

RESOLUTION NO. 121-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS, COLORADO, APPROVING ARTICLES OF INCORPORATION AND BYLAWS FOR THE COLORADO SPRINGS HEALTH FOUNDATION.

WHEREAS, City Council in Resolution No. 92-12 approved June 27, 2012 authorized and directed the City Attorney and City Staff to form and create a City controlled nonprofit foundation ("Colorado Springs Health Foundation") as provided for under Sections 501(c)(3) and 509(a) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, Resolution No. 92-12 provided that the Colorado Springs Health Foundation's Articles of Incorporation and Bylaws shall be approved by seven (7) Council members and the Mayor.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Articles of Incorporation for the Colorado Springs Health Foundation to be filed with the Office of the Secretary of State of Colorado, a copy of which is attached hereto as Exhibit A, are hereby approved.

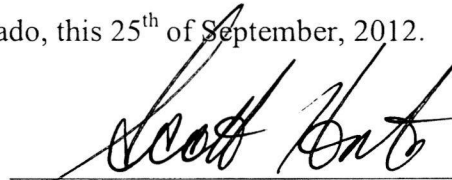
Section 2. Bylaws in the form attached hereto as Exhibit B are hereby approved as the Bylaws of the Colorado Springs Health Foundation, and pursuant to those Bylaws the Initial Board of Merv Bennett, Brandy Williams and Chris Melcher are thereby appointed to execute the Foundation Guaranty, substantially in the form of Exhibit C (the "Foundation Guaranty") and take such other actions on behalf of the Colorado Springs Health Foundation as may be necessary or appropriate until such time as the full Board is appointed by the City Council and the Mayor in accordance with the process set forth in the Bylaws.

Section 3. Subject to Section 4 below, it is the intent of the City Council (to be ultimately reflected in the Bylaws or Policies of the Colorado Springs Health Foundation and not subject to change except upon the approval of the City Council) that the corpus of all funds contributed to the Foundation exceed \$100 million before the Colorado Springs Health Foundation approves distributions in furtherance of its purposes, with the goal of developing a significant charitable fund that will serve the community for years to come into the future.

Section 4. The obligations of the Colorado Springs Health Foundation under the Foundation Guaranty shall in no way be limited or restricted by any amendment or modification of the Articles or Bylaws or by the terms of any past or future resolutions of the City (including, without limitation, Resolution No. 92-12 or Section 3 of this Resolution); to the extent of any conflict between the Foundation Guaranty, on the one hand, and the Colorado Springs Health Foundation Articles or Bylaws, or any City Resolution relating to the Colorado Springs Health

Foundation (including without limitation Resolution 92-12 or Section 3 of this Resolution), on the other hand, the terms of the Foundation Guaranty shall govern and control.

DATED at Colorado Springs, Colorado, this 25th of September, 2012.



Scott Hente
President, City Council

Final Vote:

8-1

ATTEST:



Sarah B. Johnson
City Clerk

EXHIBIT A TO RESOLUTION NO. 121-12

**ARTICLES OF INCORPORATION
OF
COLORADO SPRINGS HEALTH FOUNDATION**

I, the undersigned natural person of the age of eighteen (18) years or more, acting as incorporator of a corporation under the Colorado Revised Nonprofit Corporation Act ("Act"), do hereby adopt the following Articles of Incorporation for such corporation ("Corporation"):

**ARTICLE I
NAME**

The name of the Corporation is Colorado Springs Health Foundation.

**ARTICLE II
PERIOD OF DURATION**

The period of its duration is perpetual.

**ARTICLE III
PURPOSES**

The Corporation is organized exclusively (a) for charitable, educational, and scientific purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended or the corresponding provisions of any successor or subsequent federal tax law ("Code") and (b) for the benefit of, to perform the functions of, and to carry out the purposes of the City of Colorado Springs ("City") within the meaning of Section 509(a)(3) of the Code. More specifically, the Corporation is organized and shall be operated exclusively to carry out the following purposes ("Corporation's Purposes"):

(1) As provided in City Council Resolutions 92-12 and 121-12 ("City Resolutions"), receive, hold and manage in perpetuity all funds and monies received pursuant to the Memorial Health System Operating Lease Agreement by and among the City, UCH-MHS and Poudre Valley Health Care, Inc. ("Lease Agreement") and the Integration and Affiliation Agreement by and among the City, University of Colorado Health, UCH-MHS and Poudre Valley Health Care, Inc., as approved by the City Council in Resolution No. 89-12 on June 27, 2012, and subsequently approved by City voters at the Special Municipal Election on August 28, 2012, subject to the Corporation's obligations under the Corporation's Guaranty in the form attached as Exhibit H to the Lease Agreement ("Guaranty"); and

(2) As further provided in City Resolutions, and subject to its obligation under the Guaranty, make grants or distributions from income of the corpus of funds and monies received for the purpose of addressing health issues in the City and Memorial Health System service area; and

(3) As further provided in City Resolutions, and unless distributed to satisfy its obligations under the Guaranty, the corpus of the funds and monies received may not be distributed, spent, transferred or otherwise removed from the Corporation without a vote of seven (7) Council members and the Mayor of the City of Colorado Springs

("Mayor"), or eight (8) Council members if the Mayor shall not agree, subject to the restrictions of Article IX below.

ARTICLE IV

REGISTERED AGENT AND PRINCIPAL OFFICE

The initial registered office of the Corporation is City Administration Building, 30 S. Nevada Avenue, Suite 501, Colorado Springs, CO 80901-1575. The initial registered agent at such address is the City Attorney for the City of Colorado Springs. The address of the Corporation's initial principal office is City Administration Building, 30 S. Nevada Avenue, Suite 501, Colorado Springs, CO 80901-1575.

ARTICLE V

NONPROFIT CORPORATION

5.1 The Corporation is a nonprofit corporation.

5.2 The Corporation has all powers conferred upon nonprofit corporations by the Act (as it now exists and as it may be amended), except that the Corporation may not have or exercise any power, or engage directly or indirectly in any activity, not permitted to be carried on by (a) a corporation which is exempt from federal income taxation as an organization described in Section 501(c)(3) of the Code, or (b) a corporation, contributions to which are deductible under Section 170(c)(2) of the Code, or (c) a supporting organization of the City under section 509(a)(3) of the Code. Without limiting the general grant of all powers conferred by law in the prior sentence, the Corporation shall have the specific power to solicit and receive, for corporate purposes only, gifts, grants and contributions of any kind of property or interest herein, whether real, personal or mixed.

5.3 No part of the net earnings or property of the Corporation may inure to the benefit of or be distributable to any private shareholder or individual (within the meaning of Code Section 501(c)(3)), including without limitation the Corporation's trustees or officers, except that the Corporation is authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its purposes.

5.4 No substantial part of the activities of the Corporation may consist of carrying on propaganda or otherwise attempting to influence legislation, provided that such restriction shall not be construed to prohibit the Corporation from interacting with, reporting to, educating, or advising the General Assembly with respect to matters within the purposes and expertise of the Corporation if such conduct is permitted by the Code and regulations and rules promulgated thereunder.

5.5 The Corporation may not, directly or indirectly, participate in, or intervene in (including publication or distribution of any statement), any political campaign on behalf of or in opposition to any candidate for public office.

5.6 The Corporation shall not operate for the purpose of carrying on a trade or business for profit.

ARTICLE VI

BOARD OF TRUSTEES

Except as otherwise provided in these Articles of Incorporation, the Bylaws of the Corporation, the Guaranty and the City Resolutions, the direction and management of the affairs of the Corporation and the control and disposition of its assets shall be vested in its Board of Trustees ("Board of Trustees"). The Board of Trustees shall be composed of nine (9) Trustees, who shall be nominated by the Mayor and appointed by a majority of the City Council members. All Trustees shall be City residents and shall have such other qualifications as set forth in the Bylaws. Any single Trustee, or the entire Board of Trustees, may be removed at any time by a vote of seven (7) Council members and the Mayor, or by eight (8) Council Members if the Mayor shall not agree.

ARTICLE VII

MEMBERS

The Corporation shall have no members.

ARTICLE VIII

BYLAWS

The initial Bylaws of the Corporation shall be approved by seven (7) Council members and the Mayor. Any alteration, amendment or repeal of the Bylaws or adoption of new Bylaws shall be approved by seven (7) Council members and the Mayor, or eight (8) Council members if the Mayor shall not agree, provided, however, any such alteration, amendment or repeal that diminishes or enhances the rights and/or obligations of the Mayor shall require the affirmative approval of the Mayor. No amendment shall be made to the Bylaws which will undermine the Corporation's obligations under the Guaranty, or its fulfillment of any obligation under the Guaranty, without the prior written consent of University of Colorado Health, University of Colorado Hospital Authority, prior to the Transition Date as defined in the Lease Agreements, and UCH-MHS on and after the Transition Date.

ARTICLE IX

DISSOLUTION

On dissolution of the Corporation, all of the Corporation's assets remaining after payment of or provision for all of its liabilities and fulfillment of its obligations under the Guaranty shall be paid over or transferred to one or more exempt organizations described in Section 501(c)(3) of the Code, contributions to which are deductible under Section 170(c)(2) of the Code. The organizations to receive such property shall be determined in accordance with the process set forth in Article III(3) above.

ARTICLE X

INDEMNIFICATION OF TRUSTEES AND OFFICERS

Article 129 of the Act permits the Corporation to indemnify its present and former trustees and officers to the extent and under the circumstances set forth therein and herein. The Corporation hereby elects to and does hereby indemnify all such persons to the fullest extent permitted or required by such Article 129 promptly upon request of any such person making a request for indemnity hereunder. Such obligation to so indemnify and to so make all necessary determinations required by Article 129 of the Act may be specifically enforced by resort to any

court of competent jurisdiction. Further, the Corporation shall have the power to purchase and maintain at its expense insurance on behalf of such persons to the fullest extent permitted by applicable law, whether or not the Corporation would have the power to indemnify such person under the foregoing provisions. The Corporation shall also have the power to and shall pay and reimburse the reasonable expenses of such persons covered hereby in advance of the final disposition of any proceeding to the fullest extent permitted by Article 129 of the Act and subject to the conditions thereof and hereof. Notwithstanding the foregoing, the Corporation shall have no obligation to indemnify and no indemnification shall be made (i) except as permitted or required under the Article 129 of the Act, (ii) in an action or suit involving the alleged professional malpractice of such Trustee or officer in the practice of medicine, or (iii) in any proceeding involving acts or omissions of such Trustee or officer in such person's personal capacity.

ARTICLE XI **INCORPORATOR**

The name and business address of the incorporator are:

Name

Christopher J. Melcher

Address

Colorado Springs City Attorney
City Administration Building
30 S. Nevada Avenue, Suite 501
Colorado Springs, CO 80901

IN WITNESS WHEREOF, I have hereunto set my hand on this ____ day of September, 2012.

By _____
Christopher J. Melcher, City Attorney

EXHIBIT B TO RESOLUTION NO. 121-12

BYLAWS

OF

COLORADO SPRINGS HEALTH FOUNDATION

A COLORADO NONPROFIT CORPORATION

**BYLAWS
OF
COLORADO SPRINGS HEALTH FOUNDATION

A COLORADO NONPROFIT CORPORATION**

**ARTICLE I
NAME AND PURPOSES**

1.1. Name. The name of the corporation is Colorado Springs Health Foundation (“Corporation”). The Corporation is a nonprofit corporation organized under the Colorado Revised Nonprofit Corporation Act, as compiled in Articles 121-137 of Title 7, Colorado Revised Statutes (“Act”).

1.2. Principal Office. The principal office of the Corporation shall be located at City Administration Building, 30 S. Nevada Avenue, Suite 501, Colorado Springs, CO 80901-1575 or such other place(s) within the City of Colorado Springs, Colorado (“City”) as the Board of Trustees of the Corporation (“Board of Trustees” or “Board”) may agree is in the best interest of the Corporation.

1.3. Registered Office and Registered Agent. The Corporation shall have and continuously maintain in the State of Colorado a registered office and a registered agent whose office is the Corporation’s registered office, as required by the Act. The registered office may, but need not be identical to the principal office of the Corporation in the State of Colorado, and the address of the registered office may be changed from time to time by the Board of Trustees in accordance with applicable law.

1.4. Purposes. The Corporation is organized exclusively (a) for charitable, educational, and scientific purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended or the corresponding provisions of any successor or subsequent federal tax law (“Code”) and (b) for the benefit of, to perform the functions of, and to carry out the purposes of the City within the meaning of Section 509(a)(3) of the Code. More specifically, the Corporation is organized and shall be operated exclusively to carry out the following purposes (“Corporation’s Purposes”):

- (1) As provided in City Council Resolutions 92-12 and ____-12 (“City Resolutions”), receive, hold and manage in perpetuity all funds and monies received pursuant to the Memorial Health System Operating Lease Agreement by and among the City, UCH-MHS and Poudre Valley Health Care, Inc. (“Lease Agreement”) and the Integration and Affiliation Agreement by and among the City, University of Colorado Health, UCH-MHS and Poudre Valley Health Care, Inc., as approved by the City Council in Resolution No. 89-12 on June 27, 2012, and subsequently approved by City voters at the Special Municipal Election on August 28, 2012, subject to the Corporation’s obligations under the Corporation’s Guaranty in the form attached as Exhibit H to the Lease Agreement (“Guaranty”); and
- (2) As further provided in City Resolutions, and subject to its obligation under the Guaranty, make grants or distributions from income of the corpus of

funds and monies received for the purpose of addressing health issues in the City and Memorial Health System service area; and

- (3) As further provided in City Resolutions, and unless distributed to satisfy its obligations under the Guaranty, the corpus of the funds and monies received may not be distributed, spent, transferred or otherwise removed from the Corporation without a vote of seven (7) Council members and the Mayor, or eight (8) Council members if the Mayor shall not agree, subject to the restrictions set forth in the Articles of Incorporation.

1.5. Intent to Obtain and Maintain Federal Tax-Exemption. The Corporation intends to obtain and maintain status as an organization exempt from federal income tax under Section 501(a) of the Code by virtue of being an organization described in Section 501(c)(3) of the Code and a supporting organization described in Section 509(a)(3) of the Code.

ARTICLE II

BOARD OF TRUSTEES

2.1. General Authority. Subject to the limitations imposed by the Act, the Articles of Incorporation, these Bylaws and the City Resolutions, the business and affairs of the Corporation shall be managed by the Board of Trustees of the Corporation (“Board”). The Board shall make appropriate delegations of authority to the officers of the Corporation.

2.2. Number and Appointment of Directors. The Initial Board will consist of those three individuals set forth on Exhibit A, who will undertake such actions as necessary on behalf of the Foundation to consummate the transactions contemplated by the Health System Operating Lease and the Integration and Affiliation Agreement, both dated as of July 2, 2012, and as permitted by law on behalf of the Corporation to receive funds, pay expenses, and carry out the Foundation’s contractual obligations until the Board (as defined in the next sentence) is appointed. The Board will consist of nine (9) persons, all of whom shall be nominated by the Mayor and appointed by a majority of the City Council members as provided in the City Resolutions. The Chief Executive Officer, President, Executive Director or other such full-time chief administrative executive overseeing the Corporation shall participate as an ex-officio member of the Board without vote.

2.3. Qualifications of Directors. It shall be a goal that the Board include persons of diverse backgrounds and from different areas of the Colorado Springs community. In nominating and appointing trustees, consideration should be given to knowledge, expertise, education or experience in one or more of the following areas: community health needs, public health care, improving the quality of or access to health care, health promotion and education, financial and investment management, philanthropy, nonprofit management, legal expertise or board leadership skills. Each trustee shall, prior to his or her appointment or nomination, possess the following qualifications:

- (a) Each trustee must be at least 21 years of age and a resident of the City of Colorado Springs;
- (b) Each trustee must have demonstrated an ability to devote the time necessary to fulfill Board responsibilities. On an annual basis, each trustee must attend at least 70% of all board meetings and committee meetings for which the trustee is a member. Participation via telephone constitutes attendance for

these purposes. Failure to attend at least 70% of the combined board and committee meetings for which the trustee is a member will result in automatic removal of the trustee at the first board meeting after which the trustee's attendance falls below 70% unless the Board waives the attendance requirement after the trustee demonstrates good cause for his or her failure to attend meetings.

2.4. Educational Process. The Board will have the affirmative obligation to design and maintain an educational process for all Board members concerning their responsibilities to the Corporation and its purposes.

2.5. Terms. Other than as provided in Section 2.6, all trustee terms will be three years.

2.6. Vacancies. Any vacancies occurring on the Board of Trustees are to be filled by the City Council in accordance with the procedure set forth in Section 2.2 above.

2.7. Resignations and Removal. Any member of the Board may resign from the Board at any time by giving written notice to the Chairman or, if the resigning member is the Chairman, to the chief administrative officer. Any single trustee of the Board, or the entire Board may be removed at any time by a vote of seven (7) Council members and the Mayor, or by eight (8) Council members if the Mayor shall not agree.

2.8. Investment and Expenditure of Corporation Resources. Subject to the Corporation's obligations under the Guaranty and the oversight reserved to the City Council in the City Resolutions, the Board will be vested with the responsibility of investing and expending Corporation resources (collectively the "Fund") for the purposes set forth in the Articles and these Bylaws. As a Colorado charitable organization, the Corporation is governed by the Uniform Prudent Management of Institutional Funds Act, Colorado Revised Statutes, Sections 15-1-1101 - 15-1-1109.

Section 15-1-1103 of the statute requires that, in managing and investing an institutional fund, the following factors, if relevant, must be considered:

- (a) General economic conditions;
- (b) The possible effect of inflation or deflation;
- (c) The expected tax consequences, if any, of investment decisions or strategies;
- (d) The role that each investment or course of action plays within the overall investment portfolio of the institutional fund;
- (e) The expected total return from income and the appreciation of investments;
- (f) Other resources of the institution;
- (g) The needs of the institution and the institutional fund to make distributions and to preserve capital; and
- (h) An asset's special relationship or special value, if any, to the charitable purposes of the institution.

Consistent with the City Resolutions, the City Council shall be responsible for close oversight of the operations of the Corporation, including approval of any investment policy adopted by the Corporation, approval of the retention of any investment advisor and approval of policies and guidelines governing any grants or distributions of income. At no time shall the City Council approve any Corporation policy or guideline which may or will impact the Corporation's obligations under the Guaranty.

ARTICLE III **MEETINGS**

3.1. Annual Meeting and Regular Meetings. An annual meeting of the Board shall be held in December of each calendar year, at such time and place as may be designated by Board resolution, or if not so designated, the annual meeting of the Board shall be held during the last regular meeting of a given year at the designated place of such meeting, for the purpose of electing officers and transacting such other business as may properly come before the meeting. The agenda for such annual meeting shall include an evaluation by the Board of its own performance during the preceding year and the distribution to each trustee of the annual Conflict of Interest Report. In addition to the annual meeting, regular meetings of the Board shall be held at such time and place as may be designated from time to time by Board resolution.

3.2. Special Meetings. Special meetings of the Board for any purpose shall be held, at such place as may be designated by Board resolution, whenever called by the Chairman of the Board, or on the written request of any two (2) members of the Board.

3.3. Notice. Written notice stating the place, date, and time of any regular or special meeting of the Board shall be delivered not less than seven (7) days before the date of the meeting, either personally, by mail, or by other satisfactory means, to each trustee at his address as shown on the records of the Corporation. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with first class postage thereon prepaid. Any trustee may waive notice of any meeting. Neither the business to be transacted at nor the purpose of any regular or special meeting need to be specified in the notice or waiver of notice of such meeting unless specifically required by law. At any such meeting at which every trustee shall be present even though without notice, any matter pertaining to the Corporation's purposes may be considered and acted upon. The attendance of a trustee at any meeting shall constitute a waiver of notice of such meeting, except where a trustee attends a meeting for the express purpose of objecting to the transaction of any business thereat because such meeting is not lawfully called or convened.

3.4. Quorum. A majority of the voting members of the Board shall constitute a quorum for the transaction of business at any Board meeting. If less than a quorum is present at any Board meeting, a majority of the voting trustees present may adjourn the meeting from time to time without further notice.

3.5. Conduct of Business. At all Board meetings, matters pertaining to the Corporation's purposes shall be considered in such order as the Board may from time to time determine. At all Board meetings, the Chairman of the Board shall preside, and in the absence of the Chairman of the Board, a chairman shall be chosen by the Board from among the trustees present. The Chairman may appoint any person to act as secretary of the meeting.

3.6. Manner of Acting. Each voting trustee shall be entitled to one vote on each matter submitted to a vote of the Board. Proxies shall not be permitted; a trustee must be present at a

meeting to vote. The affirmative vote of a majority of the voting trustees present at a meeting at which a quorum is present shall be the act of the Board, unless the act of a greater number is required by law, the Articles, or these Bylaws.

3.7. Action by Unanimous Written Consent. Any action required or permitted to be taken at a meeting of trustees may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the trustees eligible to vote. Such consent shall have the same force and effect as a unanimous vote of the trustees and may be described as such in any document.

3.8. Action by Conference Telephone. Subject to any notice of meeting requirements in these Bylaws or under applicable law, one or more trustees of the Corporation may participate in and hold a meeting of such trustees by means of conference telephone or similar communications requirement by means of which all persons participating in the meeting can hear each other. Participation by such means shall constitute presence in person at the meeting including the counting of trustees for the purpose of determining a quorum.

3.9. Additional Advisors. The Board or the Chairman of the Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board. Such advisors shall not vote or be counted in determining the existence of a quorum and may be excluded from any executive session of the Board by majority vote of the trustees present.

3.10. Annual Audit. The Board shall cause an annual audit of the Corporation's financial statements to be made by an independent accounting firm, and shall provide a copy of the report of such audit and the accompanying management letter to each trustee.

3.11. Compensation and Immunity of Members of the Board. Members of the Board or any committee with Board delegated powers serve in a voluntary capacity and, as such, shall not receive any compensation for their services as members of the Board or of such committee, but may be reimbursed for reasonable expenses of attendance at meetings of the Board or the applicable committee. It is the intent of the Corporation that the members of the Board be immune from personal liability for any civil damages arising from acts performed in his or her official capacity, except for damages caused by such person's wanton and willful acts or omissions, as provided in Colorado Revised Statutes Sections 13-21-115.7 and 13-21-116 as they may be amended from time to time.

ARTICLE IV

OFFICERS OF THE CORPORATION

4.1. Officers of the Corporation. The officers of the Corporation shall be a Chairman, President, Secretary, and Treasurer. The Chairman, Secretary and Treasurer must be members of the Board. The President is the full-time chief administrative executive overseeing the Corporation and shall serve as an ex officio, non-voting member of the Board. The Board may appoint such other officers of the Corporation as it deems desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board. Any two (2) or more offices may be held by the same person, except the President and the Secretary.

4.2. Appointment and Term of Office. Officers, other than the President, shall be appointed by the Board for a term of one (1) year. In the case of the President, City Council Resolution No. 92-12 provides that the Board nominate the President, such nomination to be

approved by a vote of seven (7) Council members and the Mayor. The employment or compensation agreement for the President must be approved by the City Council and Mayor in the same manner. New offices may be created and filled at any meeting of the Board. The newly appointed officers shall take office effective as of the date determined by the Board. Each officer shall hold the office for the term which such officer is appointed or until such officer's successor shall have been appointed and qualified or until such officer's earlier death, resignation or removal.

4.3. Removal. Any officer appointed by the Board may be removed by the Board whenever in its judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed. Such removal may be accomplished by a majority vote of the Board. Appointment of an officer shall not of itself create contract rights. The President may be removed from office by a vote of seven (7) Council members and the Mayor.

4.4. Resignation. Any officer may resign from office at any time by giving written notice to the President or Secretary of the Corporation. Such resignation, which may or may not be made contingent on formal acceptance, shall take effect on the date of receipt or at the time specified in such notice.

4.5. Vacancies. Vacancies in any office because of death, resignation, removal, disqualification or other cause may be filled by appointments made in the same manner as provided in the case of the original appointments.

4.6. Delegation of Authority to Hire, Discharge and Designate Duties. The Board from time to time may delegate to the Chairman of the Board, the President, or other officer or executive employee of the Corporation, authority to hire, discharge and fix and modify the duties, salary, or other compensation of employees of the Corporation under their jurisdiction, and the Board may delegate to such officer or executive employee similar authority with respect to obtaining and retaining for the Corporation the services of attorneys, accountants and other experts.

4.7. Chairman. The Chairman shall preside over all meetings of the Board. The Chairman shall have no authority to act outside of the meeting of the Board. The Chairman shall exercise such other powers and perform such duties as are set forth from time to time by the Board, except as otherwise provided by these Bylaws, the Articles, and the laws of Colorado.

4.8. President. The President shall, subject to the direction and supervision of the Board, (1) be the chief executive officer of the Corporation and have general and active control of its affairs and business and general supervision of its officers, agents and employees, (2) be responsible for directing and administering the activities, departments, and programs of the Corporation, (3) see that all orders and resolutions of the Board are carried into effect, and (4) perform all other duties incident to the office of President and as from time to time may be assigned to the President by the Board. The President may execute all bonds, notes, debentures, mortgages and other contracts requiring a seal, under the seal of the Corporation, and may cause the seal to be affixed thereto, and all other instruments for and in the name of the Corporation. The President shall, unless the Board otherwise provides, be ex officio a member of all standing committees. The President shall have such other or further duties and authority as may be prescribed elsewhere in these Bylaws or from time to time by the Board.

4.9. Secretary. The Secretary shall (1) attend and record the minutes of all meetings of the Board and provide for the retention of said minutes in the official minute book of the Corporation,

(2) give or cause to be given notice of all special meetings of the Board, (3) be the custodian of the Corporation records and seal, and (4) perform all other duties incident to the office of Secretary and as from time to time may be assigned to the Secretary by the Board and/or the President. Subject to the approval of the Board, the Secretary may delegate any duties to one or more assistants or others as may be deemed appropriate.

4.10. Treasurer. The Treasurer shall (1) be the principal financial officer of the Corporation, (2) keep an account of the financial transactions and condition of the Corporation, (3) be responsible for and have the custody of all of the funds, securities, evidences of indebtedness and other personal property of the Corporation, (4) provide a full and accurate accounting of all receipts and disbursements and books belonging to the Corporation, (5) deposit all monies and valuable assets in the name and credit of the Corporation into such depositories as may be designated by the Board, (6) render to the Board, whenever the Board shall require it, as well as at all regular meetings, an accounting of the financial transactions and condition of the Corporation, and (7) perform all other duties incident to the office of Treasurer and as from time to time may be assigned to the Treasurer by the Board and/or the President. Subject to the approval of the Board, the Treasurer may delegate any duties to one or more assistants or others as may be deemed appropriate.

4.11. Compensation. No officer who is also a voting member of the Board shall receive any compensation for services as an officer, but may be reimbursed for their reasonable and necessary expenses associated with their services as an officer. The compensation of other officers shall be as fixed from time to time by the Board. No payment of compensation (or payment or reimbursement of expenses) shall be made in any manner so as to result in the imposition of any liability under Section 4958 of the Code.

4.12. Duties of Officers May be Delegated. If any officer of the Corporation be absent or unable to act, or for any other reason that the Board may deem sufficient, the Board may delegate, for the time being, some or all of the functions, duties, powers and responsibilities of any officer to any other officer, or to any other agent or employee of the Corporation or other responsible person.

ARTICLE V

COMMITTEES

5.1. Standing Committees. The Board may, by resolution adopted by a majority of the trustees in office, designate one or more standing committees. The number of members of each such committee, as well as the composition of each committee, shall be at least one voting director. Any standing committee may have advisory members who are not members of the Board and who are not entitled to vote on committee matters. Each such committee shall perform the functions assigned to it by the Board and shall have and exercise such powers and authority of the Board in the management of the Corporation as may be delegated to it from time to time by the Board, subject to any limitations provided by applicable law, the Articles, or these Bylaws. No committee shall be delegated the power and authority of the Board in the management of the Corporation unless a majority of the members of such committee shall be trustees. Each committee shall keep a record of its proceedings and report the same to the Board at each succeeding meeting of the Board. At the request of the Board, a committee shall mail copies of the minutes of its proceedings to the members of the Board prior to such meeting of the Board.

5.2. Term of Office. Each member of a committee of the Board shall continue as such until such time that the committee member resigns from such committee, is removed by the Board,

or until his earlier death, unless the committee shall be sooner terminated, or such member shall cease to qualify as a member thereof.

5.3. Resignations and Removals. Any member of a committee may resign at any time by giving notice to the chairman of the committee or the Chairman of the Board. Such resignation, which may or may not be made contingent on formal acceptance, shall take effect on the date of receipt or at the time specified in such notice. The Chairman of the Board may, with approval of the Board, remove any appointed member of any committee.

5.4. Vacancies. Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

5.5. Meetings and Notice. Except as otherwise provided, meetings of a committee may be called by the Chairman of the Board or the chairman of the committee. Each committee shall meet as often as is necessary to perform its duties. Notice may be given at any time and in any manner reasonably designed to inform the committee members of the time and place of the meeting.

5.6. Quorum. Unless otherwise required by law or provided in the Board resolution designating a committee, a majority of the members of a committee (but not less than two (2) members) shall constitute a quorum, and the act of the majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

5.7. Action by Unanimous Written Consent. Any action required or permitted to be taken at a meeting of a committee established by or pursuant to this Article may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the members of such committee eligible to vote. Such consent shall have the same force and effect as a unanimous vote and may be described as such in any document.

5.8. Action by Conference Telephone. Subject to any notice of meeting requirements in these Bylaws or under applicable law, one or more members of a committee may participate in and hold a meeting of such committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation by such means shall constitute presence in person at the meeting including the counting of members for the purpose of determining a quorum.

5.9. Rules. Each designated committee may adopt rules for its own governance not inconsistent with these Bylaws or with rules adopted by the Board.

5.10. Copies of Minutes of Committee Meetings. Copies of the minutes of each committee meeting shall be delivered to the Board within thirty (30) days of the date of such meeting.

ARTICLE VI

CONFLICTS OF INTEREST

6.1. Purpose. The purpose of the conflicts of interest policy is to protect the Corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or trustee of the Corporation. This policy is intended to supplement but not replace any applicable state laws governing conflicts of interest applicable to nonprofit and charitable corporations.

6.2. Definitions.

- (a) Interested Person. Any trustee, principal officer, or member of a committee with Board-delegated powers who has a direct or indirect financial interest, as defined below, is an interested person.
- (b) Financial Interest. A person has a financial interest if the person has, directly or indirectly, through business, investment or family –
 - (1) an ownership or investment interest in any entity with which the Corporation has a transaction or arrangement, or
 - (2) a compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement, or
 - (3) a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are substantial in nature.

6.3. Procedures.

- (a) Duty to Disclose. In connection with any actual or possible conflicts of interest, an interested person must disclose the existence of his or her financial interest and all material facts relating thereto to the trustees and members of the committees with Board-delegated powers considering the proposed transaction or arrangement.
- (b) Determining Whether a Conflict of Interest Exists. After disclosure of the financial interest and all material facts relating thereto, and after any discussion thereof, the interested person shall leave the Board or committee meeting while the financial interest is discussed and voted upon. The remaining Board or committee members shall decide if a conflict of interest exists.
- (c) Procedures for Addressing the Conflict of Interest.
 - (1) An interested person may make a presentation at the Board or committee meeting, but after such presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement that results in the conflict of interest.
 - (2) The chairman of the Board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
 - (3) After exercising due diligence, the Board or committee shall determine whether the Corporation can obtain a more advantageous transaction or

arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest.

(4) If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the Board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Corporation's best interest and for its own benefit and whether the transaction is fair and reasonable to the Corporation and shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination.

(d) Violations of the Conflicts of Interest Policy.

(1) If the Board or committee has reasonable cause to believe that a person has failed to disclose actual or possible conflicts of interest, it shall inform the person of the basis for such belief and afford the person an opportunity to explain the alleged failure to disclose.

(2) If, after hearing the response of the person and making such further investigation as may be warranted in the circumstances, the Board or committee determines that the person has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

6.4. Records of Proceedings. The minutes of the Board and all committees with Board-delegated powers shall contain --

- (a) Names of Persons with Financial Interest. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Board's or committee's decision as to whether a conflict of interest in fact existed.
- (b) Names of Persons Present. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection therewith.

6.5. Compensation Committees.

- (a) Voting Members. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.
- (b) Physicians. Physicians who receive compensation, directly or indirectly, from the Corporation, whether as employees or independent contractors, are precluded from membership on any committee whose jurisdiction includes compensation matters.

6.6. Annual Statements. Each trustee, principal officer and member of a committee with Board-delegated powers shall annually sign a statement which affirms that such person—

- (a) Receipt. Has received a copy of the conflicts of interest policy.
- (b) Read and Understands. Has read and understands the policy.
- (c) Agrees to Comply. Has agreed to comply with the policy.
- (d) Tax Exemption. Understands that the Corporation is a charitable organization and that, in order to maintain its federal tax exemption, it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

6.7. Periodic Reviews. To ensure that the Corporation operates in a manner consistent with its charitable purposes and that it does not engage in activities that could jeopardize its status as an organization exempt from federal income tax, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, including the following subjects:

- (a) Reasonable Compensation. Whether compensation arrangements and benefits are reasonable and are the result of arms-length bargaining.
- (b) Partnership/Joint Ventures. Whether partnership or joint venture arrangements and arrangements with physicians conform to written policies, are properly recorded, reflect reasonable payments for goods and services, further the Corporation's charitable purposes and do not result in inurement or impermissible private benefit.
- (c) Health Care Provider Agreements. Whether agreements to provide health care and agreements with other health care providers, employees, and third-party payors further the Corporation's charitable purposes and do not result in inurement or impermissible private benefit.

6.8. Use of Outside Experts. In conducting the periodic reviews provided for in Section 6.7, the Corporation may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the Board of its responsibility for ensuring that periodic reviews are conducted.

ARTICLE VII

INDEMNIFICATION

Article 129 of the Act permits the Corporation to indemnify its present and former trustees and officers to the extent and under the circumstances set forth therein and herein. As set forth in the Articles, the Corporation elects to and does hereby indemnify all such persons to the fullest extent permitted or required by such Article 129 promptly upon request of any such person making a request for indemnity hereunder. Such obligation to so indemnify and to so make all necessary determinations required by Article 129 of the Act may be specifically enforced by resort to any court of competent jurisdiction. Further, the Corporation shall have the power to purchase and maintain at its expense insurance on behalf of such persons to the fullest extent permitted by applicable law, whether or not the Corporation would have the power to indemnify such person under the foregoing provisions. The Corporation shall also have the power to and shall pay and reimburse the reasonable

expenses of such persons covered hereby in advance of the final disposition of any proceeding to the fullest extent permitted by Article 129 of the Act and subject to the conditions thereof and hereof. Notwithstanding the foregoing, the Corporation shall have no obligation to indemnify and no indemnification shall be made (i) except as permitted or required under the Article 129 of the Act, (ii) in an action or suit involving the alleged professional malpractice of such Trustee or officer in the practice of medicine, or (iii) in any proceeding involving acts or omissions of such Trustee or officer in such person's personal capacity.

ARTICLE VIII

CONTRACTS, CHECKS, DEPOSITS, GIFTS, AND LOANS

8.1. Contracts. Except as otherwise limited by these Bylaws, the Board may authorize any officer or officers, agent or agents of the Corporation, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to a specific instance.

8.2. Checks, Drafts, or Orders for Payment. All checks, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers, agent or agents of the Corporation and in such manner as shall from time to time be determined by resolution of the Board. In the absence of such determination by the Board, such instruments shall be signed by the Chairman of the Board and countersigned by the Treasurer.

8.3. Deposits. All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the Board may select.

8.4. Gifts. The Board may accept on behalf of the Corporation any contribution, gift, bequest, or devise for the general purposes, or for any specific purpose, for which the Corporation has been created.

8.5. Loans to Officers and Trustees Prohibited. No loans shall be made by the Corporation to any of its officers or trustees. Any trustee voting for or assenting to the making of any such loan and any trustee or officer participating in the making thereof shall be jointly and severally liable to the Corporation for the amount of such loan until repayment thereof.

ARTICLE IX

GENERAL PROVISIONS

9.1. Fiscal Year. The Corporation's fiscal year shall begin on the first day of January and end on the last day of December in each year.

9.2. Corporate Seal. The Board may provide a corporate seal of the Corporation in such form as it deems appropriate.

9.3. Waiver of Notice. Whenever any notice is required to be given under the provisions of the Act, the Articles, or these Bylaws, a waiver thereof in writing, signed by the person or persons entitled to such notice, either before or after the occurrence of the event or transaction described therein, shall be deemed equivalent to the giving of the required notice.

9.4. Gender. References herein to the masculine gender also shall refer to the feminine gender in all appropriate cases.

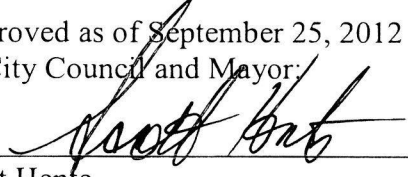
ARTICLE X AMENDMENTS


10.1. Consistent with the City Resolutions, these Bylaws may be amended, repealed, added to or replaced with new Bylaws by approval of seven (7) Council members and the Mayor, or eight (8) Council members if the Mayor shall not agree, provided, however, any such alteration, amendment or repeal that diminishes or enhances the rights and/or obligations of the Mayor shall require the affirmative approval of the Mayor. No amendment to the Bylaws which alters or affects or relates to the Corporation's obligations under the Guaranty can be effective without the written consent of University of Colorado Health, University of Colorado Hospital Authority, Poudre Valley Health Care, Inc., prior to the Transition Date as defined in the Lease Agreement, and UCH-MHS on and after the Transition Date. The Board of Trustees may propose amendments to the Bylaws by the unanimous vote of the Board at any regular or special meeting called for such purpose. Notice of such meeting shall be given in accordance with the provisions of Article III, Section 3.3 of these Bylaws, such notice to clearly announce an intention to amend, repeal, add to, or replace these Bylaws, at such meeting.

ARTICLE XI EFFECTIVE DATE OF BYLAWS

11.1. These Bylaws shall take effect when adopted by an affirmative vote of seven (7) City Council members and the Mayor, as provided by the City Resolutions.

Approved as of September 25, 2012
by City Council and Mayor:

By: 
Scott Hente
City Council President
Date: 27 Sep 2012
Per Resolution No. 121-12

Approved. 

Steve Bach
Mayor, Colorado Springs
Date: 9-27-12

EXHIBIT A

Merv Bennett

Brandy Williams

Christopher J. Melcher

EXHIBIT C**FORM OF GUARANTY AND INDEMNIFICATION AGREEMENT**

This GUARANTY AND INDEMNIFICATION AGREEMENT (this "Guaranty"), dated as of [____], 2012, (the "Effective Date") is made and given by the Colorado Springs Health Foundation, a Colorado nonprofit corporation ("Guarantor"), in favor of Poudre Valley Health Care, Inc. (d/b/a Poudre Valley Health System) ("PVHS"), a Colorado nonprofit corporation and, following the Transition Date, UCH-MHS ("New Memorial"), a Colorado nonprofit corporation. Terms used but not otherwise defined herein shall have the meanings ascribed to them in the Operating Lease (defined below).

RECITALS

WHEREAS, Guarantor is a newly formed Colorado nonprofit corporation that is controlled by the City of Colorado Springs, Colorado (the "City");

WHEREAS, the City, PVHS and New Memorial are parties to that certain Health System Operating Lease Agreement, made and entered into as of July 2, 2012 (the "Operating Lease"), pursuant to which the City intends to lease and transfer to PVHS, and PVHS intends to lease and purchase from the City, specified facilities, assets and operations of Memorial Hospital System ("MHS"), which is owned and operated as an enterprise of the City;

WHEREAS, PVHS intends to assume responsibility to conduct the MHS Operations in accordance with the terms of that certain Integration and Affiliation Agreement, dated as of July 2, 2012 (the "Integration Agreement"), by and between the City, PVHS, New Memorial and University of Colorado Health ("UC Health"), a Colorado nonprofit corporation;

WHEREAS, on the Transition Date, PVHS shall assign the Operating Lease and the Integration Agreement to New Memorial, at which time New Memorial shall assume responsibility to conduct the MHS Operations;

WHEREAS, PVHS shall be a beneficiary under this Guaranty prior to the Transition Date with respect to Obligations arising prior to the Transition Date, and New Memorial shall be beneficiary from and after the Transition Date with respect to Obligations arising from and after the Transition Date;

WHEREAS, each of PVHS and New Memorial has required that this Guaranty be executed and delivered by Guarantor as a potential condition to the effectiveness of the Operating Lease and the Integration Agreement and the closing of the transactions contemplated thereunder; and

WHEREAS, Guarantor will derive benefits from the Operating Lease and Integration Agreement and transfer of the MHS Operations to PVHS (and subsequent assignment to New Memorial), and finds it advantageous, desirable and in Guarantor's best interests to execute and deliver this Guaranty.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor hereby represents, warrants and covenants as follows:

1. Defined Terms. As used in this Guaranty, the following terms shall have the meaning indicated:

a. "Beneficiary" shall mean, as applicable, PVHS, New Memorial, or any permitted assign of PVHS or New Memorial (as specified under the terms of the Operating Lease).

b. "Beneficiaries" shall mean PVHS, New Memorial, and any permitted assign of PVHS or New Memorial (as specified under the terms of the Operating Lease).

c. "City" shall have the meaning set forth in the first recital.

d. "Escrow Agreement" shall mean that certain Escrow Agreement, dated on or around the date hereof, by and among the City, the Public Employees' Retirement Association of Colorado, University of Colorado Health, University of Colorado Hospital Authority, New Memorial, PVHS and Wells Fargo Bank, N.A. as escrow agent.

e. "Guarantor" shall have the meaning set forth in the introductory paragraph.

f. "Guaranty" shall have the meaning set forth in the introductory paragraph.

g. "Integration Agreement" shall have the meaning set forth in the third recital.

h. "MHS" shall have the meaning set forth in the second recital.

i. "MHS Enterprise" shall mean a wholly owned enterprise of the City.

j. "New Memorial" shall have the meaning set forth in the introductory paragraph.

k. "Obligations" shall mean any and all liabilities and obligations of any one or more of the City, Guarantor or any Permitted Assign (as defined below) under the Operating Lease or the Integration Agreement, or both, of every kind, nature and description, whether now or hereafter owing to each Beneficiary by the City or any Permitted Assign (subject to the conditions, qualifications, baskets and limitations on the City's indemnity set forth in the Operating Lease).

l. “Operating Lease” shall have the meaning set forth in the second recital.

m. “PERA Settlement Agreement” shall mean that certain Agreement, dated September 6, 2012, by and among the City, the Public Employees’ Retirement Association of Colorado, UC Health, UCHA, New Memorial and PVHS.

n. “Permitted Assign” shall mean any Person to whom (i) the Operating Lease or the Integration Agreement, or both, are assigned by the City, or (ii) any Owned Real Property is transferred, or (iii) the City’s interest in all or part of the MHS Facilities or the Owned Real Property is transferred, in each case as permitted under the terms of the Operating Lease and Integration Agreement.

o. “Person” shall mean any means an individual, corporation, partnership, limited liability company, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

p. “PVHS” shall have the meaning set forth in the introductory paragraph.

q. “UCHA” shall mean the University of Colorado Hospital Authority, a body corporate and political subdivision of the State of Colorado.

r. “UC Health” shall have the meaning set forth in the fourth recital.

2. The Guaranty. From and after the Effective Date, Guarantor hereby absolutely and unconditionally guarantees to each Beneficiary the performance by the City (including the MHS Enterprise), Guarantor and any Permitted Assign of the Obligations. This Guaranty shall not be released, in whole or in part, by any action, occurrence or circumstance other than satisfaction in full of the Obligations. To the extent permitted by applicable law, and not in derogation or reduction of any notice, cure period, or similar applicable requirements in the Operating Lease or Integration Agreement, Guarantor hereby expressly waives (a) demand of payment, presentment, protest, notice of dishonor, nonpayment or nonperformance with respect to any and all of the Obligations; (b) notice of acceptance of this Guaranty and notice of any liability to which it may apply; (c) all other notices and demands of any kind and description relating to the Obligations now or hereafter provided for by any agreement, statute, law, rule or regulation; and (d) any defenses of waiver, release, discharge in bankruptcy, statute of limitations, res judicata, statute of frauds, incapacity, usury, governmental or sovereign immunity or unenforceability which may be available to Guarantor with respect to the Obligations, except for the defense of discharge by full satisfaction of the Obligations. Prior to asserting any rights under this Guaranty, any dispute resolution process initiated pursuant to Section 16.19 of the Operating Lease (or Section 7.2 of the Integration Agreement, if applicable) shall have been completed. Guarantor shall not be exonerated with respect to its liabilities and obligations under this Guaranty so long as any of the Obligations remain outstanding, it being the purpose and intent of this Guaranty that the Obligations constitute the direct and primary obligations of Guarantor and that all of the covenants of Guarantor hereunder be absolute, unconditional and

irrevocable. No invalidity, irregularity or unenforceability of all or any part of the Obligations or of any security therefor, or other recourse with respect thereto, shall affect, impair or be a defense to this Guaranty.

3. Maintenance of Funds. In order to ensure the availability of funds to support the Obligations for the first five (5) years after the Closing, Guarantor shall, from and after the date on which funds from the UCH Escrow Account (as such term is defined the PERA Settlement Agreement and the Escrow Agreement) are released to City or Guarantor in accordance with the Escrow Agreement, provided such date is prior to five (5) years from the Effective Date, retain in a segregated bank account: fifty million dollars (\$50,000,000) in unencumbered and readily available funds solely for purposes of satisfying the Obligations until the third (3rd) anniversary of the Effective Date, and at least twenty-five million dollars (\$25,000,000) in such funds until the fifth (5th) anniversary of the Effective Date, unless in each case such amounts have been distributed to the Lessee in satisfaction of the City's indemnity obligations under the Operating Lease, including distributions made to Lessee from the UCH Escrow Account. In the event such funds are not sufficient to pay the required Obligations, and/or if the Beneficiary shall be entitled to recover for an indemnity claim thereafter, the Beneficiary shall be entitled to recover the indemnity amount from all other funds of Guarantor available at such time before pursuing its claims against the additional sources of funds in the order of priority set forth in Section 14.9 of the Operating Lease. For the avoidance of doubt, Guarantor hereby expressly acknowledges and agrees that, notwithstanding anything in City of Colorado Springs Resolution 92-12 to the contrary, there shall be no limitation on distribution of the corpus or proceeds of any funds held by Guarantor in connection with the fulfillment of the Obligations, and no additional approvals of any Person (including PERA) shall be required with respect to the fulfillment of the Obligations, as contemplated hereunder and under the Operating Lease and Integration Agreement. Guarantor further acknowledges and agrees that entry into this Guaranty and satisfaction of the Obligations are within the mission and purpose of Guarantor, and are expressly contemplated and permitted under the terms of the PERA Settlement Agreement and the Escrow Agreement. The guaranties of Guarantor under this Guaranty shall continue in full force and effect after the fifth (5th) anniversary of the Effective Date in accordance with Section 17 herein.

4. Actions Not Required. Other than compliance with the PERA Settlement Agreement, the Operating Lease, the Integration Agreement and Section 2 of this Guaranty, to the extent permitted by applicable law, Guarantor hereby waives any and all requirements that Beneficiary institute any action or proceeding at law or in equity, or obtain any judgment, against the City, Guarantor, any Permitted Assign or any other Person, as a condition precedent to making demand on or bringing an action or obtaining or enforcing a judgment against, Guarantor with respect to this Guaranty. Guarantor further acknowledges that time is of the essence with respect to Guarantor's obligations under this Guaranty. Any remedy or right hereby granted to Beneficiary which shall be found to be unenforceable as to any Person or under any circumstance, for any reason, shall in no way limit or prevent the enforcement of such remedy or right as to any other Person or circumstance, nor shall such unenforceability limit or prevent enforcement of any other remedy or right hereby granted to Beneficiary.

5. Application of Payments. Any and all payments made by Guarantor to Beneficiary in respect of the Obligations shall be applied by Beneficiary against such Obligations as Beneficiary may elect in its sole and absolute discretion.

6. Recovery of Payment. If any payment received by Beneficiary and applied to the Obligations is subsequently set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of the City or any other obligor), then the Obligations to which such payment was applied shall for the purposes of this Guaranty be deemed to have continued in existence, notwithstanding such application, and this Guaranty shall be enforceable as to such Obligations as fully as if such application had never been made. References in this Guaranty to amounts "irrevocably paid" or to "irrevocable payment" refer to payments that cannot be set aside, recovered, rescinded or required to be returned for any reason.

7. City's Financial Condition. Beneficiary shall have no obligation to provide Guarantor with any advice whatsoever or to inform Guarantor at any time of Beneficiary's actions, evaluations or conclusions on the financial condition of or any other matter concerning the City, Guarantor or any Permitted Assign.

8. Remedies. All remedies afforded to Beneficiary by reason of this Guaranty are separate and cumulative remedies, and it is agreed that no one of such remedies, whether or not exercised by Beneficiary, shall be deemed to be in exclusion of any of the other remedies available to Beneficiary, and no one of such remedies shall in any way limit or prejudice any other legal or equitable remedy which Beneficiary may have hereunder. Beneficiary's delay or failure to act shall not preclude the exercise or enforcement of any rights and remedies available to Beneficiary.

9. No Impairment by Bankruptcy. Guarantor expressly agrees that (i) the liabilities, covenants and obligations of Guarantor under this Guaranty shall not in any way be impaired or otherwise affected by the institution by or against the City, Guarantor, any Permitted Assign or any other Person of any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings, or any other similar proceedings for relief under any bankruptcy law or similar law for the relief of debtors; and (ii) irrespective of any discharge of any of the Obligations pursuant to the foregoing clause (i), the liabilities, covenants and obligations of Guarantor under this Guaranty shall continue in full force and effect as though such Obligations were not so discharged.

10. Representations and Warranties. Guarantor has the full right, power and authority to execute, deliver and carry out the terms of this Guaranty. In addition, the execution, delivery and performance by Guarantor of this Guaranty (i) are within its powers, are not in contravention of law and have been duly authorized by all appropriate action; (ii) will neither conflict with, nor result in any breach or contravention of, or the creation of any prohibited encumbrance under, any material indenture, agreement, lease, instrument or understanding to which it is a party or by which it is bound; and (ii) will not violate any statute, law, rule, regulation, judgment, decree, writ or injunction of any Governmental Entity to which it may be subject.

11. Costs and Expenses. Guarantor will promptly pay or reimburse Beneficiary on demand for all out-of-pocket costs and expenses (including in each case all reasonable fees and expenses of counsel) incurred by Beneficiary arising out of any failure of Guarantor to fully and timely perform its covenants and obligations hereunder.

12. Waivers and Amendments. Except as otherwise provided herein, this Guaranty can be waived, terminated or discharged only explicitly in writing by Beneficiary. This Guaranty shall not be amended or modified unless in writing signed by each of Beneficiary and Guarantor. No waiver of any provision or right of Beneficiary hereunder shall be valid unless it is in writing and signed by Beneficiary.

13. Notices. All notices, requests, demands, claims and other communications hereunder will be in writing. Any notice, request, demand, claim or other communication hereunder will be deemed duly given if it is delivered personally or sent by recognized overnight courier services (such as Federal Express or DHL) and addressed to the intended recipient as set forth below:

If to Guarantor:

Colorado Springs Health Foundation
Attention: _____

with copies to (which shall not constitute notice):

Colorado Springs City Attorney
30 S. Nevada Avenue, Suite 501
Colorado Springs, Colorado 80903

and

President of City Council
107 N. Nevada Avenue
Colorado Springs, Colorado 80903

and

Fulbright & Jaworski, LLP
Attention: James G. Wiehl, Esq.
190 Carondelet Plaza
St. Louis, Missouri 63105

If to Beneficiary prior to the Transition Date:

Poudre Valley Health Care, Inc.
Attention: Chief Executive Officer
Attention: General Counsel
2315 East Harmony Road, Suite 200
Fort Collins, Colorado 80525
Facsimile:
E-mail:

with copies to (which shall not constitute notice):

Wallis S. Stromberg
Davis Graham & Stubbs LLP
1550 17th St., Suite 500
Denver, Colorado 80202
Facsimile:
E-mail:

and

Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street NW
Washington, DC 20004
Attention: Clifford D. Stromberg, Esq.
Facsimile: (202) 637-5910
E-mail: Clifford.Stromberg@hoganlovells.com

If to Beneficiary following the Transition Date:

UCH-MHS
[

_____]

with copies to (which shall not constitute notice):

[

_____]

and

Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street NW

Washington, DC 20004
Attention: Clifford D. Stromberg, Esq.
Facsimile: (202) 637-5910
E-mail: Clifford.Stromberg@hoganlovells.com

14. Guarantor Acknowledgements. Guarantor hereby acknowledges that (a) counsel has advised Guarantor in the negotiation, execution and delivery of this Guaranty; (b) Beneficiary has no fiduciary relationship to Guarantor; and (c) no joint venture exists between Guarantor and Beneficiary. Guarantor further acknowledges that the Beneficiary may at any time assert claims made pursuant to this Guaranty on behalf of Colorado Children's Hospital, as specifically set forth in the Operating Lease.

15. Assignments. Neither party may assign this Guaranty, or any of its rights, obligations or interest herein, without the prior written consent of the other party, such consent to be given or withheld in the sole and absolute discretion of such other party, and any assignment made by either party in violation of the foregoing shall be null and void *ab initio* and of no force and effect. In the event that, (i) the Operating Lease and Integration Agreement are assigned by the City to a Permitted Assign, or (ii) any Owned Real Property is transferred by the City to a Permitted Assign, or (iii) the City's or MHS Enterprise's interest in all or part of the MHS Facilities or the Owned Real Property are transferred to a Permitted Assign, in each case in accordance with the terms of the Operating Lease, the terms of this Guaranty will be applied to the Obligations of such Permitted Assign.

16. Continuing Guaranty. This Guaranty shall (a) remain in full force and effect until full satisfaction of the Obligations; (b) be binding upon Guarantor, and its permitted successors and assigns; and (c) inure to the benefit of, and be enforceable by, Beneficiary and its successors, assigns and transferees.

17. Reaffirmation. Guarantor agrees that when so requested by Beneficiary from time to time Guarantor will promptly execute and deliver to Beneficiary a written reaffirmation of this Guaranty in such form as Beneficiary may require.

18. Governing Law and Construction. The validity, construction and enforceability of this guaranty shall be governed by the laws of the state of Colorado, without giving effect to conflict of laws principles thereof. Whenever possible, each provision of this Guaranty and any other statement, instrument or transaction contemplated hereby or relating hereto shall be interpreted in such manner as to be effective and valid under such applicable law, but, if any provision of this Guaranty or any other statement, instrument or transaction contemplated hereby or relating hereto shall be held to be prohibited or invalid under such applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Guaranty or any other statement, instrument or transaction contemplated hereby or relating hereto.

19. Consent to Jurisdiction. The parties agree that any suit, action or proceeding with respect to this Guaranty shall be brought exclusively in an appropriate state

court located in El Paso County, Colorado. In the event any such action is removed to federal court for any reason, jurisdiction and venue shall be exclusively in the United States District Court for the District of Colorado. By execution of this Guaranty, each party irrevocably submits to each such jurisdiction for that purpose. Each party irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding brought in an inconvenient forum.

20. Termination. This Guaranty shall terminate upon the earlier of the satisfaction of all outstanding Obligations or, upon the expiration of the terms applicable to the survival of such Obligations as set forth in the Operating Lease and/or the Integration Agreement. At the request of Guarantor, Beneficiary shall acknowledge such termination in writing.

21. General. All representations and warranties contained in this Guaranty or in any other agreement between Guarantor and Beneficiary shall survive the execution, delivery and performance of this Guaranty and the creation and satisfaction of the Obligations. Captions in this Guaranty are for reference and convenience only and shall not affect the interpretation or meaning of any provision of this Guaranty.

22. Counterparts. This Guaranty may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A facsimile or electronically transmitted signature shall be deemed an original for purposes of evidencing execution of this Guaranty.

[Signature appears on the next page.]

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the date first above written.

GUARANTOR:

COLORADO SPRINGS HEALTH
FOUNDATION, a Colorado nonprofit corporation

By: _____
Name: _____
Its: _____

BENEFICIARY:

POUDRE VALLEY HEALTH SYSTEM, INC., a
Colorado nonprofit corporation

By: _____
Name: _____
Its: _____

After Transition Date:

UCH-MHS, a Colorado nonprofit corporation

By: _____
Name: _____
Its: _____

[Signature Page to Foundation Guaranty]