

AMENDED AND RESTATED URBAN RENEWAL AGREEMENT FOR DEVELOPMENT  
OF THE SOUTH NEVADA AVENUE AREA URBAN RENEWAL PLAN AREA

THIS AMENDED AND RESTATED URBAN RENEWAL AGREEMENT (the "Agreement") FOR DEVELOPMENT OF THE SOUTH NEVADA AVENUE AREA URBAN RENEWAL PLAN AREA (the "Area") is made as of the day of June 21, 2018, by and among the COLORADO SPRINGS URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado (the "Authority"), and IVYWILD CORE DEVELOPMENT, INC., a Colorado corporation (the "Developer"), CANYON CREEK METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado ("District No. 2"), and CANYON CREEK METROPOLITAN DISTRICT NO. 3, a quasi-municipal corporation and political subdivision of the State of Colorado ("District No. 3"). District No. 2 and District No. 3 are referred to herein individually as a "District" and, collectively, as the "Districts." The Authority, the Developer and the Districts are also referred to herein collectively as the "Parties" or individually as a "Party").

**RECITALS**

A. The Authority is an Urban Renewal Authority formed and created by the City Council, City of Colorado Springs, County of El Paso, Colorado.

B. The Developer, through various Affiliates (as defined below), controls property located in Colorado Springs, El Paso County, Colorado which is depicted (or consists of the parcels listed) on the attached Exhibit A (the "Property"). The Property is located within the boundaries established by the South Nevada Avenue Area Urban Renewal Plan adopted by the City Council of the City of Colorado Springs, Colorado (the "City") on November 24, 2015 (the "Urban Renewal Plan").

C. The Developer, as assignee of Ivywild Development I, LLC (the "Original Developer"), and the Authority are parties to that certain Urban Renewal Agreement for Development of the South Nevada Area Urban Renewal Plan Area dated as of December 16, 2015 (as amended, the "Original Agreement"), as modified by that certain Assignment and Assumption Agreement dated as of October 26, 2016 by and between SNA Development LLC and Original Developer, and consented to by the Authority.

D. The Developer and the Authority desire to amend and restate the Original Agreement in its entirety by entering into this Agreement.

E. The Developer intends to develop the Property, or cause the Property to be developed, substantially in accordance with the description of the development of the Property set forth in the Market Study (as defined below), including, without limitation, under the heading "CANYON CREEK (SILO 2) FEASIBILITY AND VALUATION ASSESSMENT" (the "Concept Plan"), which Concept Plan is incorporated in and made a part of this Agreement by this reference.

F. The Public Improvements and Reimbursable Project Costs (as defined below) are listed on Exhibit B, attached to and made a part hereof. The Urban Renewal Plan allocates both property tax increment revenue ("Property Tax TIF") and municipal sales tax increment revenue

("Sales Tax TIF") to the Authority to carry out the redevelopment of the Area defined in the Urban Renewal Plan. This Agreement shall allocate and pledge the Property Tax TIF produced from ad valorem property taxes levied on real and personal property within and on the Property to the Developer (and its Affiliates (as defined herein) and approved assigns) in accordance with this Agreement.

G. The Authority and the City of Colorado Springs have entered into that certain Cooperation Agreement dated as of December 16, 2015 (the "Cooperation Agreement") providing for, among other things, the distribution of the Sales Tax TIF produced by taxable sales on and within the Property to the Developer (and its Affiliates and approved assigns) in accordance with this Agreement.

H. The Districts, the Authority and the Trustee (as defined below) entered into that certain Capital Pledge Agreement dated as of the date hereof (the "District Pledge Agreement") whereby the Districts agreed to remit to the Trustee, or as otherwise directed by the Authority, all revenues comprising the Pledge Agreement Revenues. Such Pledge Agreement Revenues do not include the revenue generated by the Districts' Operating Mill Levy (as defined below) or specific ownership taxes that may be received by the Districts as a result of their imposition of the Districts' Operating Mill Levy.

I. The Authority, the Developer and the Districts have agreed to cooperate in a plan of finance whereby the Authority would issue its Authority Bonds (as defined below) and the Districts will assist in the issuance and repayment of the Authority Bonds by levying certain ad valorem property taxes and pledging the revenues collected by the Districts from such taxes to the payment of the Authority Bonds, as provided herein, for the purpose of financing or refinancing the costs of Public Improvements and District Improvements (as each such term is defined below) or any portion thereof.

J. The Parties to this Agreement intend to cooperate with each other in the development of the Property and pledge and payment of the Property Tax TIF and Sales Tax TIF to or on behalf of the Developer as provided herein.

NOW THEREFORE, based upon the mutual covenants and considerations contained herein, the Parties agree as follows:

**1. PURPOSE**

The purpose of this Agreement is to further the goals and objectives of the Colorado Urban Renewal Law, Colorado Revised Statutes 31-25-101 et seq. (the "Act") and the Urban Renewal Plan for the Property by eliminating blight and providing for the development and redevelopment of the Property. The Authority has determined that this Agreement and the development and redevelopment of the Property as described in the Concept Plan are consistent with and conform to the Urban Renewal Plan and the public purposes and provisions of applicable state and local laws, including the Act. Specifically, but without limitation, this Agreement is intended to promote and facilitate the following objectives:

- (a) Encourage and protect existing development on the Property;

- (b) Renew and improve the character and environment of the Area;
- (c) Enhance the current sales tax base and property tax base of the Area;
- (d) Provide the incentives necessary to induce private development and redevelopment of the Area;
- (e) Effectively use undeveloped land within the Area;
- (f) Encourage financially successful projects within the Property;
- (g) Stabilize and upgrade property values within the Area;
- (h) Accommodate and provide for the voluntary environmental cleanup of the Area;
- (i) Promote improved traffic, public transportation, public utilities, recreational and community facilities within the Area; and
- (j) Promote the participation of existing owners in the revitalization and development of the Property.

**2. CERTAIN DEFINITIONS**

- 2.1. "Act" shall have the meaning set forth in Section 1.
- 2.2. "Affiliate" shall mean any entity in which the Developer or Sam Guadagnoli serves as manager or general partner or otherwise is in control, directly or indirectly, of such entity.
- 2.3. "Agreement" shall have the meaning set forth in the Preamble.
- 2.4. "Area" shall have the meaning set forth in the Urban Renewal Plan.
- 2.5. "Authority" shall have the meaning set forth in the Preamble.
- 2.6. "Authority Administrative Fee" shall have the meaning set forth in Section 8.15.
- 2.7. "Authority Bonds" shall have the meaning set forth in Section 8.3.
- 2.8. "Authority's Reimbursement Obligation" shall have the meaning set forth in Section 8.7.
- 2.9. "Bond Documents" shall have the meaning set forth in Section 8.7.
- 2.10. "Certificate of Completion" shall have the meaning set forth in Section 11.1.
- 2.11. "City" shall have the meaning set forth in Recital B.
- 2.12. "Commence Construction" shall have the meaning set forth in Section 10.1.

- 10.1. 2.13. "Commencement of Construction" shall have the meaning set forth in Section 10.1.
- 2.14. "Complete Construction" shall have the meaning set forth in Section 10.1.
- 2.15. "Completion of Construction" shall have the meaning set forth in Section 10.1.
- 2.16. "Concept Plan" shall have the meaning set forth in Recital E.
- 2.17. "Cooperation Agreement" shall have the meaning set forth in Recital G.
- 2.18. "Default" shall have the meaning set forth in 14.1, 14.2 and 14.3.
- 2.19. "Developer" shall have the meaning set forth in the Preamble.
- 2.20. "Developer's Account" shall have the meaning set forth in Section 8.10.
- 2.21. "Developer Financing" shall have the meaning set forth in Section 8.1.
- 2.22. "Development Plan" shall have the meaning set forth in Section 5.
- 2.23. "District No. 1" shall mean Canyon Creek Metropolitan District No. 1, a quasi-municipal corporation and political subdivision of the State of Colorado.
- 2.24. "District Operating Agreement" shall mean that certain District Administrative Services Agreement dated as of December 12, 2017 by and among District No. 1 and the Districts.
- 2.25. "District Pledge Agreement" shall have the meaning set forth in Recital H.
- 2.26. "Districts" shall have the meaning set forth in the Preamble.
- 2.27. "District Improvements" shall have the meaning set forth in Section 4.2.
- 2.28. "District Reimbursement Agreement" shall mean that certain Infrastructure Acquisition and Reimbursement Agreement dated as of April 23, 2018 by and among District No. 1, the Districts, Developer and On the Ivy, LLC.
- 2.29. "Event of Default" shall have the meaning set forth in Sections 14.1, 14.2 and 14.3.
- 2.30. "Improvements" shall have the meaning set forth in Section 5.
- 2.31. "Indemnified Parties" and "Indemnified Party" shall have the meaning set forth in Section 15.1.
- 2.32. "Indentures" shall have the meaning set forth in Section 8.3.

2.33. "Market Study" shall mean that certain South Nevada Avenue Urban Renewal Area Market and Valuation Analysis prepared by King & Associates Inc. dated April 2018.

2.34. "Parties" and "Party" shall have the meanings set forth in the Preamble.

2.35. "Phase" shall have the meaning set forth in Section 5.

2.36. "Pledge Agreement Revenues" shall have the meaning set forth in the District Pledge Agreement.

2.37. "Pledged Revenues" shall have the meaning set forth in Section 8.2.

2.38. "Private Improvements" means the improvements subject to ad valorem property taxes to be constructed on the Property by the Developer or an approved transferee of the Developer in accordance with the Concept Plan and within the time specified in the Schedule of Performance.

2.39. "Property" shall have the meaning set forth in Recital B.

2.40. "Property Tax TIF" shall have the meaning set forth in Recital F.

2.41. "Public Improvements" shall mean the improvements or activities and undertakings listed in Exhibit B that the Developer will construct in accordance with this Agreement.

2.42. "Reimbursable Project Costs" shall mean the reasonable and necessary expenditures documented in accordance with this Agreement for the Public Improvements constructed or otherwise provided by the Developer and shown on Exhibit B attached hereto and made a part hereof.

2.43. "Required Mill Levy" shall have the meaning set forth in the District Pledge Agreement.

2.44. "Sales Tax TIF" shall have the meaning set forth in Recital F.

2.45. "Schedule of Performance" shall mean the Schedule of Performance attached hereto as Exhibit D and made a part hereof.

2.46. "Senior Indenture" shall have the meaning set forth in Section 8.3.

2.47. "Service Plan" shall mean that certain Consolidated Service Plan for Canyon Creek Metropolitan District No. 1, Canyon Creek Metropolitan District No. 2 and Canyon Creek Metropolitan District No. 3 in the City of Colorado Springs, Colorado as approved by the Colorado Springs City Council on October 14, 2008.

2.48. "Subordinate Indenture" shall have the meaning set forth in Section 8.3.

2.49. "Trustee" shall have the meaning set forth in Section 8.3.

2.50. "Urban Renewal Plan" shall have the meaning set forth in Recital B.

### 3. **CONDITION PRECEDENT**

3.1. Closing of Authority Bonds. It is expressly contemplated that this Agreement will be executed and delivered contemporaneously with the closing of the Authority Bonds. This Agreement will not be effective unless and until the closing of the Authority Bonds as described herein occurs. Until such time as the closing of the Authority Bonds occurs, the Original Agreement remains in full force and effect.

### 4. **THE DISTRICTS**

4.1. Purposes. Under the Service Plan, the Districts and District No. 1 are intended to work together and coordinate their activities with respect to the financing, construction, operation and maintenance of public improvements necessary to serve development within the Districts, which is generally anticipated to consist of residential development in District No. 2, and commercial development in District No. 3. With the exception of one parcel, the property within the Districts is within the Property. The purposes for which the Districts and District No. 1 were formed include the provision of, among other things, public improvements for the use and benefit of all anticipated inhabitants and taxpayers of the Districts, including water, sewer, roads, traffic safety, and parks and recreation, all in accordance with the Service Plan. As contemplated by the Service Plan, the Districts and District No. 1 have entered into the District Operating Agreement for the purpose of establishing their respective roles, responsibilities and obligations with respect to the ownership, operation and maintenance of certain public improvements (to the extent such public improvements are not dedicated to another governmental entity) and, in accordance with such District Operating Agreement, District No. 1 is to be responsible for the design, acquisition, installation, construction, and limited operation and maintenance of the public improvements and provision of certain administrative services on behalf of the Districts and District No. 1, and the Districts are to fund or contribute to funding the costs of such administrative, operation and maintenance services provided by District No. 1 as well as the costs of construction of public improvements, in accordance with, and subject to the limitations of, the District Operating Agreement, which funding obligations are subordinate to any bonds or other financial obligations, such as the District Pledge Agreement, and are anticipated to be paid from revenues generated by the Districts' Operating Mill Levy and associated specific ownership tax revenues.

4.2. District Improvements. The Districts have determined that the public improvements set forth on Exhibit B to the District Pledge Agreement (the "District Improvements") were generally contemplated by the Service Plan, are needed and, due to the nature of the District Improvements and proximity and interrelatedness of the development anticipated to occur within the boundaries of the Districts, such District Improvements do or will benefit the Districts, residents, property owners and taxpayers in the Districts as a whole.

4.3. District Pledge Agreement. The Districts have agreed to assist in the issuance of the Authority Bonds by levying certain ad valorem property taxes and pledging the revenues collected by the Districts from such taxes to the payment of the Authority Bonds, as provided in the District Pledge Agreement, for the purpose of financing or refinancing the costs of District

Improvements or any portion thereof. Without limiting the foregoing, the Districts specifically agree to impose and apply the Required Mill Levy as required by the District Pledge Agreement. The Districts agree to comply at all times with all provisions of the District Pledge Agreement. The Districts acknowledge that it is a condition to the Authority's execution and delivery of this Agreement and the Bond Documents to which it is a party that the Districts execute and deliver the District Pledge Agreement and irrevocably obligate themselves to perform the obligations set forth therein in support of the Authority Bonds for so long as any obligations of the Authority Bonds, or any refunding thereof constitute a lien on the Pledge Agreement Revenues.

4.4. District Operating Mill Levy Tax Increment Revenues.

- (a) In order to facilitate the funding by the Districts of the costs of Administrative Services and O&M Services, the Authority hereby agrees that it will segregate and promptly remit, on a monthly basis, to District No. 1, all District Operating Mill Levy Tax Increment Revenues. Notwithstanding the foregoing, the Authority shall have the obligation to remit such District Operating Mill Levy Tax Increment Revenues to the Districts solely to the extent the Authority receives the same.
- (b) The Districts agree to use all District Operating Mill Levy Tax Increment Revenues to fund the costs of Administrative Services and O&M Services.
- (c) The Authority will retain any Property Tax TIF received in respect of the Required Mill Levy and apply such funds as required by the District Pledge Agreement and the other Bond Documents.

For purposes of this Section 4.4, the following capitalized terms shall have the following meanings:

- (i) "Administrative Services" shall have the meaning set forth in the District Operating Agreement.
- (ii) "Base Valuation" means, with respect to the Property, the total assessed valuation of all taxable property last certified by the assessor prior to the effective date of the approval of the Urban Renewal Plan, as the same may be subsequently adjusted in accordance with the Act.
- (iii) "District Operating Mill Levy Tax Increment Revenues" means the portion of Property Tax Increment Revenues attributable to the Districts' Operating Mill Levy.
- (iv) "Incremental Valuation" means, with respect to the Property, the amount of assessed valuation, if any, which exceeds the Base Valuation.
- (v) "O&M Services" shall have the meaning set forth in the District Operating Agreement.

(vi) "Property Tax Increment Revenues" means the ad valorem property tax revenues collected on the Incremental Valuation of all taxable property located within the Property.

(d) Any limitation or procedure for the disbursement of Property Tax TIF funds elsewhere in this Agreement, including but not limited to Section 8.6 hereof, shall not apply to the District Operating Mill Levy Tax Increment Revenues, the disbursement of which shall be governed solely by this Section 4.4 and any subsequent writing executed by the Districts and the Authority.

4.5. Construction of District Improvements. The Developer shall promptly commence and diligently prosecute to completion, or cause to be promptly continued and diligently prosecuted to completion, the design and construction of the District Improvements described in the Plans and Specifications in accordance with the Schedule of Performance and the Service Plan, as applicable. The Developer shall use its reasonable best efforts to timely commence and complete construction of the District Improvements for all Phases of the redevelopment thereof (or portion thereof as approved by the Authority). The proceeds of the Authority Bonds will be used, in part, to reimburse Developer for costs related to design and construction of the District Improvements, all as more particularly provided in the District Reimbursement Agreement and the District Pledge Agreement. In furtherance of the foregoing, Developer agrees to timely submit all documentation required for certification as required under the Reimbursement Agreement.

## 5. DESCRIPTION OF DEVELOPMENT AND PUBLIC IMPROVEMENTS

Development of the Property may occur in phases (each a "Phase") as set forth in the Concept Plan and the Market Study. Development will consist of (i) the Private Improvements, which shall consist of the mixed-use commercial and residential uses more particularly described in the Concept Plan and the Market Study, (ii) the Public Improvements on the Property and (iii) the District Improvements (collectively, the "Improvements"). Development shall take place as depicted on the Concept Plan, as updated and completed by agreement of the Parties and as contemplated in any development plan approved as provided in this Agreement (each a "Development Plan"), the Service Plan and the provisions of this Agreement, as applicable.

Developer shall construct on the Property the Improvements required to carry out the Concept Plan as it applies to the Property. Subject to the terms and conditions of this Agreement, the Developer agrees to finance and to construct, or, cause to be constructed, all Improvements necessary to develop the Property in accordance with the Concept Plan and the Market Study. All construction required of the Parties by this Agreement shall be undertaken and completed in accordance with all applicable laws and regulations, including City codes and ordinances, and the Urban Renewal Plan and shall be performed in accordance with and subject to the terms and conditions of this Agreement.

## 6. PREPARATION OF THE PROJECT FOR DEVELOPMENT

6.1. Zoning. The Authority is not requiring the Developer to rezone the Property, but the Developer agrees to comply with all applicable City codes, ordinances and planning



requirements with regard to development of the Property and construction of the Improvements, including if required by the City, to rezone part of the Property.

6.2. Public Improvements. The Developer shall design and construct the Public Improvements for the Property within a reasonable period of time as established in the Schedule of Performance. With respect to each Phase, the Developer shall construct, in the public right-of-way and/or easements, all mains and lines necessary for the Public Improvements and necessary to provide water, sanitary sewer, storm sewer, natural gas and electricity for the Improvements. The construction and installation of such utilities shall conform with the requirements of all applicable laws and ordinances. The Developer shall also be responsible for the relocation, design and construction of all new public streets, utilities, sidewalks, alleys, landscaping and street lighting within the public right-of-way shown in the Concept Plan as it may be refined and updated. The Developer shall be responsible for the design, construction and cost, if any, of utility and service lines necessary for the construction of the Public Improvements within the Property, tap connection fees and other City requirements, including the cost of extending such utility lines from the Public Improvements to the mains in the public right-of-way. The Developer shall be responsible for construction of improvements to existing facilities or improvements and construction of new facilities or improvements on locations outside the boundaries of the Property as may be required by agreement between the Developer and applicable governmental authorities.

6.3. Access to Property. At all reasonable times, either Party shall permit representatives of the other to have access to any part of the Property for the purpose of installing signs, obtaining data, making tests, surveys, borings, engineering studies, carrying out or determining compliance with this Agreement, the Urban Renewal Plan or any City code or ordinance, including, but not limited to, inspection of any work required to construct the Improvements on the Property. Any such access or inspection shall not interfere with the use of the Property or any construction on the Property. No compensation shall be payable to the Parties nor shall any charge be made in any form by any Party for the access provided in this section. A Party entering upon the Property pursuant to this section shall restore such Property to its condition prior to any tests or inspections made by such Party and shall indemnify and hold harmless the Party owning such Property for any loss or damage or claim for loss or damage (including reasonable legal fees) resulting from any such entrance, tests or surveys (but this indemnity shall not apply to conditions existing on such Property at the time of such entry, even where such condition was discovered by virtue of the entry).

6.4. Replat and Dedications. The Authority is not requiring the Developer to replat or resubdivide the Property, but the Developer agrees to comply with all applicable City codes, ordinances and planning requirements with regard to development of the Property and construction of the Public Improvements, including if required by the City, to replat or resubdivide part of the Property. The Developer shall dedicate, as appropriate, such utility and drainage easements required to properly carry out and maintain the Public Improvements.

6.5. Antidiscrimination. The Developer, for itself and its successors and assigns, agrees that in the construction of and in the use and occupancy of the Property, the Developer will not discriminate against any employee or applicant for employment because of race, color, creed, gender, religion, sexual orientation, disability, marital status, ancestry or national origin.

6.6. Signage. As soon as reasonably practicable, and until completion of construction, the Developer shall display temporary signage at the Property approved by the Authority and relating to the Authority's participation in the redevelopment of the Property. Such signage shall be connected to the primary signage identifying the redevelopment and visible to the general public. In addition, the Developer shall attach to the Public Improvements, at street level, or in or adjacent to a primary entrance to the Property, a permanent sign acceptable to the Authority not less than ninety (90) square inches acknowledging that the redevelopment was financed and constructed in cooperation with the Authority.

## 7. COOPERATION AGREEMENT

7.1. Cooperation Agreement. The Authority and the City have entered into the Cooperation Agreement, which is acceptable to the Developer. The Cooperation Agreement provides for, among other things, allocation by the City of 1.75% for the first five years and thereafter for the remaining term of the Authority's Reimbursement Obligation, 1.5% of the Sales Tax TIF collected on or within the Property to the Authority. In the interest of providing part of the financing of the redevelopment of the Property and accomplishing the goals of the Urban Renewal Plan and this Agreement, the Authority and the Developer agree to work with the City and dedicate such time and resources as may be required to implement this agreement to facilitate the timely planning and development of the Improvements.

7.2. Purpose of Cooperation Agreement. The primary purpose of the Cooperation Agreement is to pledge to distribute to or on behalf of the Developer, sufficient Sales Tax TIF to meet the requirements of the Developer's Financing and such other reasonable and necessary terms reasonably acceptable to the Parties to carry out the Concept Plan.

## 8. PROJECT FINANCING

8.1. Developer's Financing. In accordance with the Schedule of Performance, the Developer will use its reasonable best efforts to obtain and submit to the Authority for approval, the Developer Financing to carry out the Concept Plan and any Development Plan, including the Completion of Construction of the Private Improvements. For the purposes of this Agreement, "Developer Financing" means (a) the obtaining of a firm commitment from a financially sound construction lender for construction of the Private Improvements, (b) if applicable, reasonable commitments from those retailers and commercial users who will take title to pad sites on the Property to construct their own improvements, and (c) if applicable, the right to receive the Authority's Reimbursement Obligation from the Authority. The Authority Bonds constitute approved Developer Financing hereunder. Developer may obtain from time to time additional Developer Financing from other available sources, including, without limitation, Sales Tax TIF. The Authority will deliver its approval or disapproval of the Developer Financing and the reasons therefor within the time specified in the Schedule of Performance. The Developer Financing may be submitted in components.

8.2. Authority Financing. The sole financing provided by the Authority for the redevelopment of the Property shall be the reimbursement of Reimbursable Project Costs from the Property Tax TIF (including without limitation the reimbursement of such Reimbursable Project Costs from a portion of the proceeds of the Authority Bonds, to which the Property Tax

TIF is being pledged for repayment thereof pursuant to the Bond Documents) and from the Sales Tax TIF described in the Cooperation Agreement that are generated by or from the Property and Improvements thereon (the Property Tax TIF and Sales Tax TIF are defined herein as the "Pledged Revenues"). In addition to the cost of Public Improvements, Reimbursable Project Costs are listed on Exhibit B. The Property Tax TIF revenues shall be those revenues, if any, from the property tax levy of those taxing bodies that levy such taxes against the increment portion of the property tax assessment roll attributable to the Property as calculated and allocated by the Authority to the Property each year as part of the total property tax increment revenue, if any, received by the Authority from the entire Area described in the Urban Renewal Plan in accordance with the Act and applicable regulations. The Sales Tax TIF revenues shall be those revenues, if any, described in the Cooperation Agreement generated from taxable sales on or from the Property and Improvements thereon, if any, as calculated and allocated by the Authority to the Property and Improvements each year as part of the total municipal sales tax increment revenue, if any, received by the Authority from the entire Area described in the Urban Renewal Plan in accordance with the Act and Cooperation Agreement.

8.3. Authority Bonds. In furtherance of the foregoing, for the purpose of financing a portion of the Public Improvements and portion of the District Improvements (including paying amounts due under the District Reimbursement Agreement), the Authority has agreed to issue (i) its Senior Special Revenue Bonds (Canyon Creek Project), Series 2018A, in the aggregate principal amount of \$7,325,000 (the "2018A Senior Bonds") pursuant to an Indenture of Trust (Senior) dated as of June 21, 2018 (the "Senior Indenture") between the Authority and UMB Bank, n.a., as trustee (the "Trustee"), which 2018A Senior Bonds are to be secured by the Pledge Agreement Revenues hereunder, as more particularly described herein and in the Senior Indenture; and (ii) its Subordinate Special Revenue Bonds (Canyon Creek Project), Series 2018B, in the aggregate principal amount of \$1,156,000 (the "2018B Subordinate Bonds," and together with the 2018A Senior Bonds, the "Authority Bonds"), pursuant to an Indenture of Trust (Subordinate) dated as of June 21, 2018 (the "Subordinate Indenture," and together with the Senior Indenture, the "Indentures"), by and between the Authority and the Trustee. In connection with the Authority Bonds, the Authority has agreed to pledge the Property Tax TIF component of the Pledged Revenues to repayment thereof. The Sales Tax TIF component of the Pledged Revenues is not pledged to the Authority Bonds and is hereby reserved for future application. The Districts have pledged, and hereby pledge, the Pledge Agreement Revenues for payment of the Authority Bonds. Developer and the Districts hereby agree to comply with all obligations of the Developer and the Districts, as applicable, in the Bond Documents and otherwise reasonably cooperate with the Authority as necessary and appropriate to allow the Authority to comply with its obligations under the Bond Documents.

8.4. Payment Requests. The Developer shall submit payment requests in accordance with the following procedure, which shall be in addition to any requirements of the Bond Documents or the District Reimbursement Agreement. The payment request shall indicate all or any portion of the Reimbursable Project Costs for the Improvements. Reimbursable Project Costs may include, without limitation, reasonable and customary expenditures, including soft costs, for design and construction of the Public Improvements, demolition, site clearance, streets, sidewalks, curb, gutters, landscape, drainage improvements and amenities, parks, land assembly, site grading, and similar costs authorized under the Act, listed on Exhibit B, or otherwise eligible to be reimbursed pursuant to the Act, and such other information as the Authority may from time

to time reasonably require, including, but not limited to evidence satisfactory to the Authority of the proper application of past disbursements and evidence substantiating any and all of the Reimbursable Project Costs indicated in such notice. The payment request shall further include a certification by an engineering professional agreed to by the Parties that all Reimbursable Project Costs were actually incurred and not previously reimbursed to the Developer or the Districts pursuant to a payment request and that the Improvements made or the costs incurred therewith were constructed or incurred in compliance with applicable laws, ordinances and regulations, this Agreement and the Urban Renewal Plan. Prior to payment, the Authority has the right to require adequate documentation of expenditures from the Developer and/or the Districts to include lien releases from contractors completing the work and included on the payment request. In addition to the foregoing requirements, prior to disbursement of bond proceeds as provided in Section 8.7, the Developer agrees to provide the documentation and certifications that satisfy the requirements of the Trustee, the Authority, the Districts and the Bond Documents. The Authority agrees to promptly review and approve such payment requests that comply with the requirements of this Section 8.4. Upon such approval the amounts approved for payment shall be payable from the Developer's Account in accordance with Sections 8.7 or 8.10, as applicable.

8.5. Appointment of Trustee or Escrow Agent. Authority may, from time to time, designate one or more trustees or escrow agents to act as its collection and disbursing agent for the Pledged Revenues.

8.6. Authority's Reimbursement Obligation. The Authority's payment obligation to the Developer under this section shall be limited to the amount of Pledged Revenues actually received and legally available for such purpose less any annual administration fees owing to the Authority (the "Authority's Reimbursement Obligation"). In the event there are insufficient Pledged Revenues to pay the Authority's Reimbursement Obligation in any one year, those certified, approved but unpaid Reimbursable Project Costs shall accrue and payment shall be made to the Developer when such Pledged Revenues (plus interest thereon as contained in the Developer's approved Developer's Financing) is available to pay such unpaid Reimbursable Project Costs, plus interest. The proceeds of the Authority Bonds will be made available to pay the Authority's Reimbursement Obligation to the extent certified and released in accordance with this Agreement and the Bond Documents. Nothing in this Agreement shall be construed to require the Authority to make any payments to the Developer on a periodic and aggregate basis, in excess of such amount, or, in the aggregate, in excess of the maximum Reimbursable Project Costs from the Pledged Revenues described in this Agreement. The Authority's Reimbursement Obligation hereunder shall terminate on the first to occur of (a) payment in full of the Authority's Reimbursement Obligation (provided that payment thereof from proceeds of Authority Bonds shall not be deemed to meet the payment requirement of this clause (a) so long as such Authority Bonds remain outstanding and unpaid) or (b) the right of the Developer to receive the Pledged Revenues under the Act or any revenues legally available as a payment obligation in lieu of or as replacement of such Pledged Revenues. The Developer acknowledges that the generation of Pledged Revenues is totally dependent upon the production and collection of Pledged Revenues from the Property in accordance with the Act, and agrees that the Authority is in no way responsible for the amount of Pledged Revenues actually generated; provided, however, the Authority shall be responsible for monitoring and working with the City and the El Paso County Assessor to correct mistakes in calculating Pledged Revenues and payment of the Authority's Reimbursement Obligation available each year and to comply with reasonable requirements and

covenants in connection with the Authority Bonds. The Parties acknowledge that the right to amend or modify the Urban Renewal Plan is the legal right and responsibility of the City, but the Authority shall not request, support, suffer or recommend such an amendment or modification be made unless the Authority shall have received an opinion of qualified bond counsel to the effect that such amendment or modification would not (a) result in a failure of the Urban Renewal Plan, as so amended or modified, to comply with the requirements of this Agreement, (b) result in an Event of Default by the Authority under this Agreement, or (c) adversely and materially affect the Pledged Revenues and the Authority's Reimbursement Obligation. To the extent permitted by law, the Authority covenants and agrees to preserve and protect the Pledged Revenues and the rights of the Developer and any approved successors in interest of the right to receive payment of the Pledged Revenues, and to defend such rights with respect to receipt of the Pledged Revenues under and against all claims and demands of third parties not authorized to receive such Pledged Revenues in accordance with this Agreement and the Act as in effect on the date of this Agreement. The Authority covenants and agrees to take no action which would result in Pledged Revenues required to be paid hereunder to be withheld from the Developer, the Districts or any authorized bond trustee. Subject to the foregoing, the Developer therefore agrees to assume the risk that insufficient Pledged Revenues will be generated to reimburse all Reimbursable Project Costs. The Authority's Reimbursement Obligation under this section will commence upon approval of a payment request pursuant to Section 8.4.

8.7. Disbursement of Bond Proceeds. In connection with the Authority Bonds, the Authority agrees to pay or to cause the payment of the Authority's Reimbursement Obligation to the Developer or reimbursement of eligible costs relating to District Improvements, as applicable, on a priority basis from the proceeds of the Authority Bonds. The Indentures and the documents incidental thereto (collectively, the "Bond Documents") have been reviewed and approved by the Developer and the Districts. The Authority shall requisition funds from the Trustee pursuant to the Indentures so that upon receipt of reasonable cost certification documentation for the balance of the Reimbursable Project Costs submitted by the Developer or eligible costs relating to District Improvements submitted by the Developer from time to time as provided herein, the Trustee shall release funds to the Authority, or as directed by the Authority to pay directly or reimburse the Developer for such Reimbursable Project Costs or such eligible costs within fourteen (14) business days after proper submission of such documentation to the Authority, provided that such amounts have been disbursed by the Trustee. The total Authority Reimbursement Obligation shall not exceed the total listed in Exhibit B.

8.8. Cooperation Regarding Financing. The Parties agree to cooperate with one another in obtaining the Developer's Financing by providing one another with such information, certifications, assurances, opinions and by amending or modifying agreements, including this Agreement, as may be reasonably required in connection with such financing, provided, that no Party shall be required to make amendments or modifications that substantially or materially change the rights or obligations of the Parties under this Agreement.

8.9. Opinion. At the time of issuance of the Authority Bonds, the Districts shall deliver an opinion of counsel addressed to the Authority, which opinion shall state in substance that this Agreement and the District Pledge Agreement have been duly authorized, executed, and delivered by the Districts, constitutes a valid and binding agreement of the Districts, enforceable according to its terms, subject to any applicable bankruptcy, reorganization, insolvency,

moratorium, or other law affecting the enforcement of creditors' rights generally and subject to the application of general principles of equity.

8.10. Special Fund; Developer's Account. In accordance with the provisions of this Agreement and the Act, the Authority agrees to establish and make deposits of all tax increment revenue it receives pursuant to the Urban Renewal Plan and Cooperation Agreement, including the Pledged Revenues, into the special fund as provided in the Act. In addition, the Authority shall establish an account (the "Developer's Account") and shall segregate and pay into the Developer's Account all of the Pledged Revenues described in this Agreement when and as received by the Authority. The Developer's Account shall be applied to payments in accordance with this Agreement, the Cooperation Agreement, and shall be used for no other purpose. Unless the Parties otherwise agree in writing, all Pledged Revenues in the Developer's Account shall be paid to the Developer on or before the last day of each month up to the full amount of any and all amounts due and owing on any payment requests certified and approved in accordance with Section 8.4.

8.11. Pledge of TIF Revenue. Pursuant to the Original Agreement, the Authority irrevocably pledged the Pledged Revenues to payment of the Authority's Reimbursement Obligation. The Authority hereby reaffirms and ratifies such irrevocable pledge of the Pledged Revenues to payment of the Authority's Reimbursement Obligation, including, with respect to the Property Tax TIF, the payment of the 2018A Senior Bonds and the 2018B Subordinate Bonds. The Pledged Revenues, when and as received by the Authority shall be subject to the lien of such pledge without any physical delivery, filing, or further act. The Authority shall transfer the amounts in the Developer's Account as specified in Section 8.10 or in the Bond Documents, as applicable. The Authority shall keep, maintain, and apply the Pledged Revenues as required to payment of the Authority's Reimbursement Obligation, including, with respect to the Property Tax TIF, the payment of the 2018A Senior Bonds and the 2018B Subordinate Bonds. The Authority's Reimbursement Obligation established by this Agreement is and shall be an obligation of the Authority pursuant to Section 31-25-107(9), C.R.S. The Authority has elected to apply the provisions of Section 11-57-208, C.R.S., to this Agreement. Creation, perfection, enforcement and priority of the pledge of the Pledged Revenues as provided herein shall be governed by Section 11-57-208, C.R.S. and this Agreement. The lien of such pledge on the Pledged Revenues and the obligation to perform the contractual provisions made herein shall have priority over any of all other obligations and liabilities of the Authority with respect to the Pledged Revenues.

8.12. Books and Accounts; Financial Statements. The Authority will keep proper and current itemized records, books, and accounts in which complete and accurate entries shall be made of the receipt and use of all amounts of Pledged Revenues and such other calculations required by this Agreement, the Bond Documents, and any applicable law or regulation. The Authority shall prepare after the close of each fiscal year, a complete financial statement prepared in accordance with generally accepted accounting principles accepted in the United States of America for such year in reasonable detail covering the above information by a certified public accountant, and shall furnish a copy of such statement to the Developer (or Districts as applicable) within 270 days after the close of each fiscal year of the Authority or upon such earlier date as may be required by the Bond Documents.

8.13. Inspection of Records. All books, records and reports (except those allowed or required by applicable law to be kept confidential) in the possession of the Authority, including, without limitation, those relating to the Pledged Revenues, the Authority Administrative Fee, the Public Improvements, the special fund, and the Authority Bonds, including the books and accounts described in this Section 8.13, shall at all reasonable times be open to inspection by such accountants or other agents as the respective Parties may from time to time designate.

8.14. No Impairment. The Authority shall not enter into any agreement or transaction that impairs the rights of the Parties under this Agreement, including, without limitation, the right to receive and apply any revenue to payment of the Authority's Reimbursement Obligation described in this Agreement.

8.15. Authority Administrative Fee. An administrative fee (the "Authority Administrative Fee") in the amount of \$60,000 shall be retained annually by the Authority from the total tax increment revenue deposited in the special fund pursuant to Section 8.10 above, but not from the Developer's Account, which fee, to the extent not reimbursed from other sources, includes all amounts required to pay collection, enforcement, disbursement, and administrative fees and costs required to carry out the Urban Renewal Plan, including, without limitation, collection and disbursement of all of the tax increment revenue in the special fund, including the Pledged Revenues. As provided in the Original Agreement and continuing hereunder, if the Authority is able to demonstrate to the reasonable satisfaction of the Developer that the Authority is or will be unable to collect the full amount of the Authority Administrative Fee for any of the three full fiscal years of the Authority commencing in 2016, the Developer shall advance twenty percent (20%) of the shortfall of the annual Authority Administrative Fee to the Authority for that year not later than June 30 of such year. The Authority shall determine the extent to which the Authority Administrative Fee for each of such three fiscal years of the Authority is available from funds allocated to it pursuant to Section 31-25-107(9)(a)(II), C.R.S., based on calculations provided by the El Paso County Assessor. Notwithstanding the foregoing (a) in no event is the Developer obligated to advance the Authority Administrative Fee for any year commencing after 2018; (b) the amount advanced by the Developer for the Authority Administrative Fee shall not exceed \$12,000 in any one year; (c) the total amount that Developer is required to advance for all Authority Administrative Fees shall not exceed \$36,000; (d) each such advance of the annual Authority Administrative Fee, plus accrued interest, made by the Developer shall be paid on a priority basis from funds available in the special fund; and (e) shall bear interest at the rate of eight percent (8%) per annum from the date it is advanced. Any accrued but unpaid balance of the Authority Administrative Fee shall bear interest at the rate of eight percent (8%) per annum from the date it became due. Notwithstanding anything herein to the contrary, for so long as the Authority Bonds remain outstanding, the Authority agrees that it will not retain any amount of the Authority Administrative Fee from the Property Tax TIF arising from the Property but will look solely to the Sales Tax TIF and other sources for payment of the Authority Administrative Fee.

## **9. PLAN REVIEW PROCEDURE**

The Developer will submit its Development Plans, design standards, the construction documents, and the uses it proposes for the redevelopment of the Property (collectively, the "Plans and Specifications") for each Phase or component thereof, which shall conform to the Service Plan,

the Concept Plan and the approvals by the City, as applicable. The Authority shall review and approve the Plans and Specifications and no further approval by the Authority shall be required except for any substantial change in the Plans and Specifications. The Authority shall submit its comments to Developer within thirty (30) days after receipt of said Plans and Specifications by the Authority. If the Authority rejects Plans and Specifications in whole or in part, it shall deliver its rejection to the Developer in writing, specifying the reasons for rejection. The Developer shall submit new or corrected Plans and Specifications for each Phase, or portion thereof, that conforms to the requirements of this Agreement. The construction of the Improvements shall conform to the Plans and Specifications as approved by the Authority. If the Developer desires to make any substantial changes in the Plans and Specifications for each Phase, or portion thereof, after their approval, the Developer shall submit the proposed changes to the Authority for approval, which approval shall not be unreasonably withheld, conditioned, or delayed. Approvals or rejections of Plans and Specifications or proposed changes shall be made by the Authority as provided herein and should approval or rejection not be timely made, then it shall be deemed that Approval has been given.

During the period of construction of each Phase of the redevelopment of the Property, the Developer shall provide quarterly to the Authority an updated construction budget with a schedule of values in form and substance reasonably acceptable to the Authority.

The Developer shall provide to the Authority a quarterly report reflecting number of leases signed (including tenant name, location and size of leased area), parcels sold and price of parcels sold and the number of parcels still available for sale.

## **10. CONSTRUCTION OF IMPROVEMENTS**

10.1. Agreement to Commence and Complete Construction. The Parties agree that the Developer has commenced and completed studies and proposed designs in preliminary form required for design and construction of the Public Improvements and has otherwise incurred Reimbursable Project Costs in support of the Urban Renewal Plan and with the prior approval of the Authority (which approval was conditioned upon approval and adoption of the Urban Renewal Plan by the City Council and compliance with the proper documentation and approval of such costs as Reimbursable Project Costs in accordance with Section 8.4). The Developer shall promptly commence and diligently prosecute to completion, or cause to be promptly continued and diligently prosecuted to completion, the design and construction of the Improvements described in the Plans and Specifications in accordance with the Schedule of Performance. The Developer shall use its reasonable best efforts to commence and complete construction of the Improvements on the Property for all Phases of the redevelopment thereof (or portion thereof as approved by the Authority). For purposes of this Agreement, (i) "Commence Construction" or "Commencement of Construction" means the visible commencement by the Developer of actual physical construction and operations on the Property for the erection of any of the Improvements, including, without limitation, obtaining all required permits and licenses and installation of a permanent required construction element, such as a caisson, footing, foundation or wall; and (ii) "Complete Construction" or "Completion of Construction" means (A) for the Private Improvements, the issuance of a Certificate of Occupancy by the City so that the Private Improvements described in such certificate may open for initial retail sales or other permanent operations, and (b) for the Public Improvements and the District Improvements,



construction acceptance in accordance with applicable laws, ordinances and regulations of the City, the Districts and any other governmental entity or public utility with jurisdiction, subject to any applicable conditions of maintenance and warranty.

10.2. Progress Reports. Until Completion of Construction of the Improvements, the Developer shall make quarterly reports, in such detail and at such times as may reasonably be requested by the Authority, as to its actual progress with respect to construction of the Improvements.

10.3. Insurance Prior to Completion of Construction. At all times while the Developer is engaged in preliminary work on the Property, and until Completion of Construction, the Developer shall maintain, and upon request, shall provide the Authority with proof of payment of premiums and certificates of insurance as follows:

(a) Builder's risk insurance (with a deductible in an amount comparable to the deductibles carried by the Developer on builder's risk insurance policies for similar projects) in an amount equal to 100% of the replacement value of the Improvements at the date of Completion of Construction.

(b) Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors completed operations and contractual liability insurance) and umbrella liability insurance with a combined single limit for both bodily injury and property damage of not less than \$2,000,000. Such insurance may carry a deductible in an amount comparable to deductibles carried by the Developer on liability insurance policies for similar projects.

(c) Worker's compensation insurance, with statutory coverage, including the amount of deductible permitted by statute.

(d) The policies of insurance required under subparagraphs (a) through (c) above shall be reasonably satisfactory to the Authority, placed with financially sound and reputable insurers.

10.4. Insurance after Completion of Construction. From the Completion of Construction of the Improvements and until the issuance of a Certificate of Completion, the Developer shall maintain, and upon request of the Authority shall furnish proof of the payment of the premiums on insurance against loss and/or damage to the Improvements covering such risks as are ordinarily insured against by similar businesses, including (without limitation) fire, extended coverage, vandalism and malicious mischief, boiler explosion, water damage, and collapse in an amount not less than full insurable replacement value of the Improvements (determined by the Developer with the carrier on an "agreed-amount" basis); provided, such policy may have a deductible in an amount comparable to deductibles carried by the Developer on such insurance policies for similar projects. All such insurance policies shall be issued by responsible companies selected by the Developer. The Developer will deposit annually with the Authority copies of policies or certificates evidencing or stating that such insurance is in force and effect.

10.5. Repair or Reconstruction of Improvements. The Developer shall immediately notify the Authority of any damage to the Improvements exceeding \$10,000. If the Improvements are damaged or destroyed by fire or other casualty prior to the issuance of a Certificate of Completion, the Developer, within one hundred twenty (120) days after such damage or destruction, shall proceed forthwith to repair, reconstruct and restore the damaged Improvements to substantially the same condition or value as existed prior to the damage or destruction, and the Developer will apply the proceeds of any insurance relating to such damage or destruction to the payment or reimbursement of the costs of such repair, reconstruction and restoration (unless other terms and disposition are agreed to between the Developer and the Authority).

10.6. Delivery of Financial Information. Developer agrees to provide to the Authority copies of the annual financial statements of the Developer, audited, if available, and prepared in accordance with generally accepted accounting principles and relating to the redevelopment of the Property as such financial statements become available, but in all events, within one hundred twenty (120) days after the end of each of Developer's fiscal years prior to the termination date of this Agreement. The Authority agrees to keep such information confidential and to the extent legally permissible, to treat it as proprietary commercial and financial information, not subject to disclosure under any applicable law. In the event that the Authority is compelled, by a Court of competent jurisdiction to disclose such information, it shall provide prompt notice to the Developer and provide reasonable assistance, at Developer's expense, including the Authority's reasonable attorney fees, to the Developer in seeking a protection order.

10.7. Delivery of Ownership Information. Developer agrees to provide to the Authority the name and address of all members having an ownership interest in the Property. Further Developer shall provide to the Authority the name and address of each member of the Developer. This information shall be provided to the Authority within ten (10) days from the date of the signing of this Agreement.

## 11. CERTIFICATE OF COMPLETION

11.1. Completion of Construction of Improvements. Not later than thirty days after Completion of Construction of Improvements (or portion thereof), upon written request by the Developer, the Authority will furnish the Developer with a Certificate of Completion in the form attached as Exhibit C ("Certificate of Completion"). Such Certificate of Completion for all improvements shall be a conclusive satisfaction and termination of the agreements and covenants in this Agreement obligating the Developer to construct the particular Improvements and the dates for the beginning and completing such construction.

11.2. Recordation and Notice. Each Certificate of Completion shall be in such form as will enable it to be recorded. If the Authority refuses or fails to provide any such certification within thirty (30) days after written request for such by the Developer, the Authority shall, within such thirty (30) day period, provide the Developer with a written statement specifying in what respect the Developer has not achieved Completion of Construction or is otherwise in Default (as defined below), and what measures or acts will be necessary, in the reasonable opinion of the Authority, for the Developer to take or perform in order to obtain such certification. Approval or delivery of a Certificate of Completion shall not be unreasonably withheld.

## 12. REPRESENTATIONS AND WARRANTIES

12.1. Representations and Warranties by the Authority. The Authority represents and warrants that:

- (a) The Authority is an urban renewal authority duly organized and existing under the Act. Under the provisions of the Act, the Authority has the power to enter into this Agreement and carry out its obligations hereunder.
- (b) The activities of the Authority in the redevelopment of the Property are undertaken for the purpose of eliminating and preventing the development or spread of blight.
- (c) The Urban Renewal Plan has been validly adopted in accordance with the Act and is in full force and effect and has not been repealed.
- (d) The Authority knows of no litigation or threatened litigation, proceeding or investigation contesting the powers of the Authority or its officials with respect to the redevelopment of the Property, this Agreement or the Public Improvements.

12.2. Representations and Warranties by the Developer. The Developer represents and warrants that:

- (a) The Developer is a duly organized and validly existing limited liability company under the laws of the State of Colorado in good standing under the laws of Colorado, has the power to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement.
- (b) The consummation of the transactions contemplated by this Agreement and the performance of its obligations hereunder will not violate any provisions of the governing documents of the Developer or constitute a default or result in the breach of any term or provision of any contract or agreement to which the Developer is a party so as to adversely affect the consummation of such transactions.
- (c) The Developer knows of no litigation or threatened litigation, proceeding or investigation contesting the powers of the Authority, the Developer with respect to the Property, this Agreement, Developer's Financing or the Improvements.

12.3. Representations and Warranties by the Districts. Each District represents and warrants that:

- (a) Such District is a quasi-municipal corporation and political subdivision duly organized and validly existing under the laws of the State of Colorado, has the power to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement.
- (b) The consummation of the transactions contemplated by this Agreement and the performance of its obligations hereunder will not violate any provisions of the governing

documents of such District or constitute a default or result in the breach of any term or provision of any contract or agreement to which such District is a party so as to adversely affect the consummation of such transactions.

(c) Such District knows of no litigation or threatened litigation, proceeding or investigation contesting the powers of such District or its officials with respect to the redevelopment of the Property, this Agreement or the District Improvements.

### **13. RESTRICTIONS ON ASSIGNMENT AND TRANSFER**

13.1. Representations as to Development. The Developer represents and agrees that its undertakings under this Agreement are for the purpose of development of the Property. The Developer further represents and agrees that;

(a) the development of the Property is important to the general welfare of the Authority and the City;

(b) upon approval of Reimbursable Project Costs, the Pledged Revenues will be available to make such development possible; and

(c) the qualifications and identity of the Developer and its principals are of particular concern to the Authority. The Developer recognizes that it is because of such qualifications and identity that the Authority is entering into this Agreement with the Developer, and is willing to accept and rely on the obligations of the Developer for the faithful performance of all of its undertakings and covenants under this Agreement.

13.2. Restrictions against Transfer of Agreement. The Developer further covenants and agrees that:

(a) The Developer will not make, create, or suffer to be made or created, any total or partial sale or transfer in any form of this Agreement, the Property or any part thereof or any interest therein or any agreement to do the same, without prior written approval of the Authority; provided, however, that Developer or its Affiliates may sell, lease or otherwise transfer parcels of the Property to bona fide third party owners and operators in the ordinary course of business. Such approval shall not be unreasonably withheld, conditioned, or delayed. For the purposes of this Agreement, transfer shall also include transfer of a majority of the ownership or voting interests in the Developer.

(b) The Authority shall be entitled to require the following as conditions to any such approval:

(i) Any proposed transferee shall have the qualifications and financial responsibility, as reasonably determined by the Authority, necessary to fulfill the obligations of the Developer under this Agreement (or, if the transfer is of or related to part of the obligations under this Agreement, such obligations to the extent that they relate to such part).

(ii) Any proposed transferee, by instrument in writing satisfactory to the Authority, shall assume all of the obligations of the Developer under this Agreement and agree to be subject to the conditions and restrictions to which the Developer is subject (or, if the transfer is part of the Agreement or Property, such obligations, conditions and restrictions as they apply to such part) or such different obligations approved by the Authority. The fact that any such transferee or successor has not assumed such obligations or so agreed shall not relieve such transferee or successor from such obligations, conditions or restrictions, or limit any rights or remedies of the Authority with respect to the Agreement or the construction of the Improvements. No transfer of ownership in all or any part of the Agreement or the Property, or any interest therein, however occurring and whether voluntary or involuntary, shall limit the Authority's rights, remedies or controls provided in this Agreement.

(iii) The Developer shall submit to the Authority for review all instruments and other legal documents involved in effecting transfers; and, unless the Authority gives notice of disapproval of a transfer within thirty (30) days after such Developer submittal, such transfer shall be deemed approved by the Authority.

(iv) The Developer and its transferee shall comply with such other reasonable conditions as the Authority may reasonably require to safeguard the purposes of the Act, the Urban Renewal Plan and the Bond Documents. Unless the Authority otherwise agrees in writing, upon the written approval of the Authority of a transfer of all or part or any interest in the Property, this Agreement or the Developer, the Developer or any other party bound by this Agreement shall not be relieved of its obligations under this Agreement to the extent of such transfer or the interest in the Property, Agreement or Developer included in such transfer.

13.3. Information as to Interest Holders. During the period between execution of this Agreement and Completion of Construction of the Improvements as certified by the Authority, the Developer will promptly notify the Authority of any and all changes in the ownership of interests, legal or beneficial, or of any other transaction resulting in any change in the ownership of such interests or in the relative distribution thereof, or with respect to the identity of the parties in control of the Developer or the degree thereof, of which it or any of its parties have been notified or otherwise have knowledge or information. The Developer shall furnish to the Authority a copy of any amendments to its articles of incorporation required to be filed with appropriate authorities in Colorado.

#### **14. EVENTS OF DEFAULT; REMEDIES**

14.1. Events of Default by Developer. "Default" or an "Event of Default" by Developer under this Agreement shall mean one or more of the following events:

- (a) the Developer, in violation of this Agreement, assigns or attempts to assign or transfer this Agreement or control of the Property, or any rights in either;

- (b) there is any change in the ownership of the Developer or in the identity of the parties in control of the Developer that violates this Agreement;
- (c) subject to the grace period described in Section 14.4, Developer fails to provide the evidence of Developer's Financing as required;
- (d) subject to the grace period described in Section 14.4, Developer fails to commence, diligently pursue and complete construction of the Improvements for each Phase of the redevelopment of the Property as required;
- (e) a holder of a mortgage or deed of trust exercises any remedy provided by loan documents, law or equity that materially interferes with the construction of the Improvements; or
- (f) subject to the grace period described in Section 14.4, Developer fails to observe or perform any material and substantial covenant, obligation or agreement required of it under this Agreement or to make good faith efforts to obtain Developer's Financing.

14.2. Events of Default by District. "Default" or an "Event of Default" by a District under this Agreement shall mean one or more of the following events:

- (a) failure to comply with the obligations of the Districts under the District Pledge Agreement or an "Event of Non-Compliance" otherwise exists under the District Pledge Agreement; or
- (b) subject to the grace period described in Section 14.4, a District fails to observe or perform any material and substantial covenant, obligation or agreement required of it under this Agreement.

14.3. Events of Default by the Authority. "Default" or an "Event of Default" by the Authority under this Agreement shall mean, subject to the grace period described in Section 14.4, the Authority fails to observe or perform any material and substantial covenant, obligation or agreement required of it under this Agreement.

14.4. Grace Periods. Upon the occurrence of a Default or an Event of Default by any Party which is subject to the grace period described in this section, such Party shall, upon written notice from another Party, proceed immediately to cure or remedy such Default and, in any event, such Default shall be cured within thirty (30) days (ninety (90) days if the Default relates to the date for Completion of Construction of Improvements) after receipt of such notice, or such cure shall be commenced and diligently pursued to completion within a reasonable time if curing cannot be reasonably accomplished within thirty (30) days (or ninety (90) days if the Default relates to the date for Completion of Construction of Improvements).

14.5. Remedies on Default. Whenever any Default or Event of Default occurs and, if applicable, is not cured under Section 14.4 of this Agreement, the non-defaulting Party may take any one or more of the following actions; provided, however, that so long as any Authority Bonds are outstanding and unpaid, the only remedies available to the Authority shall be (i) those remedies provided for in clause (d) hereof, and (ii) suspension of performance under clause (a)

hereof, but solely with respect to the performance of the Authority's obligation hereunder to pay Sales Tax TIF:

- (a) Except as otherwise provided in this Agreement, suspend performance under this Agreement until it receives assurances from the defaulting Party, deemed adequate by the non-defaulting Party, that the defaulting Party will cure its Default and continue its performance under this Agreement;
- (b) Prior to Commencement of Construction by the Developer, terminate this Agreement as to any portion of the Property where Commencement of Construction has not occurred;
- (c) in the case of the Authority, withhold the Certificate of Completion; or
- (d) take whatever legal or administrative action or institute such proceedings as may be necessary or desirable in its opinion to enforce observance or performance, including, but not limited to, specific performance or to seek any other right or remedy at law or in equity, including damages.

14.6. Delays/Waivers. Except as otherwise expressly provided in this Agreement, any delay by any Party in asserting any right or remedy under this Agreement shall not operate as a waiver of any such right or deprive it of or limit such rights in any way; nor shall any waiver in fact made by such Party with respect to any default by another Party under this Agreement be considered as a waiver of rights with respect to any other Default by another Party under this Agreement or with respect to the particular Default except to the extent specifically waived in writing. It is the intent of the Parties that this provision will enable each Party to avoid the risk of being limited in the exercise of any right or remedy provided in this Agreement by waiver, laches or otherwise at a time when it may still hope to resolve the problems created by the Default involved.

14.7. Enforced Delay in Performance for Causes Beyond Control of Party. None of the Authority, any District or the Developer, as the case may be, shall be considered in Default of its obligations under this Agreement in the event of enforced delay due to causes beyond its control and without its fault or negligence, including, but not restricted to, acts of God, acts of the public enemy, acts of the Federal, State or local government, acts of another Party, acts of third parties (including the effect of any litigation or petitions for initiative and referendum), acts or orders of courts, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors or materialmen due to such causes. In the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the Party claiming delay shall be extended for a period of the enforced delay; provided that the party seeking the benefit of the provisions of this section shall, within fourteen (14) days after such Party knows of any such enforced delay, first notify the other party of the specific delay in writing and claim the right to an extension for the period of the enforced delay. Delays due to general economic or market conditions shall not be considered a cause allowing a delay under this Section 14.7.

14.8. Effect of Termination. If this Agreement is terminated the covenants and obligations of this Agreement that survive such termination shall remain in full force and effect the Parties agree to execute such mutual releases or other instruments reasonably required to effectuate and give notice of such termination. If this Agreement is terminated, the Authority shall retain all Property Tax TIF and Sales Tax TIF revenues until all obligations of the Authority created pursuant to the Urban Renewal Plan are satisfied and apply those funds to such uses or expenses as the Authority deems appropriate.

14.9. Rights and Remedies Cumulative. The rights and remedies of the Parties to this Agreement are cumulative and the exercise by any Party of any one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other right or remedies for any other Default by another Party.

## 15. INDEMNITY

15.1. General Indemnity. The Developer covenants and agrees, at its expense, to pay, and to indemnify, defend and hold harmless the Authority, and its board of commissioners, officers, agents, employees, engineers and attorneys (collectively, "Indemnified Parties" or singularly, each an "Indemnified Party") of, from and against, any and all claims, damages, demands, expenses (including reasonable attorneys' fees and court costs), and liabilities resulting directly or indirectly from the Developer's development, construction, repair, maintenance, management, leasing, sale, and any other conduct or activities with respect to the Property or the Improvements, unless such claims, damages, demands, expenses, or liabilities, arise solely by reason of the negligent act or omission of the Authority or other Indemnified Parties.

## 16. MISCELLANEOUS

16.1. Conflicts of Interest. None of the following shall have any interest, direct or indirect, in this Agreement: a member of the governing body of the Authority or of the City, an employee of the Authority or of the City who exercises responsibility concerning the Urban Renewal Plan, or an individual or firm retained by the City or the Authority who has performed consulting services in connection with the Urban Renewal Plan. None of the above persons or entities shall participate in any decision relating to this Agreement that affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is directly or indirectly interested.

16.2. Titles of Sections. Any titles of the several parts and sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

16.3. Incorporation of Recitals and Exhibits. All Recitals to this Agreement and the exhibits attached hereto are incorporated into and made a part of this Agreement.

16.4. No Third-Party Beneficiaries. No third-party beneficiary rights are created in favor of any person not a party to this Agreement. Notwithstanding the foregoing, the bondholders of the Authority Bonds, acting through the Trustee, are hereby made third party beneficiaries of this Agreement to the extent the enforcement or nonenforcement of obligations under this Agreement impairs the obligations of the Parties under the Bond Documents.



16.5. Venue and Applicable Law. Any action arising out of this Agreement shall be brought in the El Paso County District Court and the laws of the State of Colorado shall govern the interpretation and enforcement of this Agreement. In the event of any litigation or other proceeding to enforce any of the terms, covenants or conditions hereof, the prevailing party in such litigation or other proceeding shall obtain, as part of its judgment or award, its reasonable attorneys' fees and costs.

16.6. Binding Effect. The Agreement shall be binding on the Parties hereto, and their successors and assigns.

16.7. Integrated Contract; Severability. This Agreement constitutes the entire agreement among the Parties and supersedes any prior agreement, written or oral. The invalidation of any of its provisions by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

16.8. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute but one and the same instrument.

16.9. Notices. A notice, demand, or other communication under this Agreement by any party to the other shall be sufficiently given if delivered in person or if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally or by electronic mail with confirmation of receipt, and

(a) in the case of the Developer, is addressed to or delivered to the Developer as follows:

Ivywild Core Development, Inc.  
1619 South Tejon Street  
Colorado Springs, CO 80905

with a copy to:

Paul Benedetti  
2730 Iliff Street  
Boulder, CO 80305  
E-mail: paul.benedetti@comcast.net

(b) in the case of the Authority, is addressed to or delivered personally to the Authority as follows:

Colorado Springs Urban Renewal Authority  
P.O. Box 1575, MC 640  
Colorado Springs, CO 80901-1579  
Attn: Executive Director  
E-mail: jwalker@springsgov.com

with a copy to:

Kraemer Kendall Rupp Deen Neville LLC  
Attn: David M. Neville, Esq.  
430 N. Tejon, Suite 300  
Colorado Springs, CO 80903  
E-mail: dneville@k2blaw.com

(c) in the case of the Districts, is addressed to or delivered to the Districts as follows:

Canyon Creek Metropolitan District No. 2  
Canyon Creek Metropolitan District No. 3  
1619 South Tejon Street  
Colorado Springs, Colorado 80905  
Attn: Board of Directors

with a copy to:

White Bear Ankele Tanaka & Waldron  
Attorneys at Law  
2154 East Commons, Suite 2000  
Centennial, Colorado 80122  
Attention: Blair M. Dickhoner  
E-mail: bdickhoner@wbapc.com

or at such other address with respect to any such party as that party may, from time to time, designate in writing and forward to the other as provided in this section. Notice is deemed to be given on the date received (if mailed according to this section), or on the date delivered (if personally delivered or electronically mailed with confirmed receipt in accordance with this section).

16.10. Good Faith of Parties. Except in those instances where the Developer may act in its sole discretion, in performance of this Agreement or in considering any requested extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously or unreasonably withhold, condition, or delay any approval required by this Agreement.

16.11. Days. If the day for any performance or event provided for herein is a Saturday, Sunday, or other day on which either national banks or the office of the Clerk and Recorder of El Paso County, Colorado are not open for the regular transaction of business, such day therefor shall be extended until the next day on which said banks and said office are open for the transaction of business.

16.12. Further Assurances. The Parties hereto agree to execute such documents, and take such action, as shall be reasonably requested by the other party hereto to, supplement, define, update, confirm, and clarify the intent of the provisions hereof and to effectuate the agreements herein contained and the intent hereof, including, without limitation, documents and action in support of compliance with obligations of a Party under the Bond Documents.

16.13. Estoppel Certificate and Approvals. The Parties hereto agree to execute such documents as the other party hereto shall reasonably request to verify or confirm the status of this Agreement and of the performance of the obligations hereunder and such other matters as the requesting party shall reasonably request. Any approvals required in this Agreement shall be in writing.

16.14. Amendments. This Agreement shall not be amended except by written instrument. Each amendment hereof, which is in writing and signed and delivered by the Parties hereto shall be effective to amend the provisions hereof, and no such amendment shall require the consent or approval of any other party.

16.15. Non-Liability of Certain Officials, Employees and Individuals. Except for willful and wanton actions, no City Council member, Authority Board member, District Board member, official, attorney for the Authority or Districts or City Attorney, or employee of the Authority, the Districts or the City shall be personally liable to the Developer for any Event of Default by the Authority or the Districts, as applicable, or for any amount that may become due to the Developer under the terms of this Agreement. Nothing in this Section 16.15 or this Agreement is to be construed as a waiver of any limitations upon or immunity from suits against the City, the Authority, the Districts, or City, District or Authority Board or Council members, officials, above-named agents or employees of the Authority, the Districts or the City, as may be provided by law. Except for willful and wanton actions, no member or manager, employee or attorney of the Developer shall be personally liable to the Authority for any amount that may become due to the Authority under the terms of this Agreement. Nothing herein is to be construed to limit the liability of any individual, member, manager or transferees who become personal signatories to this Agreement, or any modification thereof.

16.16. Agreement Jointly Drafted. The Agreement shall be construed as if jointly drafted by the Parties.

16.17. Assignment of Agreement Pledge or Payments. The Parties mutually represent and agree that the Authority may assign its right, title and interest (but not its duties) in this Agreement to a trustee as part of any financing by the Authority and the Developer may be required to (and in the case of a District or District bond trustee shall be permitted to) assign its right, title and interest in this Agreement (but not duties) in connection with the Developer's Financing or as part of a transaction to provide the Developer's Financing. If there is a default under any indenture agreement between the Authority and a trustee, this Agreement may be enforced by the trustee on behalf of mortgagees or bondholders. If there is a default under a note or any other agreement or document delivered by the Developer in connection with the Developer's Financing or as part of a transaction to provide the Developer's Financing, this Agreement may be enforced by a Mortgagee or other such beneficiary.

16.18. No Partnership; Developer Not Agent. Notwithstanding any language in this Agreement or any other Agreement, representation or warranty to the contrary, the Authority shall not be deemed or constituted a partner or joint venturer of the Developer or the Districts, the Developer shall not be the agent of the Authority or the Districts, neither the Authority nor the Districts shall be responsible for any debt or liability of the Developer and neither the Authority nor the Districts shall be responsible for any debt or liability of the other Party.

16.19. Severability. Any provision of this Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or nonauthorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction. In the event that any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed Agreement (and any related agreements effective as of the same date) provide essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. Unless prohibited by applicable laws, the Parties further shall perform all acts and execute, acknowledge and/or deliver all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.

16.20. Minor Changes. This Agreement has been approved in substantially the form submitted to the governing bodies of the Parties. The officers executing the Agreement have been authorized to make, and may have made, minor changes in the Agreement. So long as such changes were consistent with the intent and understanding of the Parties at the time of approval by the governing bodies, the execution of the Agreement shall constitute conclusive evidence of the approval of such changes by the respective Parties.

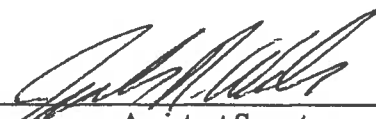
[Remainder of page intentionally left blank]


IN WITNESS WHEREOF, the Authority and the Developer have caused this Agreement to be duly executed as of the day first above written.

AUTHORITY:

COLORADO SPRINGS URBAN RENEWAL  
AUTHORITY

ATTEST:

  
Secretary or Assistant Secretary

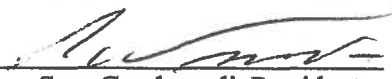
By:   
Wynne Palermo, Chair

DEVELOPER:

IVYWILD CORE DEVELOPMENT INC.

ATTEST:

  
Secretary or Assistant Secretary

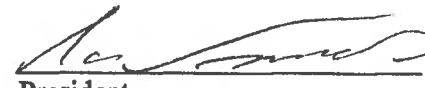
By:   
Sam Guadagnoli, President

DISTRICT NO. 2:

CANYON CREEK METROPOLITAN  
DISTRICT NO. 2

ATTEST:

  
Secretary or Assistant Secretary

By:   
President

DISTRICT NO. 3:

CANYON CREEK METROPOLITAN  
DISTRICT NO. 3

ATTEST:

  
Secretary or Assistant Secretary

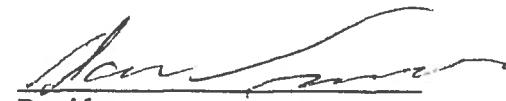
By:   
President

EXHIBIT A

THE PROPERTY

<u>Schedule Number</u>	<u>Address</u>
6419314020	0 Tejon Pl.
6419314028	1607 Tejon Pl.
6419314039 (formerly 6419314029)	1607 Tejon Pl.
6419314021	1619 Tejon Pl.
6419314022	1620 Tejon Pl.
6419314019	1622 Tejon Pl.
6430209011	7 E. Ramona Ave.
6430209008	19 E. Ramona Ave.
6430209015	116 Metzler St.
6430210001	121 Metzler St.
6430209027	11 E. Ramona Ave.
6430209028	15 E. Ramona Ave.
6430209004	43 E. Ramona Ave.
6430201006	110 E. Ramona Ave.
6430201005	114 E. Ramona Ave.
6430209029	0 E. St. Elmo Ave.
6430201024	1632 S. Nevada Ave.
6430201025	1634 S. Nevada Ave.
6430201003	1638 S. Nevada Ave.
6419308021	128 E. Navajo St.
6419308014	132 E. Navajo St.
6419308007	109 E. Brookside St.
6419308006	119 E. Brookside St.
6419308005	121 E. Brookside St.
6419308004	125 E. Brookside St.
6419308003	131 E. Brookside St.
6419308002	135 E. Brookside St.
6430209014	1719 S. Cascade Ave.
6419308022	1515 S. Tejon St.
6419314012	1605 S. Tejon St.
6419314013	1609 S. Tejon St.
6419314014	1615 S. Tejon St.
6419314015	1619 S. Tejon St.
6419314016	1623 S. Tejon St.

6419314017	1627 S. Tejon St.
6430207010	96 Cheyenne Blvd.
6430207016	17 W. Ramona Ave.
6430207017	34 Cheyenne Blvd.
6430207018	38 Cheyenne Blvd.
6430207019	42 Cheyenne Blvd.
6430207020	46 Cheyenne Blvd.
6430207021	50 Cheyenne Blvd.
6430207022	54 Cheyenne Blvd.
6430207023	58 Cheyenne Blvd.
6430207024	62 Cheyenne Blvd.
6430207025	66 Cheyenne Blvd.
6430207026	70 Cheyenne Blvd.
6430207027	74 Cheyenne Blvd.
6430207028	78 Cheyenne Blvd.
6430207029	82 Cheyenne Blvd.
6430207030	86 Cheyenne Blvd.
6430207031	90 Cheyenne Blvd.
6430207032	94 Cheyenne Blvd.
6430207033	30 Cheyenne Blvd.
6430207034	26 Cheyenne Blvd.
6430207035	22 Cheyenne Blvd.
6430207036	W. Ramona Ave.

The following parcels listed in the Original Agreement were replatted in 2016 and the resultant schedule numbers and addresses are shown above:

<u>Schedule Number</u>	<u>Address</u>
6430207005	26 Cheyenne Blvd.
6430207006	28 Cheyenne Blvd.
6430207012	34 Cheyenne Blvd.
6430207011	36 Cheyenne Blvd.
6430207014	17 W. Ramona Ave.

The following parcel listed in the Original Agreement is no longer an active parcel:

<u>Schedule Number</u>	<u>Address</u>
9310010200	43 E. Ramona Ave./B

**EXHIBIT B**

**PUBLIC IMPROVEMENTS AND REIMBURSABLE PROJECT COSTS**



**EXHIBIT B**

**ELIGIBLE PUBLIC IMPROVEMENTS AND REIMBURSABLE PROJECT COSTS**

		<u>Cost Estimate</u>
<b>** District (30 Mills) Eligible Public Improvements:</b>		
** note	1 Power Lines relocation and burial	\$360,000
**	2 Sidewalks street frontage, trail connections	\$510,000
**	3 Curb and Gutter new and replacement	\$500,000
**	4 Landscaping (grading, dirt work, wiring, etc.)	\$555,000
**	5 Utilities water, sewer, fire, etc.	\$250,000
	5a Utilities internet, electric, gas, phone, cable, etc.	\$245,000
** note	6 Demolition, environmental testing and abatement, life safety/ADA compliance	\$650,000
**	7 Lighting street, park, trail	\$650,000
**	8 Drainage/Creek Improvements, grading	\$840,000
**	9 Pedestrian Bridges over creek	\$270,000
**	10 Road and Bridge Enhancements - Navajo, Ramona	\$300,000
**	11 Trails: acquisition, grading, excavation, pavement, etc.)	\$410,000
** note	12 Park: Land acquisition, Improvements, landscape, tree removal, grading, etc.	\$1,200,000
	13 Excess Acquisition Costs (above \$6 per SF)	\$4,750,000
** note	14 Contingencies, Development Mgmt. Fees, Architects, Engineers, Surveys, Supervision	\$750,000
		<hr/> \$12,240,000

**\*\* note - costs in this category contain both District and URA eligible costs**

<b>Maximum Reimbursement for Eligible Public Improvements</b>	\$12,240,000
<b>Estimated Potential Urban Renewal Eligible Public Improvements</b>	
Total \$12,240,000 minus District \$4,285,000 =	\$7,955,000

**Regardless of the overall cost of the above Eligible Public Improvements, the maximum reimbursement from the Districts and CSURA shall not exceed \$12,240,000 requirements and accrued interest. Cost savings in any line item on the list of Eligible Public Improvements may be applied to cost overruns in any other line item.**

**In order to be eligible for reimbursement from either the Districts or CSURA, Reimbursable Project Costs must be certified in accordance with the Redevelopment Agreement.**

**As much as possible of the reimbursement shall be funded via the Metropolitan Districts, with the balance funded via the CSURA (i.e. Maximum Eligible Reimbursement minus the District Reimbursement = CSURA Eligible Reimbursement).**

**Eligible costs in addition to the above budget include; interest, cost of bond issuance and reserves (estimated interest rate of 5%; cost of issuance and reserves estimated at 28%)**

EXHIBIT C

CERTIFICATE OF COMPLETION

The Colorado Springs Urban Renewal Authority, a body corporate and politic of the State of Colorado (the "Authority"), whose street address is 30 S. Nevada Avenue, Suite 603, Colorado Springs, Colorado 80903, hereby certifies that the improvements ("Improvements") constructed on the Property described in Exhibit A, attached hereto and hereby made a part hereof, conform with (1) the uses specified in the South Nevada Avenue Area Urban Renewal Plan dated November 24, 2015, which Urban Renewal Plan, as amended is incorporated herein by reference and (2) the requirements set forth in the Amended and Restated Urban Renewal Agreement for Development of the South Nevada Avenue Urban Renewal Plan Area (the "Agreement") by and among the Authority, the Developer and the Districts dated as of June 21, 2018 which Agreement is incorporated herein by reference, with respect to agreement to commence and complete construction of the Improvements on the Property (as defined in the Agreement).

This Certificate of Completion shall be a conclusive determination that the Improvements comply with the requirements for Completion of Construction of Improvements contained in the Agreement.

Signed and delivered this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

COLORADO SPRINGS URBAN RENEWAL  
AUTHORITY

By: \_\_\_\_\_,  
\_\_\_\_\_, Chair

ATTEST:

\_\_\_\_\_  
Secretary

STATE OF COLORADO    )  
                                  ) ss.  
COUNTY OF EL PASO    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, as Chair, and \_\_\_\_\_, as Secretary of the Colorado Springs Urban Renewal Authority, a body corporate and politic.  
My commission expires:

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

## EXHIBIT D

### SCHEDULE OF PERFORMANCE

The Schedule of Performance for the construction of the Improvements shall be as set forth in the Market Study, including, without limitation, the section thereof entitled "CANYON CREEK (SILO 2) FEASIBILITY AND VALUATION ASSESSMENT." Without limiting the foregoing, the Private Improvements shall include those improvements described in the aforementioned section of the Market Study and summarized in the table set forth in the section entitled "INTRODUCTION – Development Plans and Status" as it relates to Silo 2. Construction of the Public Improvements and the District Improvements shall be coincident with the construction of the Private Improvements.

Completion of Construction shall occur in sufficient time to allow the Authority to obtain release of proceeds of the Authority Bonds from the "Restricted Account" under each of the Senior Indenture and the Subordinate Indenture prior to the mandatory redemption dates set forth therein, but in no event shall Completion of Construction of all Improvements be later than September 30, 2020.