

ORDINANCE NO. 20-25

AN ORDINANCE OF THE CITY OF COLORADO SPRINGS, COLORADO APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A SECOND AMENDMENT TO STANDBY BOND PURCHASE AGREEMENT BY AND AMONG THE CITY OF COLORADO SPRINGS, COLORADO AND WELLS FARGO BANK, NATIONAL ASSOCIATION, AS TENDER AGENT AND PAYING AGENT AND U.S. BANK NATIONAL ASSOCIATION AND A SECOND AMENDED AND RESTATED FEE AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS, COLORADO AND U.S. BANK NATIONAL ASSOCIATION RELATING TO THE CITY OF COLORADO SPRINGS, COLORADO, VARIABLE RATE DEMAND UTILITIES SYSTEM IMPROVEMENT REVENUE BONDS, SERIES 2008A; 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, constituting the Utilities created by the Charter; and

WHEREAS, the City has previously entered into a Standby Bond Purchase Agreement dated September 1, 2014 among the City, Wells Fargo Bank, N.A., as tender agent and paying agent (the "Tender Agent") and U.S. Bank National Association (the "Bank"), which was previously amended pursuant to a First Amendment to Standby Bond Purchase Agreement dated September 1, 2017 (as so amended, the "Agreement"), and an Amended and Restated Fee Agreement dated September 1, 2017 (the "Fee Agreement") between the City and the Bank with respect to the City of Colorado Springs, Colorado, Variable Rate Demand Utilities System Improvement Revenue Bonds, Series 2008A (the "2008A Bonds"); and

WHEREAS, the 2008A Bonds are subject to purchase from time to time at the option of the owners thereof and are required to be purchased in certain events and, to further assure the availability of funds for the payment of the purchase price therefor, the City has provided for the remarketing of such 2008A Bonds, only to the extent such remarketing may not be successful, for the purchase of such 2008A Bonds by the Bank pursuant to the Agreement; and

WHEREAS, the Agreement expires on August 31, 2020, unless extended; and

WHEREAS, the City wishes to amend the Agreement and the Fee Agreement to provide, among other things, for the extension of the Agreement by entering into the Second Amendment to Standby Bond Purchase Agreement (the "SBPA Amendment") among the City, the Tender Agent and

the Bank and the Second Amended and Restated Fee Agreement (the "Fee Agreement Amendment" and together with the SBPA Amendment, the "Amendments") between the City and the Bank; and

WHEREAS, the Council has determined that the public interest and necessity require the City to enter into the Amendments; and

WHEREAS, there has been presented to the Council proposed forms of the Amendments.

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 Agreement, the Fee Agreement and the Amendments.

Section 2. Approval of Amendments. The forms, terms and provisions of the Amendments are hereby approved and the City shall enter into the Amendments in the forms presented to the Council at this meeting, with only such changes therein, if any, as are not inconsistent herewith; and the Chief Executive Officer of the Utilities, the Acting Chief Planning and Finance Officer or Chief Planning and Finance Officer, as applicable, and the Acting General Manager of Financial Services or General Manager of Financial Services, as applicable, of the Utilities (each an "Authorized Officer") are each hereby authorized and directed to execute and deliver the Amendments.

Section 3. Future Extensions. The Authorized Officers are hereby authorized to enter into and execute and deliver such documents as may be necessary in connection with amendments to the Amendments from time-to-time to facilitate the extension for one or more years without further action by the Council so long as: (i) the 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 Standby Bond Purchase Agreement required to implement such extension) are substantially similar to the terms and conditions of the Agreement, as amended by the SBPA Amendment, 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 4. Other Actions. The officers of the City and the officers of the Utilities of the City shall take all action necessary or reasonably required to effectuate the provisions of the Amendments.

Section 5. 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 6. 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 7. 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 and ordered published this 12th day of May, 2020.

Finally passed: May 26th, 2020

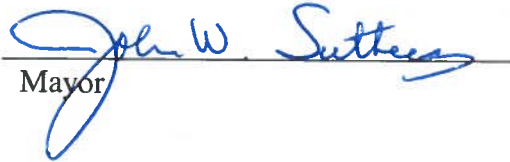


Council President

Mayor's Action:

Approved on May 28, 2020.

Disapproved on _____, based on the following objections:



Mayor

Council Action After Disapproval:

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of _____, on _____.
- Council action on _____ failed to override the Mayor's veto.

Council President

ATTEST:



Sarah B. Johnson, City Clerk



I HEREBY CERTIFY, that the foregoing ordinance entitled “AN ORDINANCE OF THE CITY OF COLORADO SPRINGS, COLORADO APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A SECOND AMENDMENT TO STANDBY BOND PURCHASE AGREEMENT BY AND AMONG THE CITY OF COLORADO SPRINGS, COLORADO AND WELLS FARGO BANK, NATIONAL ASSOCIATION, AS TENDER AGENT AND PAYING AGENT AND U.S. BANK NATIONAL ASSOCIATION AND A SECOND AMENDED AND RESTATED FEE AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS, COLORADO AND U.S. BANK NATIONAL ASSOCIATION RELATING TO THE CITY OF COLORADO SPRINGS, COLORADO, VARIABLE RATE DEMAND UTILITIES SYSTEM IMPROVEMENT REVENUE BONDS, SERIES 2008A; AND PROVIDING OTHER MATTERS RELATING THERETO” was introduced and read at a regular meeting of the City Council of the City of Colorado Springs, held on May 12th, 2020; that said ordinance was finally passed at a regular meeting of the City Council of said City, held on the 26th day of May, 2020, and that the same was published by title and summary, in accordance with Section 3-80 of Article III of the Charter, in the Transcript, a newspaper published and in general circulation in said City, at least ten days before its passage.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City, this 28th day of May, 2020.


Sarah B. Johnson, City Clerk



1st Publication Date: May 15th, 2020
2nd Publication Date: June 3rd, 2020

Effective Date: June 8th, 2020

Initial: SBS
City Clerk

(Attach Affidavit of Publication, by Title and Summary, of Ordinance No. 20-25
upon First Reading)

Proof of Publication

THE TRANSCRIPT
Colorado Springs, Colorado

STATE OF COLORADO } ss.
COUNTY OF EL PASO }

I, Amy Sweet, Publisher and Executive Editor, or the undersigned Authorized Agent of the Publisher and Executive Editor, do solemnly swear that I am the Publisher and Executive Editor, or Authorized Agent of the Publisher and Executive Editor of The Transcript; that the same is a tri-weekly newspaper and published in the County of El Paso, State of Colorado, and has a general circulation therein; that said newspaper has been published continuously and uninterruptedly in said County of El Paso for a period of more than fifty-two consecutive weeks prior to the first publication of the annexed legal notice or advertisement; that said newspaper has been admitted to the United States mails as second-class matter under the provisions of the Act of March 3, 1879, or any amendments thereof, and that said newspaper is a tri-weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

That the annexed legal notice or advertisement was published in the regular and entire issue of every number of said tri-weekly newspapers for the period of 1 consecutive insertion(s), and/or once each week and on the same days of each week; and that the first publication of said notice was in the issue of said newspaper dated:

15, MAY, A.D. 2020.

And that the last publication of said notice was in the issue of said newspaper dated:


15, MAY, A.D. 2020.

In witness whereof, I have hereunto set my hand this 15th day of May, A.D. 2020.

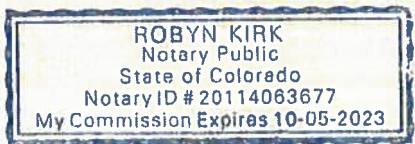


Publisher and Executive Editor / Authorized Agent

Subscribed and sworn to before me, a notary public in and for the County of El Paso, State of Colorado, this 15th day of May, A.D. 2020.



Notary Public



ORDINANCE NO. 20-25

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The above entitled ordinance ("Ordinance") was introduced and passed on first reading at the regular meeting of the City Council (the "Council") held on May 12, 2020 and is scheduled to be considered for final passage on second reading at the regular meeting of the Council to be held on May 26, 2020. The Ordinance is available for public inspection and acquisition in the office of the City Clerk in the City Administration Building. The following is a summary of the Ordinance:

PREAMBLES

The preambles recite the legal organization and existence of the City, its ownership and operation of a municipal water system, electric light and power system, gas system, wastewater system and certain other systems designated by the Council, constituting the Utilities created by the Charter, the outstanding Standby Bond Purchase Agreement among the City, Wells Fargo Bank, N.A., as tender agent and paying agent (the "Tender Agent") and U.S. Bank National Association (the "Bank"), which was previously amended pursuant to a First Amendment to Standby Bond Purchase Agreement dated September 1, 2017 (as so amended, the "Agreement"), and an Amended and Restated Fee Agreement dated September 1, 2017 (the "Fee Agreement") between the City and the Bank with respect to the City's outstanding Variable Rate Demand Utilities System Improvement Revenue Bonds, Series 2008A (the "2008A Bonds"), the Agreement expires on August 31, 2020, unless extended, and the proposal to amend the Agreement and the Fee Agreement to provide, among other things, for the extension of the Agreement by entering into the Second Amendment to Standby Bond Purchase Agreement (the "SBPA Amendment") among the City, the Tender Agent and the Bank and the Second Amended and Restated Fee Agreement (the "Fee Agreement Amendment" and together with the SBPA Amendment, the "Amendments") between the City and the Bank.

SECTION 1

This section ratifies, approves and confirms all action theretofore taken with respect to the Agreement, the Fee Agreement and the Amendments not inconsistent with the Ordinance.

SECTION 2

This section approves the forms, terms and provisions of the Amendments, declares that the City shall enter into the Amendments in the forms presented to the Council, and authorizes and directs that the Chief Executive Officer of the Utilities, the Acting Chief Planning and Finance Officer or Chief Planning and Finance Officer, as applicable, and the Acting General Manager of Financial Services or General Manager of Financial Services, as applicable, of the Utilities (each an "Authorized Officer") to execute and deliver the Amendments.

SECTION 3

This section authorizes the Authorized Officers to enter into and execute and deliver such documents as may be necessary in connection with amendments to the Amendments from time-to-time to facilitate the extension for one or more years without further action by the Council, subject to certain specified conditions.

SECTION 4

This section provides that the officers of the City and the officers of the Utilities of the City will take all action necessary or reasonably required to effectuate the provisions of the Amendments.

SECTION 5

This section provides that all bylaws, orders, resolutions and ordinances of the City, or parts thereof, inconsistent therewith are repealed to the extent only of such inconsistency.

SECTION 6

This section provides for the severability of the Ordinance.

SECTION 7

This section provides that the Ordinance upon passage will be entered upon the journal of the Council's proceedings, kept in the book marked "Ordinance Record" and authenticated as required by the Charter, that the Ordinance shall be published twice, with the first publication to be at least ten days before final passage by Council and the second publication to be any time after its final adoption, that the Ordinance shall be in full force and effective five days after its final publication, and provides for the publication of the Ordinance by title with summary written by me pursuant to the Charter.

This statement and summary were written by me on May 12, 2020.

/s/ Sarah B. Johnson
Sarah B. Johnson, City Clerk
City of Colorado Springs
Publication Date: May 15, 2020
Published in The Transcript
DT37470

(Attach Affidavit of Publication, by Title and Summary, of Ordinance No. 20-25
after Second Reading)

Proof of Publication

THE TRANSCRIPT
Colorado Springs, Colorado

STATE OF COLORADO } ss.
COUNTY OF EL PASO }

I, Amy Sweet, Publisher and Executive Editor, or the undersigned Authorized Agent of the Publisher and Executive Editor, do solemnly swear that I am the Publisher and Executive Editor, or Authorized Agent of the Publisher and Executive Editor of The Transcript; that the same is a tri-weekly newspaper and published in the County of El Paso, State of Colorado, and has a general circulation therein; that said newspaper has been published continuously and uninterruptedly in said County of El Paso for a period of more than fifty-two consecutive weeks prior to the first publication of the annexed legal notice or advertisement; that said newspaper has been admitted to the United States mails as second-class matter under the provisions of the Act of March 3, 1879, or any amendments thereof, and that said newspaper is a tri-weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

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03, JUNE, A.D. 2020.

And that the last publication of said notice was in the issue of said newspaper dated:

03, JUNE, A.D. 2020.

In witness whereof, I have hereunto set my hand this 3rd day of June, A.D. 2020.

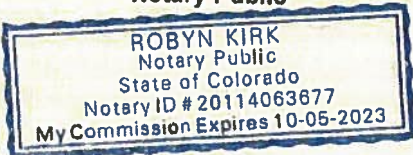
Amy P. Adams

Publisher and Executive Editor / Authorized Agent

Subscribed and sworn to before me, a notary public in and for the County of El Paso, State of Colorado, this 3rd day of June, A.D. 2020.

Robyn Kirk

Notary Public



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This statement and summary were written by me on May 26, 2020.

/s/ Sarah B. Johnson
Sarah B. Johnson, City Clerk
City of Colorado Springs
Publication Date: June 3, 2020
Published in The Transcript
DT37535