

ORDINANCE NO. 16-\_\_

AN ORDINANCE OF THE CITY OF COLORADO SPRINGS, COLORADO APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE REVOLVING LOAN AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS, COLORADO AND U.S. BANK NATIONAL ASSOCIATION AND THE REVOLVING PROMISSORY NOTE OF THE CITY RELATING THERETO; AND PROVIDING OTHER MATTERS RELATING THERETO.

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 (the "System"), constituting the Utilities created by the Charter; and

WHEREAS, the City has previously entered into revolving loan agreements (the "Prior Agreements") which have permitted the City to borrow, on a revolving basis, an amount up to \$75,000,000 to fund the Utilities' operating needs and normal expenditures, including, without limitation, regularly scheduled capital expenditures; and

WHEREAS, the Prior Agreements will expire on September 4, 2016; and

WHEREAS, the City will enter into a Revolving Loan Agreement to be dated the date of its execution and delivery (the "2016 U.S. Bank Loan Agreement") with U.S. Bank National Association ("U.S. Bank") to permit the City to initially borrow from U.S. Bank, on a revolving basis, an amount up to \$75,000,000 to continue to fund such operating needs and normal expenditures of the Utilities and will execute and deliver to U.S. Bank its Revolving Promissory Note (the "2016 U.S. Bank Note") pursuant to the 2016 U.S. Bank Loan Agreement; and

WHEREAS, any amounts borrowed by the City from U.S. Bank under the 2016 U.S. Bank Loan Agreement, to be evidenced, by the 2016 U.S. Bank Note, will be

payable solely from the gross revenues derived from the operation of the System, after provision is made for the payment of the operation and maintenance expenses of the System (such remaining revenues the “Net Pledged Revenues”) and after payment of all amounts then due and payable relating to the utilities system revenue bonds of the City now or hereafter outstanding; and

WHEREAS, the City Council of the City (the “Council”) has determined that the public interest and necessity require the City to enter into the 2016 U.S. Bank Loan Agreement and to issue the 2016 U.S. Bank Note; and

WHEREAS, there have been presented to the Council the proposed forms of the 2016 U.S. Bank Loan Agreement and the 2016 U.S. Bank Note.

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 the borrowing from U.S. Bank under the 2016 U.S. Bank Loan Agreement and the issuance of the 2016 U.S. Bank Note.

Section 2. Approval of the Loan Agreements and the Notes. The forms, terms and provisions of the 2016 U.S. Bank Loan Agreement and the 2016 U.S. Bank Note are hereby approved and the City shall enter into the 2016 U.S. Bank Loan Agreement in the form presented to the Council at this meeting, and the City shall issue the 2016 U.S. Bank Note in the form presented to the Council at this meeting, in each case with only such changes therein, if any, as are not inconsistent herewith. The Chief Executive Officer of the Utilities and the Chief Planning and Finance Officer of the Utilities, or any of the preceding two officers individually, are hereby authorized to execute the 2016 U.S. Bank Loan Agreement and the 2013 U.S. Bank Note on behalf of and in the name of the City.

Section 3. Pledge of Net Pledged Revenues. The Council hereby specifically confirms the pledge contained in the 2016 U.S. Bank Loan Agreement of the Net Pledged Revenues to secure the payment of the 2016 U.S. Bank Note and all other amounts due under the 2016 U.S. Bank Loan Agreement, on the terms and conditions set forth in the 2016 U.S. Bank Loan Agreement.

Section 4. 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 5. 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 6. 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 adoption 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 9<sup>TH</sup> DAY OF AUGUST, 2016.

**FINALLY PASSED: \_\_\_\_\_, 2016.**

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Merv Bennett, Council President

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John W. Suthers, Mayor

ATTEST:

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Sarah B. Johnson, City Clerk

**EXHIBIT A**

(Attach Affidavit of Publication, by Title and Summary, of Ordinance No. 16-\_\_  
after First Reading)

**EXHIBIT B**

(Attach Affidavit of Publication, by Title and Summary, of Ordinance No. 16-\_\_  
after Second Reading)