

DEFEASANCE ESCROW AGREEMENT

This DEFEASANCE ESCROW AGREEMENT (this “Agreement”) is dated as of the 17th day of December, 2018, by and between the CITY OF COLORADO SPRINGS, COLORADO (the “City”), and U.S. BANK NATIONAL ASSOCIATION, a national banking association duly organized and existing under the laws of the United States, being a member of the Federal Deposit Insurance Corporation, having full and complete trust powers, and having an office and place of business in the State of Colorado (the “Bank”), as escrow agent;

WITNESSETH:

WHEREAS, the City, acting through its Municipal Airport Enterprise (the “Airport Enterprise”), has duly authorized, sold, issued and delivered its Airport System Revenue Refunding Bonds, Series 2014 (the “2014 Bonds”) in the initial aggregate principal amount of \$11,185,000, of which \$6,330,000 is expected to remain outstanding as of December 17, 2018, pursuant to Ordinance No. 92-116 (the “General Ordinance”), as supplemented by Ordinance No. 13-79 (the “Supplemental Ordinance” and together with the General Ordinance, the “2014 Ordinance”), adopted by the City Council of the City (the “City Council”), acting as the governing body of the Airport Enterprise (unless otherwise indicated, capitalized terms used in this Agreement shall have the meanings set forth in Section 1 of the 2018 Ordinance (as defined below)); and

WHEREAS, the principal of and interest on the 2014 Bonds are payable at the principal corporate trust office of Wells Fargo Bank, National Association, in Denver, Colorado, as paying agent for the 2014 Bonds (the “2014 Paying Agent”); and

WHEREAS, the City Council finally adopted an ordinance on November [27], 2018 (the “2018 Ordinance”), authorizing the City to utilize legally available moneys of the Airport Enterprise to defease and pay through final maturity the outstanding 2014 Bonds (the “Defeasance”); and

WHEREAS, pursuant to the terms of this Agreement, the City shall deposit legally available moneys of the Airport Enterprise in an amount specified herein (as further described below, the “Available Funds”) into the “2014 Airport System Revenue Refunding Bonds Escrow Account,” established pursuant to the 2018 Ordinance, to be used to defease the outstanding 2014 Bonds on December 17, 2018 (the “Defeasance Date”); and

WHEREAS, the 2014 Ordinance provides that the 2014 Bonds shall no longer be deemed to be outstanding under the 2014 Ordinance if Federal Securities (as defined in the 2014 Ordinance) shall have been deposited in trust for the payment thereof (whether upon or prior the maturity of such 2014 Bonds); and

WHEREAS, pursuant to the terms of the 2018 Ordinance, the City shall pay in full the principal of, premium if any, and interest on the 2014 Bonds from the net proceeds of the Available Funds in the manner and at the times hereinafter set forth;

NOW THEREFORE, IT IS AGREED: That in consideration of the mutual covenants herein contained and other good and valuable consideration duly paid by, or on behalf of, the City to the Bank at or before the execution and delivery of this Agreement, the receipt and sufficiency of which is hereby acknowledged, and in order to complete the Defeasance, according to the terms set forth herein, the parties hereto mutually undertake, promise, and agree for themselves, their respective representatives, successors and assigns, as follows:

Section 1. The City shall deposit with the Bank in a special fund and irrevocable trust account, designated as the “2014 Airport System Revenue Refunding Bonds Escrow Account” (the “Escrow Account”), the total amount of \$_____ (the “Available Funds”), which amount, together with earnings thereon, will be at all times at least sufficient to pay the principal of and interest on the 2014 Bonds as they become due in accordance with the schedule set forth in the special report of a certified public accountant (the “Verification Report”) attached hereto as Exhibit A and made a part hereof.

At the time of actual execution of this Agreement, the Bank will immediately invest the funds on deposit in the Escrow Account in the Federal Securities, if any, listed in the Verification Report, which report verifies that the computations regarding the sufficiency of the amounts on deposit in the Escrow Account to pay the principal of and interest on the 2014 Bonds as set forth in this Section are mathematically correct, and shall fully secure any cash balance in the Escrow Account in the manner set forth herein. Such Federal Securities, if any, are irrevocably pledged and placed in escrow and in trust for the payment of the principal of, premium if any, and interest on the 2014 Bonds.

Section 2. If, for any reason, at any time the funds on hand in the Escrow Account shall be insufficient to meet any payments on the 2014 Bonds, as the same shall be about to become due and payable, the City shall forthwith deposit in the Escrow Account such additional legally available funds as may be required to fully meet the amounts so about to become due and payable. Notice of such insufficiency shall be given as hereinafter provided, but the Bank shall in no manner be responsible for the City’s failure to make such deposit.

Section 3. The Bank shall hold said funds, together with the obligations herein authorized to be purchased, at all times in a special fund and irrevocable trust account which is accounted for separately from other funds and securities on deposit with it; shall never at any time use (except as expressly set forth herein), loan, or borrow the same in any way; and shall not be permitted to invest and reinvest said deposit (except as expressly set forth herein) unless the requirements of Section 12 hereof are satisfied. Nothing herein contained shall be construed as requiring the Bank to keep on hand the identical moneys, or any part thereof, received for the Escrow Account, but moneys of an equal amount, except to the extent such are represented by the Federal Securities contained in the Escrow Account, must always be maintained on hand as funds held by the Bank, and a special account thereof, evidencing such fact, shall at all times be maintained on the books of the Bank.

Section 4. The Bank shall from time to time redeem at maturity all or any appropriate portion of the Federal Securities in the Escrow Account, according to the schedules of maturities set forth in the Verification Report, without notice to the City, in sufficient amounts so that the proceeds therefrom and the interest thereon as the same accrues, will be sufficient to pay the

principal of, premium if any, and interest on the 2014 Bonds as the same become due in accordance with the schedule set forth in the Verification Report attached hereto as Exhibit C.

Section 5. The Bank shall maintain the Escrow Account until thirty (30) days after the date upon which the 2014 Bonds are fully matured and paid, as to principal, premium if any, and interest, whereupon the Bank shall redeem any obligations remaining in the Escrow Account and shall remit to the City all moneys, if any, then remaining in the Escrow Account; provided however, that before such remittance is made to the City, sufficient funds must have been deposited with the 2014 Paying Agent to pay the principal of, premium if any, and interest on any 2014 Bonds which remain outstanding on such date. The Bank shall fully collateralize the moneys in the Escrow Account not invested (to the extent not covered by Federal Deposit Insurance Corporation (“FDIC”) insurance), in an amount at all times at least equal to the total unexpended amount of said moneys

Section 6. The Bank shall not be liable or responsible for any loss resulting from any investment made pursuant to this Agreement and in full compliance with its provisions.

Section 7. The funds received by the Bank shall not be considered as a banking deposit by the City. The funds so received by the Bank, as escrow agent, shall not be subject to checks drawn or withdrawals made by the City.

Section 8. Based on the Verification Report, the Bank shall forward or transfer to the 2014 Paying Agent, for deposit into the appropriate debt service payment accounts, sums which shall be sufficient for the payment of the principal of, premium if any, and interest becoming due on each principal or interest payment date for the 2014 Bonds in accordance with the Verification Report. The amount so forwarded or transferred shall be in sufficient time to permit such payment on time without default. It shall not be necessary for the City to take any affirmative action whatsoever as a condition precedent to the duty of the Bank to forward or transfer such funds to the 2014 Paying Agent at the necessary times.

Section 9. The Bank shall immediately notify the City by certified or registered, first class United States mail, postage prepaid or by overnight delivery service, whenever, for any reason, the funds on hand in the Escrow Account, plus the securities therein and interest on said securities, as the same accrues, will be insufficient to pay the principal of, premium if any, and interest on the 2014 Bonds in accordance with the Verification Report.

Section 10. The Bank shall, within forty-five (45) days following the transfer of funds to the 2014 Paying Agent for the final payment of the 2014 Bonds, forward to the City a statement in detail of the transfers of moneys from the Escrow Account. In addition, the City shall have the right, at any time, to examine all the Bank’s records regarding the status of the Escrow Account and the details of said income, investments, redemptions, and transfers.

Section 11. The Bank shall be under no obligation to inquire into or be in any way responsible for the performance or non-performance by the City or any paying agent of any of the City’s or paying agent’s obligations, or to protect any of the City’s rights under any bond documents or any of the City’s other contracts with or franchises or privileges from any state, county, municipality, or other governmental agency, or with any corporation or individual; and

the Bank shall not be liable for any act done or step taken or omitted by it or for any mistake of fact or law or for anything which it may do or refrain from doing, except for its negligence or its default in the performance of any obligations imposed upon it hereunder.

Section 12.

(a) In order to insure continuing compliance with Section 148 of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, the Bank agrees that, except as provided in this Section, it will not invest or reinvest any cash received in the Escrow Account.

(b) The Bank shall invest or reinvest any such cash balance, at the written direction of the City, if invested in Federal Securities that mature in an amount at least equal to the purchase price of such Federal Securities on the next scheduled payment date for the 2014 Bonds and if the City and the Bank have been advised in writing by nationally recognized municipal bond counsel selected by the City that in the opinion of said bond counsel, the investment or reinvestment of such cash balance could be unlimited, or limited as set forth in said opinion, and said opinion would also state:

(i) the investment or reinvestment of any cash balance as directed would not adversely affect the excludability from gross income of the interest paid or to be paid in connection with the 2014 Bonds; and

(ii) that such investment or reinvestment would not cause the City to be or become subject to any sanctions or penalties pursuant to any applicable law.

The Bank shall thereafter, at the written direction of the City, invest and reinvest any of said cash held in the Escrow Account to the greatest extent possible, in non-callable Federal Securities maturing prior to any date on which such moneys will be required in the Escrow Account, in the manner provided in this Agreement, limited only as herein otherwise provided and by any limitation expressed in said opinion of bond counsel in its original form or as the same may, from time to time, be modified. The cash derived from such investment or reinvestment in excess of the amounts needed in the Escrow Account to pay the principal of and interest on the 2014 Bonds as they become due in accordance with the schedule set forth herein, shall be retained by the Bank until released in accordance with Section 5 hereof.

Section 13. The 2014 Paying Agent, on behalf of the City, shall file an appropriate notice, by written or electronic means, of the defeasance of the 2014 Bonds with Municipal Securities Rulemaking Board's Electronic Municipal Market Access System, with a portal at <http://emma.msrb.org>, which notice shall be captioned "Material Event Notice," shall prominently state the date, title and CUSIP numbers of the 2014 Bonds and shall describe the defeasance of such 2014 Bonds. A form of such notice is attached hereto as Exhibit B.

Section 14. This Agreement shall be effective on the date the Escrow Account is fully funded in accordance with Section 1 hereof. Time shall be of the essence in the performance of the obligations from time to time imposed upon the Bank by this Agreement.

Section 15. In the event of a violation of any provision of this Agreement, the City may remove the Bank as escrow agent hereunder by notifying the Bank and may appoint a successor escrow agent. Upon any such removal, the City shall promptly appoint a successor escrow agent by an instrument in writing, which successor escrow agent shall give notice of such appointment to all Owners as soon as practicable; provided that in the event the City does not appoint a successor escrow agent within 60 days following the giving of any such notice of removal, the removed Bank may petition any appropriate court having jurisdiction to appoint a successor escrow agent.

Any removal of the Bank and appointment of a successor escrow agent shall become effective only upon the acceptance of the appointment by the successor escrow agent and the transfer by the retiring Bank to the successor escrow agent of all property held by it hereunder as escrow agent.

Section 16. The liability of the Bank to transfer funds for the payment of the principal of, premium, if any, and interest on the 2014 Bonds shall be limited to the proceeds of the Federal Securities, if any, and the cash balances that have been deposited into the Escrow Account.

The recitals herein and in the proceedings authorizing the Defeasance shall be taken as the statements of the City and shall not be considered as made by, or imposing any obligation or liability upon, the Bank.

The Bank, in its capacity as escrow agent, is not a party to the proceedings authorizing the Defeasance or the 2014 Bonds and is not responsible for nor bound by any of the provisions thereof (except to the extent that the Bank may be a place of payment and paying agent and/or a paying agent/registrant therefor). In its capacity as escrow agent, it is agreed that the Bank need look only to the express terms and provisions of this Agreement and no implied obligations or covenants shall be read into this Agreement against the Bank.

The Bank makes no representations as to the value, conditions or sufficiency of the Escrow Account, or any part thereof, or as to the title of the City thereto, or as to the security afforded thereby or hereby, and the Bank shall not incur any liability or responsibility in respect to any of such matters.

It is the intention of the parties hereto that the Bank shall never be required to use or advance its own funds or otherwise incur personal financial liability in the performance of any of its duties or the exercise of any of its rights and powers hereunder.

Unless it is specifically otherwise provided herein, the Bank has no duty to determine or inquire into the happening or occurrence of any event or contingency or the performance or failure of performance of the City with respect to arrangements or contracts with others, with the Bank's sole duty hereunder being to safeguard the Escrow Account, to dispose of and deliver the same in accordance with this Agreement. If, however, the Bank is called upon by the terms of this Agreement to determine the occurrence of any event or contingency, the Bank shall be obligated, in making such determination, only to exercise reasonable care and diligence, and in event of error in making such determination the Bank shall be liable only for its own misconduct

or its negligence. In determining the occurrence of any such event or contingency the Bank may request from the City or any other person such reasonable additional evidence as the Bank in its discretion may deem necessary to determine any fact relating to the occurrence of such event or contingency, and in this connection may make inquiries of, and consult with, among others, the City at any time. The Bank may consult with counsel, who may be counsel of or to the City or the Bank, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance herewith. The Bank may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval or other paper or document reasonably believed by it to be genuine and to have been signed or presented by the proper party or parties. The Bank may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians or nominees appointed with due care, and shall not be responsible for any willful misconduct or negligence on the part of any agent, attorney, custodian or nominee so appointed. Anything in this Agreement to the contrary notwithstanding, in no event shall the Bank be liable for special, indirect, punitive or consequential loss of any kind whatsoever (including but not limited to lost profits), even if the Bank has been advised of the likelihood of such loss or damage and regardless of the form of action. The Bank shall not be liable to the parties hereto or deemed in breach or default hereunder if and to the extent its performance hereunder is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the Bank and could not have been avoided by exercising due care. Force majeure shall include acts of God, terrorism, war, riots, strikes, fire, floods, earthquakes, epidemics or other similar occurrences.

Section 17. The Bank shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Agreement and delivered using Electronic Means ("Electronic Means" means the following communications methods: S.W.I.F.T., e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Bank, or another method or system specified by the Bank as available for use in connection with its services hereunder); provided, however, that the City shall provide to the Bank an incumbency certificate listing officers with the authority to provide such Instructions (the "Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the City whenever a person is to be added or deleted from the listing. If the City elects to give the City Agent Instructions using Electronic Means and the Bank in its discretion elects to act upon such Instructions, the Bank's understanding of such Instructions shall be deemed controlling. The City understands and agrees that the Bank cannot determine the identity of the actual sender of such Instructions and that the Bank shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Bank have been sent by such Authorized Officer. The City shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Bank and that the City and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the City. The Bank shall not be liable for any losses, costs or expenses arising directly or indirectly from the Bank's reliance upon and compliance with such Instructions notwithstanding whether such directions conflict or are inconsistent with a subsequent written instruction. The City agrees: (a) to assume all risks arising out of the use of Electronic Means to

submit Instructions to the Bank, including without limitation the risk of the Bank acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (b) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Bank and that there may be more secure methods of transmitting Instructions than the method(s) selected by the City; (c) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (d) to notify the Bank immediately upon learning of any compromise or unauthorized use of the security procedures.

Section 18. The Bank shall receive fees for performing the services hereunder and for the expenses incurred or to be incurred by the Bank in the administration of this Agreement as set forth in Exhibit C hereto. Such arrangement for compensation and expenses is intended as compensation for the ordinary services as contemplated by this Agreement (but not including costs of investments which will be billed to the City at usual and customary rates, if applicable), and if the Bank renders any service hereunder not provided for in this Agreement, or the Bank is made a party to or intervenes in any litigation pertaining to this Agreement, or institutes interpleader proceedings relative thereto, the Bank shall be compensated reasonably by the City for such extraordinary services approved in writing by the City and reimbursed for all fees, costs, liability and expenses (including reasonable attorneys' fees) occasioned thereby. The Bank hereby agrees that in no event shall it ever assert any claim or lien against the Escrow Account for any fees for its services, whether regular or extraordinary, as Bank, or in any other capacity, or for reimbursement for any of its expenses as Bank or in any other capacity.

Section 19. Any corporation or association with or into which the Bank may be merged or converted or with or into which it may be consolidated, or to which the Bank may sell or transfer its municipal corporate trust business and assets as a whole, or substantially as a whole, or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which it is a party, shall be and become successor Bank hereunder and shall be vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereunder as was its predecessor, without the execution or filing of any instrument or any further act on the part of any of the parties hereto.

If at any time the Bank or its legal successor or successors shall resign or should become unable, through operation or law or otherwise, to act as escrow agent hereunder, or if its property and affairs shall be taken under the control of any state or federal court or administrative body because of insolvency or bankruptcy or for any other reason, a vacancy shall forthwith exist in the office of Bank hereunder. In such event the City, by appropriate action, promptly shall appoint an escrow agent to fill such vacancy. If no successor escrow agent shall have been appointed by the City within 60 days, the retiring Bank, as escrow agent, may petition a court of competent jurisdiction for the appointment of a successor escrow agent, or a successor may be appointed by the owners of a majority in principal amount of the 2014 Bonds then defeased by an instrument or instruments in writing filed with the City, signed by such owners or by their duly authorized attorneys-in-fact. If, in a proper case, no appointment of a successor escrow agent shall be made pursuant to the foregoing provisions of this Section within three months after a vacancy shall have occurred, the owner of any 2014 Bond may apply to any court of competent jurisdiction to appoint a successor escrow agent. Such court may thereupon, after such notice, if any, as it may deem proper, prescribe and appoint a successor escrow agent.

Any successor escrow agent shall be a banking association or corporation organized and doing business under the laws of the United States or the State of Colorado, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$50,000,000 and subject to the supervision or examination by federal or state authority.

Any successor escrow agent shall execute, acknowledge and deliver to the City and the Bank an instrument accepting such appointment hereunder, and the Bank shall execute and deliver an instrument transferring to such successor escrow agent, subject to the terms of this Agreement, all the rights, powers and trusts of the escrow agent hereunder. Upon the request of any such successor escrow agent, the City shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor escrow agent all such rights, powers and duties.

The obligations assumed by the escrow agent pursuant to this Agreement may be transferred by the Bank to a successor escrow agent if (a) the requirements of this Section with respect to a successor escrow agent are satisfied; (b) the successor escrow agent has assumed all the obligations of the Bank under this Agreement; and (c) all of the funds held by the Bank pursuant to this Agreement have been duly transferred to such successor escrow agent.

Section 20. This Agreement shall be governed by the laws of the State of Colorado.

Section 21. The parties hereto agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 22. This Agreement shall not be amended except to cure any ambiguity or formal defect or omission in this Agreement. No amendment shall be effective unless the same shall be in writing and signed by the parties thereto. No such amendment shall adversely affect the rights of the owners of the 2014 Bonds.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Defeasance Escrow Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

City of Colorado Springs, Colorado

[SEAL]

By _____
Mayor

Attest:

By _____
City Clerk

U.S. Bank National Association, as Escrow Agent

By _____
Authorized Officer

[Signature Page to Defeasance Escrow Agreement]

EXHIBIT A

VERIFICATION REPORT

[Attach Verification Report]

EXHIBIT B

FORM OF MATERIAL EVENT NOTICE

MUNICIPAL SECONDARY MARKET DISCLOSURE

\$11,185,000

**City of Colorado Springs, Colorado
Airport System Revenue Refunding Bonds
Series 2014**

NOTICE IS HEREBY GIVEN that a portion of the outstanding City of Colorado Springs Airport System Revenue Refunding Bonds, Series 2014 originally issued in the aggregate principal amount of \$11,185,000 (the “Series 2014 Bonds”) have been defeased. The Series 2014 Bonds which have been defeased are all of the Series 2014 Bonds maturing on and after December 15, 2019 in the aggregate principal amount of \$6,330,000 (the “Defeased Bonds”). The Defeased Bonds more specifically include the following bonds:

Principal Amount	Maturity Date (December 15)	CUSIP Numbers
\$1,145,000	2019	196612 FS9
1,205,000	2020	196612 FT7
1,265,000	2021	196612 FU4
1,325,000	2022	196612 FV2
1,390,000	2023	196612 FW0

The Defeased Bonds have been defeased by action of the City Council of the City, with legally available moneys of its Airport Enterprise, there being on deposit with U.S. Bank National Association (the “Bank”), under an Escrow Agreement between the City and the Bank, cash and direct obligations of (including obligations issued or held in book entry form on the books of), or obligations the principal of and interest on which are guaranteed by, the United States of America, the maturing principal of and interest on which, together with cash held in escrow, will be sufficient to pay the principal and interest on the Defeased Bonds in accordance with their terms until their final maturity.

EXHIBIT C

FEE SCHEDULE

[Attach Fee Schedule of Escrow Agent]