

ORDINANCE NO. 21-\_\_

AN ORDINANCE OF THE CITY OF COLORADO SPRINGS, COLORADO APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE STANDBY BOND PURCHASE AGREEMENT AMONG THE CITY OF COLORADO SPRINGS, COLORADO, WELLS FARGO BANK, NATIONAL ASSOCIATION, AS TENDER AGENT, AND BARCLAYS BANK PLC, THE FEE AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS, COLORADO AND BARCLAYS BANK PLC, AND THE OFFICIAL STATEMENT FOR THE UTILITIES SYSTEM REVENUE BONDS PREVIOUSLY ISSUED BY THE CITY TO WHICH THE AGREEMENT RELATES; RATIFYING CERTAIN ACTION HERETOFORE TAKEN.

WHEREAS, the City of Colorado Springs, Colorado (the “City”) is a municipal corporation and a home rule city duly organized and existing under the laws of the State of Colorado and, in particular, under the provisions of Article XX of the Constitution of the State of Colorado and the Charter of the City (the “Charter”); and

WHEREAS, the City now owns and operates a municipal water system, electric light and power system, gas system, wastewater system and certain other systems heretofore designated by the City Council (the “Council”) of the City, constituting the Utilities created by the Charter; and

WHEREAS, pursuant to Ordinance No. 06-137, as amended by Ordinance No. 13-51 (collectively, the “2006B Bond Ordinance”), the City has previously issued its City of Colorado Springs, Colorado, Variable Rate Demand Utilities System Subordinate Lien Improvement Revenue Bonds, Series 2006B (the “2006B Bonds”); and

WHEREAS, the 2006B Bonds currently bear interest at the Weekly Interest Rate (as defined in the 2006B Bond Ordinance), and pursuant to Section 1210 of the 2006B Bond Ordinance, the City has covenanted to maintain a Liquidity Facility (as defined in the 2006B Bond Ordinance) in full force and effect at any time the 2006B Bonds bear interest at a Weekly Interest Rate; and

WHEREAS, pursuant to Section 1210 of the 2006B Bond Ordinance, the City may elect to substitute the Liquidity Facility for 2006B Bonds; and

WHEREAS, the City desires to obtain a Substitute Liquidity Facility (as defined in the 2006B Bond Ordinance) for the 2006B Bonds from Barclays Bank PLC (“Barclays”); and

WHEREAS, the City, for and on behalf of Colorado Springs Utilities, an enterprise of the City, will enter into a Standby Bond Purchase Agreement with Wells Fargo Bank, National Association, as tender agent, and Barclays to be dated as of September 13, 2021 (the “Liquidity Facility Agreement”) as a Substitute Liquidity Facility for the 2006B Bonds; and

WHEREAS, the City will additionally enter into a fee agreement with Barclays to be dated the date of its execution and delivery (the “Fee Agreement”), which will set forth the fees, expenses, and charges payable by the City to Barclays in connection with the Liquidity Facility Agreement; and

WHEREAS, pursuant to Section 504 of the 2006B Bond Ordinance, the execution and delivery of the Liquidity Facility Agreement will result in the mandatory tender and remarketing of the 2006B Bonds; and

WHEREAS, the City has prepared and will distribute an Official Statement relating to the 2006B Bonds (the “Official Statement”) to be used in connection with the remarketing of the 2006B Bonds; and

WHEREAS, the Council has determined that the public interest and necessity require the City to enter into and perform the Liquidity Facility Agreement and the Fee Agreement; and

WHEREAS, there have been presented to the Council the proposed forms of the Liquidity Facility Agreement, the Fee Agreement, and the Official Statement.

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

Section 1. Ratification and Approval of Prior Actions. The Council hereby ratifies, approves and confirms all action heretofore taken (not inconsistent with the provisions of this ordinance) with respect to obtaining a Substitute Liquidity Facility under the 2006B Bond Ordinance in the form of the Liquidity Facility Agreement.

Section 2. Approval of the Liquidity Facility Agreement and the Fee Agreement. The forms, terms and provisions of the Liquidity Facility Agreement and the Fee Agreement are hereby approved. The City shall enter into the Liquidity Facility Agreement and the Fee Agreement in

the forms presented to the Council at this meeting, in each case with only such changes therein, if any, as are not inconsistent herewith, the approval of such changes to be conclusively evidenced by such the City's execution and delivery thereof. The Chief Executive Officer of the Utilities and the acting or permanent Chief Planning and Finance Officer of the Utilities are each hereby authorized and directed to singly execute and deliver the Liquidity Facility Agreement and the Fee Agreement.

Section 3. Substitute Liquidity Facilities. The officers and employees of the City and the Utilities are hereby authorized and directed to take all action necessary and appropriate to effectuate the provisions of this ordinance, including, without limitation, all action necessary to institute and perform the Liquidity Facility Agreement as a Substitute Liquidity Facility under the 2006B Bond Ordinance and to institute and perform the Fee Agreement.

Section 4. Official Statement. The preparation, electronic posting and distribution of the Official Statement in substantially the form presented to the Council at this meeting is hereby authorized. The Chief Executive Officer of the Utilities and the acting or permanent Chief Planning and Finance Officer of the Utilities are each hereby authorized to approve, on behalf of the City, the Official Statement. The execution of the Official Statement by such persons shall be conclusively deemed to evidence the approval of the form and contents thereof by the City.

Section 5. Future Extensions. The Chief Executive Officer of the Utilities and the acting or permanent Chief Planning and Finance Officer of the Utilities are each hereby authorized to enter into and execute and deliver such documents as may be necessary in connection with amendments to the Liquidity Facility Agreement and the Fee Agreement from time-to-time to facilitate the extension for one or more years without further action by the Council so long as: (i) the initial fee rates shall not be greater than 1% (100 basis points) higher than fees set forth in the related Fee Agreement for the prior term, (ii) the other terms and conditions of any such extension (including any amendment to the Liquidity Facility Agreement required to implement such extension) are substantially similar to the terms and conditions of the Liquidity Facility Agreement, and (iii) the municipal advisor to the Utilities certifies in writing that the fee rates in such extension are consistent with the market at such time (taking into account, among other considerations, the costs of securing and negotiating a replacement credit agreement with a

replacement bank with comparable credit ratings, including attorney fees, as well as any trading advantage or disadvantage associated with a replacement bank).

Section 6. Repealer. All bylaws, orders, resolutions and ordinances of the City, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any other such bylaw, order, resolution or ordinance of the City, or part thereof, heretofore repealed.

Section 7. Severability. If any section, subsection, paragraph, clause or other provision of this ordinance for any reason is invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or other provision shall not affect any of the remaining provisions of this ordinance.

Section 8. Effective Date and Publication. This ordinance upon passage shall be entered upon the journal of the Council's proceedings, shall be kept in the book marked "Ordinance Record" and authenticated as required by the Charter, shall be published twice in a legal newspaper of general circulation in the City in compliance with the requirements of the Charter with the first publication to be at least ten (10) days before final passage by Council of this ordinance, and the second publication to be any time after its final adoption. The Council hereby determines that it is appropriate that publication of this ordinance by title with a summary written by the City Clerk, together with a statement that this ordinance is available for public inspection and acquisition in the office of the City Clerk, shall be sufficient publication pursuant to Section 3-80 of the Charter and this ordinance shall be so published. This ordinance shall be in full force and effective five (5) days after its final publication.

INTRODUCED, READ, PASSED ON FIRST READING, APPROVED AND ORDERED PUBLISHED BY TITLE AND SUMMARY THIS 27<sup>th</sup> DAY OF JULY, 2021.

**FINALLY PASSED:** August 10, 2021

\_\_\_\_\_  
Tom Strand, Council President

ATTEST:

By: \_\_\_\_\_  
Sarah B. Johnson, City Clerk

By: \_\_\_\_\_  
John W. Suthers, Mayor

(Attach Affidavit of Publication, by Title and Summary,  
of Ordinance No. 21\_\_ upon First Reading)

(Attach Affidavit of Publication, by Title and Summary,  
of Ordinance No. 21-\_\_ upon Second Reading)