

SECOND AMENDMENT TO THE STANDBY BOND PURCHASE AGREEMENT

This SECOND AMENDMENT TO THE STANDBY BOND PURCHASE AGREEMENT (this "*Amendment*") is dated September 18, 2014 (the "*Amendment Date*"), by and among the CITY OF COLORADO SPRINGS, COLORADO (the "*Issuer*"), WELLS FARGO BANK, NATIONAL ASSOCIATION, as Tender Agent under the Tender Agent Agreement and as Paying Agent under the Paying Agent Agreement (together with any successors thereto, the "*Tender Agent*" or the "*Paying Agent*" as the context may require), and ROYAL BANK OF CANADA (together with its permitted successors and assigns, the "*Bank*"), acting by and through its branch located at 200 Vesey Street, New York, New York, 10281-8098 (the "*Branch*"). All capitalized terms herein and not defined herein shall have the meanings set forth in the hereinafter defined Agreement.

WITNESSETH

WHEREAS, the Issuer, the Tender Agent and the Bank, acting through the Branch, have entered into a Standby Bond Purchase Agreement dated September 20, 2011, as amended by the First Amendment to Standby Bond Purchase Agreement dated October 17, 2011 (as the same may at any time be further amended or modified from time to time, the "*Agreement*"), relating to the Issuer's Variable Rate Demand Utilities System Refunding Revenue Bonds, Series 2009C (the "*Bonds*");

WHEREAS, pursuant to Sections 9.07(a) of the Agreement, the Agreement may be amended by a written instrument thereto executed by the Issuer, the Tender Agent and the Bank; and

WHEREAS, the Issuer has requested the Bank to extend the scheduled Expiration Date and make certain other amendments to the Agreement and the Bank has agreed to provide such extension and amendments subject to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the premises, the parties hereto hereby agree as follows:

1. AMENDMENTS.

From and after the Amendment Date, and upon the satisfaction of the conditions precedent set forth in Section 2 hereof, the Agreement is amended as follows:

1.01. The definition of the term "*Expiration Date*" set forth in Section 1.01 of the Agreement is hereby amended and restated in its entirety as follows:

"Expiration Date" means the later of (a) 5:00 p.m., New York time, on September 18, 2017 or, if such day is not a Business Day, the Business Day next succeeding such day, and (b) 5:00 p.m., New York time, on the last day of any extension of

such date pursuant to Section 2.12(b) hereof or, if such last day is not a Business Day, the Business Day next preceding such day.

1.02. Section 1.01 of the Agreement is hereby amended by the addition of the following defined terms “*Bank Agreement*,” “*Debt*,” “*First Lien Debt*,” “*OFAC*,” “*Parity Debt*” and “*Revenues Secured Debt*” in the appropriate alphabetical sequence and which will appear as follows:

“*Bank Agreement*” means each Standby Bond Purchase Agreement among the Issuer, the Tender Agent, the Paying Agent and the Bank, which provides liquidity support for any bonds of the Issuer.

“*Debt*” of any Person means, without duplication, (i) all obligations of such Person evidenced by bonds, debentures, notes, securities or other similar instruments, (ii) all obligations of such Person for borrowed money, (iii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (iv) obligations of such Person as lessee under any lease of property, real or personal, that, in accordance with GAAP, would be required to be capitalized on a balance sheet of the lessee thereof, (v) obligations of such Person to reimburse or repay any bank or other Person in respect of amounts paid or advanced under a letter of credit, credit agreement, liquidity facility or other instrument, (vi) all obligations of such Person to purchase securities (or other property) which arise out of or in connection with the sale of the same or substantially similar securities or property or obligations for the deferred purchase price of property or services (other than trade accounts payable occurring in the ordinary course of business), (vii) all Debt of others secured by a Lien on any asset of such Person whether or not such Debt is assumed by such Person, (viii) any obligation of such Person guaranteeing or in effect guaranteeing any other Debt, whether directly or indirectly, and (ix) all obligations arising under or pursuant to any Financial Products Agreement.

“*First Lien Debt*” means any bonded indebtedness or other Debt of the Issuer secured by or payable from the Net Pledged Revenues on a basis that is senior to the Bonds.

“*OFAC*” has the meaning assigned to such term in Section 9.18 hereof.

“*Parity Debt*” means Debt of the Issuer payable from or secured by Net Pledged Revenues and described in clauses (i), (iv),

(v) and (ix) of the definition of “Debt” herein (and in the case of clause (iv) of the definition of “Debt” herein, excluding any lease, the obligation under which is subject to appropriation at the discretion of the Issuer, and in the case of obligations arising under or pursuant to any Financial Products Agreement as described in clause (ix) of the definition of “Debt” herein, only with respect to (1) Financial Products Agreements that provide interest rate support and (2) obligations that constitute Financial Products Payments that relate to obligations described in clause (i) of the definition of “Debt” herein) the payment of which is secured by a pledge of or Lien on Net Pledged Revenues senior to or on a parity with the payment of the Bonds (including Bank Bonds).

“*Revenues Secured Debt*” means any Debt secured by a pledge of and Lien on all or any portion of the Net Pledged Revenues on a basis that is senior to or on a parity with the Bonds.

1.03. Section 5.16 of the Agreement is hereby amended and restated in its entirety as follows:

Section 5.16. Security; First Lien Debt. (a) The Ordinance creates, for the benefit and security of the Bonds including, without limitation, the Bank Bonds, the legally valid and binding Lien on and pledge of the Net Pledged Revenues and the funds which are from time to time on deposit pursuant to the Ordinance as set forth therein. There is no Lien on the Net Pledged Revenues on a parity or superior to with the Lien created by the Ordinance other than the Lien on and pledge of Net Pledged Revenues created for the holders of the Parity Bonds, for any Parity Credit Facility Obligations, for any Parity Financial Products Agreements or any Reserve Fund Insurance Policy. The Ordinance does not permit the issuance of any debt secured by the Net Pledged Revenues to rank senior to the Bonds, the Parity Bonds or the Bank Bonds. The payment of Bank Bonds, whether characterized in this Agreement as interest or as principal, ranks on a parity with the payment of principal of and interest on the Bonds that are not Bank Bonds and any such payments are not subordinate to any other payment secured by a Lien on the Net Pledged Revenues or the funds which are from time to time on deposit pursuant to the Ordinance. No filing, registering, recording or publication of the Ordinance or any other instrument (not heretofore accomplished) is required to establish the pledge under the Ordinance or to perfect, protect or maintain the Lien created thereby on the Net Pledged Revenues and the funds which are from time to time on deposit pursuant to the Ordinance. In addition to the foregoing, the Facility Fee shall be deemed and

treated by the Issuer as an “Operation and Maintenance Expense,” as such term is defined in the Ordinance.

(b) As of the Effective Date, there is no First Lien Debt Outstanding and the Issuer covenants not to issue or incur any First Lien Debt without the prior written consent of the Bank.

1.04. Section 6.01(cc) of the Agreement is hereby amended and restated in its entirety as follows:

(cc) *Ratings.* The Issuer shall not permit any long-term rating by Moody’s, S&P or Fitch of the Bonds or any unenhanced Parity Bonds to be withdrawn or suspended or reduced below “A3” (or its equivalent), “A-” (or its equivalent) or “A-” (or its equivalent), respectively.

1.05. Section 6.01 of the Agreement is hereby amended by adding thereto a new subsection (ee) to appear in the appropriate alphabetical sequence and to read as follows:

(ee) *Preservation of Liens.* The Issuer shall take all necessary action to maintain and preserve the Lien on the Net Pledged Revenues and the funds which are from time to time on deposit pursuant to the Ordinance to secure the Bank Bonds, all other amounts owing to the Bank hereunder and the Bonds on a parity with the Parity Bonds and Parity Credit Facility Obligations.

1.06. Section 6.01 of the Agreement is hereby amended by adding thereto a new subsection (ff) to appear in the appropriate alphabetical sequence and to read as follows:

(ff) *Issuance of Additional Revenues Secured Debt.* The Issuer shall issue additional Revenues Secured Debt only as permitted by the Ordinance; *provided*, in accordance with Section 5.16, no First Lien Debt may be issued by the Issuer without the prior written consent of the Bank.

1.07. Section 6.01 of the Agreement is hereby amended by adding thereto a new subsection (gg) to appear in the appropriate alphabetical sequence and to read as follows:

(gg) *Ordinance a Contract.* The provisions of the Ordinance constitute a contract among the Issuer, the owner or owners of the Bonds and the Bank, and any such owner or owners, or the Bank, may at law or in equity, by suit, action, mandamus or other proceedings, enforce and compel the performance of all duties required to be performed by the Issuer arising under the Ordinance.

1.08. Section 8.01(a)(ii) of the Agreement is hereby amended and restated in its entirety as follows:

(ii) *Other Payments.* The Issuer shall fail to pay when due any amount owing under Section 2.13, Section 2.14 or Section 9.03 hereof, under any other Bank Agreement or under the Fee Letter and any amounts payable in connection with the Bonds or any Parity Bonds other than those described in Section 8.02(a)(i); or

1.09. Section 8.01(a)(iv) of the Agreement is hereby amended and restated in its entirety as follows:

(iv) *Certain Covenants.* The Issuer shall default in the due performance or observance of any of the covenants set forth in Section 6.01(a), (d)(i), (e), (f), (g), (h)(ii), (j), (l), (m)(ii), (n), (o), (u), (x), (z), (aa), (bb) or (ff) hereof; or

1.10. Section 8.01(a) of the Agreement is hereby amended by replacing the period at the end of clause (viii) with “; or” and by adding thereto a new subsection (ix) to appear in the appropriate numerical sequence and to read as follows:

(ix) (x) Any principal or any payment with respect to any Debt of the Issuer, in an aggregate amount not less than \$10,000,000, which is secured by a pledge of and Lien on all or any portion of the Net Pledged Revenues, or any interest or premium on such Debt, is not paid when due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), subject to the expiration of any applicable grace or cure period (it being understood by the Bank that default, for purposes of this paragraph (ix), does not mean a situation in which the Issuer contests in good faith its liability with respect to such Debt), or (y) the occurrence of any event under any ordinance, resolution, instrument or agreement giving rise to any Debt secured by a pledge of and Lien on all or any portion of the Net Pledged Revenues, which results in or would entitle the obligee thereof or a trustee on behalf of such obligee to declare the acceleration of any maturity thereof, or upon the lapse of time or the giving of notice or both would entitle the obligee thereof or a trustee on behalf of such obligee to accelerate any maturity thereof, or which results in the forfeiture by the Issuer of any of its rights under any such ordinance, resolution, instrument or agreement.

1.11. Section 8.02(a) of the Agreement is hereby amended by replacing the period at the end of clause (vi) with “; or” and by adding a new subparagraph (vii) to appear in the appropriate numerical sequence and to read as follows:

(vii) *Parity Debt.* The Issuer shall fail to pay when due (whether by scheduled maturity, required prepayment, redemption or otherwise) any Parity Debt (other than a failure to pay any amount described in clause (v) of the definition of “Debt” which has been accelerated pursuant to the terms of the applicable agreement), or any interest or premium thereon, and such failure shall continue beyond any applicable grace period specified in any resolution, indenture, agreement, contract or instrument pursuant to which such Parity Debt has been issued, or pursuant to the provisions of such resolution, indenture, agreement, contract or instrument the maturity of such Parity Debt, as a result of a payment default with respect thereto, is accelerated or required to be prepaid prior to the stated maturity thereof.

1.12. Article IX of the Agreement is hereby amended by, adding thereto a new Section 9.18 to appear in the appropriate numerical sequence and to read as follows:

Section 9.18. OFAC. The Issuer shall (a) ensure that no person who owns a controlling interest in or otherwise controls the Issuer is the subject of any sanctions administered or enforced by or will be listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by, the Office of Foreign Assets Control (“OFAC”), the Department of the Treasury or included in any Executive Orders, that prohibits or limits the Bank from making any advance or extension of credit to the Issuer or from otherwise conducting business with the Issuer and (b) ensure that the Bond proceeds shall not be used to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto.

2. CONDITIONS PRECEDENT.

This Amendment will become effective as of the Amendment Date subject to the satisfaction of or waiver by the Bank of all of the following conditions precedent:

2.01. Delivery by the Issuer and the Tender Agent and Paying Agent of an executed counterpart of this Amendment.

2.02. Delivery by the Issuer of an executed counterpart of the First Amendment to Fee Letter dated as of the date hereof (the “*Fee Letter Amendment*”), between the Issuer and the Bank.

2.03. The following statements will be true and correct as of the date hereof:

(a) the representations and warranties of the Issuer contained in the Agreement, as amended hereby, and each of the Related Documents are true and correct on and as of the date hereof as though made on and as of such date (except to the extent the same expressly relate to an earlier date, in which case they were true and correct as of such earlier date); and

(b) no Default or Event of Default has occurred and is continuing or would result from the execution of this Amendment.

2.04. Payment on the Amendment Date of the fees of special U.S. and Canadian counsel to the Bank pursuant to the Fee Letter Amendment.

2.05. Delivery to the Bank on the Amendment Date of an opinion of counsel to the Issuer addressed to the Bank and in form and substance satisfactory to the Bank and its counsel.

2.06. All other legal matters pertaining to the execution and delivery of this Amendment and the Fee Letter Amendment will be reasonably satisfactory to the Bank and its counsel.

3. REPRESENTATIONS AND WARRANTIES OF THE ISSUER.

In addition to the representations given in Article V of the Agreement, the Issuer hereby represents and warrants as follows:

3.01. The execution, delivery and performance by the Issuer of the Fee Letter, as amended by the Fee Letter Amendment, this Amendment and the Agreement, as amended hereby, are within its respective powers, have been duly authorized by all necessary action and do not contravene any law, rule or regulation, any judgment, order or decree or any contractual restriction binding on or affecting the Issuer.

3.02. No Default or Event of Default has occurred and is continuing under the Agreement or would result from the execution of this Amendment or the Fee Letter Amendment. No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution, delivery and performance by the Issuer of the Fee Letter Amendment or the Fee Letter as amended thereby, this Amendment or the Agreement, as amended hereby.

3.03. The Fee Letter Amendment, the Fee Letter as amended thereby, this Amendment and the Agreement, as amended hereby, constitute legal, valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their respective terms, except that (i) the enforcement thereof may be limited by principles of sovereign immunity and by bankruptcy, reorganization, insolvency, liquidation, moratorium and other laws relating to or affecting the enforcement of creditors' rights and remedies generally, as the same may be applied in the event of the bankruptcy, reorganization, insolvency, liquidation or similar situation of the Issuer, and (ii) no representation or warranty is expressed as to the availability of equitable remedies.

4. MISCELLANEOUS.

Except as specifically amended hereby, the Agreement will continue in full force and effect in accordance with its terms. Reference to this Amendment need not be made in any note, document, agreement, letter, certificate, the Agreement or any communication issued or made subsequent to or with respect to the Agreement, it being hereby agreed that any reference to the Agreement will be sufficient to refer to, and will mean and be a reference to, the Agreement, as amended hereby. In case any one or more of the provisions contained herein is invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein will not in any way be affected or impaired thereby. THIS AMENDMENT WILL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF COLORADO.

This Amendment may be simultaneously executed in several counterparts, each of which will be an original and all of which will constitute but one and the same instrument. This Amendment may be delivered by the exchange of signed signature pages by facsimile transmission or by e-mail with a pdf copy or other replicating image attached, and any printed or copied version of any signature page so delivered shall have the same force and effect as an originally signed version of such signature page.

[SIGNATURE PAGE TO FOLLOW.]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their respective officers as of the Amendment Date. Signature of this Amendment by the Mayor is undertaken by him in his capacity as head of the City government and as a ministerial function pursuant to Section 4-10 of the City Charter.

CITY OF COLORADO SPRINGS, COLORADO

By: _____

Name: Steve Bach

Title: Mayor

Utilities Chief Executive Officer

Chair, Board of Directors for Utilities

(SEAL)

Attest:

By: _____
City Clerk

APPROVED AS TO FORM

By: _____
City Attorney

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Tender Agent and Paying Agent

By: _____
Name: _____
Title: _____

ROYAL BANK OF CANADA

By: _____

Name: Bhanu Patil

Title: Authorized Signatory