

ORDINANCE NO. 18-___

AN ORDINANCE OF THE CITY OF COLORADO SPRINGS, COLORADO PROVIDING FOR THE REFUNDING OF CERTAIN OUTSTANDING UTILITIES SYSTEM REVENUE BONDS OF THE CITY AND ESCROW THEREFOR; PROVIDING FOR THE REFUNDING OF CERTAIN OUTSTANDING COMMERCIAL PAPER NOTES OF THE CITY; PROVIDING FOR THE EXTENSION, BETTERMENT, OTHER IMPROVEMENT AND EQUIPMENT OF THE CITY OF COLORADO SPRINGS UTILITIES SYSTEM; PROVIDING FOR THE ISSUANCE AND SALE OF THE CITY OF COLORADO SPRINGS, COLORADO, UTILITIES SYSTEM REFUNDING REVENUE BONDS, SERIES 2018A-1 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$150,000,000, UTILITIES SYSTEM REFUNDING REVENUE BONDS, SERIES 2018A-2 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$55,000,000, UTILITIES SYSTEM REFUNDING REVENUE BONDS, SERIES 2018A-3 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$6,000,000 AND UTILITIES SYSTEM IMPROVEMENT REVENUE BONDS, SERIES 2018A-4 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$70,000,000, PAYABLE SOLELY OUT OF THE NET REVENUES TO BE DERIVED FROM THE OPERATION OF THE CITY OF COLORADO SPRINGS UTILITIES SYSTEM; AUTHORIZING THE EXECUTION BY THE CITY OF A PAYING AGENT AGREEMENT, AN ESCROW AGREEMENT, BOND PURCHASE AGREEMENTS AND AN OFFICIAL STATEMENT; AND PROVIDING OTHER MATTERS RELATING THERETO.

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 22, 2018 and is scheduled to be considered for final passage on second reading at the regular meeting of the Council to be held on June 12, 2018. 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 (collectively the “System”), the outstanding Series 1998 Subordinate Lien Bond (the “Series 1998 CWRPDA Bond”) and the outstanding Series 2009E Bond (the “Series 2010 CWRPDA Bond”) issued by the City to the Colorado Water Resources and Power Development Authority and the outstanding Series 2000A, 2000B, 2002C, 2005A, 2006A, 2006B, 2007A, 2007B, 2008A, 2008B, 2008D, 2009A, 2009B-1, 2009B-2, 2009C, 2009D-2, 2010A-1, 2010A-2, 2010B-2, 2010C, 2010D-2, 2010D-3, 2010D-4, 2011A, 2012A, 2012B, 2012C-1, 2012C-2, 2013A, 2013B-1, 2013B-2, 2014A-1, 2014A-2, 2015A, 2017A-1, Bonds of the City (the Series 1998 CWRPDA Bond, the Series 2010 CWRPDA Bond and the Series 2000A, 2000B, 2002C, 2005A, 2006A, 2006B, 2007A, 2007B,

2008A, 2008B, 2008D, 2009A, 2009B-1, 2009B-2, 2009C, 2009D-2, 2010A-1, 2010A-2, 2010B-2, 2010C, 2010D-2, 2010D-3, 2010D-4, 2011A, 2012A, 2012B, 2012C-1, 2012C-2, 2013A, 2013B-1, 2013B-2, 2014A-1, 2014A-2, 2015A, 2017A-1, 2017A-2 and 2017A-3 Bonds collectively, the “Outstanding Parity Bonds”), payable from the gross revenues derived from the operation of the System (“Gross Pledged Revenues”), after provision is made for the payment of the operation and maintenance expenses of the System (“Net Pledged Revenues”), the proposal to current refund all of the 2006A Bonds and 2007B Bonds, (collectively, the “2006A/2007A Bonds”) to be set forth in a supplemental certificate and issuing therefor its City of Colorado Springs, Colorado, Utilities System Refunding Revenue Bonds, Series 2018A-1 (the “Series 2018A-1 Bonds”), the proposal to current refund all of the outstanding Series A-B Commercial Paper Notes and issuing therefor its Colorado Springs, Colorado, Utilities System Refunding Revenue Bonds, Series 2018A-2 (the “Series 2018A-2 Bonds”), the proposal to current refund all or a portion of the 2008B Bonds if authorized in a supplemental certificate and issuing therefor its City of Colorado Springs, Colorado, Utilities System Refunding Revenue Bonds, Series 2018A-3 (the “Series 2018A-3 Bonds”), the proposal to extend, better, otherwise improve and equip the System and issuing therefor its Colorado Springs, Colorado, Utilities System Improvement Revenue Bonds, Series 2018A-4 (the “Series 2018A-4 Bonds,” and together with the Series 2018A-1 Bonds, Series 2018A-2 Bonds and the 2018A-3 Bonds, the “Bonds”) and the compliance with the conditions in the ordinances authorizing the Outstanding Parity Bonds for issuance of additional parity securities.

ARTICLE I

This article sets forth definitions of terms used in the Ordinance, ratifies action theretofore taken, repeals inconsistent action theretofore taken, if any, provides for the severability and irrevocability of the Ordinance, provides 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 the final adoption of the Ordinance, provides 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 the summary written by me pursuant to the Charter.

ARTICLE II

This article states the authority for the Ordinance, that the Bonds are equally secured and constitute special obligations of the City payable solely out of the Net Pledged Revenues and shall not constitute an indebtedness or a debt of the City within the meaning of any constitutional or statutory provision or limitation, that the Bonds shall not give rise to recourse against officers, employees or other agents of the City, that the refunding of the 2006A/2007B Bonds, the Series A-B Commercial Paper Notes and the 2008B Bonds and the termination of the interest rate exchange agreement related to the 2008A Bonds and 2007B Bonds are authorized, confirms the enterprise status of the Utilities, authorizes the sale of the Bonds to J.P. Morgan Securities LLC, Goldman Sachs & Co. LLC and Stifel, Nicolaus & Company, Incorporated pursuant to bond purchase agreements, approves the terms of an escrow agreement (relating to the 2018A-3 Bonds), a continuing disclosure undertaking and a paying agent agreement relating to the Bonds, authorizes the preparation of a final official statement with respect to the Bonds and delegates to the Acting Chief Executive Officer, the Chief Planning and Finance Officer and the General Manager of Financial Services of the Utilities the power to approve the rates of interest, purchase

price, principal amount, maturity schedule and mandatory sinking fund schedule for the Bonds and the maturities and principal amount of the 2006A Bonds, 2007B Bonds and 2008B Bonds to be refunded, subject to certain specified parameters.

ARTICLE III

This article authorizes the Bonds, provides that they will be payable to the registered owners thereof, are dated as of the date of their delivery, consist of Bonds in the denominations of \$5,000 and any integral multiple thereof, and that interest is payable on May 15 and November 15 of each year, commencing November 15, 2019.

This article provides the Bonds mature on November 15 in the years and in the amounts and bear interest at the rates per annum to be set forth in a supplemental certificate and that the Bonds maturing in the years, if any, set forth in such supplemental certificate are subject to mandatory sinking fund redemption in the amounts set forth in such supplemental certificate. It provides the Bonds are subject to redemption at the option of the City on November 15 of the years set forth in a supplemental certificate at a redemption price equal to 100% of the principal amount thereof plus accrued interest thereon to the redemption date.

The article also provides for the manner of giving notice of prior redemption and its content, gives details as to the execution of Bonds, makes provisions for the registration, authentication, transfer, exchange and reissuance of Bonds, and provides for the issuance of the Bonds as book entry bonds. The article also states that pursuant to the State constitution, the Supplemental Public Securities Act and the Ordinance, the recital in each Bond that it is issued under the authority of the Ordinance and the Supplemental Public Securities Act shall conclusively impart full compliance with all the provisions of the Ordinance and that all the Bonds issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value.

ARTICLE IV

This article provides for the disposition of net Bond proceeds, including the deposit of the proceeds of the 2018A-3 Bonds to an escrow fund (the "Escrow Fund") and the deposit of the proceeds of each subseries of the Bonds to an income fund (the "Income Fund"). This article also provides for the use of such moneys in the Escrow Fund and the Income Fund and authorizes the prior redemption of the 2006A Bonds, 2007B Bonds and 2008B Bonds to be refunded and sets forth forms of notices to be given to the Holders of such refunded securities.

ARTICLE V

This article provides for deposits into the Income Fund and for the use of that fund for the operation and maintenance expenses of the System, for monthly deposits to a bond fund (the "Bond Fund") toward the payment of maturing interest and principal requirements, payments to the provider of a reserve fund insurance policy of any amounts necessary to replenish the Reserve Fund requirement, payments into a rebate fund, payment of additional securities and use of remaining revenues. This article also provides the City may at any time substitute cash or investment securities for a reserve fund insurance policy or a reserve fund insurance policy for cash or investment securities, so long as the amount on deposit in the Reserve Fund after such

substitution is at least equal to the Reserve Fund requirement. The Reserve Fund requirement is established as the average annual interest requirements on the Bonds.

ARTICLE VI

This article provides for the general administration of the accounts established by the Ordinance, details, places and times of deposits, limitations on investments and the deposit and disbursement of moneys.

ARTICLE VII

This article declares that the Bonds, subject to the payment of all necessary and reasonable operation and maintenance expenses of the System, constitute an irrevocable lien (but not necessarily an exclusive lien) upon the Net Pledged Revenues. This article also states that nothing in the Ordinance prevents the City from issuing subordinate securities, nor permits the City to issue additional securities having a lien on the Net Pledged Revenues superior to the lien thereon of the Bonds. It provides that parity lien securities may be issued, subject to certain limitations and adjustments, when the Net Pledged Revenues derived in the fiscal year immediately preceding the date of the issuance of such parity securities shall have been at least sufficient to pay an amount equal to 130% of the average annual principal and interest requirements, as defined in the Ordinance, of the Bonds, the Outstanding Parity Bonds, any other outstanding parity lien securities and the proposed parity lien securities. With respect to Capital Additions, as defined in the Ordinance, prior to the date on which either none of the 2000A, 2000B or 2002C Bonds are outstanding or the consent of the holders of 66% in aggregate principal amount of each series of the 2000A, 2000B and 2002C Bonds then outstanding is obtained (the "Effective Date"), certain additional requirements must be satisfied. This article further permits the issuance of refunding securities, subject to bondholder consent, or without such consent by meeting the parity lien earnings test or meeting certain other conditions. This article also provides that on and after the Effective Date parity lien securities may be issued for Capital Additions upon satisfaction of the 130% coverage requirement referred to above, without meeting the additional requirements that apply prior to the Effective Date.

ARTICLE VIII

This article sets forth covenants of the City with the bondholders relating to the proper performance of duties by the City, meeting all contractual obligations under the Ordinance, taking such further steps as are necessary to protect the Bonds and their security, assuring that all necessary prior action has been taken at this time, operating and maintaining the System in good order, establishing reasonable rules and regulations governing the operation and use of the System, paying any necessary governmental charges that may from time to time occur, maintaining the corporate existence of the City, limiting the disposal of any of the System by sale, lease, mortgage or otherwise but permitting disposal of parts of the System subject to certain conditions, and, after the Effective Date, less restrictive conditions, restricting City action in permitting competing facilities, providing for action to be taken in the event of loss from condemnation, providing for employment of management engineers in the event of certain defaults, requiring annual budgeting, requiring the charges made by the City for the use of the System to be reasonable and requiring the Gross Pledged Revenues to be adequate to pay in each

fiscal year an amount equal to the annual operation and maintenance expenses for such fiscal year plus an amount equal to 130% of the annual principal and interest on the Bonds, the Outstanding Parity Bonds, and any other parity securities then Outstanding payable from the Net Pledged Revenues, together with meeting any deficiencies. Free service is prohibited and the City itself is required to make payments for the use of the System, subject to certain exceptions. This article provides for imposition and collection of charges consistent with the Ordinance and for annual audits. Except to the extent of any self insurance, the City is required by this article to at all times maintain fire and extended coverage insurance, worker's compensation insurance, public liability insurance, and all such other insurance as is customarily maintained with respect to utilities of like character. This article also provides for expeditious repair and replacement of damaged property of the System. The City further covenants that the City will make no use of the proceeds of the Bonds (or other funds of the City) or any facilities refinanced with the proceeds of the Bonds which will cause the interest on the Bonds to lose its exclusion from gross income or alternative minimum taxable income for federal income tax purposes under the Internal Revenue Code. This article also requires the City to annually provide certain financial information and financial statements pursuant to a separate Continuing Disclosure Undertaking to designated entities to comply with the requirements of the Securities and Exchange Commission and provides covenants with respect to the Surety Bond to be issued by Assured Guaranty Municipal Corp. in connection with the reserve fund for the Bonds.

ARTICLE IX

This article provides for bondholder remedies, sets forth events of default relating to the Bonds and the performance of duties under the Ordinance, permits the appointment of receivers and trustees and grants privileges to bondholders in initiating action after default as well as imposing obligations on the City upon default.

ARTICLE X

This article provides for amendment of the Ordinance in certain circumstances without bondholder consent and in certain other circumstances with the written consent of the holders of, prior to the Effective Date, not less than 66% in aggregate principal amount of the Bonds then outstanding and, after the Effective Date, not less than a majority in aggregate principal amount of all of the Outstanding Parity Bonds, the Bonds and any other parity securities. The article goes on to list certain matters as to which there shall be no amendment, absent unanimous consent, and for the manner of giving notice of amendment and receiving consents to amendment, where amendment is permitted.

ARTICLE XI

This article provides for defeasance of the requirements of the Ordinance whenever the Bonds shall be fully paid and all amounts owed to any provider of a reserve fund insurance policy have been paid and whenever the City has placed in escrow or in trust amounts sufficient, with a known minimum yield from investment in direct obligations of the United States, or obligations guaranteed by the United States, to meet all requirements of the Bonds. The article authorizes the officers of the City to take all action necessary and appropriate to effectuate the provisions of the Ordinance and to furnish certification reasonably required by the purchaser.

The article sets forth the manner in which proof of ownership of Bonds shall be evidenced. The article provides that the Paying Agent for the Bonds may resign or be removed by the City and, in such circumstance, that the City may replace the Paying Agent.

EXHIBITS

Exhibits A, B, C and D to the Ordinance set forth in full the forms of the Series 2018A-1 Bonds, Series 2018A-2 Bonds, Series 2018A-3 Bonds and Series 2018A-4, respectively.

This statement and summary were written by me on May 22, 2018.

/s/ Sarah B. Johnson

Sarah B. Johnson, City Clerk
City of Colorado Springs