

**ACKNOWLEDGEMENT AND AGREEMENT REGARDING  
MEMORANDUM OF UNDERSTANDING**

This ACKNOWLEDGEMENT AND AGREEMENT REGARDING MEMORANDUM OF UNDERSTANDING (“Acknowledgement”) is dated as of August 24, 2016 (the “Effective Date”), by and between the CITY OF COLORADO SPRINGS, COLORADO, a municipal corporation organized and operating as a home rule city under the laws of the State of Colorado (the “City”), and the COLORADO SPRINGS URBAN RENEWAL AUTHORITY (the “Authority”).

WHEREAS, an urban renewal plan, known as the “North Nevada Avenue Corridor Urban Renewal Plan” (the “Urban Renewal Plan”), was duly and regularly approved by the City Council of the City for an urban renewal area along North Nevada Avenue established in the Urban Renewal Plan (the “Urban Renewal Area”);

WHEREAS, the Authority has undertaken the redevelopment of a portion of the Urban Renewal Area known as University Village Colorado (the “University Village Colorado Project”);

WHEREAS, in furtherance thereof, the Authority has issued its “Colorado Springs Urban Renewal Authority, Tax Increment Revenue Bonds (University Village Colorado Project), Series 2008A Senior” (the “Series 2008A Senior Bonds”), in aggregate principal amount of \$47,125,000, and its “Colorado Springs Urban Renewal Authority, Tax Increment Revenue Bonds (University Village Colorado Project), Series 2008B Subordinate” (the “Series 2008B Subordinate Bonds” and, collectively with the Series 2008A Senior Bonds, the “2008 Bonds”), in the aggregate principal amount of \$7,505,000, pursuant to an Indenture of Trust dated as of February 1, 2008 (the “2008 Indenture”), between the Authority and UMB Bank, n.a., as trustee;

WHEREAS, University Village Developers, LLC (the “Developer”), as the developer of the University Village Colorado Project pursuant to that certain Amended and Restated Redevelopment Agreement dated as of February 1, 2008 (the “Redevelopment Agreement”) by and between Developer and the Authority, advanced certain funds to the University Village Colorado Project for which it was to be reimbursed from the proceeds of the 2008 Bonds, but the proceeds of the 2008 Bonds were not sufficient to fund the entire reimbursement obligation and the remaining balance of \$2,500,000 was payable pursuant to an Advanced Funds Note made by the Authority payable to the order of Developer dated February 1, 2008 (as amended, restated, refinanced or otherwise modified from time to time, the “Developer Note”);

WHEREAS, the terms of the Developer Note specified a repayment by the Authority to Developer on or before the earlier to occur of the issuance of subordinate bonds or December 31, 2010 from proceeds of Pledged Property Tax Revenues and Pledged Sales Tax Revenues (as each such term is defined in the Redevelopment Agreement), which did not occur due to a shortfall of funds;

WHEREAS, in order to fund certain improvements in connection with the redevelopment of the University Village Colorado Project, the Authority entered into a Loan Agreement in the amount of \$3,400,000 with The University of Colorado (“UCCS”) on March 20, 2008 (as

amended, restated, refinanced or otherwise modified from time to time, the “UCCS Loan Agreement”);

WHEREAS, the terms of the UCCS Loan Agreement specified a repayment by Borrower to Lender from proceeds of a junior-subordinate bond anticipated to have been issued by Borrower before 2011, or, if such bonds were not sold, from annual excess tax increment funds after providing for payment of the 2008 Bonds, which did not occur due to a shortfall of funds;

WHEREAS, the City and the Authority entered into a Memorandum of Understanding dated January 15, 2009 (the “MOU”) whereby, among other things, due to an overpayment of Incremental Sales Tax Revenues (as defined in the 2008 Indenture), the Authority agreed to repay said overpayment to the City to the extent the Authority receives amounts free and clear of the 2008 Indenture pursuant to Section 5.01(m) thereof, which amounts would have been payable only after payments relating to junior-subordinate bonds pursuant to Sections 5.01(k) and 5.01(l) thereof, i.e., if the junior-subordinate bonds had been issued as originally contemplated by the 2008 Indenture, the Developer Note and the UCCS Loan Agreement would have been paid ahead of the obligations under the MOU;

WHEREAS, the original sum to be repaid to the City was \$158,474.41 plus 5% interest compounding annually from September 1, 2008 and which amount is \$232,352.67 as of June 30, 2016, including interest;

WHEREAS, the Authority is not current on payment of principal of and interest on the 2008 Bonds due to a shortfall in Pledged Revenues (as defined in the 2008 Indenture);

WHEREAS, the Authority has informed the Developer, UCCS and the City that payment obligations under the Developer Note, the UCCS Loan Agreement and the MOU, respectively, are unlikely to ever be satisfied under the current debt structure;

WHEREAS, accordingly, the Authority desires to refinance the outstanding 2008 Bonds;

WHEREAS, to effect such refinancing, the Authority desires to, among other things: (a) enter into a 2016 Senior Loan Agreement (the “Senior Loan Agreement”) with U.S. Bank National Association (in such capacity, the “Senior Developer”), pursuant to which the Senior Developer will make a term loan (the “Senior Loan”) to the Authority evidenced by a note (the “Senior Note”) made by the Authority to the Senior Developer as provided in the Senior Loan Agreement; (b) enter into an ISDA Master Agreement, including the Schedule thereto, and a Confirmation entered into pursuant to such Master Agreement (collectively, the “Senior Swap Agreement”) with U.S. Bank National Association relating to the Senior Loan Agreement; and (c) issue its “Colorado Springs Urban Renewal Authority, Subordinate Tax Increment Revenue Bonds (University Village Project Refunding), Series 2016 (the “Subordinate Bonds”) pursuant to a Subordinate Indenture of Trust (the “Subordinate Indenture”) between the Authority and UMB Bank, n.a., as trustee;

WHEREAS, the obligations under the Senior Loan Agreement, Senior Loan, Senior Note, Senior Swap Agreement and the documents and instruments executed and delivered in connection therewith, and any amendments or refinancings thereof, are referred to herein collectively as the “Senior Obligations,” and the obligations under the Subordinate Bonds, the

Subordinate Indenture and the documents and instruments executed and delivered in connection therewith, and any amendments or refinancings thereof, are referred to herein collectively as the “Senior Subordinate Obligations;”

WHEREAS, it is the intent of the Authority to repay the amounts due to Developer, UCCS and the City plus all accrued interest, in as expedient a manner as possible;

WHEREAS, in connection with such refinancing, the Developer and UCCS have agreed, among other things, to extend the date for repayment under the Developer Note and UCCS Loan Agreement to December 31, 2030; and

WHEREAS, in connection with such refinancing, the City has agreed to subordinate its rights to payments under the MOU to the Senior Obligations and the Senior Subordinate Obligations and acknowledge that its rights under the MOU are junior to the rights of Developer and UCCS under the Developer Note and UCCS Loan Agreement, all as set forth in this Acknowledgement;

NOW THEREFORE, for and in consideration of the following mutual agreements and other good and valuable considerations, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Acknowledgement and Agreement. The City acknowledges and hereby agrees that the Authority’s obligations under the MOU are subject and subordinate to the Senior Obligations and the Senior Subordinate Obligations in right to payment and performance. The City further acknowledges that the liens and claims of the Developer and UCCS on the Pledged Revenues, including, without limitation, the Incremental Sales Tax Revenues, are prior in time to the City’s rights in and to the Incremental Sales Tax Revenues, and accordingly the City acknowledges and agrees that its rights to payment under the MOU are subject and subordinate to the Developer’s and UCCS’s rights to payment under the Developer Note and the UCCS Loan Agreement, respectively. The Authority hereby agrees to pay the amounts due and owing under the MOU to the extent the Authority receives amounts free and clear of the Senior Obligations, the Senior Subordinate Obligations, the Developer Note and the UCCS Loan Agreement, all as originally contemplated by the transactions consummated pursuant to the 2008 Indenture.

2. Continuing Validity. Except as modified by this Acknowledgement, all other terms of the MOU shall remain in full force and effect and remain unchanged.

3. Governing Law. This Acknowledgement shall be governed by and construed in accordance with the laws of the State of Colorado.

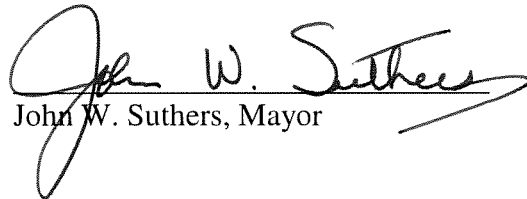
4. Further Assurances. The parties hereto shall each cooperate with each other to take all additional actions and execute and deliver all additional documents necessary or desirable to effectuate the provisions and spirit of this Acknowledgement.

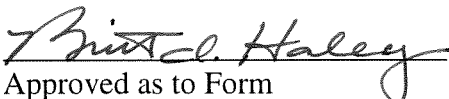
[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have hereunto executed this Acknowledgement as of the day and year first above written.

**CITY:**

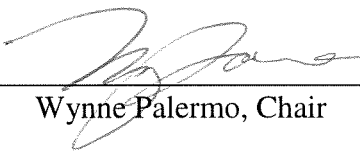
CITY OF COLORADO SPRINGS, COLORADO

By:   
John W. Suthers, Mayor

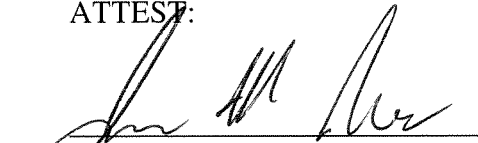
  
Approved as to Form  
Office of the City Attorney

**AUTHORITY:**

COLORADO SPRINGS URBAN RENEWAL  
AUTHORITY

By:   
Wynne Palermo, Chair

ATTEST:

  
Secretary