

ORDINANCE NO. 17-\_\_

AN ORDINANCE OF THE CITY OF COLORADO SPRINGS, COLORADO APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE STANDBY BOND PURCHASE AGREEMENT AMONG THE CITY OF COLORADO SPRINGS, COLORADO, WELLS FARGO BANK, NATIONAL ASSOCIATION, AS TENDER AGENT, AND BARCLAYS BANK PLC, THE STANDBY LETTER OF CREDIT AND REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS, COLORADO AND SUMITOMO MITSUI BANKING CORPORATION, ACTING THROUGH ITS NEW YORK BRANCH, THE FEE AGREEMENTS BETWEEN THE CITY OF COLORADO SPRINGS, COLORADO AND SUCH BANKING ORGANIZATIONS, AND THE OFFICIAL STATEMENTS FOR THE UTILITIES SYSTEM REVENUE BONDS PREVIOUSLY ISSUED BY THE CITY TO WHICH THE AGREEMENTS RELATE; RATIFYING CERTAIN ACTION HERETOFORE TAKEN.

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, pursuant to Ordinance No. 10-78 (the "2010C Bond Ordinance"), the City has previously issued its City of Colorado Springs, Colorado, Variable Rate Demand Utilities System Improvement Revenue Bonds, Series 2010C (the "2010C Bonds"); and

WHEREAS, the 2010C Bonds currently bear interest at the Weekly Interest Rate (as defined in the 2010C Bond Ordinance), and pursuant to Section 1210 of the 2010C Bond Ordinance, the City has covenanted to maintain a Liquidity Facility (as defined in the 2010C Bond Ordinance) in full force and effect at any time the 2010C Bonds bear interest at a Weekly Interest Rate; and

WHEREAS, pursuant to Section 1210 of the 2010C Bond Ordinance, the City may elect to replace the Liquidity Facility for 2010C Bonds; and

WHEREAS, the City desires to obtain a Substitute Liquidity Facility (as defined in the 2010C Bond Ordinance) for the 2010C Bonds from Barclays Bank PLC, acting by and through its New York Branch ("Barclays"); and

WHEREAS, the City will enter into a Standby Bond Purchase Agreement with Barclays and Wells Fargo Bank, National Association, as tender agent (the "Tender Agent") to be dated the date of its execution and delivery (the "2010C Credit Facility Agreement") as a Substitute Liquidity Facility for the 2010C Bonds; and

WHEREAS, the City will additionally enter into a fee agreement with Barclays to be dated the date of its execution and delivery (the "2010C Fee Agreement"), which will set forth the fees and charges payable by the City to Barclays in connection with the 2010C Credit Facility Agreement; and

WHEREAS, pursuant to Section 504 of the 2010C Bond Ordinance, the execution and delivery of the 2010C Credit Facility Agreement will result in the mandatory tender and remarketing of the 2010C Bonds; and

WHEREAS, the City will prepare and distribute an Official Statement relating to the 2010C Bonds (the "2010C Official Statement") to be used in connection with the remarketing of the 2010C Bonds; and

WHEREAS, pursuant to Ordinance No. 09-108 (the "2009C Bond Ordinance"), the City has previously issued its City of Colorado Springs, Colorado, Variable Rate Demand Utilities System Refunding Revenue Bonds, Series 2009C (the "2009C Bonds"); and

WHEREAS, the 2009C Bonds currently bear interest at the Weekly Interest Rate (as defined in the 2009C Bond Ordinance), and pursuant to Section 1210 of the 2009C Bond Ordinance, the City has covenanted to maintain a Liquidity Facility (as defined in

the 2009C Bond Ordinance) in full force and effect at any time the 2009C Bonds bear interest at a Weekly Interest Rate; and

WHEREAS, pursuant to Section 1210 of the 2009C Bond Ordinance, the City may elect to replace the Liquidity Facility for 2009C Bonds; and

WHEREAS, the City desires to obtain a Substitute Liquidity Facility (as defined in the 2009C Bond Ordinance) for the 2009C Bonds from Sumitomo Mitsui Banking Corporation, acting through its New York Branch (“SMBC”); and

WHEREAS, the City will enter into a Standby Letter of Credit and Reimbursement Agreement with SMBC to be dated as of September 1, 2017 (the "2009C Credit Facility Agreement" and, together with the 2010C Credit Facility Agreement, the “Credit Facility Agreements”) as a Substitute Liquidity Facility for the 2009C Bonds; and

WHEREAS, the City will additionally enter into a fee agreement with SMBC to be dated the date of its execution and delivery (the "2009C Fee Agreement" and, together with the 2010C Fee Agreement, the “Fee Agreements”), which will set forth the fees and charges payable by the City to SMBC in connection with the 2009C Credit Facility Agreement; and

WHEREAS, pursuant to Section 504 of the 2009C Bond Ordinance, the execution and delivery of the 2009C Credit Facility Agreement will result in the mandatory tender and remarketing of the 2009C Bonds; and

WHEREAS, the City will prepare and distribute an Official Statement relating to the 2009C Bonds (the "2009C Official Statement" and, together with the 2010C Official Statement, the “Official Statements”) to be used in connection with the remarketing of the 2009C Bonds; and

WHEREAS, the Council has determined that the public interest and necessity require the City to enter into the Credit Facility Agreements and the Fee Agreements; and

WHEREAS, there have been presented to the Council the proposed forms of the Credit Facility Agreements, the Fee Agreements and the Official Statements.

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 (a) obtaining a Substitute Liquidity Facility under the 2010C Ordinance in the form of the 2010C Credit Facility Agreement, and (b) obtaining a Substitute Liquidity Facility under the 2009C Ordinance in the form of the 2009C Credit Facility Agreement.

Section 2. Approval of the Credit Facility Agreements and the Fee Agreements. The forms, terms and provisions of the Credit Facility Agreements and the Fee Agreements are hereby approved. The City shall enter into the Credit Facility Agreements and the Fee Agreements in the forms 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 are hereby authorized and directed to execute and deliver the Credit Facility Agreements and the Fee Agreements.

Section 3. Substitute Liquidity Facilities. The officers and employees of the City and the Utilities of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this ordinance, including, without limitation, all action necessary to (a) institute the 2010C Credit Facility Agreement as a Substitute Liquidity Facility under the 2010C Ordinance, and (b) institute the 2009C Credit Facility Agreement as a Substitute Liquidity Facility under the 2009C Ordinance.

Section 4. Official Statements. The preparation, electronic posting and distribution of the Official Statements in substantially the form presented to the Council at this meeting is hereby authorized. The Chief Executive Officer of the Utilities and the Chief Planning and Finance Officer of the Utilities are hereby authorized to approve, on behalf of the City, the Official Statements. The execution of the Official Statements by such persons shall be conclusively deemed to evidence the approval of the form and contents thereof by the City.

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, APPROVED AND ORDERED PUBLISHED BY TITLE AND SUMMARY THIS 25TH DAY OF JULY, 2017.

**FINALLY PASSED:** \_\_\_\_\_, 2017

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Richard Skorman, Council President

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John W. Suthers, Mayor

ATTEST:

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Sarah B. Johnson, City Clerk

(Attach Affidavit of Publication, by Title and Summary,  
of Ordinance No. 17-\_\_ upon First Reading)

(Attach Affidavit of Publication, by Title and Summary,  
of Ordinance No. 17-\_\_ upon Second Reading)