent, or banks or trust companies in Denver, Colorado, or in New York, New York, are not authorized or required to remain closed and on which the New York Stock Exchange is not closed.

“*Cede*” means Cede & Co., the nominee of DTC as record owner of the Bonds, or any successor nominee of DTC with respect to the Bonds.

“*Certified Public Accountant*” means an independent certified public accountant within the meaning of Section 12-2-115, C.R.S., and any amendment thereto, licensed to practice in the State of Colorado.

“*City Junior Lien MOU*” means the Memorandum of Understanding dated January 15, 2009 between the Authority and the City, as amended by the Acknowledgement and Agreement with respect thereto dated as of August [\_\_], 2016.

“*Code*” means the Internal Revenue Code of 1986, as amended and in effect as of the date of issuance of the Bonds.

“*Consent Party*” means the Owner of a Bond or, if such Bond is held in the name of Cede, the Participant (as determined by a list provided by DTC) with respect to such Bond, or if so designated in writing by a Participant, the Beneficial Owner of such Bonds.

“*Costs of Issuance Fund*” means the Costs of Issuance Fund established by Section 3.02 hereof for the purpose of paying the costs of issuance with respect to the Bonds.

“*Counsel*” means a person, or firm of which such a person is a member, authorized in any state to practice law.

“*C.R.S.*” means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

“*Depository*” means any securities depository as the Authority may provide and appoint, in accordance with the guidelines of the Securities and Exchange Commission, which shall act as securities depository for the Bonds.

“*Developer Junior Lien Note*” means the Advanced Funds Note dated February 1, 2008 made by the Authority to the Developer pursuant to the Redevelopment Agreement, as amended by the First Amendment thereto dated as of August [\_\_], 2016.

“*DTC*” means The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York, and its successors and assigns. References herein to DTC shall include any nominee of DTC in whose name any Bonds are then registered.

“*Escrow Agent*” means UMB Bank, n.a., in its capacity as escrow agent under the Escrow Agreement.

“*Escrow Agreement*” means the Refunding Escrow Agreement by and between the Authority and the Escrow Agent, dated August [\_\_], 2016.

“*Event of Default*” means any one or more of the events set forth in the Section 8.01 hereof.

“*Fiscal Year*” means each 12-month period beginning January 1 and ending December 31.

“GAAP” means generally accepted accounting principles for governmental units as prescribed by the Governmental Accounting Standards Board (“GASB”).

“Government Obligations” means noncallable direct full faith and credit obligations of the United States of America or noncallable obligations the payment of principal of and interest on which is unconditionally guaranteed by the full faith and credit of the United States of America.

“Indenture” means this Subordinate Indenture of Trust, as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof.

“Interest Payment Date” means December 15 of each year, commencing December 15, 2016 and continuing for so long as the Bonds are Outstanding.

“Junior Lien Obligations” means bonds, notes, debentures, or other multiple fiscal year financial obligations having a lien upon the Incremental Tax Revenue or any part thereof junior and subordinate to the lien thereon of the Bonds and designated by the Authority, in the resolutions, indentures, or other documents pursuant to which such obligations are issued, as constituting a Junior Lien Obligation hereunder, provided that such obligations are required to be issued in accordance with the provisions of Section 4.04 hereof. Any Junior Lien Obligation hereafter issued may be issued pursuant to such resolutions, indentures, or other documents as may be determined by the Authority. As of the date hereof, the Junior Lien Obligations outstanding consist of the Developer Junior Lien Note, the UCCS Junior Lien Loan Agreement and the City Junior Lien MOU.

“Letter of Representations” means the Blanket Authority Letter of Representations from the Authority to DTC to induce DTC to accept the Bonds as eligible for deposit at DTC.

“Mandatory Redemption Price” is defined in Section 5.01(b) hereof.

“Outstanding or Outstanding Bonds” means, as of any particular time, all Bonds which have been duly authenticated and delivered by the Trustee under this Indenture, except:

- (a) Bonds theretofore cancelled by the Trustee or delivered to the Trustee for cancellation because of payment at maturity or prior redemption;
- (b) Bonds for the payment or redemption of which moneys or Government Obligations in an amount sufficient (as determined pursuant to Section 7.01(b) of the Indenture) shall have been theretofore deposited with the Trustee, or Bonds for the payment or redemption of which moneys or Government Obligations in an amount sufficient (as determined pursuant to Section 7.01(b) hereof) shall have been placed in escrow and in trust; and
- (c) Bonds in lieu of which other Bonds have been authenticated and delivered pursuant to Section 2.06 or Section 2.09 hereof.

“*Owner(s) or Owner(s) of Bonds*” means the registered owner(s) of any Bond(s) as shown on the registration books maintained by the Trustee, including the Bond Depository for the Bonds, if any, or its nominee.

“*Parity Bonds*” means any other bonds, notes, debentures, or other multiple fiscal year financial obligations having a lien upon the Incremental Tax Revenue or any part thereof on parity with the lien thereon of the Bonds, and any other obligation secured by a lien on any ad valorem property taxes of the Authority and designated by the Authority, in the resolutions, indentures, or other documents pursuant to which such obligations are issued, as constituting a Parity Bond hereunder, provided that such obligations are required to be issued in accordance with the provisions of Section 4.04 hereof. Any Parity Bonds hereafter issued may be issued pursuant to such resolutions, indentures, or other documents as may be determined by the Authority, and shall be designated in such resolutions, indentures or other documents as constituting Parity Bonds hereunder.

“*Participants*” means any broker-dealer, bank, or other financial institution from time to time for which DTC or another Depository holds the Bonds.

“*Permitted Investments*” means any investment or deposit the Authority is permitted to make under then applicable law.

“*Refunded Bonds*” means all of the currently outstanding 2008 Bonds.

“*Refunding Project*” means the refunding of the Refunded Bonds, including the payment of the costs of issuance with respect to the Bonds in connection therewith.

“*Record Date*” means the last day of the calendar month next preceding the Interest Payment Date.

“*Senior Custodial Agreement*” means the Custodial Agreement between the Authority and the Senior Custodian dated as of the date hereof.

“*Senior Custodian*” means UMB Bank, n.a., in its capacity as custodian under the Senior Custodial Agreement.

“*Senior Obligation Bond Fund*” means any fund or account created for the purpose of accumulating revenues to pay, with respect to any Senior Obligations, the current year’s principal and interest due thereon, including any scheduled mandatory or cumulative sinking fund payments, and customary periodic fees due with respect to any Senior Obligations, (including, but not limited to, fees of a trustee, paying agent, rebate agent, lender and provider of liquidity or credit facility), and any reimbursement due to a provider of liquidity or credit facility securing any Senior Obligations.

“*Senior Obligation Reserve Fund*” means any fund or account created for the purpose of securing the payment of Senior Obligations, excluding any Senior Obligation Bond Fund.

“*Senior Obligations*” means, collectively, the 2016 Senior Loan evidenced by the 2016 Senior Note, the 2016 Senior Swap Agreement, and any other obligation of the Authority having

a lien upon the Incremental Tax Revenue or any part thereof senior to the lien thereon of the Bonds, provided that such obligations are required to be issued in accordance with the provisions of Section 4.04 hereof. Any Senior Obligations hereafter issued may be issued pursuant to such resolutions, indentures, or other documents as may be determined by the Authority, and shall be designated in such resolutions, indentures or other documents as constituting Senior Obligations hereunder.

“*Senior Payment Obligations*” collectively, as of any date: (a) all principal of and interest on the 2016 Senior Loan due and owing hereunder as of such date (including without limitation any Excess Interest Amount (as defined in the 2016 Senior Loan Agreement), any compounded interest previously due and unpaid, any interest accruing at the Rate Increase Event Rate (as defined in the 2016 Senior Loan Agreement) then due and owing and any principal prepaid pursuant to Section 2.02(d) of the 2016 Senior Loan Agreement; (b) any amounts payable pursuant to Section 2.02(g) of the 2016 Senior Loan Agreement due and owing as of such date; (c) any fees of the 2016 Senior Lender due and owing as of such date; (d) any replenishment of the 2016 Senior Reserve Fund Requirement required by the Custodial Agreement as of such date; (e) all Authority Net Regularly Scheduled Swap Payments (as defined in the 2016 Senior Loan Agreement) due and owing under the 2016 Senior Swap Agreement as of such date and (f) all Termination Payments (as defined in the 2016 Senior Loan Agreement) due and owing by the Authority under the 2016 Senior Swap Agreement as of such date.

“*Subordinate Bond Fund*” means the Subordinate Bond Fund established by Section 3.02 hereof for the purpose of paying the principal of, premium if any, and interest on the Bonds.

“*Subordinate Pledged Revenue*” means (a) the Incremental Tax Revenue in any Fiscal Year in excess of the Annual Senior Payment Cap; and (b) any other legally available moneys which the Authority determines to credit to the Subordinate Bond Fund.

“*Special Record Date*” means the record date for determining Bond ownership for purposes of paying defaulted interest, as such date may be determined pursuant to this Indenture.

“*State*” means the State of Colorado.

“*Supplemental Act*” means the “Supplemental Public Securities Act,” being Title 11, Article 57, Part 2, C.R.S., as amended.

“*Tax Certificate*” means the certificate to be signed by the Authority relating to the requirements of Sections 103 and 141-150 of the Code.

“*Trust Estate*” means the moneys, securities, revenues, receipts, and funds transferred, pledged, and assigned to the Trustee pursuant to the Granting Clauses hereof.

“*Trustee*” means UMB Bank, n.a., in Denver, Colorado, in its capacity as trustee hereunder, or any successor Trustee, appointed, qualified, and acting as trustee, paying agent, and bond registrar under the provisions of this Indenture.

“*2008 Bonds*” means, collectively, the “Colorado Springs Urban Renewal Authority Tax Increment Revenue Bonds (University Village Colorado Project), Series 2008A Senior,” and the

“Colorado Springs Urban Renewal Authority Tax Increment Revenue Bonds (University Village Colorado Project), Series 2008B Subordinate (Convertible to Senior).”

“*2016 Senior Lender*” means U.S. Bank National Association, as lender under the 2016 Senior Loan Agreement, and any successors thereto.

“*2016 Senior Loan*” means the loan made by the 2016 Senior Lender to the Authority pursuant to the 2016 Senior Loan Agreement.

“*2016 Senior Loan Agreement*” means the Loan Agreement dated as of the date hereof between the Authority and the 2016 Senior Lender.

“*2016 Senior Note*” means the “Colorado Springs Urban Renewal Authority Senior Tax Increment Revenue Note (University Village Colorado Project Refunding), Series 2016,” dated August [\_\_\_], 2016, evidencing the 2016 Senior Loan and issued in the original principal amount of \$[\_\_\_\_\_] from the Authority, as maker, to the 2016 Senior Lender, as payee.

“*2016 Senior Reserve Fund Requirement*” is defined in the 2016 Senior Loan Agreement.

“*2016 Senior Swap Agreement*” means, collectively, the ISDA Master Agreement, including the Schedule thereto, each dated as of August [\_\_\_], 2016, and the Confirmation entered into pursuant thereto dated August [\_\_\_], 2016, each between the Authority and the 2016 Senior Swap Counterparty.

“*2016 Senior Swap Counterparty*” means U.S. Bank National Association, in its capacity as counterparty to the Authority with respect to the 2016 Senior Swap Agreement.

“*UCCS Junior Lien Loan Agreement*” means the Loan Agreement dated as of March 20, 2008, between the University of Colorado, as lender, and the Authority, as borrower, as amended by the Loan Agreement Amendment dated as of November 10, 2015 and the Second Loan Agreement Amendment dated as of August [\_\_\_], 2016, being a Subordinate Obligation.

“*Underwriter*” means D.A. Davidson & Company, of Denver, Colorado, as underwriter for the Bonds.

**Section 1.02. Interpretation.** In this Indenture, unless the context otherwise requires:

(a) the terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof,” and any similar term, refer to this Indenture as a whole and not to any particular article, section, or subdivision hereof; the term “heretofore” means before the date of execution of this Indenture, the term “now” means at the date of execution of this Indenture, and the term “hereafter” means after the date of execution of this Indenture;

(b) words of the masculine gender include correlative words of the feminine and neuter genders; words importing the singular number include the plural number and vice versa; and the word “person” or similar term includes, but is not limited to, natural persons, firms, associations, corporations, partnerships, and public bodies;

(c) the captions or headings of this Indenture, and the table of contents appended to copies hereof, are for convenience only and in no way define, limit, or describe the scope or intent of any provision, article, or section of this Indenture;

(d) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles; and

(e) all exhibits referred to herein are incorporated herein by reference.

**Section 1.03. Computations.** Unless the facts shall then be otherwise, all computations required for the purposes of this Indenture shall be made on the assumption that: (i) the principal of and interest on all Bonds shall be paid as and when the same become due as therein and herein provided; and (ii) all credits required by this Indenture to be made to any fund shall be made in the amounts and at the times required.

**Section 1.04. Exclusion of Bonds Held By The Authority.** In determining whether the Consent Parties with respect to the requisite principal amount of the Outstanding Bonds have given any request, demand, authorization, direction, notice, consent, or waiver hereunder, Bonds for which the Authority is the Consent Party shall be disregarded and deemed not to be Outstanding.

**Section 1.05. Certificates and Opinions.**

(a) Except as otherwise specifically provided in this Indenture, each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include: (i) a statement that the person making the certificate or opinion has read the covenant or condition and the definitions herein relating thereto; (ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (iii) a statement that, in the opinion of such person, he has made such examination and investigation as is necessary to enable him to express an informed opinion as to whether the covenant or condition has been complied with; (iv) a statement as to whether, in the opinion of such person, the condition or covenant has been complied with; and (v) an identification of any certificate or opinion relied on in such certificate or opinion.

(b) Any opinion of Counsel may be qualified by reference to the constitutional powers of the United States of America, the police and sovereign powers of the State, judicial discretion, bankruptcy, insolvency, reorganization, moratorium, and other laws affecting creditors' rights or municipal corporations or similar matters.

(c) In any case where several matters are required to be certified by, or covered by an opinion of, any specified person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such person, or that they be so certified or covered by only one document, but one such person may certify or give an opinion with respect to some matters and one or more other such persons as to other matters, and any such person may certify or give an opinion as to such matters in one or several documents.

(d) Any certificate or opinion of an officer of the Authority may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, Counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate or opinion of Counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Authority stating that the information with respect to such factual matters is in the possession of the Authority, unless such Counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

(e) When any person is required to make, give, or execute two or more applications, requests, consents, certificates, statements, opinions, or other instruments under this Indenture, such instruments may, but need not, be consolidated to form one instrument.

#### **Section 1.06. Acts of Consent Parties.**

(a) Any request, demand, authorization, direction, notice, consent, waiver, or other action provided by this Indenture to be given or taken by Consent Parties may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Consent Party in person or by agent duly appointed in writing; and, except as otherwise expressly provided herein, such action shall become effective when such instrument or instruments are delivered to the Trustee, and, where it is hereby expressly required, the Authority. Proof of execution of any such instrument or of a writing appointing any such agent made in the manner set forth in subsection (b) hereof shall be sufficient for any purpose of this Indenture and (subject to Section 9.01 hereof) conclusive in favor of the Trustee and the Authority.

(b) The fact and date of the execution by any person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by an officer of a corporation or a member of a partnership, on behalf of such corporation or partnership, such affidavit or certificate shall also constitute sufficient proof of his authority.

(c) Any request, demand, authorization, direction, notice, consent, waiver, or other action provided by this Indenture to be given or taken by the Consent Parties with respect to a specified percentage or portion of the Outstanding Bonds shall be conclusive and binding upon all present and future Owners and Consent Parties if the Consent Parties with respect to the specified percentage or portion of the Outstanding Bonds take such action in accordance herewith; and it shall not be necessary to make notation of such action on any Bond authenticated and delivered hereunder. In addition, any request, demand, authorization, direction, notice, consent, waiver, or other action by any Consent Party (notwithstanding whether such action was also taken by any other Owner or Consent Party) shall bind the Owner and the Consent Party, and the Owner of and



Consent Party with respect to every Bond issued upon the transfer thereof or in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the Authority in reliance thereon; and it shall not be necessary to make notation of such action on any Bond authenticated and delivered hereunder.

**Section 1.07. Indenture to Constitute Contract.** This Indenture shall constitute a contract among the Authority, the Trustee, and the Owners, and shall remain in full force and effect until the Bonds are no longer Outstanding hereunder.

## ARTICLE II

### THE BONDS

**Section 2.01. Authorization, Terms, Payment, and Form of Bonds.**

(a) In accordance with the Constitution of the State of Colorado; the Supplemental Act; the Act; and all other laws of the State of Colorado thereunto enabling, there shall be issued the Bonds for the purposes hereinafter stated. The aggregate principal amount of the Bonds that may be authenticated and delivered under this Indenture is limited to and shall not exceed \$[\_\_\_\_\_], except as provided in Section 2.06 and Section 2.09 hereof.

(b) The Bonds shall be issued only as fully registered Bonds without coupons in Authorized Denominations. Unless the Authority shall otherwise direct, the Bonds shall be numbered separately from 1 upward, with the number of each Bond preceded by “R-.”

(c) The Bonds shall be dated as of the date of issuance, and shall mature on the dates and in the aggregate principal amounts, and shall bear interest at the rates per annum, set forth in the following table, such interest to be calculated on the basis of a 360-day year of twelve 30-day months, payable to the extent of Subordinate Pledged Revenue available therefor annually on each December 15, commencing on December 15, 2016:

<u>Principal Amount</u>	<u>Maturity Date</u>	<u>Interest Rate</u>
\$[_____]	December 15, 2030	[_____]%

(d) The principal of and premium, if any, on the Bonds are payable in lawful money of the United States of America to the Owner of each Bond upon maturity or prior redemption and presentation at the principal office of the Trustee. The interest on any Bond is payable to the person in whose name such Bond is registered, at his address as it appears on the registration books maintained by or on behalf of the Authority by the Trustee, at the close of business on the Record Date, irrespective of any transfer or exchange of such Bond subsequent to such Record Date and prior to such interest payment date; provided that any such interest not so timely paid or duly provided for shall cease to be payable to the person who is the Owner thereof at the close of business on the Record Date and shall be payable to the person who is the Owner thereof at the

close of business on a Special Record Date for the payment of any such defaulted interest. Such Special Record Date shall be fixed by the Trustee whenever moneys become available for payment of the defaulted interest, and notice of the Special Record Date shall be given to the Owners of the Bonds not less than ten (10) days prior to the Special Record Date by first-class mail to each such Owner as shown on the registration books kept by the Trustee on a date selected by the Trustee. Such notice shall state the date of the Special Record Date and the date fixed for the payment of such defaulted interest.

(e) Interest payments shall be paid by check or draft of the Trustee mailed on or before the interest payment date to the Owners. The Trustee may make payments of interest on any Bond by such alternative means as may be mutually agreed to between the Owner of such Bond and the Trustee; provided that the Authority shall not be required to make funds available to the Trustee prior to the dates on which such interest would otherwise be payable hereunder, nor to incur any expenses in connection with such alternative means of payment.

(f) To the extent principal of any Bond is not paid when due, such principal shall remain outstanding until paid, subject to Section 7.03 hereof. To the extent interest on any Bond is not paid when due, such interest shall compound annually on each Interest Payment Date, at the rate then borne by the Bond; provided however, that notwithstanding anything herein to the contrary, the Authority shall not be obligated to pay more than the amount permitted by law in repayment of the Bonds, including all payments of principal, premium if any, and interest, and all Bonds will be deemed defeased and no longer outstanding upon the payment by the Authority of such amount.

(g) Subject to the provisions of this Indenture, the Bonds shall be in substantially the form set forth in Exhibit A attached hereto, with such variations, omissions, and insertions as may be required by the circumstances, be required or permitted by this Indenture, or be consistent with this Indenture and necessary or appropriate to conform to the rules and requirements of any governmental authority or any usage or requirement of law with respect thereto. The Authority may cause a copy of the text of the opinion of nationally recognized municipal bond Counsel to be printed on the Bonds. Pursuant to the recommendations promulgated by the Committee on Uniform Security Identification Procedures, "CUSIP" numbers may be printed on the Bonds. The Bonds may bear such other endorsement or legend satisfactory to the Trustee as may be required to conform to usage or law with respect thereto.

**Section 2.02. Purpose of Issuance of Bonds.** The Bonds are being issued for the purpose of: (i) funding a portion of the Refunding Project; and (ii) paying a portion of the costs of issuance of the Bonds.

**Section 2.03. Trustee as Paying Agent and Bond Registrar.**

(a) The Trustee shall perform the functions of paying agent and authenticating registrar with respect to the Bonds. The Trustee shall establish the registration books for the Bonds and thereafter maintain such books in accordance with the provisions hereof.

The Authority shall cause the Underwriter to provide the Trustee with an initial registry of the Owners within a reasonable time prior to delivery of the Bonds. The Authority shall be permitted to review the registration books at any time during the regular business hours of the Trustee and, upon written request to the Trustee, shall be provided a copy of the list of Owners of the Bonds. Upon the termination of this Indenture, the Trustee shall promptly return such registration books to the Authority.

(b) The Trustee shall make payments of principal and interest on the Bonds on each date established herein for payment thereof, in the manner and from the sources set forth herein.

(c) The Trustee will register, exchange, or transfer (collectively “transfer”) the Bonds in the manner provided herein. The Trustee reserves the right to refuse to transfer any Bond until it is satisfied that the endorsement on the Bond is valid and genuine, and for that purpose it may require a guarantee of signature by a firm having membership in the Midwest, New York, or American Stock Exchange, or by a bank or trust company or firm approved by it. The Trustee also reserves the right to refuse to transfer any Bond until it is satisfied that the requested transfer is legally authorized, and it shall incur no liability for any refusal in good faith to make a transfer which it, in its judgment, deems improper or unauthorized.

(d) The Authority shall furnish the Trustee with a sufficient supply of blank Bonds for the sole purpose of effecting transfers in accordance herewith and from time to time shall renew such supply upon the request of the Trustee. Blank Bonds shall be signed and sealed by the Authority in the manner set forth herein.

(e) In the event the Authority receives any notice or order which limits or prohibits dealing in the Bonds, it will immediately notify the Trustee of such notice or order and give a copy thereof to the Trustee.

(f) In any circumstances concerning the payment or registration of the Bonds not covered specifically by this Indenture, the Trustee shall act in accordance with federal and state banking laws and its normal procedures in such matters.

**Section 2.04. Execution of Bonds; Signatures.** The Bonds shall be executed on behalf of the Authority by the manual or facsimile signature of the Chair of the Authority, sealed with a manual impression or facsimile of its corporate seal, and attested by the manual or facsimile signature of the Secretary/Executive Director of the Authority. In case any officer who shall have signed any of the Bonds shall cease to be such officer of the Authority before the Bonds have been authenticated by the Trustee or delivered or sold, such Bonds with the signatures thereto affixed may, nevertheless, be authenticated by the Trustee and delivered, and may be sold by the Authority, as though the person or persons who signed such Bonds had remained in office.

**Section 2.05. Persons Treated as Owners.** The Authority and the Trustee may treat the Owner of any Bond as the absolute owner of such Bond for the purpose of receiving payment thereof or on account thereof and for all other purposes, whether or not such Bond is overdue, and neither the Authority nor the Trustee shall be affected by notice to the contrary.

**Section 2.06. Lost, Stolen, Destroyed, or Mutilated Bonds.** Any Bond that is lost, stolen, destroyed, or mutilated may be replaced (or paid if the Bond has matured or come due by reason of prior redemption) by the Trustee in accordance with and subject to the limitations of applicable law. The applicant for any such replacement Bond shall post such security, pay such costs, provide such indemnification satisfactory to the Trustee, and present such proof of ownership and loss as may be required by the Trustee. If mutilated, (a) the Authority shall execute, and the Trustee shall authenticate and deliver, a new Bond of the same series, date, maturity and Authorized Denomination in lieu of such lost, stolen, destroyed or mutilated Bond or (b) if such lost, stolen, destroyed or mutilated Bond shall have matured or have been called for redemption, in lieu of executing and delivering a new Bond as aforesaid, the Trustee may pay such Bond. Any such new Bond shall bear a number not contemporaneously Outstanding. All Bonds shall be held and owned upon the express condition that, to the extent permitted by law, the foregoing conditions are exclusive with respect to the replacement and payment of mutilated, destroyed, lost or stolen Bonds, negotiable instruments or other securities.

**Section 2.07. Delivery of Bonds.** Upon the execution and delivery of this Indenture, the Authority shall execute the Bonds and deliver them to the Trustee, and the Trustee shall authenticate the Bonds and deliver them to or for the account of the purchasers thereof, directed by the Authority and in accordance with a written certificate of the Authority. The Trustee shall be entitled to conclusively rely upon such direction and authorization from the Authority as to the names of the purchasers and the amount of such purchase price

**Section 2.08. Trustee's Authentication Certificate.** The Trustee's certificate of authentication upon the Bonds shall be substantially in the form and tenor set forth in Exhibit A attached hereto. No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit hereunder unless and until a certificate of authentication on such Bond substantially in such form shall have been duly executed by the Trustee, and such executed certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture. The Trustee's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer or signatory of the Trustee, but it shall not be necessary that the same officer or signatory sign the certificate of authentication on all of the Bonds issued hereunder.

**Section 2.09. Registration, Exchange, and Transfer of Bonds.**

(a) The Trustee shall act as bond registrar and maintain the books of the Authority for the registration of ownership of each Bond as provided herein.

(b) Bonds may be exchanged at the principal office of the Trustee for a like aggregate principal amount of Bonds of the same maturity of other Authorized Denominations. Bonds may be transferred upon the registration books upon delivery of the Bonds to the Trustee, accompanied by a written instrument or instruments of transfer in form and with guaranty of signature satisfactory to the Trustee, duly executed by the Owner of the Bonds to be transferred or his attorney-in-fact or legal representative, containing written instructions as to the details of the transfer of such Bonds, along with the social security number or federal employer identification number of such transferee. No transfer of any Bond shall be effective until entered on the registration books. In all

cases of the transfer of a Bond, the Trustee shall enter the transfer of ownership in the registration books, and shall authenticate and deliver in the name of the transferee or transferees a new fully registered Bond or Bonds of Authorized Denominations of the same maturity and interest rate for the aggregate principal amount which the Owner is entitled to receive at the earliest practicable time in accordance with the provisions hereof.

(c) The Trustee shall charge the Owner of such Bond for every such transfer or exchange of a Bond an amount sufficient to reimburse it for its reasonable fees and for any tax or other governmental charge required to be paid with respect to such transfer or exchange.

(d) The Authority and Trustee shall not be required to issue or transfer any Bonds: (a) during a period beginning at the close of business on the Record Date and ending at the opening of business on the first Business Day following the ensuing interest payment date, or (b) during the period beginning at the opening of business on a date 45 days prior to the date of any redemption of Bonds and ending at the opening of business on the first Business Day following the day on which the applicable notice of redemption is mailed. The Trustee shall not be required to transfer any Bonds selected or called for redemption, in whole or in part.

(e) New Bonds delivered upon any transfer or exchange shall be valid obligations of the Authority, evidencing the same debt as the Bonds surrendered, shall be secured by this Indenture, and shall be entitled to all of the security and benefits hereof to the same extent as the Bonds surrendered.

**Section 2.10. Cancellation of Bonds.** Whenever any Outstanding Bond shall be delivered to the Trustee for cancellation pursuant to this Indenture and upon payment of the principal amount, premium if any, and interest due thereon, or whenever any Outstanding Bond shall be delivered to the Trustee for transfer pursuant to the provisions hereof, such Bond shall be cancelled by the Trustee in accordance with the customary practices of the Trustee and applicable retention laws.

**Section 2.11. Book-Entry System.**

(a) The Bonds shall be initially issued in the form of single, certificated, fully registered Bonds for each maturity. Upon initial issuance, the ownership of each such Bond shall be registered in the registration books kept by the Trustee in the name of Cede.

(b) With respect to Bonds registered in the name of Cede or held by a Depository, neither the Authority nor the Trustee shall have any responsibility or obligation to any Participant or Beneficial Owner including, without limitation, any responsibility or obligation with respect to: (i) the accuracy of the records of the Depository or any Participant concerning any ownership interest in the Bonds; (ii) the delivery to any Participant, Beneficial Owner, or person other than the Owner, of any notice concerning the Bonds, including notice of redemption; (iii) the payment to any

Participant, Beneficial Owner, or person other than the Owner, of the principal of, premium if any, and interest on the Bonds. The Authority and the Trustee may treat the Owner of any Bond as the absolute owner of such Bond for the purpose of payment of the principal of, premium if any, and interest on such Bond, for purposes of giving notices of redemption and other matters with respect to such Bond, and for all other purposes whatsoever. The Trustee shall pay all principal of, premium if any, and interest on or in connection with the Bonds only to or upon the order of the Owners, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Authority's obligations with respect to the payment of the same. No person, other than an Owner, shall receive a certificated Bond evidencing the obligations of the Authority pursuant to this Indenture.

(c) DTC may determine to discontinue providing its service as Depository with respect to the Bonds at any time by giving notice to the Authority and discharging its responsibilities with respect thereto under applicable law. Upon the termination of the services of DTC, a substitute Depository which is willing and able to undertake the system of book-entry transfers upon reasonable and customary terms may be engaged by the Authority or, if the Authority determines in its sole and absolute discretion that it is in the best interests of the Beneficial Owners or the Authority that the Beneficial Owners should be able to obtain certificated Bonds, the Bonds shall no longer be restricted to being registered in the name of Cede or other nominee of a Depository but shall be registered in whatever name or names the Beneficial Owners shall designate at that time, and fully registered Bond certificates shall be delivered to the Beneficial Owners.

### ARTICLE III

#### REVENUES AND FUNDS

**Section 3.01. Source of Payment of Bonds.** The Bonds shall constitute special, limited revenue obligations of the Authority payable from the Subordinate Pledged Revenue as provided herein. Principal of the Bonds, together with the interest thereon and any premium due in connection therewith, shall be payable from and to the extent of the Subordinate Pledged Revenue, including all moneys and earnings thereon held in the funds and accounts herein created, and the Subordinate Pledged Revenue is hereby pledged to the payment of the Bonds. The Bonds shall constitute an irrevocable lien upon the Subordinate Pledged Revenue, but not necessarily an exclusive such lien. The Bonds are secured by a lien on the Subordinate Pledged Revenue on parity with the lien thereon of any Parity Bonds issued hereafter.

**Section 3.02. Creation of Funds and Accounts.** There are hereby created and established the following funds and accounts, which shall be established with the Trustee and maintained by the Trustee in accordance with the provisions of this Indenture:

- (a) the Subordinate Bond Fund and, therein, the Subordinate Interest Account and the Subordinate Mandatory Redemption Account; and
- (b) the Costs of Issuance Fund.

**Section 3.03. Initial Credits.** Immediately upon issuance of the Bonds and from the proceeds thereof, and after payment of the Underwriter's discount, the Trustee shall:

- (a) transfer to the Escrow Agent the amount of \$[\_\_\_\_\_], to be applied in accordance with the provisions of the Escrow Agreement; and
- (b) credit to the Costs of Issuance Fund the amount of \$[\_\_\_\_\_].

**Section 3.04. Costs of Issuance Fund.**

(a) ***In General.*** The Costs of Issuance Fund shall be maintained by the Trustee in accordance with the terms of this Section 3.04.

(b) ***Draws from Costs of Issuance Fund.*** All moneys on deposit in the Cost of Issuance Fund shall be applied by the Trustee at the direction of the Authority for the payment of costs in connection with expenses incurred in connection with the issuance of the Bonds, including, without limitation, printing costs, regulatory fees, the fees and expenses of bond counsel, general counsel, bank counsel, underwriter's counsel and other counsel, the fees and expenses of the Authority's accountant, manager, special consultants, and other professionals, the costs of the Trustee, and other costs and expenses of the Authority relating to the issuance of the Bonds, all as set forth in the Closing Memo attached to the Senior Custodial Agreement.

(c) ***Termination of Costs of Issuance Fund.*** Upon the receipt by the Trustee of a notice from the Authority determining that all costs of issuance have been paid, any balance remaining in the Costs of Issuance Fund shall be credited to the Subordinate Bond Fund. The Costs of Issuance Fund shall terminate at such time as no further moneys remain therein.

**Section 3.05. Application of Subordinate Pledged Revenue.** The Authority is to cause all Subordinate Pledged Revenue to be deposited with the Trustee promptly upon receipt, subject to the last paragraph of this Section 3.05. The Trustee shall credit all Subordinate Pledged Revenue as received in the following order of priority (excluding the Subordinate Pledged Revenue described in clause (b) of the definition thereof, which is to be deposited directly to the Subordinate Bond Fund). For purposes of the following, when credits to more than one fund, account, or purpose are required at any single priority level, such credits shall rank *pari passu* with each other.

FIRST: To the credit of the Subordinate Bond Fund and any other fund or account created for the payment of the principal of, premium if any, and interest on Parity Bonds, including any sinking fund, reserve fund, surplus fund or similar fund or account established therefor, pro rata in accordance with the then outstanding principal amounts of the Bonds and any Parity Bonds, all Subordinate Pledged Revenue received until the funding of all amounts to become due and payable on the Bonds and the Parity Bonds through maturity; and

SECOND: To the Authority, for credit to any other fund or account as may be designated by the Authority in writing to the Trustee, to be used for any lawful purpose,

including without limitation the payment of any Junior Lien Obligations, any Subordinate Pledged Revenue received for the remainder of the Fiscal Year after the payments and accumulations set forth above.

**Section 3.06. Subordinate Bond Fund.** Moneys in the Subordinate Bond Fund shall be used by the Trustee solely to pay the principal of, premium if any, and interest on the Bonds.

(a) Subordinate Pledged Revenue required to be credited to the Subordinate Bond Fund in accordance with Section 3.05 hereof shall be credited each Fiscal Year as received as follows:

(i) First, to the credit of the Subordinate Interest Account, the amount required for amounts on deposit therein to equal the interest payable on the Bonds in such Fiscal Year; and

(ii) Second, all Subordinate Pledged Revenue credited to the Subordinate Bond Fund for the remainder of the Fiscal Year shall be credited to the Subordinate Mandatory Redemption Account.

(c) On each Interest Payment Date, the Trustee is to apply amounts on deposit in the Subordinate Interest Account to the payment of interest on the Bonds (including current interest, accrued but unpaid interest and unpaid compound interest, and including the accrued interest portion of any Mandatory Redemption Price) then due.

(d) On the 45<sup>th</sup> day prior to each Mandatory Redemption Date, the Trustee shall determine the amounts on deposit in the Subordinate Mandatory Redemption Account available for application to redemption of the Bonds in accordance with Section 5.01(b) hereof, taking into account any requirements of Section 5.02 hereof with respect to the amount to be redeemed. The Trustee shall provide notice of the mandatory redemption to occur on each Mandatory Redemption Date as a result of amounts credited to the Subordinate Mandatory Redemption Account, as provided in Section 5.02 hereof.

(e) On each Mandatory Redemption Date, the Trustee is to apply amounts on deposit in the Subordinate Mandatory Redemption Account to the payment of the principal portion of any Mandatory Redemption Price.

(f) Moneys credited to the Subordinate Bond Fund may be invested or deposited as provided in Section 6.01 hereof.

**Section 3.07. Reserved.**

**Section 3.08. Trustee's Fees, Charges, and Expenses.** From time to time, the Authority shall pay the Trustee's fees for services rendered hereunder in accordance with its then-current schedule of fees and reimburse the Trustee for all advances, legal fees, and other expenses reasonably or necessarily made or incurred by, in, or about the execution of the trust created by this Indenture and in or about the exercise and performance of the powers and duties of the Trustee hereunder and for the reasonable and necessary costs and expenses incurred in



defending any liability in the premises of any character whatsoever, unless such liabilities resulted from the negligence or willful misconduct of the Trustee.

**Section 3.09. Moneys to be Held in Trust.** All moneys deposited with or paid to the Trustee under any provision of this Indenture shall be held by the Trustee in trust for the purposes specified in this Indenture, and except for moneys paid to Trustee for its fees and expenses and moneys in the Costs of Issuance Fund, shall constitute part of the Trust Estate and be subject to the lien hereof. Except to the extent otherwise specifically provided in Article Seven, and Section 8.05(b) hereof, the Authority shall have no claim to or rights in any moneys deposited with or paid to the Trustee hereunder.

**Section 3.10. Pledge of Revenues.** The creation, perfection, enforcement, and priority of the pledge of Subordinate Pledged Revenue and funds and accounts held hereunder to secure or pay the Bonds provided herein shall be governed by Section 11-57-208 of the Supplemental Act, this Indenture, and the Authorizing Resolution. The amounts pledged to the payment of the Bonds shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge on the Subordinate Pledged Revenue, excluding the Subordinate Pledged Revenue described in clause (b) of the definition thereof, shall be on parity with the lien thereon of the Parity Bonds (if any). The lien of such pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such persons have notice of such liens.

## ARTICLE IV

### COVENANTS OF AUTHORITY

**Section 4.01. Performance of Covenants, Authority.** The Authority covenants that it will faithfully perform and observe at all times any and all covenants, undertakings, stipulations, and provisions contained in the Authorizing Resolution, this Indenture, the Bonds, and all its proceedings pertaining hereto. The Authority covenants that it is duly authorized under the constitution and laws of the State of Colorado, including, particularly and without limitation, the Act, to issue the Bonds and to execute this Indenture and that all action on its part for the issuance of the Bonds and the execution and delivery of this Indenture has been duly and effectively taken and will be duly taken as provided herein, and that the Bonds are and will be valid and enforceable obligations of the Authority according to the terms thereof.

**Section 4.02. Transfer of Incremental Tax Revenue to Senior Custodian.** The Authority shall transfer the Incremental Tax Revenues to the Senior Custodian as soon as practicable after the receipt thereof.

**Section 4.03. Instruments of Further Assurance.** The Authority covenants that it will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such indentures supplemental hereto and such further acts, instruments, and transfers as the Trustee may reasonably require for the better assuring, transferring, and pledging unto the Trustee all and singular the Trust Estate.

**Section 4.04. Additional Obligations.**

(a) Any Additional Obligations secured by a lien on ad valorem property taxes of the Authority shall be issued as Parity Bonds, Senior Obligations or Junior Lien Obligations. The 2016 Senior Loan, as evidenced, by the 2016 Senior Note, the UCCS Junior Lien Loan Agreement, the Developer Junior Lien Note and the City Junior Lien MOU are permitted, notwithstanding any provision of this Section 4.04. The Authority shall not issue or incur any other Additional Obligations unless the provisions of this section and any consent or approval requirements of the 2016 Senior Loan Agreement for such issuance or incurrence shall have been met.

(b) The Authority may issue or incur Additional Obligations constituting Parity Bonds, Senior Obligations or Junior Lien Obligations such issuance is consented to by the Consent Parties with respect to 100% in aggregate principal amount of the Bonds then Outstanding.

(c) The Authority may issue Additional Obligations constituting Senior Obligations, provided that, unless consented to by the Consent Parties with respect to 100% in aggregate principal amount of the Bonds then Outstanding pursuant to subsection (b) of this Section, the following conditions are satisfied:

(i) such Senior Obligations are issued solely for the purpose of refunding all or any portion of the 2016 Senior Loan, and the issuance of such refunding Senior Obligations causes the Authority's scheduled debt service on Senior Obligations to decrease in each year from that which appertained with respect to Senior Obligations prior to the issuance of such refunding Senior Obligations (excluding from such calculation any amount on deposit in a reserve fund anticipated to be available for payment of debt service at final maturity, as reasonably determined by the Board in good faith, such determination to be binding and final). For purposes of the foregoing: (A) debt service on the 2016 Senior Loan in each year following the current scheduled final maturity of the 2016 Senior Loan shall be assumed to be equal to the Annual Senior Payment Cap for such year; and (B) the following shall be deemed to increase the Authority's Senior Obligations debt service in any year and shall not be permitted by this clause (i): (1) the issuance of refunding Senior Obligations which have any scheduled payment dates in any year which is after the maturity of the Senior Obligations being refunded, and (2) the issuance of refunding Senior Obligations that refund only Bonds or Parity Bonds; and

(ii) all payment obligations with respect to such Senior Obligations in any Fiscal Year shall be limited to the Annual Senior Payment Cap for such Fiscal Year;

(iii) the Senior Obligation Reserve Fund, if any, securing such Senior Obligations shall not be required to be funded in excess of the 2016 Senior Reserve Fund Requirement;

(iv) the remedies for failures to comply with such Senior Obligations are substantially the same as the remedies applicable to the 2016 Senior Loan.

(d) The Authority may issue Additional Obligations constituting Junior Lien Obligations and the terms of such Junior Lien Obligations shall be as provided in the documents pursuant to which they are issued, provided that, unless consented to by the Consent Parties with respect to 100% in aggregate principal amount of the Bonds then Outstanding pursuant to subsection (b) of this Section, each of the following conditions shall apply to the Junior Lien Obligations:

(v) the failure to make a payment when due on the Junior Lien Obligations shall not constitute an event of default thereunder;

(vi) the Junior Lien Obligations shall be payable as to both principal and interest only on an annual basis, on or after December 15 of each calendar year, and only after the payment of the full amount of Senior Payment Obligations due in such year and all of the scheduled principal and interest due on the Bonds in such year; and

(vii) no payment shall be made with respect to the Junior Lien Obligations unless the Authority shall at that time be current with respect to all Senior Payment Obligations and all scheduled principal and interest with respect to the Bonds.

(e) A written certificate by an Authority Representative that the conditions set forth herein are met shall conclusively determine the right of the Authority to authorize, issue, sell, and deliver Additional Obligations in accordance herewith.

(f) Nothing herein shall affect or restrict the right of the Authority to issue or incur obligations which are not Additional Obligations hereunder.

**Section 4.05. Additional Covenants and Agreements.** The Authority hereby further irrevocably covenants and agrees with each and every Owner that so long as any of the Bonds remain Outstanding:

(a) The Authority will maintain its existence and shall not merge or otherwise alter its corporate structure in any manner or to any extent as might reduce the security provided for the payment of the Bonds, and will continue to operate and manage the Authority and its facilities in an efficient and economical manner in accordance with all applicable laws, rules, and regulations.

(b) At least once a year the Authority will cause an audit to be performed of the records relating to its revenues and expenditures, and the Authority shall use its best commercially reasonable efforts to have such audit report completed no later than 210 days after the end of any calendar year. The foregoing covenant shall apply notwithstanding any state law audit exemptions that may exist. In addition, at least once a year in the time and manner provided by law, the Authority will cause a budget to be prepared and adopted. Copies of the budget and the audit will be filed and recorded in the places, time, and manner provided by law.

(c) The Authority will carry general liability, employment practices liability, public officials liability, and such other forms of insurance coverage on insurable Authority property upon the terms and conditions as in the judgment of the Authority would ordinarily be carried by entities having similar properties of equal value, such insurance being in such amounts as will protect the Authority and its operations.

(d) To the extent required by law, each Authority official or other person having custody of any Authority funds or responsible for the handling of such funds, shall be bonded or insured against theft or defalcation at all times.

## ARTICLE V

### PRIOR REDEMPTION

#### Section 5.01. Prior Redemption.

(a) **Optional Redemption.** The Bonds are subject to redemption prior to maturity, at the option of the Authority, as a whole or in integral multiples of \$1,000, in any order of maturity, and in whole or partial maturities (and if in part in such order of maturities as the Authority shall determine and by lot within maturities), on December 15, 2021, and on any date thereafter, upon payment of par, accrued interest, and a redemption premium equal to a percentage of the principal amount so redeemed, as follows. [*premium schedule to be conformed to final pricing*]

<u>Date of Redemption</u>	<u>Redemption Premium</u>
December 15, 2021, to December 14, 2022	3.00%
December 15, 2022, to December 14, 2023	2.00
December 15, 2023, to December 14, 2024	1.00
December 15, 2024, and thereafter	0.00

(b) **Mandatory Redemption.** The Bonds are subject to mandatory redemption in part by lot on December 15 of each year (each a “Mandatory Redemption Date”), commencing December 15, [2017], to the extent of moneys on deposit, if any, in the Subordinate Mandatory Redemption Account of the Subordinate Bond Fund forty-five (45) days prior to the applicable Mandatory Redemption Date, and subject to any minimum requirements with respect to the principal amount of Bonds to be redeemed as set forth in Section 5.02 hereof, at a redemption price (the “Mandatory Redemption Price”) equal to the principal amount thereof (with no redemption premium), plus accrued interest to the redemption date.

#### Section 5.02. Redemption Procedure and Notice.

(a) If less than all of the Bonds within a maturity are to be redeemed on any prior redemption date, the Bonds to be redeemed shall be selected by lot prior to the date fixed for redemption, in such manner as the Trustee shall determine. The Bonds shall be redeemed only in integral multiples of \$1,000. In the event a Bond is of a denomination

larger than \$1,000, a portion of such Bond may be redeemed, but only in the principal amount of \$1,000 or any integral multiple thereof. Such Bond shall be treated for the purpose of redemption as that number of Bonds which results from dividing the principal amount of such Bond by \$1,000. In the event a portion of any Bond is redeemed, the Trustee shall, without charge to the Owner of such Bond, authenticate and deliver a replacement Bond or Bonds for the unredeemed portion thereof.

(b) In the event any of the Bonds or portions thereof are called for redemption as aforesaid, notice thereof identifying the Bonds or portions thereof to be redeemed will be given by the Trustee by mailing a copy of the redemption notice by first class mail (postage prepaid) or by electronic means to DTC or its successors, not less than 30 days prior to the redemption date to the Owner of each Bond to be redeemed in whole or in part at the address shown on the registration books maintained by or on behalf of the Authority by the Trustee. Failure to give such notice by mailing to any Owner, or any defect therein, shall not affect the validity of any proceeding for the redemption of other Bonds as to which no such failure or defect exists. The redemption of the Bonds may be contingent or subject to such conditions as may be specified in the notice, and if funds for the redemption are not irrevocably deposited with the Trustee or otherwise placed in escrow and in trust prior to the giving of notice of redemption, the notice shall be specifically subject to the deposit of funds by the Authority. All Bonds so called for redemption will cease to bear interest after the specified redemption date, provided funds for their redemption are on deposit at the place of payment at that time.

## **ARTICLE VI**

### **INVESTMENTS**

#### **Section 6.01. Investments.**

(a) All moneys held by the Trustee in any of the funds or accounts created hereby shall be promptly invested or reinvested by the Trustee, upon receipt by the Trustee of written direction of the Authority Representative, in Permitted Investments only. The Trustee may conclusively rely upon the Authority Representative's written instruction as to both the suitability and legality of the directed investments. If the Authority fails to provide written directions concerning investment of moneys held by the Trustee, the Trustee may invest in a money market fund that qualifies as a Permitted Investment, provided funds will be available for withdrawal from such money market fund prior to the date such funds will be needed. The interest income derived from the investment and reinvestment of any moneys in any fund or account held by the Trustee under the Indenture shall be credited to the fund or account from which the moneys invested were derived.

(b) Such investments shall mature or be redeemable at the option of the owner thereof no later than the respective dates when moneys held for the credit of such fund or account will be required for the purposes intended. The Authority Representative may direct the Trustee to, or in the absence of written direction, the Trustee shall, in accordance with this subsection, invest and reinvest the moneys in any Permitted

Investment so that the maturity date, interest payment date, or redemption provisions of such investment, shall coincide as nearly as practicable with the times at which money is needed to be so expended. The Trustee may make any and all such investments through its own investment department or that of its affiliates or subsidiaries, and may charge its ordinary and customary fees for such trades, including cash sweep account fees. The Trustee is not required to issue confirmations of Permitted Investments for any month in which a monthly statement is rendered by the Trustee. The Trustee will not issue a monthly statement for any fund or account if no activity occurred in such fund or account during such month. Unless otherwise confirmed or directed in writing, an account statement delivered periodically by the Trustee to the Authority Representative shall confirm that the investment transactions identified therein accurately reflect the investment directions of the Authority Representative, unless the Authority Representative notified the Trustee in writing to the contrary within thirty (30) days of the date of such statement. The Trustee is specifically authorized to purchase or invest in shares of any investment company that (i) is registered under the Investment Company Act of 1940, as amended (including both corporations and Massachusetts business trusts, and including companies for which the Trustee may provide advisory, administrative, custodial, or other services for compensation), (ii) invests substantially all of its assets in short-term high-quality money-market instruments, limited to obligations issued or guaranteed by the United States, and (iii) maintains a constant asset value per share. The Trustee is specifically authorized to implement its automated cash investments system to assure that cash on hand is invested and to charge reasonable cash management fees, which may be deducted from income earned on investments.

(c) Any and all such investments shall be subject to full and complete compliance at all times with the covenants and provisions of Section 6.02 hereof.

#### **Section 6.02. Tax Matters.**

(a) The Authority shall at all times do and perform all acts and things necessary or desirable in order to assure that interest paid on the Bonds shall, for the purposes of federal income taxation, be excludable from the gross income of the recipients thereof and exempt from such taxation.

(b) The Authority shall not use or permit the use of any proceeds of Bonds or any funds of the Authority, directly or indirectly, to acquire any securities or obligations, and shall not take or permit to be taken any other action or actions, which would cause any Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code or “federally guaranteed” within the meaning of Section 149(b) of the Code and any such applicable requirements promulgated from time to time thereunder and under Section 103(b) of the Code, and the Authority shall observe and not violate the requirements of Section 148 of the Code and any such applicable regulations. The Authority shall comply with all requirements of Sections 148 and 149(d) of the Code to the extent applicable to the Bonds. In the event that at any time the Authority is of the opinion that for purposes of this paragraph it is necessary to restrict or to limit the yield on the investment of any moneys held by the Trustee or held by the Authority under this Indenture, the Authority shall so restrict or limit the yield on such investment or shall so

instruct the Trustee in a detailed certificate, and the Trustee shall take such action as may be necessary in accordance with such instructions.

(c) The Authority specifically covenants to comply with the provisions and procedures of the Tax Certificate.

(d) The covenants contained in this Section shall continue in effect until all Bonds are fully paid, satisfied, and discharged.

## **ARTICLE VII**

### **DISCHARGE OF LIEN**

#### **Section 7.01. Discharge of the Lien of the Indenture.**

(a) If the Authority shall pay or cause to be paid to the Trustee, for the Owners of the Bonds, the principal of and interest to become due thereon at the times and in the manner stipulated herein, and if the Authority shall keep, perform, and observe all and singular the covenants and promises in the Bonds and in this Indenture expressed to be kept, performed, and observed by it or on its part, and if all fees and expenses of the Trustee required by this Indenture to be paid shall have been paid, then these presents and the estate and rights hereby granted shall cease, terminate, and be void, and thereupon the Trustee shall cancel and discharge the lien of this Indenture, and execute and deliver to the Authority such instruments in writing as shall be required to satisfy the lien hereof, and assign and deliver to the Authority any property at the time subject to the lien of this Indenture which may then be in its possession, and deliver any amounts required to be paid to the Authority under Section 8.05 hereof, except for moneys and Government Obligations held by the Trustee for the payment of the principal of, premium if any, and interest on the Bonds.

(b) Any Bond shall, prior to the maturity or prior redemption thereof, be deemed to have been paid within the meaning and with the effect expressed in this Section 7.01 if, for the purpose of paying such Bond (i) there shall have been deposited with the Trustee an amount sufficient, without investment, to pay the principal of, premium if any, and interest on such Bond as the same becomes due at maturity or upon one or more designated prior redemption dates, or (ii) there shall have been placed in escrow and in trust with a commercial bank exercising trust powers, an amount sufficient (including the known minimum yield from Government Obligations in which such amount may be invested) to pay the principal of, premium if any, and interest on such Bond, as the same becomes due at maturity or upon one or more designated prior redemption dates. The Government Obligations in any such escrow shall not be subject to redemption or prepayment at the option of the issuer, and shall become due at or prior to the respective times on which the proceeds thereof shall be needed, in accordance with a schedule established and agreed upon between the Authority and such bank at the time of the creation of the escrow, or the Government Obligations shall be subject to redemption at the option of the holders thereof to assure such availability as so needed to meet such schedule. The sufficiency of any such escrow funded with Government

Obligations shall be determined by a Certified Public Accountant. With respect to interest on the Bonds any accrued and unpaid interest on the Bonds, including any compound interest remaining unpaid, it is acknowledged that such amounts are due and payable immediately at the time of funding any escrow intended to accomplish a defeasance of the Bonds. Upon the funding of an escrow defeasing Bonds in accordance with the provisions of this Section 7.01, the Bonds shall cease to be subject to mandatory redemption in accordance with the provisions of Section 5.01(b), and the principal of the Bonds shall be due and payable only on the designated redemption date(s).

(c) Neither the Government Obligations, nor moneys deposited with the Trustee or placed in escrow and in trust pursuant to this Section 7.01, nor principal or interest payments on any such Government Obligations shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and interest on the Bonds; provided however, that any cash received from such principal or interest payments on such Government Obligations, if not then needed for such purpose, shall, to the extent practicable, be reinvested subject to the provisions of Article Six hereof in Government Obligations maturing at the times and in amounts sufficient to pay, when due, the principal of and interest on the Bonds.

(d) Prior to the investment or reinvestment of such moneys or such Government Obligations as herein provided, the Trustee shall receive and may rely upon: (i) an opinion of nationally recognized municipal Bond Counsel experienced in matters arising under Section 103 of the Code and acceptable to the Trustee, that the investment or reinvestment of such moneys or such Government Obligations complies with Section 6.02 hereof; and (ii) a report of a Certified Public Accountant that the moneys or Government Obligations will be sufficient to provide for the payment of the principal of and interest on the Bonds when due.

(e) The release of the obligations of the Authority under this Section shall be without prejudice to the rights of the Trustee to be paid reasonable compensation by the Authority for all services rendered by it hereunder and all its reasonable expenses, charges, and other disbursements incurred in the administration of the trust hereby created, the exercise of its powers, and the performance of its duties hereunder.

**Section 7.02. Continuing Role as Bond Registrar and Paying Agent.** Notwithstanding the defeasance of the Bonds prior to maturity and the discharge of this Indenture as provided in Section 7.01 hereof, the Trustee shall continue to fulfill its obligations under Section 2.03 hereof until the Bonds are fully paid, satisfied, and discharged.

**Section 7.03. Discharge on December 15, 2030.** Notwithstanding any other provision in this Indenture, in the event that any amount of principal of or interest on the Bonds remains unpaid after the application of all Subordinate Pledged Revenue available therefor on December 15, 2030, the Bonds and the lien of this Indenture securing payment thereof shall be deemed discharged, the estate and rights hereby granted shall cease, terminate, and be void, and thereupon the Trustee shall cancel and discharge the lien of this Indenture, and execute and deliver to the Authority such instruments in writing as shall be requisite to evidence the same. Upon such discharge, the Bondholders will have no recourse to the Authority or any property of



the Authority for the payment of any amount of principal of or interest on the Bonds remaining unpaid.

## ARTICLE VIII

### DEFAULT AND REMEDIES

**Section 8.01. Events of Default.** The occurrence of any one or more of the following events or the existence of any one or more of the following conditions shall constitute an Event of Default under this Indenture (whatever the reason for such event or condition and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree, rule, regulation, or order of any court or any administrative or governmental body), and there shall be no default or Event of Default hereunder except as provided in this Section:

(a) The Authority fails or refuses to transfer the Incremental Tax Revenue as required by this Indenture;

(b) The Authority defaults in the performance or observance of any other of the covenants, agreements, or conditions on the part of the Authority in this Indenture or the Authorizing Resolution, and fails to remedy the same after notice thereof pursuant to Section 8.12 hereof; or

(c) The Authority files a petition under the federal bankruptcy laws or other applicable bankruptcy laws seeking to adjust the obligation represented by the Bonds.

It is acknowledged that due to the limited nature of the Subordinate Pledged Revenue, the failure to pay the principal of or interest on the Bonds when due shall not, of itself, constitute an Event of Default hereunder.

### **Section 8.02. Remedies on Occurrence of Event of Default.**

(a) Upon the occurrence and continuance of an Event of Default, the Trustee shall have the following rights and remedies which may be pursued:

(i) *Receivership.* Upon the filing of a bill in equity or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Owners, the Trustee shall be entitled as a matter of right to the appointment of a receiver or receivers of the Trust Estate, and of the revenues, income, product, and profits thereof pending such proceedings, subject however, to constitutional limitations inherent in the sovereignty of the Authority; but notwithstanding the appointment of any receiver or other custodian, the Trustee shall be entitled to the possession and control of any cash, securities, or other instruments at the time held by, or payable or deliverable under the provisions of this Indenture to, the Trustee.

(ii) *Suit for Judgment.* The Trustee may proceed to protect and enforce its rights and the rights of the Owners under the Act, the Bonds, the Authorizing Resolution, this Indenture, and any provision of law by such suit,

action, or special proceedings as the Trustee, being advised by Counsel, shall deem appropriate.

(iii) *Mandamus or Other Suit.* The Trustee may proceed by mandamus or any other suit, action, or proceeding at law or in equity, to enforce all rights of the Owners.

(b) No recovery of any judgment by the Trustee shall in any manner or to any extent affect the lien of this Indenture or any rights, powers, or remedies of the Trustee hereunder, or any lien, rights, powers, and remedies of the Owners of the Bonds, but such lien, rights, powers, and remedies of the Trustee and of the Owners shall continue unimpaired as before.

(c) If any Event of Default under Section 8.01(a) shall have occurred and if requested by the Owners of twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Section 8.02 as the Trustee, being advised by Counsel, shall deem most expedient in the interests of the Owners, subject to Section 8.03 hereof; provided that the Trustee at its option shall be indemnified as provided in Section 9.01(m) hereof.

(d) Notwithstanding anything herein to the contrary, acceleration of the Bonds shall not be an available remedy for an Event of Default.

**Section 8.03. Majority of Owners May Control Proceedings.** The Owners of a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, at any time, to the extent permitted by law, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method, and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver, and any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions hereof; and provided further that at its option the Trustee shall be indemnified as provided in Section 9.01(m) hereof.

**Section 8.04. Rights and Remedies of Owners.** No Owner of any Bond shall have any right to institute any suit, action, or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless (a) a default has occurred of which the Trustee has been notified as provided in Section 9.01(h) hereof, or of which under that Section it is deemed to have notice, (b) such default shall have become an Event of Default, (c) the Owners of not less than twenty-five percent (25%) in aggregate principal amount of Bonds then Outstanding shall have made written request to the Trustee and shall have offered reasonable opportunity either to proceed to exercise the powers hereinabove granted or to institute such action, suit, or proceedings in their own name, and shall have also offered to the Trustee indemnity as provided in Section 9.01(m) hereof, and (d) the Trustee shall thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit, or proceeding in its own name; such notification, request, and offer of indemnity are declared in every case at the option of the Trustee to be conditions precedent to any action or cause of action for the enforcement of this Indenture, or for

the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more Owners of Bonds shall have any right in any manner whatsoever to affect, disturb, or prejudice the lien of this Indenture by his, her, its, or their action, or to enforce any right hereunder except in the manner herein provided and that all proceedings at law or in equity shall be instituted, had, and maintained in the manner herein provided and for the equal benefit of the Owners of all Bonds then Outstanding.

**Section 8.05. Application of Moneys.** All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article and any other moneys held as part of the Trust Estate, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and the fees (including attorneys' fees and any other professionals hired by the Trustee hereunder), expenses, liabilities, and advances incurred or made by the Trustee, shall be deposited in the appropriate accounts or accounts created hereunder in the same manner as is provided for deposits of other revenue and used for the purposes thereof, until the principal of, premium if any, and interest on all of the Bonds has been paid in full. Whenever all of the Bonds and interest thereon have been paid under the provisions of this Section 8.05 and all expenses and fees of the Trustee have been paid, any balance remaining in any of the funds held hereunder shall be paid to the Authority.

**Section 8.06. Trustee May Enforce Rights Without Bonds.** All rights of action and claims under this Indenture or any of the Bonds Outstanding hereunder may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or proceedings relative thereto. Any suit or proceeding instituted by the Trustee shall be brought in its name as the Trustee, without the necessity of joining as plaintiffs or defendants any Owners of the Bonds, and any recovery of judgment shall be for the ratable benefit of the Owners of the Bonds, subject to the provisions of this Indenture.

**Section 8.07. Trustee to File Proofs of Claim in Receivership, Etc.** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition, or other judicial proceedings affecting the Authority, the Trustee shall, to the extent permitted by law, file such proofs of claims and other documents as may be necessary or advisable in order to have claims of the Trustee and of the Owners allowed in such proceedings, without prejudice, however, to the right of any Owner to file a claim in his own behalf.

**Section 8.08. Delay or Omission No Waiver.** No delay or omission of the Trustee or of any Owner to exercise any right or power accruing upon any default shall exhaust or impair any such right or power or shall be construed to be a waiver of any such default, or acquiescence therein; and every power and remedy given by this Indenture may be exercised from time to time and as often as may be deemed expedient.

**Section 8.09. No Waiver of One Default to Affect Another; All Remedies Cumulative.** No waiver of any default hereunder, whether by the Trustee or the Owners, shall extend to or affect any subsequent or any other then existing default or shall impair any rights or remedies consequent thereon. All rights and remedies of the Trustee and the Owners provided herein shall be cumulative and the exercise of any such right or remedy shall not affect or impair the exercise of any other right or remedy.

**Section 8.10. Discontinuance of Proceedings on Default; Position of Parties Restored.** In case the Trustee shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then and in every such case the Authority and the Trustee shall be restored to their former positions and rights hereunder with respect to the Trust Estate, and all rights, remedies, and powers of the Trustee shall continue as if no such proceedings had been taken.

**Section 8.11. Waivers of Events of Default.** The Trustee may in its discretion waive any Event of Default hereunder and its consequences, and shall do so upon the written request of the Consent Parties with respect to a majority in aggregate principal amount of all the Bonds then Outstanding; provided however, that there shall not be waived without the consent of the Consent Parties with respect to one hundred percent (100%) of the Bonds then Outstanding as to which the Event of Default exists any Event of Default under Section 8.01(a) hereof. In case of any such waiver, or in case any proceedings taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely to the Trustee, then in every such case the Authority, the Trustee, and the Owners shall be restored to their former positions and rights hereunder respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

**Section 8.12. Notice of Default; Opportunity to Cure Defaults.**

(a) The Trustee shall give to the Owners of all Bonds notice by mailing to the address shown on the registration books maintained by the Trustee, of all Events of Default of which the Trustee is by Section 9.01(h) required to take notice, or if notice of an Event of Default is given as provided in said section, within ninety (90) days after the Trustee has knowledge of the occurrence of such default or Event of Default unless such default or Event of Default shall have been cured before the giving of such notice; provided that, the Trustee shall be protected in withholding such notice if and so long as a committee of its corporate trust department in good faith determines that the withholding of such notice is not detrimental to the interests of the Owners.

(b) No default under subsection 8.01(c) hereof shall constitute an Event of Default until actual notice of such default by registered or certified mail shall be given by the Trustee or by the Owners of not less than twenty-five percent (25%) in aggregate principal amount of all Bonds Outstanding to the Authority, and the Authority shall have had thirty (30) days after receipt of such notice to correct said default or cause said default to be corrected, and shall not have corrected said default or caused said default to be corrected within the applicable period; provided however, if said default be such that it cannot be corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted within the applicable period and diligently pursued thereafter until the default is corrected.

## ARTICLE IX

### CONCERNING TRUSTEE

**Section 9.01. Acceptance of Trusts and Duties of Trustee.** The Trustee hereby accepts the trusts imposed upon it by this Indenture and agrees to perform said trusts, but only upon and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Indenture against the Trustee.

(a) The Trustee, prior to the occurrence of an Event of Default and after the curing or waiver of any Event of Default which may have occurred, shall undertake to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default has occurred (which has not been cured or waived) the Trustee shall exercise such of the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs in exercising the rights or remedies or performing any of its duties hereunder.

(b) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers, or employees, but shall be answerable for the conduct of the same in accordance with the standard specified in Section 9.01(g) hereof, and shall be entitled to act upon the advice or an opinion of Counsel concerning all matters of trust hereof and the duties hereunder, and may in all cases pay (and be reimbursed as provided in Section 9.02 hereof) such compensation to all such attorneys, agents, receivers, and employees as may reasonably be employed in connection with the trusts hereof. The Trustee may act upon the advice or an Opinion of Counsel, the Trustee shall not be responsible for any loss or damage resulting from any action taken or omitted to be taken in good faith in reliance upon the advice or an opinion of Counsel chosen with due care.

(c) The Trustee shall not be responsible for any recital herein or in the Bonds, or for the validity of the execution by the Authority of this Indenture or of any supplements hereto or instruments of further assurance, or for the sufficiency of the security for the Bonds, or for the recording or rerecording, filing or refiling of this Indenture or any security agreement in connection therewith (excluding the continuation of originally filed Uniform Commercial Code financing statements) and the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions, or agreements on the part of the Authority, except as herein set forth; but the Trustee may require of the Authority full information and advice as to the performance of the covenants, conditions, and agreements aforesaid. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with Article Six hereof.

(d) The Trustee makes no representations as to the value or condition of the Trust Estate or any part thereof (except for funds or investments held by the Trustee) or as to the validity or sufficiency of this Indenture or the Bonds. The Trustee shall not be accountable for the use of any Bonds authenticated or delivered hereunder. The Trustee,

in its individual capacity or any other capacity, may become the Owner of the Bonds with the same rights which it would have if not the Trustee. The Trustee shall not be accountable for the use or application by the Authority of the proceeds of any of the Bonds or of any money paid to or upon the order of the Authority under any provision of this Indenture.

(e) The Trustee may conclusively rely and shall be protected in acting or refraining from acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram, or other paper or document believed to be genuine and correct and to have been signed or sent by the proper person or persons. The Trustee may rely conclusively on any such certificate or other paper or document and shall not be required to make any independent investigation in connection therewith. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the Registered Owner of any Bonds shall be conclusive and binding upon all future owners of the same Bond and upon Bonds issued in place thereof.

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper, or proceedings, or whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering, or omitting any action hereunder, the Trustee shall be entitled to conclusively rely upon a certificate signed on behalf of the Authority by the Authority Representative or the Authority's President or such other person as may be designated for such purpose as provided hereunder or by a certified resolution of the Authority as sufficient evidence of the facts therein contained, and, prior to the occurrence of a default of which the Trustee has been notified as provided in Section 9.01(h) hereof or of which by said Section it is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction, or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or willful misconduct and shall not be answerable for any negligent act of its attorneys, agents or receivers which have been selected by the Trustee with due care.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure to be made any of the payments to the Trustee required to be made hereby, unless the Trustee shall be specifically notified in writing of such default by the Authority or by the Owners of at least twenty-five percent (25%) in aggregate principal amount of Bonds then Outstanding. All notices or other instruments required by this Indenture to be delivered to the Trustee must, in order to be effective, be delivered at the principal corporate trust office of the Trustee, and in the absence of such notice so delivered, the Trustee may conclusively assume there is no default except as aforesaid.

(i) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust in the manner and for the purposes for which they were received but need not be segregated from other funds except to the extent required by this Indenture or by law. The Trustee shall not be under any liability to invest any moneys received hereunder except as provided in Article Six hereof.

(j) At any and all reasonable times the Trustee or its duly authorized agents, attorneys, experts, engineers, accountants, and representatives shall have the right, but shall not be required, to inspect any and all books, papers, and records of the Authority pertaining to the Bonds and the Subordinate Pledged Revenue, and to take such memoranda from and in regard thereto as may be desired.

(k) Notwithstanding anything in this Indenture to the contrary, the Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals, or other information or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee, as may be deemed desirable for the purpose of establishing the right of the Authority to the authentication of any Bonds, or the taking of any other action by the Trustee.

(l) All records of the Trustee pertaining to the Bonds shall be open during reasonable times for inspection by the Authority.

(m) The Trustee shall not be required to advance its own funds, and before taking any action under this Indenture, other than the payment of monies on deposit in any of the funds as provided for herein, the Trustee may require that indemnity satisfactory to it be furnished to it for the reimbursement of all costs and expenses which it may incur, including attorney's fees, and to protect it against all liability, except liability which may result from its gross negligence or willful misconduct, by reason of any action so taken. To the extent permitted by law, the Authority agrees to indemnify the Trustee against any claims arising out of the exercise and performance of its powers and duties hereunder in good faith and without negligence; provided that this agreement shall not act as a waiver of immunity of the Authority under the Colorado Governmental Immunity Act.

(n) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(o) The Trustee shall have no responsibility with respect to any information, statement or recital in any offering memorandum, remarketing circular or other disclosure material prepared or distributed with respect to the Bonds.

(p) The Trustee makes no representations as to the validity or sufficiency of this Indenture or the Bonds, assumes no responsibility for the correctness of the same, and shall incur no responsibility in respect to such validity or sufficiency.

**Section 9.02. Fees and Expenses of the Trustee.** The Trustee shall be entitled to payment and reimbursement of its fees and expenses for ordinary services rendered hereunder as and when the same become due (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) and all advances and expenses reasonably and necessarily made or incurred by the Trustee in connection with such ordinary services, including legal fees and expenses. In no event shall the Trustee be obligated to advance its own funds in order to take any action hereunder. In the event that it should become necessary for the Trustee to perform extraordinary services, the Trustee shall be entitled to reasonable additional compensation therefor and to reimbursement for reasonable and necessary extraordinary expenses in connection therewith; provided that if such extraordinary services or extraordinary expenses are occasioned by the gross negligence or willful misconduct of the Trustee it shall not be entitled to compensation or reimbursement therefore. The Trustee shall have a first lien with right of payment prior to payment on account of principal of or interest on any Bond, upon all moneys in the Trust Estate for the foregoing reasonable advances, fees, costs and expenses incurred. The Trustee's right to compensation and indemnification shall survive the satisfaction and discharge of this Indenture or the Trustee's resignation or removal hereunder and payment in full of the Bonds.

**Section 9.03. Resignation or Replacement of Trustee.**

(a) The Trustee may resign, subject to the appointment of a successor, by giving thirty (30) days' notice of such resignation to the Authority and to all Owners of Bonds specifying the date when such resignation shall take effect. Such resignation shall take effect on the date specified in such notice unless a successor shall have been previously appointed as hereinafter provided, in which event such resignation shall take effect immediately on the appointment of such successor. The Trustee may petition the courts to appoint a successor in the event no such successor shall have been previously appointed. The Trustee may be removed at any time by an instrument in writing, executed by a majority of the Owners in aggregate principal amount of the Bonds then Outstanding. Any removal or resignation of the Trustee and appointment of a successor Trustee shall become effective only upon acceptance of appointment by the successor Trustee.

(b) In case the Trustee shall at any time resign or be removed or otherwise become incapable of acting, a successor may be appointed by the Authority so long as it is not in default hereunder; otherwise by the Owners of a majority in aggregate principal amount of the Bonds then Outstanding by an instrument or concurrent instruments signed by such Owners, or their attorneys-in-fact appointed; provided however, that even if the Authority is in default hereunder it may appoint a successor until a new successor shall be appointed by the Authority or the Owners as herein authorized. The Authority, upon making such appointment, shall forthwith give notice thereof to the Owners by mailing to the address shown on the registration books maintained by the Trustee, which notice may be given concurrently with the notice of resignation given by any resigning Trustee. Any successor so appointed by the Authority shall immediately and without further act be superseded by a successor appointed in the manner above provided by the Authority or the Owners of a majority in aggregate principal amount of the Bonds then Outstanding, as applicable.



(c) Every successor Trustee shall always be a commercial bank or trust company in good standing, qualified to act hereunder, and having a capital surplus of not less than \$50,000,000, if there be such an institution willing, qualified, and able to accept the trust upon reasonable or customary terms. Any successor appointed hereunder shall execute, acknowledge, and deliver to the Authority an instrument accepting such appointment hereunder, and thereupon such successor shall, without any further act, deed, or conveyance, become vested with all estates, properties, rights, powers, and trusts of its predecessor in the trust hereunder with like effect as if originally named as the Trustee hereunder and thereupon the duties and obligations of the predecessor shall cease and terminate; but the Trustee retiring shall, nevertheless, on the written demand of its successor and upon payment of the fees and expenses owed to the predecessor, execute and deliver an instrument conveying and transferring to such successor, upon the trusts herein expressed, all the estates, properties, rights, powers, and trusts of the predecessor, who shall duly assign, transfer, and deliver to the successor all properties and moneys held by it under this Indenture. If any instrument from the Authority is required by any successor for more fully and certainly vesting in and confirming to it the estates, properties, rights, powers, and trusts of the predecessor, those instruments shall be made, executed, acknowledged, and delivered by the Authority on request of such successor.

(d) The instruments evidencing the resignation or removal of the Trustee and the appointment of a successor hereunder, together with all other instruments provided for in this Section, shall be filed or recorded by the successor Trustee in each recording office, if any, where this Indenture shall have been filed or recorded.

**Section 9.04. Conversion, Consolidation, or Merger of Trustee.** Anything herein to the contrary notwithstanding, any bank or trust company or other person into which the Trustee or its successor may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business as a whole, shall be the successor of the Trustee under this Indenture with the same rights, powers, duties, and obligations, and subject to the same restrictions, limitations, and liabilities as its predecessor, all without the execution or filing of any papers or any further act on the part of any of the parties hereto, provided that such bank, trust company, or other person is legally empowered to accept such trust.

**Section 9.05. Trustee Protected in Relying Upon Resolutions, Etc.** The resolutions, opinions, certificates, and other instruments provided for in this Indenture may be accepted by the Trustee as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection, and authority to the Trustee for the release of property and the withdrawal of cash hereunder. Except as provided herein, the Trustee shall not be under any responsibility to seek the approval of any expert for any of the purposes expressed in this Indenture; provided however, that nothing contained in this Section shall alter the Trustee's obligations or immunities provided by statutory, constitutional, or common law with respect to the approval of independent experts who may furnish opinions, certificates, or opinions of Counsel to the Trustee pursuant to any provisions of this Indenture.

## ARTICLE X

### SUPPLEMENTAL INDENTURES

**Section 10.01. Supplemental Indentures Not Requiring Consent.** Subject to the provisions of this Article, the Authority and the Trustee may, without the consent of or notice to the Owners, enter into such indentures supplemental hereto, which supplemental indentures shall thereafter form a part hereof, for any one or more of the following purposes:

- (a) To cure any ambiguity, to cure, correct, or supplement any formal defect or omission or inconsistent provision contained in this Indenture, to make any provision necessary or desirable due to a change in law, to make any provisions with respect to matters arising under this Indenture, or to make any provisions for any other purpose if such provisions are necessary or desirable and do not in the opinion of Bond Counsel materially adversely affect the interests of the Owners of the Bonds;
- (b) To subject to this Indenture additional revenues, properties, or collateral;
- (c) To grant or confer upon the Trustee for the benefit of the Owners any additional rights, remedies, powers, or authority that may lawfully be granted to or conferred upon the Owners or the Trustee; and
- (d) To qualify this Indenture under the Trust Indenture Act of 1939.

**Section 10.02. Supplemental Indentures Requiring Consent.**

(a) Except for supplemental indentures delivered pursuant to Section 10.01 hereof, and subject to the provisions of this Article, the Consent Parties with respect to not less than a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, to consent to and approve the execution by the Authority and the Trustee of such indenture or indentures supplemental hereto as shall be deemed necessary or desirable by the Authority for the purpose of modifying, altering, amending, adding to, or rescinding, in any particular, any of the terms or provisions contained in this Indenture; provided however, that without the consent of the Consent Parties with respect to all the Outstanding Bonds affected thereby, nothing herein contained shall permit, or be construed as permitting:

- (i) a change in the terms of the maturity of any Outstanding Bond, in the principal amount of any Outstanding Bond, in the optional or mandatory redemption provisions applicable thereto, or the rate of interest thereon;
- (ii) an impairment of the right of the Owners to institute suit for the enforcement of any payment of the principal of or interest on the Bonds when due;
- (iii) a privilege or priority of any Bond or any interest payment over any other Bond or interest payment; or

(iv) a reduction in the percentage in principal amount of the Outstanding Bonds, the consent of whose Owners or Consent Parties is required for any such supplemental indenture.

(b) Upon the execution of any supplemental indenture pursuant to the provisions of this Section, this Indenture shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties, and obligations under this Indenture of the Authority, the Trustee, and all Owners of Bonds then Outstanding shall thereafter be determined, exercised, and enforced hereunder, subject in all respects to such modifications and amendments.

(c) If at any time the Authority shall request the Trustee to enter into such supplemental indenture for any of the purposes of this Section, the Trustee shall, upon being satisfactorily indemnified with respect to fees and expenses, cause notice of the proposed execution of such supplemental indenture to be given by mailing such notice by certified or registered first class mail to each Owner of a Bond to the address shown on the registration books of the Trustee, at least thirty (30) days prior to the proposed date of execution and delivery of any such supplemental indenture. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the principal corporate trust office of the Trustee for inspection by all Owners. If, within sixty (60) days or such longer period as shall be prescribed by the Authority following the giving of such notice, the Consent Parties with respect to not less than the required percentage in aggregate principal amount of the Bonds then Outstanding at the time of the execution of any such supplemental indenture shall have consented to and approved the execution thereof as herein provided, no Owner of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Authority from executing the same or from taking any action pursuant to the provisions thereof.

**Section 10.03. Execution of Supplemental Indenture.** The Trustee is authorized to join with the Authority in the execution of any such supplemental indenture and to make further agreements and stipulations which may be contained therein; provided that, prior to the execution of any such supplemental indenture (whether under Section 10.01 or 10.02 hereof) the Trustee and the Authority shall receive and shall be fully protected in relying upon an opinion of nationally recognized municipal bond Counsel experienced in matters arising under Section 103 of the Code and acceptable to the Trustee and the Authority, to the effect that: (i) the supplement will not adversely affect the exclusion from gross income for federal income tax purposes, of the interest paid or to be paid on the Bonds; (ii) the Authority is permitted by the provisions hereof to enter into the supplement; and (iii) the supplement is a valid and binding obligation of the Authority, enforceable in accordance with its terms, subject to matters permitted by Section 1.05 hereof.

## ARTICLE XI

### MISCELLANEOUS

**Section 11.01. Parties Interested Herein.** Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person other than the Authority, the Trustee, and the Owners of the Bonds, any right, remedy, or claim under or by reason of this Indenture or any covenant, condition, or stipulation hereof; and all the covenants, stipulations, promises, and agreements in this Indenture by and on behalf of the Authority shall be for the sole and exclusive benefit of the Authority, the Trustee, and the Owners of the Bonds.

**Section 11.02. Severability.** In the event any provision of this Indenture shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, the intent being that such remaining provisions shall remain in full force and effect.

**Section 11.03. Governing Law.** This Indenture shall be governed and construed in accordance with the laws of the State.

**Section 11.04. Execution in Counterparts.** This Indenture 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.

**Section 11.05. Notices; Waiver.**

(a) Except as otherwise provided herein, all notices, certificates, or other communications required to be given to any of the persons set forth below pursuant to any provision of this Indenture shall be in writing, shall be given either in person or by certified or registered mail, and if mailed, shall be deemed received three (3) days after having been deposited in a receptacle for United States mail, postage prepaid, addressed as follows:

To Authority: Colorado Springs Urban Renewal Authority  
30 S. Nevada Ave.  
Suite 502  
Colorado Springs, CO 80903  
Attention: Jim Rees, Executive Director  
Telephone: (719) 651-3136  
Email: reescsura@gmail.com

(with a copy to): Kraemer Kendall Rupp Deen Neville LLC  
430 N. Tejon  
Suite 300  
Colorado Springs, CO 80903  
Attention: David Neville, Esq.  
Telephone: (719) 471-3690  
Email: dneville@k2blaw.com

To Trust: UMB Bank, n.a.  
Corporate Trust & Escrow Services  
1670 Broadway  
Denver, CO 80202  
Attention: Leigh Lutz  
Telephone: (303) 839-2220  
Email: leigh.lutz@umb.com

(b) The persons designated above may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, or other communications shall be sent.

(c) Where this Indenture provides for notice in any manner, such notice may be waived in writing by the person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Owners shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

**Section 11.06. Holidays.** If the date for making any payment or the last day for performance of any act or the exercising of any right, as provided in this Indenture, shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the city in which the principal office of the Trustee are located are authorized or required by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized or required by law to remain closed, with the same force and effect as if done on the nominal date provided in this Indenture.

**Section 11.07. Application of Supplemental Act.** The Board specifically elects to apply all of the provisions of Title 11, Article 57, Part 2, C.R.S. (as previously defined, the “Supplemental Act”), to the Bonds.

**Section 11.08. Subordinate Pledged Revenue Subject to Immediate Lien.** The creation, perfection, enforcement, and priority of the pledge of the Subordinate Pledged Revenue and funds and accounts held hereunder to secure or pay the Bonds provided herein shall be governed by Section 11-57-208 of the Supplemental Act, this Indenture and the Authorizing Resolution. The Trust Estate pledged to the payment of the Bonds shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge shall have the priority described herein. The lien of such pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such persons have notice of such liens.

**Section 11.09. No Recourse against Officers and Agents.** Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Board, or any officer or agent of the Authority acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the principal, interest or prior redemption premiums on the Bonds. Such recourse

shall not be available either directly or indirectly through the Board or the Authority, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the Bonds and as a part of the consideration of their sale or purchase, any person purchasing or selling such Bond specifically waives any such recourse.

**Section 11.10. Conclusive Recital.** Pursuant to Section 11-57-210 of the Supplemental Act, the Bonds shall contain a recital that they are issued pursuant to certain provisions of the Supplemental Act. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of the Bonds after their delivery for value.

**Section 11.11. Limitation of Actions.** Pursuant to Section 11-57-212, C.R.S., no legal or equitable action brought with respect to any legislative acts or proceedings in connection with the authorization or issuance of the Bonds shall be commenced more than thirty days after the authorization of the Bonds.

**Section 11.12. Electronic Execution and Storage.** The parties hereto 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.

[Signatures appear on following page]

**IN WITNESS WHEREOF, COLORADO SPRINGS URBAN RENEWAL AUTHORITY** has caused this Indenture to be executed on its behalf by its Chair and attested by its Secretary/Executive Director, and to evidence its acceptance of the trusts hereby created, UMB Bank, n.a., Denver, Colorado, as Trustee, has caused this Indenture to be executed on its behalf by one of its authorized officers, all as of the date first above written.

(S E A L)

COLORADO SPRINGS URBAN RENEWAL  
AUTHORITY

---

Chair

ATTESTED:

---

Executive Director/Secretary

UMB BANK, N.A., as Trustee

---

Authorized Officer

**EXHIBIT A**  
**TO**  
**INDENTURE OF TRUST**  
**FORM OF BOND**

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”), TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

**UNITED STATES OF AMERICA**  
**STATE OF COLORADO**

No. R-\_\_\_\_ \$ \_\_\_\_\_

\$ \_\_\_\_\_

**COLORADO SPRINGS URBAN RENEWAL AUTHORITY**

**SUBORDINATE TAX INCREMENT REVENUE BONDS**  
**(UNIVERSITY VILLAGE COLORADO PROJECT REFUNDING)**  
**SERIES 2016**

<b>Interest Rate</b>	<b>Maturity Date</b>	<b>Original Issue Date</b>	<b>CUSIP</b>
_____%	December 15, 20__	August __, 2016	

REGISTERED OWNER: Cede & Co.

Tax Identification Number: 13-2555119

PRINCIPAL AMOUNT: \_\_\_\_\_ Thousand and 00/100 U.S. Dollars

Colorado Springs Urban Renewal Authority, a body corporate and politic duly organized and operating under the constitution and laws of the State of Colorado (the “Authority”), for value received, hereby acknowledges itself indebted and promises to pay, solely from and to the extent of the Subordinate Pledged Revenue (defined below), to the registered owner named



above, or registered assigns, on the maturity date specified above or on the date of prior redemption, the principal amount specified above. In like manner the Authority promises to pay interest on such principal amount (computed on the basis of a 360-day year of twelve 30-day months) from the Interest Payment Date next preceding the date of registration and authentication of this Bond, unless this Bond is registered and authenticated prior to December 15, 2016, in which event this Bond shall bear interest from its date of delivery, at the interest rate per annum specified above, payable annually on December 15 each year, commencing on December 15, 2016, until the principal amount is paid at maturity or upon prior redemption.

To the extent principal of this Bond is not paid when due, such principal shall remain outstanding until paid; subject to the immediately succeeding paragraph. To the extent interest on this Bond is not paid when due, such interest shall compound annually on each Interest Payment Date, at the rate then borne by the Bond; provided however, that notwithstanding anything herein or in the Indenture to the contrary, the Authority shall not be obligated to pay more than the amount permitted by law and its electoral authorization in repayment of this Bond, including all payments of principal and interest, and this Bond will be deemed defeased and no longer outstanding upon the payment by the Authority of such amount.

The Bonds are issued pursuant to that certain Subordinate Indenture of Trust (the "Indenture") dated as of August [\_\_\_], 2016, between the Authority and UMB Bank, n.a., as trustee (the "Trustee"). All capitalized terms used and not otherwise defined herein shall have the respective meanings assigned in the Indenture.

**IT IS ACKNOWLEDGED THAT, PURSUANT TO THE INDENTURE, IN THE EVENT THAT ANY AMOUNT OF PRINCIPAL OF OR INTEREST ON THIS BOND REMAINS UNPAID AFTER THE APPLICATION OF ALL SUBORDINATE PLEDGED REVENUE AVAILABLE THEREFOR ON DECEMBER 15, 2030, THE BONDS AND THE LIEN OF THE INDENTURE SECURING PAYMENT THEREOF SHALL BE DEEMED DISCHARGED. IN SUCH EVENT THE BONDHOLDERS WILL HAVE NO RECOURSE TO THE AUTHORITY OR ANY PROPERTY OF THE AUTHORITY FOR THE PAYMENT OF ANY AMOUNT OF PRINCIPAL OF OR INTEREST ON THE BOND REMAINING UNPAID.**

The principal of this Bond is payable in lawful money of the United States of America to the registered owner hereof upon maturity or prior redemption and presentation at the principal office of the Trustee. Payment of each installment of interest shall be made to the registered owner hereof whose name shall appear on the registration books of the Authority maintained by or on behalf of the Authority by the Trustee at the close of business on the last day of the calendar month next preceding each Interest Payment Date (the "Record Date"), and shall be paid by check or draft of the Trustee mailed on or before the Interest Payment Date to such registered owner at his address as it appears on such registration books. The Trustee may make payments of interest on any Bond by such alternative means as may be mutually agreed to between the registered owner of such Bond and the Trustee as provided in the Indenture. Any such interest not so timely paid or duly provided for shall cease to be payable to the person who is the registered owner hereof at the close of business on the Record Date and shall be payable to the person who is the registered owner hereof at the close of business on a Special Record Date (the "Special Record Date") established for the payment of any defaulted interest. Notice of the

Special Record Date and the date fixed for the payment of defaulted interest shall be given by first-class mail to the registered owner hereof as shown on the registration books on a date selected by the Trustee.

This Bond is one of a series aggregating \$\_\_\_\_\_ par value, all of like date, tenor, and effect, issued by the Authority for the purpose of paying a portion of the costs of refunding certain outstanding obligations of the Authority, by virtue of and in full conformity with the Constitution of the State of Colorado; Title 31, Article 25, Part 1, C.R.S.; Title 11, Article 57, Part 2, C.R.S.; and all other laws of the State of Colorado thereunto enabling, and pursuant to the duly adopted Authorizing Resolution and the Indenture. Pursuant to § 11-57-210, C.R.S., such recital shall be conclusive evidence of the validity and the regularity of the issuance of the Bonds after their delivery for value.

It is hereby recited, certified, and warranted that all of the requirements of law have been fully complied with by the proper officers in issuing this Bond.

All of the Bonds, together with the interest thereon and any premium due in connection therewith, shall be payable from and to the extent of certain moneys held under the Indenture and the "Subordinate Pledged Revenue," as defined by the Indenture. The Bonds constitute an irrevocable first lien upon the Subordinate Pledged Revenue, but not necessarily an exclusive such lien. Subject to expressed conditions, obligations in addition to the Bonds of this issue may be issued and made payable from the Subordinate Pledged Revenue having a lien thereon on a parity with the lien of the Bonds of this issue, in accordance with the provisions of the Indenture.

Reference is hereby made to the Indenture for an additional description of the nature and extent of the security for the Bonds, the accounts and revenues pledged to the payment thereof, the rights and remedies of the registered owners of the Bonds, the manner in which the Indenture may be amended, and the other terms and conditions upon which the Bonds are issued, copies of which are on file for public inspection at the office of the Authority Secretary.

By acceptance of this instrument, the owner of this Bond agrees and consents to all of the limitations in respect of the payment of the principal of and interest on this Bond contained herein, in the resolution of the Authority authorizing the issuance of this Bond and in the Service Plan for creation of the Authority.

The Bonds are subject to redemption prior to maturity as provided in the Indenture. The Bonds will be redeemed only in integral multiples of \$1,000. In the event a Bond is of a denomination larger than \$1,000, a portion of such Bond may be redeemed, but only in the principal amount of \$1,000 or any integral multiple thereof. Such Bond will be treated for the purposes of redemption as that number of Bonds which results from dividing the principal amount of such Bond by \$1,000. In the event a portion of this Bond is redeemed, the Trustee shall, without charge to the registered owner of this Bond, authenticate and deliver a replacement Bond or Bonds for the unredeemed portion.

Notice of prior redemption shall be given by mailing a copy of the redemption notice or by electronic means to DTC or its successors, not less than thirty (30) days prior to the date fixed for redemption, to the registered owner of this Bond at the address shown on the registration

books maintained by the Trustee, in the manner set forth in the Indenture. The redemption of the Bonds may be contingent or subject to such conditions as may be specified in the notice. All Bonds called for redemption will cease to bear interest after the specified redemption date, provided funds for their redemption are on deposit at the place of payment at that time.

The Authority and Trustee shall not be required to issue or transfer any Bonds: (a) during a period beginning at the close of business on the Record Date and ending at the opening of business on the first Business Day following the ensuing Interest Payment Date or (b) during the period beginning at the opening of business on a date 45 days prior to the date of any redemption of Bonds and ending at the opening of business on the first Business Day following the day on which the applicable notice of redemption is mailed. The Trustee shall not be required to transfer any Bonds selected or called for redemption, in whole or in part.

The Authority and the Trustee may deem and treat the registered owner of this Bond as the absolute owner hereof for all purposes (whether or not this Bond shall be overdue), and any notice to the contrary shall not be binding upon the Authority or the Trustee.

This Bond may be exchanged at the principal office of the Trustee for a like aggregate principal amount of Bonds of the same series and maturity of other authorized denominations. This Bond is transferable by the registered owner hereof in person or by his attorney duly authorized in writing, at the principal office of the Trustee, but only in the manner, subject to the limitations, and upon payment of the charges provided in the Indenture and upon surrender and cancellation of this Bond. This Bond may be transferred upon the registration books upon delivery to the Trustee of this Bond, accompanied by a written instrument or instruments of transfer in form and with guaranty of signature satisfactory to the Trustee, duly executed by the owner of this Bond or his attorney-in-fact or legal representative, containing written instructions as to the details of the transfer of the Bond, along with the social security number or federal employer identification number of such transferee. In the event of the transfer of this Bond, the Trustee shall enter the transfer of ownership in the registration books and shall authenticate and deliver in the name of the transferee or transferees a new fully registered Bond or Bonds of authorized denominations of the same series, maturity, and interest rate for the aggregate principal amount which the registered owner is entitled to receive at the earliest practicable time. The Trustee shall charge the owner of this Bond for every such transfer or exchange an amount sufficient to reimburse it for its reasonable fees and for any tax or other governmental charge required to be paid with respect to such transfer or exchange.

If the date for making any payment or performing any action shall be a legal holiday or a day on which the principal office of the Trustee is authorized or required by law to remain closed, such payment may be made or act performed on the next succeeding day which is not a legal holiday or a day on which the principal office of the Trustee is authorized or required by law to remain closed.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the certificate of authentication hereon shall have been signed by the Trustee.

IN TESTIMONY WHEREOF, the Board of Commissioners of the Colorado Springs Urban Renewal Authority has caused this Bond to be signed by the manual or facsimile signature of Chair of the Board of Commissioners, sealed with a manual impression or a facsimile of the seal of the Authority, and attested by the manual or facsimile signature of the Executive Director/Secretary thereof, all as of August \_\_, 2016.

(S E A L)

COLORADO SPRINGS URBAN RENEWAL  
AUTHORITY

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Chair

ATTESTED:

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Executive Director/Secretary

**CERTIFICATE OF AUTHENTICATION**

Date of Registration and Authentication:

\_\_\_\_\_

This Bond is one of the Bonds of the issue described in the within mentioned Indenture.

UMB Bank, n.a., Denver, Colorado, as Trustee

By \_\_\_\_\_  
Authorized Signatory

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto \_\_\_\_\_  
\_\_\_\_\_ (Social Security or Federal Employer Identification  
Number of Assignee) \_\_\_\_\_ (Name and Address of  
Assignee) the within Bond and does hereby irrevocably constitute and appoint  
\_\_\_\_\_, attorney, to transfer said Bond on the books kept for registration  
thereof with full power of substitution in the premises.

SIGNATURE OF REGISTERED OWNER:

Dated: \_\_\_\_\_

\_\_\_\_\_  
NOTICE: The signature to this assignment  
must correspond with the name of the  
registered owner as it appears upon the face  
of the within Bond in every particular,  
without alteration or enlargement or any  
change whatever.

Signature guaranteed:

\_\_\_\_\_  
(Bank, Trust Company, or Firm)