

CITY OF COLORADO SPRINGS, COLORADO
UTILITIES SYSTEM REFUNDING REVENUE BONDS
SERIES 2018A-3 ESCROW AGREEMENT

DATED as of July 1, 2018 between the CITY OF COLORADO SPRINGS, COLORADO, a home rule municipality and municipal corporation in the State of Colorado (the “City”), for and on behalf of Colorado Springs Utilities, an enterprise of the City and WELLS FARGO BANK, NATIONAL ASSOCIATION, Minneapolis, Minnesota, a national banking association having and exercising full and complete trust powers, duly organized and existing under the laws of the United States of America (the “Escrow Bank”), being a member of the Federal Deposit Insurance Corporation and the Federal Reserve System and having an office and a place of business in Minneapolis, Minnesota.

WITNESSETH

WHEREAS, the City is a municipal corporation 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 City’s 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 of the City (the “System”), constituting the Utilities created by the Charter; and

WHEREAS, the City Council of the City (the “Council”) has, by ordinance duly adopted on [June 12,] 2018 designated in Section 101 thereof as the “2018A Utilities Bond Ordinance” authorized the issuance of the “City of Colorado Springs, Colorado, Utilities System Refunding Revenue Bonds, Series 2018A-3” in the aggregate principal amount of \$_____ (the “Series 2018A-3 Bonds”) for the purpose of, among other purposes, defraying a portion of the cost of refunding all or a portion of the outstanding City of Colorado Springs, Colorado, Utilities System Refunding Revenue Bonds, Series 2008B (the “Series 2008B Bonds”), as the City determines to refund, as designated in the Supplemental Public Securities Act Certificate (as defined in the 2018A Utilities Bond Ordinance); and

WHEREAS, pursuant to such Certificate, the City has determined to refund the Series 2008B Bonds maturing and bearing interest as follows:

Series 2008B Bonds

<u>Year Maturing (November 15)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2018	\$1,020,000	4.500%
2019	350,000	4.600
2020	365,000	4.750
2021	380,000	5.000
2022	400,000	5.100
2023	420,000	5.250
2024	445,000	5.375
2025	470,000	5.375
2026	495,000	5.375
2027	520,000	5.375
2028	550,000	5.375
2029	575,000	5.400
2030	255,000	5.400
2031	270,000	5.400
2032	285,000	5.400
2033	565,000	5.400

(the Series 2008B Bonds listed above, the “Refunded Bonds”); and

WHEREAS, the Council has in the 2018A Utilities Bond Ordinance, among other matters:

A. Authorized the acceptance by the City of the proposal submitted by the Purchasers (as defined in the 2018A Utilities Bond Ordinance) for the purchase of the Series 2018A-3 Bonds;

B. Created the Series 2018A-3 Escrow Fund (as defined in the 2018A Utilities Bond Ordinance) to be maintained by the Escrow Bank;

C. Provided for the deposit in the Series 2018A-3 Escrow Fund of a portion of the proceeds of the Series 2018A-3 Bonds and other moneys in an aggregate amount fully sufficient to pay the principal of and interest on the Refunded Bonds when due upon prior redemption (the “Refunded Bonds Bond Requirements”); and

D. Authorized the completion, execution and delivery of this Escrow Agreement; and

WHEREAS, in the 2018A Utilities Bond Ordinance the City has given irrevocable direction to the paying agent for the Refunded Bonds to give notice of redemption and defeasance of the Refunded Bonds; and

WHEREAS, a schedule of receipts from such moneys and a schedule of payments and disbursements in the certified public accountant's report (the "Escrow Report") attached as Exhibit A to this Escrow Agreement demonstrate the sufficiency of the moneys referred to in paragraph C above for the purpose of paying the Refunded Bonds Bond Requirements; and

WHEREAS, the City is empowered to undertake the obligations and commitments on its part herein set forth; and

WHEREAS, the Escrow Bank is empowered to undertake the obligations and commitments on its part herein set forth.

NOW THEREFORE, THIS ESCROW AGREEMENT WITNESSETH:

That in consideration of the mutual agreements herein contained and in order to secure the payment of the Refunded Bonds Bond Requirements, as the same become due, the parties hereto mutually undertake, promise and agree for themselves, their respective representatives, successors and assigns, as follows:

Section 1. Use of Moneys Deposited Into Escrow Fund. The Escrow Bank, on behalf of the City, shall promptly apply the proceeds of the Series 2018A-3 Bonds and certain moneys in the bond funds for the Refunded Bonds referred to in Section 401 of the 2018A Utilities Bond Ordinance to purchase bills, certificates of indebtedness, notes and bonds which are direct obligations of, or the principal and interest of which are unconditionally guaranteed as to full and timely payment by, the United States of America ("Federal Securities") listed in the Escrow Report and to establish the initial cash balance, if any, set forth in the Escrow Report. The Escrow Bank shall hold all the Federal Securities and the moneys received from time to time as principal of and interest on the Federal Securities and the uninvested cash balances held in the Series 2018A-3 Escrow Fund for the payment of the Refunded Bonds Bond Requirements, and shall collect the principal of and interest on such Federal Securities promptly as the same become due. The Escrow Bank shall make such payments of the Refunded Bonds Bond Requirements to the paying agent for the Refunded Bonds from the Series 2018A-3 Escrow Fund on the dates and in the amounts set forth opposite such dates in the Escrow Report. From and after the deposit of such moneys in the Series 2018A-3 Escrow Fund, the Refunded Bonds shall remain the obligations of the City until paid as provided herein, but the Refunded Bonds Bond Requirements shall be payable solely and only from the Series 2018A-3 Escrow Fund and shall not be payable from any other funds of the City except as provided in Section 403 of the 2018A Utilities Bond Ordinance. After the deposit of such Series 2018A-3 Bond proceeds and other moneys in the Series 2018A-3 Escrow Fund, the owners of the Refunded Bonds shall not be entitled to or have any rights with respect to the Net Pledged Revenues (as defined in the ordinances pursuant to which the Refunded Bonds were issued) except as provided in Section 403 of the 2018A Utilities Bond Ordinance. The Series 2018A-3 Escrow Fund shall be irrevocable and the owners of the Refunded Bonds shall have an express lien on the principal of

and interest on the Federal Securities until used and applied in accordance with this Escrow Agreement.

Section 2. Sales and Substitutions. The Escrow Bank shall not sell the Federal Securities set forth in the Escrow Report and such Federal Securities shall not be callable by the issuer thereof for prior redemption. Other Federal Securities may be substituted for any Federal Securities listed in the Escrow Report if such substitution is required or permitted by Section 103(a) of the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder, provided that the Federal Securities to be substituted are direct obligations of, or the principal and interest of which are unconditionally guaranteed as to full and timely payment by, the United States of America, are not callable by the issuer thereof for redemption prior to maturity, mature on or prior to the date of payment of the Refunded Bonds Bond Requirements for which they are required, provide, together with the other Federal Securities and amounts remaining uninvested, a cash flow, which upon verification by a certified public accountant of national standing, is sufficient to pay the Refunded Bonds Bond Requirements, do not cause the Refunded Bonds to be diminished in rating from a rating previously accorded by S&P Global Ratings, Moody's Investors Service or Fitch, Inc. and subject to yield proofs in a report of a certified public accountant of national standing (if required by the Utilities' bond counsel) and to a favorable opinion of the Utilities' bond counsel as to its effect, if any, on the exclusion from gross income for Federal income tax purposes of the interest on the Series 2018A-3 Bonds, and in any event in such a manner so as not to increase the price which the City pays for the initial acquisition of Federal Securities for the Series 2018A-3 Escrow Fund. Any Federal Securities temporarily substituted in accordance with the foregoing provisions of this Section because the Federal Securities listed in the Escrow Report were not delivered in sufficient time to effect a timely closing of the Series 2018A-3 Bonds may be withdrawn from the Series 2018A-3 Escrow Fund when the Federal Securities listed in the Escrow Report are purchased and credited to the Series 2018A-3 Escrow Fund. Similarly any temporary advancement of moneys by the City to the Series 2018A-3 Escrow Fund to pay the Refunded Bonds Bond Requirements because of a failure to receive promptly the principal of and interest on any Federal Securities at their respective fixed maturity dates or otherwise may be repaid to the City upon the receipt by the Escrow Bank of such principal and interest payments on such Federal Securities.

The Escrow Bank shall not otherwise invest surplus cash which it holds from time to time in the Series 2018A-3 Escrow Fund unless it receives an opinion of the Utilities' bond counsel as to the legality of any such investment and its effect, if any, on the exclusion from gross income for Federal income tax purposes of the interest on the Series 2018A-3 Bonds and it makes such investment in accordance with the provisions of this Section.

Section 3. Fees of Escrow Bank. The Escrow Bank's total fees and costs for and in carrying out the provisions of this Escrow Agreement are set forth in Exhibit B to this Escrow Agreement and will be paid by the City directly to the Escrow Bank from the Income Fund (as defined in the 2018A Utilities Bond Ordinance) as provided in Section 404 of the 2018A Utilities Bond Ordinance as payment in full of all of its charges for services performed under this Escrow Agreement. Such payment for services rendered and to be rendered by the Escrow Bank shall not be deposited in the Series 2018A-3 Escrow Fund, and such fees and such costs of the Escrow Bank shall not be deducted from the Series 2018A-3 Escrow Fund. Under no circumstances shall the Escrow Bank have or assert a lien on the Series 2018A-3 Escrow

Fund for its charges, fees and expenses and under no circumstances shall the Escrow Bank make any claim against the Series 2018A-3 Escrow Fund for such charges, fees or expenses.

Section 4. Arrangements with Issuers; Safekeeping. The Escrow Bank shall forthwith make arrangements with the appropriate representative of the issuers of the Federal Securities, so that the interest on and the principal of such Federal Securities shall be promptly transmitted, as the same become due from time to time, to the Escrow Bank, and the Escrow Bank shall promptly, upon receipt of the same, credit the same to the Series 2018A-3 Escrow Fund. Any such Federal Securities may from time to time be placed by the Escrow Bank for safekeeping, wholly or in part, in any branch of the Federal Reserve Bank, or in any commercial bank which is a state or national bank or trust company, is a member of the Federal Deposit Insurance Corporation, is a member of the Federal Reserve System, has a capital and surplus of \$10,000,000 or more, and is exercising full and complete trust powers. The Escrow Bank, however, shall remain solely responsible for the payment of the Refunded Bonds Bond Requirements pursuant to Section 1 hereof and for defraying any charges of any branch of the Federal Reserve Bank or any such commercial bank for such service. No money paid into and accounted for in the Series 2018A-3 Escrow Fund shall ever be considered as a banking deposit and neither the Escrow Bank nor any such commercial bank shall have any right or title with respect thereto. It is recognized that title to the Federal Securities and money accounted for in the Series 2018A-3 Escrow Fund from time to time shall remain vested in the City but subject always to the prior charge and lien thereon of this Escrow Agreement and the use thereof required to be made by the provisions of this Escrow Agreement, the 2018A Utilities Bond Ordinance and the ordinances pursuant to which the Refunded Bonds were issued. The Escrow Bank shall hold all such Federal Securities (except as they may be held as book-entries) and money in the Series 2018A-3 Escrow Fund as a special trust fund separate and wholly segregated from all other securities and funds of the Escrow Bank or deposited therein, and shall never commingle such securities or money with other securities or money.

Section 5. Accounting for Escrow Fund. The moneys and the Federal Securities accounted for in the Series 2018A-3 Escrow Fund shall not be subject to checks drawn by the City or otherwise subject to the City's order except as otherwise provided in Section 2 and Section 7 hereof. The Escrow Bank, however, shall transfer from time to time from the Series 2018A-3 Escrow Fund to the paying agent for the Refunded Bonds sufficient moneys to permit such paying agent to pay, without any default, the Refunded Bonds Bond Requirements, as the same become due as hereinabove referred to.

Section 6. Sufficiency of Escrow. As provided in the Escrow Report, the moneys and Federal Securities accounted for in the Series 2018A-3 Escrow Fund shall be in an amount (or have appropriate maturities and yields to produce an amount) which at all times shall be sufficient to pay the Refunded Bonds Bond Requirements as they become due.

Section 7. Termination of Escrow Fund. When payment or provision for payment shall have been made with the paying agent for the Refunded Bonds so that all the Refunded Bonds Bond Requirements shall be or shall have been paid in full and discharged, the Escrow Bank shall immediately pay over to the City the moneys and securities, if any, then remaining in the Series 2018A-3 Escrow Fund and shall thereafter submit a final report to the City. The City shall deposit any such moneys and securities into the Bond Fund unless the City

receives an opinion of the Utilities' bond counsel to the effect that another use of such moneys and securities will not have an adverse effect on the exclusion from gross income for Federal income tax purposes of the interest on the Series 2018A-3 Bonds.

Section 8. Status Report. In December, 2018 and in December of each succeeding year until the termination of the Series 2018A-3 Escrow Fund, the Escrow Bank shall submit to the City a report covering all money which the Escrow Bank shall have received and all payments which it shall have made or caused to be made hereunder during the preceding 12 calendar months (or with respect to the first report, since the date of issuance of the Series 2018A-3 Bonds). Each such report (except the last report) shall also list all Federal Securities and the amount of money accounted for in the Series 2018A-3 Escrow Fund on the November 16 next preceding the report. Each such report (including the last report) shall further indicate for which period and in which bank any Federal Securities (other than Federal Securities held as book-entries) and any uninvested moneys were transferred for safekeeping, as permitted by Section 4 hereof.

Section 9. Purchasers' Responsibility. The Purchasers and owners from time to time of the Series 2018A-3 Bonds shall in no manner be responsible for the application or disposition of the proceeds thereof or any moneys or Federal Securities accounted for in the Series 2018A-3 Escrow Fund.

Section 10. Amendment. The Series 2018A-3 Bonds have been issued in reliance upon this Escrow Agreement and this Escrow Agreement shall be irrevocable and not subject to amendment after any of the Series 2018A-3 Bonds shall have been issued except to correct ambiguities, add to the protection of the owners of the Refunded Bonds, or sever a clause deemed to be illegal. Any such amendments shall be in writing executed by the parties hereto; provided that no such amendment, waiver or modification shall become effective unless and until the Escrow Bank receives an opinion of the Utilities' bond counsel to the effect that such amendment, waiver or modification does not affect the exclusion from gross income for Federal income tax purposes of the interest on the Refunded Bonds or the Series 2018A-3 Bonds.

Section 11. Miscellaneous Provisions.

A. The duties and responsibilities of the Escrow Bank are limited to those expressly and specifically stated in this Escrow Agreement.

B. The Escrow Bank shall not be liable or responsible for any loss resulting from any investment or reinvestment made pursuant to and in compliance with the provisions hereof.

C. The Escrow Bank shall not be personally liable or responsible for any act which it may do or omit to do hereunder while acting with reasonable care, except for duties expressly imposed upon the Escrow Bank hereunder or as otherwise expressly provided herein.

D. The Escrow Bank shall neither be under any obligation to inquire into or be in any way responsible for the performance or nonperformance by the City of any of its obligations, nor shall the Escrow Bank be responsible in any manner for the recitals or statements contained in this Escrow Agreement (other than the recitals in the last preamble), in

the 2018A Utilities Bond Ordinance, in the Refunded Bonds, or in any proceedings taken in connection therewith, such recitals and statements being made solely by the City.

E. Nothing in this Escrow Agreement creates any obligation or liability on the part of the Escrow Bank to anyone other than the City, the owners of the Refunded Bonds and the owners of the Series 2018A-3 Bonds.

F. Time is of the essence in the performance of the obligations from time to time imposed upon the Escrow Bank by this Escrow Agreement.

G. Whenever in this Escrow Agreement the City or the Escrow Bank is named or is referred to, such provision is deemed to include any successor of the City or the Escrow Bank, respectively, whether so expressed or not.

H. If any section, paragraph, clause, or provision of this Escrow Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Escrow Agreement.

IN WITNESS WHEREOF, the CITY OF COLORADO SPRINGS, COLORADO, for and on behalf of Colorado Springs Utilities, an enterprise of the City, has caused this Escrow Agreement to be signed in the City's name by the Chief Planning and Finance Officer of the Utilities; and WELLS FARGO BANK, NATIONAL ASSOCIATION has caused this Escrow Agreement to be signed in its corporate name by one of its authorized officers, all as of the day and year first above written.

CITY OF COLORADO SPRINGS, COLORADO,
a Colorado political subdivision, for and on behalf
of Colorado Springs Utilities, an enterprise of the
City

By _____
Utilities Chief Planning and
Finance Officer

WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Escrow Bank

By _____
Authorized Officer

EXHIBIT A
ESCROW REPORT

EXHIBIT B
ESCROW BANK FEE SCHEDULE