

ORDINANCE NO. 18-__
(2018)

AN ORDINANCE AUTHORIZING THE ISSUANCE BY THE CITY OF COLORADO SPRINGS, COLORADO, ACTING BY AND THROUGH ITS PIKES PEAK – AMERICA’S MOUNTAIN ENTERPRISE, OF ITS PIKES PEAK – AMERICA’S MOUNTAIN ENTERPRISE REVENUE BONDS, SERIES 2018 IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$33,000,000 FOR THE PURPOSE OF FINANCING A PORTION OF THE COSTS OF CONSTRUCTING A NEW PIKES PEAK SUMMIT COMPLEX; PROVIDING THE FORM, TERMS AND CONDITIONS OF SAID SERIES 2018 BONDS, THE MANNER AND TERMS OF THEIR ISSUANCE, THE MANNER OF THEIR EXECUTION, THE METHOD OF PAYING THEM AND THE SECURITY THEREFOR FROM THE NET PLEDGED REVENUES OF THE SYSTEM OF THE PIKES PEAK – AMERICA’S MOUNTAIN ENTERPRISE; PROVIDING FOR THE SALE OF SAID SERIES 2018 BONDS; PROVIDING OTHER DETAILS CONCERNING SAID SERIES 2018 BONDS, AND PROVIDING OTHER MATTERS RELATING THERETO; AND APPROVING OTHER DOCUMENTS RELATING THERETO.

WHEREAS, the City of Colorado Springs (the “City”), in the County of El Paso and the State of Colorado (the “State”), is a municipal corporation duly organized and existing as a home-rule city under Article XX of the Constitution of the State and the home rule charter of the City (the “Charter”); and

WHEREAS, the City Council of the City (the “Council”) has previously organized and operated the Pikes Peak – America’s Mountain Enterprise (the “Pikes Peak Enterprise” or the “Enterprise”) as an enterprise under Article 6 of Chapter 14 of the Code of the City of Colorado Springs 2001, as amended; and

WHEREAS, the City declares its intent to hereby ratify and confirm the City’s characterization and operation of the Enterprise as an “enterprise” under Article X, Section 20 of the Colorado Constitution and Section 7-90 of the Charter; and

WHEREAS, Section 7-90 of the Charter provides that an “enterprise” means a government-owned business authorized to issue its own revenue bonds and receiving under 10% of annual revenue in grants from all Colorado state and local governments combined; and

WHEREAS, a portion of Section 7-80 of the Charter provides in part as follows:

However, the Council pursuant to ordinance and without election may:

...

- (2) Borrow money or issue bonds for the purpose of acquiring, constructing, extending or improving water, electric, gas, sewer or other public utilities or income-producing projects; provided, further, that said borrowing shall

be repaid and said bonds shall be made payable solely out of the net revenue derived from the operation of the utility, utilities, or other income-producing projects, or any or all thereof. Net revenue shall mean gross revenue less all operation and maintenance expenses of the project for which the money was borrowed or bonds issued.; and

WHEREAS, for the purpose of financing a portion of the construction of a new Pikes Peak Summit Complex (the “Project”), the Council has determined, and does hereby declare its intent to issue, acting by and through the Enterprise, its Pikes Peak – America’s Mountain Enterprise Revenue Bonds, Series 2018 (the “Series 2018 Bonds”) in a principal amount of not to exceed \$33,000,000; and

WHEREAS, the Council has been presented with a proposal from Stifel, Nicolaus & Company (as hereinafter defined, the “Underwriter”) for the negotiated sale of the Series 2018 Bonds, the final terms and conditions of which are to be set forth in a Bond Purchase Agreement (as hereinafter defined) and the Sale Certificate (as hereinafter defined); and

WHEREAS, the Council desires to delegate to the Mayor, or his designee, the authority to establish various terms of the Series 2018 Bonds, as provided herein and subject to the parameters contained herein; and

WHEREAS, the Series 2018 Bonds are to be payable from, and to have a first and prior (but not exclusive) lien upon the Net Pledged Revenues (as hereinafter defined); and

WHEREAS, upon the issuance of the Series 2018 Bonds, the Series 2018 Bonds are expected to be the only bonds payable from the Net Pledged Revenues (as hereafter defined); and

WHEREAS, in order to reduce its borrowing costs, the City intends to request proposals from one or more insurance companies regarding the issuance of a municipal bond insurance policy to obtain the highest investment grade rating for the Series 2018 Bonds; and

WHEREAS, it is now necessary by ordinance to authorize the issuance, sale and delivery of the Series 2018 Bonds, and to provide details of and the security for the Series 2018 Bonds hereinafter described.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS, COLORADO:

ARTICLE I

SHORT TITLE, DEFINITIONS, INTERPRETATION, RATIFICATION, AUTHENTICATION, PUBLICATION AND EFFECTIVE DATE

Section 1.01. Short Title. This ordinance may be designated by the short title “Pikes Peak Enterprise Revenue Bond Ordinance” (the “Ordinance”).

Section 1.02. Meanings and Construction.

(a) ***Definitions.*** The terms in this Section defined for all purposes of this Ordinance and of any ordinance amendatory hereof or supplemental hereto, and of any other ordinance or any other document appertaining hereto, except where the context by clear implication otherwise requires, shall have the meanings herein specified:

“*Bond Insurer*” means the entity, if any, which issues the Financial Guaranty Insurance Policy and is identified in the Sale Certificate, or any successor thereto.

“*Bond Purchase Agreement*” means the Bond Purchase Agreement pursuant to which the City agrees to sell and the Underwriter agrees to purchase the Series 2018 Bonds at the prices and on the terms set forth therein.

“*Charter*” means the home rule charter of the City.

“*Chief Financial Officer*” means the Chief Financial Officer of the City.

“*City*” means the City of Colorado Springs, Colorado, and its successors, acting by and through the Enterprise.

“*Clerk*” means the City Clerk of the City.

“*Commitment*” means that certain offer to issue the Bond Insurance Policy issued by the Bond Insurer.

“*Continuing Disclosure Undertaking*” means an agreement or undertaking by the City to disseminate certain annual financial information and material event disclosures to various information repositories for the benefit of the holders of the Series 2018 Bonds under Municipal Securities Regulatory Board Rule 15c2-12.

“*Council*” means the City Council of the City.

“*Dated Date*” means the original dated date for the Series 2018 Bonds as established in the Sale Certificate.

“*Enterprise*” or “*Pikes Peak Enterprise*” means, except as hereinafter provided in this paragraph, the Pikes Peak – America’s Mountain Enterprise, which constitutes an enterprise under Article X, Section 20 of the Colorado Constitution and Section 7-90 of the Charter.

“*Enterprise Fund*” means the “City of Colorado Springs Pikes Peak – America’s Mountain Enterprise Fund” reaffirmed in Section 5.01 hereof.

“*Event of Default*” means any of the events stated in Section 10.03 hereof.

“*Federal Securities*” means bills, certificates of indebtedness, notes, bonds or similar securities which are direct obligations of, or the principal and interest of which securities are unconditionally guaranteed by, the United States of America or evidences of such indebtedness which are noncallable at the option of the City thereof.

“*Financial Guaranty Insurance Policy*” means the financial guaranty insurance policy, if any, issued by the Bond Insurer insuring the payment when due of the principal of and interest on the Series 2018 Bonds as provided therein.

“*Fiscal Year*” means the fiscal year of the City.

“*Gross Revenues*” means all income and revenues derived directly or indirectly by the City from the operation and use of and otherwise pertaining to the System, or any part thereof, whether resulting from extensions, enlargements, repairs, betterments or other improvements to the System, or otherwise, and includes all revenues received by the City from the System and for its use, including, without limitation, all payments made by the City for its use of the System, all rentals, fees, rates and other charges for the use of the System, or for any service rendered by the City in the operation thereof, interest and other gain from any investment of moneys accounted for in the various funds and accounts herein provided, and any surplus proceeds of securities payable from the Net Pledged Revenues and any other unrestricted surplus moneys credited to the Enterprise Fund, but:

- (i) Excluding any moneys borrowed and used for the acquisition of capital improvements; and
- (ii) Excluding any moneys received as grants, appropriations or gifts from the Federal Government, the State or other persons, the use of which is limited by the grantor or donor to the construction of capital improvements for the System, except to the extent any such moneys shall be received as payments for the use of the System.

“*Hereby*,” “*herein*,” “*hereinabove*,” “*hereinafter*,” “*hereinbefore*,” “*hereof*,” “*hereto*,” “*hereunder*,” and any similar term refer to this Ordinance and not solely to the particular portion thereof in which such word is used; “*heretofore*” means before the adoption of this Ordinance; and “*hereafter*” means after the adoption of this Ordinance.

“*Independent Accountant*” means any certified public accountant, or any firm of such certified public accountants, duly licensed to practice and practicing as such under the laws of the State, appointed and paid by the Council, in the name of the City, as determined by the Council:

- (i) who is, in fact, independent and not under the domination of the City;
- (ii) who does not have any substantial interest, direct or indirect, with the City, and
- (iii) who is not connected with the City as an officer or employee thereof, but who may be regularly retained to make annual or similar audits of any books or records of the City.

“Independent Rate Consultant” means a nationally recognized individual, firm or corporation of independent rate consultants of recognized good standing and having specific experience in respect of business and properties of a character similar to those of the System, which individual, firm or corporation has no substantial interest, direct or indirect, in the City and in the case of an individual, is not a member of the Council, or an officer or employee of the City, and in the case of a firm or corporation, does not have a partner, director, officer or employee who is a member of the Council or an officer or employee of the City.

“Insured Bank” means a bank which is a member of the Federal Deposit Insurance Corporation.

“Manager” means the manager of the Enterprise.

“Mayor” means the mayor of the City.

“Minimum Bond Reserve” means, with respect to the Series 2018 Bonds, the amount, if any, set forth as such in the Sale Certificate, and, with respect to any additional Parity Bonds, the amount, if any, set forth in the ordinance authorizing the issuance of the same or any similar certificate in connection therewith.

“Net Pledged Revenues” means Gross Revenues less Operations and Maintenance Expenses.

“Official Statement” means the final Official Statement relating to the Series 2018 Bonds.

“Operations and Maintenance Expenses” means all reasonable and necessary current expenses of the City, paid or accrued, of operating, maintaining and repairing the System as may be designated as such; and the term may include at the City’s option (except as limited by law), without limiting the generality of the foregoing, engineering, auditing, reporting, legal and other overhead expenses of the City directly related to the administration, operation and maintenance thereof, insurance and fidelity bond premiums, the reasonable charges of the Paying Agent and any other depository bank pertaining thereto, payments to pension, retirement, health and hospitalization funds, any taxes, assessments or other charges which may be lawfully imposed on the City or its income or operations of any properties under its control and appertaining thereto, ordinary and current rentals of equipment or other property, refunds of any revenues lawfully due to others, expenses in connection with the issuance of bonds or other securities evidencing any loan to the City and payable from Gross Revenues, the expenses and compensation of any trustee or other fiduciary, contractual services and professional services required by this Ordinance, salaries, labor and the cost of materials and supplies used for current operation and all other administrative, general and commercial expenses, but:

- (i) excluding interest and amortization expense and any allowance for depreciation or any amounts for capital replacements;

(ii) excluding the costs of improvements, major repairs, extensions, enlargements and betterments (or any combination thereof) that qualify as capital items in accordance with generally accepted accounting principles, or any reserves therefor;

(iii) excluding any reserves for operation, maintenance or repair of the System;

(iv) excluding any allowance for the redemption of any bond or other security evidencing a loan, or the payment of any interest thereon, or any reserve therefor;

(v) excluding liabilities incurred by the City as the result of its negligence in the operation of the Enterprise or other ground of legal liability not based on contract, or any reserve therefor; and

(vi) excluding any transfers of money to other persons, funds or accounts pursuant to Section 5.09(e) hereof.

“*Ordinance*” means this Ordinance, designated in Section 1.01 hereof by the short title “Pikes Peak Enterprise Revenue Bond Ordinance.”

“*Outstanding*” when used with reference to bonds and as of any particular date means all bonds payable from the Net Pledged Revenues in any manner theretofore and thereupon being executed and delivered:

(i) except any bond paid by the City and canceled by the City, by the Paying Agent, or otherwise on the City’s behalf, at or before said date; provided, however, that any Series 2018 Bond paid by the Bond Insurer, if any, pursuant to the Financial Guaranty Insurance Policy and not paid by the City shall remain Outstanding under this Ordinance until paid as to all principal and interest by the City as provided in Section 9.01 hereof;

(ii) except any bond for the payment or the redemption of which moneys at least equal to the principal amount of, any prior redemption premium due in connection with, and the interest on the bond to the date of maturity or the prior redemption date, shall have theretofore been deposited with a commercial bank in escrow or in trust for that purpose, as provided in Section 9.01 hereof; and

(iii) except any bond in lieu of or in substitution for which another bond shall have been executed and delivered pursuant to Section 3.08, Section 3.09 or Section 11.08 hereof.

“*Parity Bonds*” means bonds or other obligations payable from the Net Pledged Revenues on a parity with the Series 2018 Bonds herein authorized to be issued.

“*Paying Agent*” means U.S. Bank National Association, or such other entity identified as such in the Sale Certificate, or any successor thereto or assignee thereof

approved by the City, acting hereunder as, among other things, paying agent, registrar and authenticating agent.

“Paying Agent Agreement” means an agreement with the Paying Agent concerning the duties and obligations of the Paying Agent with respect to the Series 2018 Bonds.

“Permitted Investments” means any investment in which funds of the City may be invested under the laws of the State and the investment policy of the City in effect at the time of such investment.

“Person” means a corporation, firm, other body corporate, partnership, association or individual, and also includes an executor, administrator, trustee, receiver or other representative appointed according to law.

“Preliminary Official Statement” means the Preliminary Official Statement relating to the Series 2018 Bonds.

“Project Account” means the “City of Colorado Springs, Colorado, Pikes Peak – America’s Mountain Enterprise Revenue Bonds, Series 2018, Project Account.”

“Record Date” means the May 15 or November 15 next preceding each interest payment date with respect to the Series 2018 Bonds.

“Registered Owner” means the Person or Persons in whose name or names a bond shall be registered on the registration books of the City maintained by the Paying Agent.

“Sale Certificate” means the certificate executed by the Mayor, or his designee, within one year of the effective date of this Ordinance under the authority delegated pursuant to this Ordinance, including but not limited to, Sections 3.02, 3.04, 3.07, 4.01 and 4.02 hereof which set forth, among other things, the Dated Date, the principal amount of the Series 2018 Bonds, the interest rates for the Series 2018 Bonds, the annual maturing principal for the Series 2018 Bonds, the dates on which the Series 2018 Bonds may be redeemed, the price or prices at which the Series 2018 Bonds shall be sold to the Underwriter and the use of the proceeds of the Series 2018 Bonds. The Mayor, or his designee, shall also determine whether the Series 2018 Bonds will be secured by the Financial Guaranty Insurance Policy and the terms of any agreement with the Bond Insurer.

“Series 2018 Bonds” means the “City of Colorado Springs, Colorado, Pikes Peak – America’s Mountain Enterprise Revenue Bonds, Series 2018”.

“State” means the State of Colorado.

“Subordinate Bonds” means bonds payable from Net Pledged Revenues subordinate and junior to the lien of the Series 2018 Bonds herein authorized to be issued.

“*Supplemental Act*” means Part 2 of Article 57 of Title 11, Colorado Revised Statutes, as amended.

“*Surety Bond*” means the surety bond, if any, issued by the Bond Insurer in connection with the 2018 Reserve Account.

“*System*” means the income-producing Enterprise facilities now or hereafter owned or operated by the City, within and possibly hereafter without the City, including the improvements owned by the Enterprise upon the Pikes Peak Highway and Recreation Corridor as well as the City’s Pikes Peak Summit House, any additional structures, parking lots, other like income producing facilities and related improvements, including, without limitation, the Project.

“*Tax Code*” means the Internal Revenue Code of 1986, as amended, and any income tax regulations promulgated thereunder.

“*Tax Letter of Instructions*” means the Tax Letter of Instructions, dated the date of delivery of the Series 2018 Bonds, delivered by Kutak Rock LLP to the City, as the same may be superseded or amended as provided in Section 5.10 hereof.

“*Underwriter*” means the entity defined as such in the recitals hereof.

“*Value*” which shall be determined as of the end of each month, means that the value of any investments shall be calculated as follows:

(i) as to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*): the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination;

(ii) as to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or *The New York Times*:
(i) the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the Trustee in its absolute discretion) at the time making a market in such investments or
(ii) the bid price published by a nationally recognized pricing service;

(iii) as to certificates of deposit and bankers acceptances: the face amount thereof, plus accrued interest; and

(iv) as to any investment not specified above: the value thereof as established by prior agreement between the City and the Bond Insurer.

“*2018 Bond Account*” means the “City of Colorado Springs, Colorado, Pikes Peak – America’s Mountain Enterprise Revenue Bonds, Series 2018, Bond Account.”

“*2018 Rebate Account*” means the “City of Colorado Springs, Colorado, Pikes Peak Revenue Bonds, Series 2018, Rebate Account.”

“2018 Reserve Account” means the “City of Colorado Springs, Colorado, Pikes Peak – America’s Mountain Enterprise Revenue Bonds, Series 2018, Reserve Account.”

(b) **Construction.** This Ordinance, except where the context by clear implication herein otherwise requires, shall be construed as follows:

- (i) definitions include both singular and plural;
- (ii) pronouns include both singular and plural and cover all genders;
- (iii) any percentage of Series 2018 Bonds is to be figured on the unpaid principal amount thereof then Outstanding;
- (iv) articles, sections, subsections, paragraphs and subparagraphs mentioned by number, letter, or otherwise, correspond to the respective articles, sections, subsections, paragraphs and subparagraphs of this Ordinance so numbered or otherwise so designated; and
- (v) the titles applied to articles, sections, subsections, paragraphs and subparagraphs of this Ordinance are inserted only as a matter of convenience and ease in reference and in no way define, limit or describe the scope or intent of any provisions of this Ordinance.

Section 1.03. Successors. Whenever herein the City or the Council is named or is referred to, such provision shall be deemed to include any successors of the City or the Council, respectively, whether so expressed or not. All of the covenants, stipulations, obligations and agreements by or on behalf of and other provisions for the benefit of the City or the Council contained herein shall bind and inure to the benefit of any such successors and shall bind and inure to the benefit of any officer, board, district, commission, authority, agent or instrumentality to whom or to which there shall be transferred by or in accordance with law any right, power or duty of the City or the Council or of their respective successors, if any, the possession of which is necessary or appropriate in order to comply with any such covenants, stipulations, obligations, agreements or other provisions hereof.

Section 1.04. Parties Interested Herein. Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any Person, other than the City, the Council, and the Registered Owners of the Series 2018 Bonds any right, remedy or claim under or by reason hereof or any covenant, condition or stipulation hereof. All the covenants, stipulations, promises and agreements herein contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Council, and any Registered Owner of any Series 2018 Bonds.

Section 1.05. Ratification. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Council, the officers of the City and otherwise by the City directed toward the sale and delivery of the City’s Series 2018 Bonds, shall be, and the same hereby is, ratified, approved and confirmed, including without limiting the generality of the foregoing, the public sale of the Series 2018 Bonds and giving notice thereof.

Section 1.06. Ordinance Irrepealable. After any of the Series 2018 Bonds are issued, this Ordinance shall constitute an irrevocable contract between the City and the Registered Owner or Registered Owners of the Series 2018 Bonds; and this Ordinance (subject to the provisions of Article XI hereof), if any Series 2018 Bonds are in fact issued, shall be and shall remain irrepealable until the Series 2018 Bonds and the interest thereon shall be fully paid, canceled and discharged, as herein provided.

Section 1.07. Severability. If any section, subsection, paragraph, clause or other provision of this Ordinance shall for any reason be held to be 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 1.08. Repealer. All bylaws, orders, and other ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, or other ordinance, or part thereof, heretofore repealed.

ARTICLE II

COUNCIL'S DETERMINATIONS

Section 2.01. Authority for this Ordinance. This Ordinance is adopted by virtue of the City's powers as a home rule city organized and operating pursuant to Article XX of the State Constitution and the Charter; and the City hereby ratifies and confirms its operation of the Enterprise as an "enterprise" pursuant to Article X, Section 20 of the State Constitution and Section 7-90 of the Charter; and the City has ascertained and hereby determines that each and every matter and thing as to which provision is made herein is necessary in order to carry out and to effectuate the purposes of the City in accordance with the Charter.

Section 2.02. Ordinance to Constitute Contract. In consideration of the purchase and the acceptance of the Series 2018 Bonds by those who shall hold the same from time to time, the provisions hereof shall be deemed to be and shall constitute contracts between the City and the Registered Owners from time to time of the Series 2018 Bonds; and the covenants and agreements herein set forth to be performed on behalf of the City shall be for the equal benefit, protection and security of the Registered Owners of any and all of the Outstanding Series 2018 Bonds, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any of the Series 2018 Bonds over any other thereof, except as otherwise expressly provided in or pursuant to this Ordinance.

Section 2.03. Special Obligations. All of the Series 2018 Bonds, together with the interest accruing thereon, shall be payable and collectible solely out of the Net Pledged Revenues; the Registered Owner or Registered Owners thereof may not look to any general or other fund for the payment of principal of and interest on such obligations except the herein designated special funds pledged therefor; the Series 2018 Bonds shall not constitute an indebtedness or a debt within the meaning of any constitutional, Charter or statutory provision or limitation; and the Series 2018 Bonds shall not be considered or held to be general obligations of the City but shall constitute its special obligations. None of the covenants, agreements,

representations and warranties contained herein or in the Series 2018 Bonds issued hereunder, in the absence of any breach thereof, shall ever impose or shall be construed as imposing any liability, obligation or charge against the City or its general credit, payable out of its general fund or out of any funds derived from taxation.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND ISSUANCE OF THE SERIES 2018 BONDS

Section 3.01. Authorization of the Series 2018 Bonds. The “City of Colorado Springs, Colorado, Pikes Peak – America’s Mountain Enterprise Revenue Bonds, Series 2018,” in a principal amount of not to exceed \$33,000,000, payable both as to principal and interest solely out of the Net Pledged Revenues, are hereby authorized to be issued pursuant to the City’s powers as a home-rule city, the Constitution of the State of Colorado and the Supplemental Act; and the City pledges irrevocably but not necessarily exclusively, such Net Pledged Revenues to the payment of the Series 2018 Bonds and the interest thereon. In issuing the Series 2018 Bonds, the City is acting by and through its Pikes Peak Enterprise, which is hereby ratified and confirmed.

Section 3.02. Bond Details.

(a) The Series 2018 Bonds shall be issued as fully registered bonds without coupons and shall be executed and delivered only in global book-entry form registered in the name of Cede & Co., as nominee of The Depository Trust (“DTC”), New York, New York, acting as securities depository of the Bonds, unless DTC shall be removed or replaced. The Series 2018 Bonds shall be issued in the denomination of \$5,000 or any integral multiple thereof or such other denomination as set forth in the Sale Certificate.

(b) The Series 2018 Bonds shall be dated the Dated Date, and shall bear interest from the Dated Date payable on June 1 and December 1 of each year, commencing June 1, 2019, or such other date as set forth in the Sale Certificate; provided, however, that if interest on the Series 2018 Bonds shall be in default, Series 2018 Bonds issued in exchange for Series 2018 Bonds surrendered for transfer or exchange shall bear interest from the date to which interest has been paid in full on the Series 2018 Bonds surrendered, or if no interest has been paid, then from the date of the Series 2018 Bonds.

(c) The Series 2018 Bonds shall be consecutively numbered, shall mature on the 1st day of December in the principal amounts and years, and shall bear interest at the rates per annum, as set forth in the Sale Certificate. Subject to the parameters of this Ordinance, the Council hereby delegates to the Mayor, or his designee, for one year from the effective date of this Ordinance the authority to determine the principal amount of the Series 2018 Bonds, the Dated Date, the price at which the Series 2018 Bonds will be sold, the amount of principal of the Series 2018 Bonds maturing in any particular year, the rates of interest on the Series 2018 Bonds, the redemption features of the Series 2018 Bonds, whether the Series 2018 Bonds are to be secured by the 2018 Reserve Account

and, if so, the amount of the Minimum Bond Reserve and the identity of the Paying Agent; provided, however, that the principal amount of the Series 2018 Bonds shall not exceed \$33,000,000, the net effective interest rate of the Series 2018 Bonds must not exceed 5.25%, the Series 2018 Bonds shall mature no later than December 1, 2050, the Series 2018 Bonds shall be sold to the Underwriter at a price of not less than 98% of the principal amount thereof, plus accrued interest, if any.

(d) If upon presentation at maturity payment of any Series 2018 Bond is not made as herein provided, interest shall continue thereon at the interest rate designated in the Series 2018 Bond until the principal thereof is paid in full.

(e) Principal of the Series 2018 Bonds shall be payable to the Registered Owner upon presentation and surrender of the Bonds at the principal office of the Paying Agent. Interest on the Series 2018 Bonds shall be payable by check or draft of the Paying Agent mailed (or, so long as Cede & Co. shall be the Registered Owner, such amount shall be paid by wire transfer) on the interest payment date to said registered owner thereof as of the close of business on the Record Date; provided that interest payable to the Registered Owner may be paid by any other means agreed to by such Registered Owner and the Paying Agent that does not require the City to make moneys available to the Paying Agent earlier than otherwise required hereunder or increase the costs borne by the City hereunder. All payments of the principal of and interest on the Series 2018 Bonds shall be made in lawful money of the United States of America.

Section 3.03. Paying Agent. The Paying Agent shall act as paying agent, bond registrar and authenticating agent hereunder for purposes of the Series 2018 Bonds unless the City, with the consent of the Bond Insurer, shall designate and appoint a successor Paying Agent. The Paying Agent may resign or may be removed, and shall be removed by the City at the written direction of the Bond Insurer if the Paying Agent shall have breached any of its duties hereunder; provided, however, that no such resignation or removal shall be effective until notice of such resignation shall be given to the Bond Insurer, and the City shall have appointed a successor thereto which is acceptable to the Bond Insurer. The Paying Agent shall maintain on behalf of the City books for the purpose of registration and, subject to Section 3.02(a) hereof, transfer of the Series 2018 Bonds, and such books shall specify the person entitled to the Series 2018 Bonds and the rights evidenced thereby, and all transfers of the Series 2018 Bonds and the rights evidenced thereby. The Series 2018 Bonds may be transferred or exchanged, subject to Section 3.02(a) hereof, without cost, except for any reasonable fees, tax or governmental charge required to be paid with respect to such transfer or exchange, at the principal corporate trust office of the Paying Agent. Subject to Section 3.02(a) hereof, certificated Series 2018 Bonds may be exchanged for a like aggregate principal amount of Series 2018 Bonds of other authorized denominations of the same maturity and interest rate. Upon surrender for transfer of any Series 2018 Bond, duly endorsed for transfer or accompanied by an assignment duly executed by the Registered Owner or the Registered Owner's attorney duly authorized in writing, the City shall, subject to Section 3.02(a) hereof, execute and the Paying Agent shall authenticate and deliver in the name of the transferee or transferees a new Series 2018 Bond or Series 2018 Bonds of the same series and maturity for a like aggregate principal amount. The Person in whose name any Series 2018 Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes whether or not payment on any Series 2018 Bond shall

be overdue, and neither the City nor any Paying Agent shall be affected by any notice to the contrary. Notwithstanding any other provision of this Ordinance, in determining whether the rights of the Registered Owners will be adversely affected by any action taken pursuant to the terms and provisions of this Ordinance, the Paying Agent shall consider the effect on the Registered Owners as if there were no Financial Guaranty Insurance Policy.

Section 3.04. Redemption. The Series 2018 Bonds shall be callable for redemption at the option of the City on the dates and at the prices set forth in the Sale Certificate, and the Series 2018 Bonds or any portion thereof shall be subject to mandatory sinking fund redemption as and to the extent, if any, set forth in the Sale Certificate.

Section 3.05. Notice of Redemption. Notice of any redemption shall be given by the Paying Agent in the name of the City, by sending a copy of such notice by certified or registered first-class, postage prepaid mail, or by electronic means if to DTC, at least 30 days prior to the redemption date specified in such notices, to the Registered Owners of each of the Series 2018 Bonds being redeemed. Such notice shall specify the number or numbers of the Series 2018 Bonds so to be redeemed and the redemption date. If any of the Series 2018 Bonds shall have been duly called for redemption and if on or before the redemption date there shall have been deposited with the Paying Agent in the 2018 Bond Account funds sufficient to pay the redemption price of such Series 2018 Bonds at the redemption date, then said Series 2018 Bonds shall become due and payable at such redemption date, and from and after such date interest will cease to accrue thereon. Any Series 2018 Bonds redeemed prior to their maturity by call for prior redemption or otherwise shall not be reissued and shall be cancelled the same as Series 2018 Bonds paid at or after maturity.

Any notice of redemption may contain a statement that the redemption is conditioned upon the receipt by the Paying Agent of funds on or before the date fixed for redemption sufficient to pay the redemption price of the Series 2018 Bonds so called for redemption, and that if funds are not available, such redemption shall be cancelled by written notice to the owners of the Series 2018 Bonds called for redemption in the same manner as the original redemption notice was provided.

Section 3.06. Execution of the Series 2018 Bonds. The Series 2018 Bonds shall be executed in the name and on behalf of the City with the manual or facsimile signature of the Mayor, shall bear a manual or facsimile of the seal of the City and shall be attested by the manual or facsimile signature of the Clerk. Should any officer whose manual or facsimile signature appears on the Series 2018 Bonds cease to be such officer before delivery of the Series 2018 Bonds, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes. The Mayor and the Clerk are hereby authorized and directed to prepare and to execute the Series 2018 Bonds in accordance with the requirements of this Ordinance. When the Series 2018 Bonds have been duly executed and sold, the officers of the City are authorized to, and shall, deliver the Series 2018 Bonds to the Paying Agent for authentication. No Series 2018 Bond shall be secured by this Ordinance or entitled to the benefit hereof, or shall be valid or obligatory for any purpose, unless the certificate of authentication of the Paying Agent, in substantially the form set forth in this Ordinance, has been duly executed by the Paying Agent. Such certificate of the Paying Agent upon any Series 2018 Bond shall be conclusive evidence and the only competent evidence that such bond has been authenticated and delivered hereunder.

The Paying Agent's certificate of authentication shall be deemed to have been duly executed by it if manually signed by an authorized officer of the Paying Agent, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Series 2018 Bonds issued hereunder.

Section 3.07. Delivery of Series 2018 Bonds. Upon the original issuance, execution and authentication of the Series 2018 Bonds, the City shall deliver the same to DTC, as securities depository for the Series 2018 Bonds, upon receipt of the purchase price therefor. Prior to the authentication and delivery of any Series 2018 Bonds by any successor Paying Agent there shall be filed with such successor Paying Agent a certified copy of this Ordinance.

Section 3.08. Reissuance of Series 2018 Bonds. If any Outstanding Series 2018 Bond shall become lost, apparently destroyed or wrongfully taken, it may be reissued in the form and tenor of the lost, destroyed or taken Series 2018 Bond upon the owner furnishing, to the satisfaction of the Paying Agent: (a) proof of ownership (which shall be shown by the registration books of the Paying Agent), (b) proof of loss, destruction or theft, (c) an indemnity to the City and to the Paying Agent with respect to the Series 2018 Bond lost, destroyed or taken, and (d) payment of the cost of preparing and issuing the new security, in which case the Paying Agent shall then authenticate the Series 2018 Bonds required for reissuance.

Section 3.09. Other Reissuance. Nothing contained in the provisions of Section 3.08 hereof shall be construed as prohibiting the City from reissuing upon such terms and conditions as the Chief Financial Officer may determine any Outstanding Series 2018 Bond which shall have become lost or completely destroyed, in which case the Paying Agent shall then authenticate the Series 2018 Bonds required for reissuance.

Section 3.10. Bond Form. Subject to the provisions of this Ordinance, each Series 2018 Bond shall be in substantially the following form, with such omissions, insertions, endorsements and variations as to any recitals of fact or other provisions as may be required by the circumstances, be required or permitted by this Ordinance, or be consistent with this Ordinance and necessary or appropriate to conform to the rules and requirements of any governmental authority or any usage or requirement of law with respect thereto:

[Remainder of Page Left Intentionally Blank]

[FORM OF SERIES 2018 BOND]

UNITED STATES OF AMERICA
STATE OF COLORADO
CITY OF COLORADO SPRINGS, COLORADO
(Acting by and through its Pikes Peak – America’s Mountain Enterprise)
PIKES PEAK – AMERICA’S MOUNTAIN ENTERPRISE REVENUE BOND
Series 2018

Interest Rate: Maturity Date: Original Issue Date: CUSIP:
_____ % December 1, 20____ _____, 2018 _____

REGISTERED OWNER:

PRINCIPAL SUM: _____ DOLLARS

The City of Colorado Springs, in the County of El Paso and State of Colorado (the “City”), for value received, hereby promises to pay to the order of the registered owner above or registered assigns, solely from the special funds as hereinafter set forth, on the maturity date stated above, the principal sum stated above, in lawful money of the United States of America, with interest thereon from the original issue date stated above, at the interest rate per annum stated above, payable semiannually on the 1st day of June and the 1st day of December of each year commencing June 1, 2019, the principal of this bond being payable at the principal office of _____, Denver, Colorado, as Paying Agent (the “Paying Agent”), and the interest hereon to be paid to such person as is the registered owner hereof as of the Record Date by check or draft of the Paying Agent mailed to or by wire transfer as provided in the hereinafter defined Ordinance to said registered owner. The Record Date is the May 15 or November 15 next preceding any interest payment date.

This bond is one of an issue of bonds of the City designated “Pikes Peak – America’s Mountain Enterprise Revenue Bonds, Series 2018” issued in the principal amount of \$_____ (the “Series 2018 Bonds”). The Series 2018 Bonds are being issued by the City for the purpose of financing a portion of the costs of constructing a new Pikes Peak Summit Complex (the “Project”), together with all necessary incidental and appurtenant costs and expenses in connection therewith, including paying certain costs in connection with the issuance of the Series 2018 Bonds, pursuant to and in full conformity with the Constitution and laws of the State of Colorado, the home rule charter of the City of Colorado Springs, Colorado (the “Charter”), Part 2 of Article 57 of Title 11, Colorado Revised Statutes, as amended (the “Supplemental Act”) and an ordinance (the “Ordinance”) duly passed and adopted by the City prior to the issuance hereof.

Optional Redemption. The Series 2018 Bonds maturing after December 1, 20____ will be callable for redemption at the option of the City on December 1, 20____ and on any date

thereafter, in whole or in part, and if in part in such order of maturities as the City shall determine and by lot within a maturity in the manner designated by the hereinafter defined Paying Agent, as a redemption price equal to the principal amount thereof plus accrued interest to the redemption date.

[Insert Mandatory Sinking Fund provisions if needed.]

Redemption shall be made upon not less than 30 days prior notice by sending a copy of such notice by certified or registered first-class, postage prepaid mail, at least 30 days prior to the redemption date specified in such notice, to the registered owners of each of the Series 2018 Bonds being redeemed. Such notice shall specify the number or numbers of the Series 2018 Bonds so to be redeemed and the redemption date. If this bond shall have been duly called for redemption and if on or before the redemption date there shall have been deposited with the Paying Agent funds sufficient to pay the redemption price of this bond at the redemption date, then this bond shall become due and payable at such redemption date, and interest hereon shall cease to accrue after the redemption date.

This bond is transferable by the registered owner hereof in person or by the registered owner's attorney duly authorized in writing at the principal corporate trust office of the Paying Agent in [Denver, Colorado], but only in the manner, subject to the limitations and upon payment of the fees, taxes or charges provided in the Ordinance, and upon surrender and cancellation of this bond. Upon such transfer, a new registered Series 2018 Bond or Series 2018 Bonds of the same maturity and interest rate and of authorized denomination or denominations ([\$5,000 and integral multiples thereof]) for the same aggregate principal amount will be issued to the transferee in exchange therefor. The City and the Paying Agent may deem and treat the registered owner hereof as the absolute owner hereof (whether or not this bond shall be overdue) for the purpose of receiving payment of or on account of principal hereof, and neither the City nor the Paying Agent shall be affected by any notice to the contrary.

The Series 2018 Bonds do not constitute a debt or an indebtedness of the City within the meaning of any constitutional, charter or statutory provision or limitation and shall not be considered or held to be general obligations of the City. The Bonds are special obligations of the City payable and collectible solely out of and secured by an irrevocable pledge of the Net Pledged Revenues derived from the operation and use of the System as hereinafter described. The Registered Owner hereof may not look to any general or other fund for the payment of the principal of and the interest on this bond except the special funds pledged therefor. The term "System" means, except as provided in the Ordinance, income-producing Enterprise facilities now or hereafter owned or operated by the City, within and possibly hereafter without the City, including the improvements owned by the Enterprise upon the Pikes Peak Highway and Recreation Corridor as well as the City's Pikes Peak Summit House, any additional structures, parking lots, other like income producing facilities and related improvements, including, without limitation, the hereinafter described Project.

Payment of the Series 2018 Bonds and the interest thereon shall be made solely from and as security for such payment there are irrevocably and exclusively pledged, pursuant to the Ordinance, [two special accounts] identified as the "City of Colorado Springs, Colorado, Pikes Peak – America's Mountain Enterprise Revenue Bonds, Series 2018, Bond Account" (the "2018

Bond Account”) [and as the “City of Colorado Springs, Colorado, Pikes Peak – America’s Mountain Enterprise Revenue Bonds, Series 2018, Reserve Account” (the “2018 Reserve Account”)]. The City covenants to pay into the 2018 Bond Account from the Net Pledged Revenues sums sufficient to pay when due the principal of and the interest on the Series 2018 Bonds. “Net Pledged Revenues” means the Gross Revenues of the System less Operations and Maintenance Expenses, all as defined in the Ordinance.

The Series 2018 Bonds are equitably and ratably secured by a lien on the Net Pledged Revenues, and the Series 2018 Bonds constitute an irrevocable and first lien (but not necessarily an exclusive first lien) upon said Net Pledged Revenues. Subject to expressed conditions in the Ordinance, bonds and other obligations, in addition to the Series 2018 Bonds, may be issued and made payable from the Net Pledged Revenues and on a subordinate and junior basis. Subject to additional expressed conditions in the Ordinance, additional bonds and other obligations may be issued and made payable from the Net Pledged Revenues on a parity with the Series 2018 Bonds and as of the date of the issuance of the Series 2018 Bonds, other bonds payable from a pledge of the Net Pledged Revenues on a parity with the Series 2018 Bonds are outstanding.

The City covenants and agrees with the Registered Owner of this bond and with each and every person who may become the Registered Owner hereof that it will keep and will perform all of the covenants of the Ordinance.

[Insert Financial Guaranty Insurance Policy provisions, if needed]

Reference is made to the Ordinance and any and all modifications and amendments thereof, and to the Charter of the City, as from time to time amended, for an additional description of the nature and extent of the security for the Series 2018 Bonds, the accounts, funds or income pledged, the nature and extent and manner of enforcement of the pledge, the rights and remedies of the Registered Owners of the Series 2018 Bonds with respect thereto, the terms and conditions upon which the Series 2018 Bonds are issued, and a statement of rights, duties, immunities and obligations of the City, and other rights and remedies of the Registered Owners of the Series 2018 Bonds.

To the extent and in the respects permitted by the Ordinance, the provisions of the Ordinance or any ordinance amendatory thereof or supplemental thereto may be modified or amended by action of the City taken in the manner and subject to the conditions and exceptions prescribed in the Ordinance. The pledge of Net Pledged Revenues and other obligations of the City under the Ordinance may be discharged at or prior to the respective maturities or redemption of the Series 2018 Bonds upon the making of provision for the payment thereof on the terms and conditions set forth in the Ordinance.

It is hereby certified that all conditions, acts and things required by the constitution and laws of the State of Colorado, including without limitation the Supplemental Act, and the Charter and ordinances of the City, to exist, to happen and to be performed, precedent to and in the issuance of this bond, exist, have happened and have been performed, and that the issue of the Series 2018 Bonds do not exceed any limitations prescribed by said constitution or laws of the State of Colorado, or the Charter or ordinances of the City.

This bond shall not be entitled to any benefit under the Ordinance, or become valid or obligatory for any purpose, until the Paying Agent shall have signed the certificate of authentication hereon.

IN WITNESS WHEREOF, the City of Colorado Springs, Colorado, has caused this bond to be signed with the manual or facsimile signature of its Mayor, sealed with the impression of its seal or a facsimile thereof, and attested with the manual or facsimile signature of its City Clerk.

CITY OF COLORADO SPRINGS,
COLORADO

[SEAL]

By (Manual or Facsimile Signature)
Mayor

Attest:

By (Manual or Facsimile Signature)
City Clerk

[FORM OF PAYING AGENT'S CERTIFICATE OF AUTHENTICATION]

Date of Authentication: _____

This is one of the Pikes Peak – America's Mountain Enterprise Revenue Bonds, Series 2018, described in the within-mentioned Ordinance.

_____,
_____, as Paying Agent

By _____
Authorized Representative

[END OF FORM OF PAYING AGENT'S CERTIFICATE OF AUTHENTICATION]

[FORM OF ASSIGNMENT]

FOR VALUE RECEIVED, _____, the undersigned, hereby sells, assigns and transfers unto _____ (Tax Indemnification or Social Security No. _____) the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within bond on the books kept for registration thereof, with full power or substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

[END OF FORM OF SERIES 2018 BOND]

[Form of Approving Opinion of Kutak Rock LLP, Bond Counsel may be attached to the Series 2018 Bonds.]

Section 3.11. Authentication Upon Exchange or Reissuance of the Series 2018 Bonds. The Paying Agent shall authenticate any Series 2018 Bonds exchanged or reissued under Section 3.03, 3.08 and 3.09 hereof upon the written direction of the Chief Financial Officer; such Series 2018 Bonds exchanged or reissued shall not be valid until so authenticated.

ARTICLE IV

USE OF SERIES 2018 BOND PROCEEDS AND TRANSFER OF FUNDS

Section 4.01. Disposition of Series 2018 Bond Proceeds. The proceeds of the Series 2018 Bonds, upon the receipt thereof, shall be accounted for in the following manner and priority and are hereby pledged therefor:

(a) A portion of the proceeds derived from the sale of the Series 2018 Bonds in the amount set forth in the Sale Certificate shall be deposited into an account within the Enterprise Fund of the City hereby created and to be known as the “City of Colorado Springs, Colorado, Pikes Peak – America’s Mountain Enterprise Revenue Bonds, Series 2018, Project Account” (the “Project Account”) and applied to the construction of the Project pursuant to Section 4.03 hereof.

(b) A portion of the proceeds derived from the sale of the Series 2018 Bonds in an amount set forth in the Sale Certificate shall be deposited in a commercial bank account or otherwise set aside or allocated at the direction of the City to pay the cost of issuance of the Series 2018 Bonds, including payment of the premium for the Financial Guaranty Insurance Policy and the Surety Bond, if any.

(c) In the event that no Surety Bond is obtained and to the extent there is a requirement set forth in the Sale Certificate to deposit amounts in the 2018 Reserve Account, a portion of the proceeds derived from the sale of the Series 2018 Bonds in an amount equal to the Minimum Bond Reserve shall be deposited into the 2018 Reserve Account created pursuant to Section 5.01 hereof.

Section 4.02. Sale of Series 2018 Bonds.

(a) The Series 2018 Bonds shall be sold to the Underwriter and the Chief Financial Officer, or her designee, may execute the Bond Purchase Agreement from the Underwriter. The Series 2018 Bonds, when executed as provided by law, shall be delivered to the Underwriter, upon receipt of the purchase price thereof, plus accrued interest, if any, from the Dated Date of the Series 2018 Bonds to the date of issuance and delivery thereof.

(b) The proceeds of the Series 2018 Bonds shall be used exclusively for payment of the costs of the Project and paying all costs of issuing the Series 2018 Bonds and otherwise as provided in Section 4.01 hereof.

(c) Neither the Underwriter nor the subsequent Registered Owner or Registered Owners of any of the Series 2018 Bonds shall be responsible for the application or disposal of the funds derived from the sale thereof by the City or any of its

officers. The issuance of the Series 2018 Bonds by the City shall constitute a warranty by and on behalf of the City, for the benefit of each and every Registered Owner of the Series 2018 Bonds, that the Series 2018 Bonds have been issued for valuable consideration in full conformity with law.

Section 4.03. Project Account. Proceeds of the sale of the Series 2018 Bonds as provided in Section 4.01(a) hereof shall be deposited into the Project Account and the moneys on deposit in the Project Account shall be disbursed in the sole discretion of the City to pay the costs of the Project. Any moneys held as part of the Project Account shall be invested and reinvested in Permitted Investments, in accordance with the terms of this Ordinance, and the income therefrom shall remain in the Project Account to pay the costs of the Project or, at the direction of the City, be deposited in the 2018 Bond Account. Any moneys remaining in the Project Account on completion of the Project, as certified by the City, shall be transferred to the 2018 Bond Account and used for the purposes of such Account.

ARTICLE V

ADMINISTRATION OF AND ACCOUNTING FOR GROSS REVENUES

Section 5.01. Reaffirmation of Fund; Creation of Accounts. There is hereby reaffirmed the Enterprise Fund, which fund consists of a self-balancing group of accounts, including, without limitation, the respective special and separate accounts and subaccounts created herein, and constitutes an independent fiscal and accounting entity. There are hereby established the following accounts of the Enterprise Fund, which shall be maintained by the City in accordance with the provisions of this Ordinance:

- (a) the 2018 Bond Account;
- (b) in the event that the Mayor, or his designee determines that the Series 2018 Bonds shall be secured by the 2018 Reserve Account, the 2018 Reserve Account;
- (c) as set forth in Section 4.01 hereof, the Project Account; and
- (d) the 2018 Rebate Account.

Section 5.02. Pledge Securing the Series 2018 Bonds. The Net Pledged Revenues and all moneys and securities paid or to be paid to or held or to be held in any fund or account under Article V of this Ordinance (other than the 2018 Rebate Account) are hereby pledged to secure the payment of the principal of and the interest on the Series 2018 Bonds; and this pledge of the Net Pledged Revenues shall be valid and binding from and after the date of the first delivery of any Series 2018 Bonds, and the moneys, as received by the City and hereby pledged, shall immediately be subject to the lien of this pledge without any physical delivery thereof or further act, and the lien of this pledge and the obligation to perform the contractual provisions hereby made shall have priority over any or all other obligations and liabilities of the City, and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the City irrespective of whether such parties have notice thereof.

Section 5.03. Gross Revenue Deposits. So long as any of the Series 2018 Bonds shall be Outstanding, either as to principal or interest, or both, the Gross Revenues shall be set aside and credited to the Enterprise Fund.

Section 5.04. Administration of the Enterprise Fund. So long as any of the Series 2018 Bonds hereby authorized shall be Outstanding, either as to principal or interest, or both, the following payments shall be made from the Enterprise Fund: Firstly, as a first charge thereon, there shall be withdrawn from the Enterprise Fund moneys sufficient to pay Operations and Maintenance Expenses of the System as they become due and payable, and thereupon they shall be promptly paid.

Section 5.05. 2018 Bond Account Payments. Secondly, any moneys remaining in the Enterprise Fund shall be credited to the 2018 Bond Account, created in Section 5.01 hereof, as follows, provided, however, that nothing herein shall prohibit the early transfer into the 2018 Bond Account of any amounts up to but not in excess of the sum of the next maturing installments of interest on, and principal of the Series 2018 Bonds then Outstanding during any period when the moneys in the 2018 Reserve Account are at least equal to the Minimum Bond Reserve:

(a) ***Interest Payments.*** Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the Series 2018 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor from whatever source, including without limitation the moneys, if any, provided in Section 4.01 hereof, to pay the next maturing installment of interest on the Series 2018 Bonds then Outstanding shall be transferred to the 2018 Bond Account.

(b) ***Principal Payments.*** Monthly, commencing on the month immediately succeeding the delivery of any Series 2018 Bonds, an amount in equal monthly installments necessary, together with any other money from time to time available therefor from whatever source, to pay the next maturing installment of principal of the Series 2018 Bonds then Outstanding.

Section 5.06. 2018 Reserve Account Payments; City Replenishment Consideration and Moral Obligation.

(a) In the event that the Mayor, or his designee determines that the Series 2018 Bonds shall be secured by the 2018 Reserve Account, then upon the issuance of the Series 2018 Bonds, and in the event that no Surety Bond is obtained, proceeds of the Series 2018 Bonds equal to the Minimum Bond Reserve shall be deposited to the 2018 Reserve Account. Thirdly, there shall be credited to the 2018 Reserve Account any moneys necessary to make up any deficiency in the 2018 Reserve Account, to the extent moneys on deposit in the 2018 Reserve Account are less than the Minimum Bond Reserve. No payment need be made into the 2018 Reserve Account so long as the moneys therein are at least equal to the Minimum Bond Reserve. The moneys in the 2018 Reserve Account shall be maintained as a continuing reserve to be used, except as hereinafter provided in Section 5.07 hereof, only to prevent deficiencies in the payment of the principal of and the interest on the Series 2018 Bonds resulting from the failure to

deposit into the 2018 Bond Account sufficient funds to pay said principal and interest as the same accrue.

(b) Within five (5) Business Days following a draw on the 2018 Reserve Account, including any draw on the Surety Bond, if any, to the extent any deficiency is not replenished from another source, the Chief Financial Officer shall notify Lodgers and Automobile Rental Tax Citizen Advisory Committee (the “LART Committee”) in writing of such draw, stating the amount of the deficiency and requesting that the LART Committee make a recommendation to the City Council to appropriate an amount from the available revenues derived from the City’s Lodgers and Automobile Rental Tax (the “LART Revenues”) sufficient to replenish the 2018 Reserve Account to an amount equal to the Minimum Bond Reserve. Within 90 days of such notification, the Mayor shall prepare and submit to the City Council a request for an appropriation of an amount of LART Revenues sufficient to replenish the 2018 Reserve Account to an amount equal to the Minimum Bond Reserve immediately thereafter. It is the present intention and expectation of the City Council to appropriate such funds as requested, within the limits of available funds and revenues, but this declaration of intent shall not be binding upon the City Council or any future City Council in any future fiscal year. The City Council may determine in its sole discretion, but shall never be required, to make the appropriations so requested. All sums appropriated by the City Council for such purpose shall be considered a loan of legally available moneys of the City to the Enterprise, may draw interest until repaid at a rate determined by the City Council at the time the appropriation is made, and shall be deposited in the 2018 Reserve Account. The repayment obligation for any such loan shall be subordinate to the payment of the Series 2018 Bonds, and shall be made in accordance with the provisions of Section 5.08 hereof. While the City Council has agreed to consider funding the 2018 Reserve Account pursuant to the terms of this paragraph to provide additional assurance that the 2018 Reserve Account will annually be funded at the Minimum Bond Reserve, the City Council’s decision not to so fund the 2018 Reserve Account shall not constitute an Event of Default hereunder. Nothing provided in this paragraph shall create or constitute a debt, liability or multiple fiscal year financial obligation of the City.

Section 5.07. Termination of Deposits. No payment need be made into the 2018 Bond Account or the 2018 Reserve Account if the amount in the 2018 Reserve Account totals a sum at least equal to the entire amount of the Outstanding Series 2018 Bonds, both as to principal and interest to their respective maturities, or to any prior redemption date on which the City shall have exercised or shall have obligated itself to exercise its option to redeem prior to their respective maturities the Series 2018 Bonds then Outstanding and thereafter maturing, and both accrued and not accrued, in which case moneys in said account in an amount, except for any interest or other gain to accrue from any investment of moneys in Federal Securities from time to time of any such deposit to the time or respective times the proceeds of any such investment shall be needed for such payment, at least equal to such principal and interest requirements, shall be used together with any such gain from investments solely to pay such as the same become due; and any moneys in excess thereof in said account and any other moneys derived from the Net Pledged Revenues may be used in any lawful manner determined by the Council.

Section 5.08. Payment of Additional Bonds. Either concurrently with, in the case of additional parity bonds, or subsequent to, in the case of any repayment obligations under Section 5.06 hereof or additional subordinate bonds, the payments required by Section 5.05 hereof, as provided in Section 7.03 through Section 7.14 hereof, any moneys remaining in the Enterprise Fund, after making the payments hereinabove provided, may be used by the City for the payment of interest on and the principal of additional bonds hereafter authorized to be issued and payable from the Net Pledged Revenues, including reasonable reserves therefor, as the same accrue; provided, however, that the lien of such additional bonds on the Net Pledged Revenues and the pledge thereof for the payment of such additional bonds shall be on a parity with, in the case of additional parity bonds, or subordinate to in the case of repayment obligations under Section 5.06 hereof or additional subordinate bonds, the lien and pledge of the Series 2018 Bonds herein authorized, as hereinafter provided.

Section 5.09. Use of Remaining Revenues. After making the payments hereinabove required to be made by Sections 5.04 through 5.07 hereof, any remaining income derived from the Net Pledged Revenues in the Enterprise Fund shall be used for any one or any combination of the following purposes in any order:

(a) ***Purchase of Obligations.*** For the purchase in the open market of the Series 2018 Bonds or any other Outstanding bonds or other obligations incurred for any such purpose or purposes and payable from the Net Pledged Revenues, at the best price obtainable, not, however, in excess of the call price therefor then applicable, or if none be then applicable, not in excess of a reasonable price therefor;

(b) ***Prior Redemption.*** For the purchase in the open market of the Series 2018 Bonds or any other Outstanding bonds or other obligations incurred for any such purpose or purposes and payable from the Net Pledged Revenues, at the best price obtainable, not, however, in excess of the call price therefor then applicable, or if none be then applicable, not in excess of a reasonable price therefor;

(c) ***Improvement.*** For the repair, enlargement, extension, betterment and improvement of the System;

(d) ***Operation & Maintenance Expenses.*** For defraying any Operations and Maintenance Expenses for which provision has not otherwise been made of the System; and

(e) ***Lawful Purposes.*** For any other lawful purpose of the City.

Section 5.10. 2018 Rebate Account.

(a) There is hereby created and established by the City a separate special account within the Enterprise Fund to be designated the “City of Colorado Springs, Colorado, Pikes Peak – America’s Mountain Enterprise Revenue Bonds, Series 2018, Rebate Account” (the “2018 Rebate Account”), which shall be expended in accordance with the provisions hereof and the Tax Letter of Instructions. The City shall make deposits and disbursements from the 2018 Rebate Account in accordance with the Tax Letter of Instructions, shall invest the 2018 Rebate Account only in legal investments

constituting Permitted Investments for funds of the City and pursuant to said Tax Letter of Instructions, and shall deposit income from said investments immediately upon receipt thereof in the 2018 Rebate Account, all as set forth in the Tax Letter of Instructions. The City shall make the calculations, deposits, disbursements and investments as may be required by the immediately preceding sentence, or, to the extent it deems necessary in order to ensure the tax-exempt status of interest on the Series 2018 Bonds, shall employ at its expense a person or firm with recognized expertise in the area of rebate calculation, to make such calculations. The Tax Letter of Instructions may be superseded or amended by a new Tax Letter of Instructions drafted by, and accompanied by an opinion of, nationally recognized bond counsel addressed to the City to the effect that the use of said new Tax Letter of Instructions will not cause the interest on the Series 2018 Bonds to become included in gross income for purposes of federal income taxation.

(b) The City shall annually make the rebate deposit described in the Tax Letter of Instructions. Records of the determinations required by this Section 5.10 and the Tax Letter of Instructions shall be retained by the City until six years after the final retirement of the Series 2018 Bonds.

(c) Not later than 60 days after the end of the later of the fifth Bond Year (i.e., the year ending December 1, 2022) or the fifth anniversary of the Dated Date and every five years thereafter, the City shall pay to the United States of America 90% of the amount required to be on deposit in the 2018 Rebate Account as of such payment date. Not later than 60 days after the final retirement of the Series 2018 Bonds, the City shall pay to the United States of America 100% of the balance remaining in the 2018 Rebate Account. Each payment required to be paid to the United States of America pursuant to this Section 5.10 shall be filed as set forth in the Tax Letter of Instructions and each payment shall be accompanied by a copy of the Internal Revenue Form 8038-G originally filed with respect to the Series 2018 Bonds Internal Revenue Form 8038-T, and, if required, a statement summarizing the determination of the amount to be paid to the United States of America.

ARTICLE VI

GENERAL ADMINISTRATION

Section 6.01. Administration of Accounts. The special funds and accounts designated in Articles IV and V hereof shall be administered as provided in this Article VI.

Section 6.02. Places and Times of Deposits. Each of the special funds and accounts hereinabove designated in Article IV and Article V hereof shall be separately accounted for in the records of the City, which special funds and accounts shall be in one bank account or more in an Insured Bank or Insured Banks (except as otherwise expressly stated herein). Each such account shall be continuously secured to the fullest extent required or permitted by the laws of the State and/or City Charter for the securing of public funds and shall be irrevocable and not withdrawable by anyone for any purpose other than the respective designated purposes. Each periodic payment shall be credited to the proper account not later than the date therefor herein designated, except that when any such date shall be a Sunday or a legal holiday, then such

payment shall be made on or before the next preceding secular day. Notwithstanding any other provision herein to the contrary, moneys shall be deposited with the Paying Agent prior to each interest payment date herein designated sufficient to pay the interest, and principal and any prior redemption premiums then becoming due on the Series 2018 Bonds.

Section 6.03. Investment of Moneys. Any moneys in any fund or account designated in Articles IV and V hereof, and not needed for immediate use, may be invested or reinvested by the Chief Financial Officer in any investment permitted by law constituting a Permitted Investment, which investments either shall be subject to redemption at any time at a fixed value by the Registered Owner thereof at the option of such Registered Owner, or shall mature not later than the date or respective dates on which the proceeds are to be expended as estimated upon each date of such investment. The investment of moneys in any such fund or account shall be deemed at all times to be part of the fund or account, and any interest accruing thereon and any other gain realized therefore shall be credited to the fund or account, and any loss resulting from such investment shall be charged to the fund or account, except that any interest earnings or gain on amounts in the 2018 Reserve Account shall, so long as the amount on deposit therein is equal to or in excess of the Minimum Bond Reserve, be deposited to the 2018 Bond Account. In computing the amount in any such fund or account for any purpose hereunder, except as herein otherwise expressly provided, such obligation shall have the Value as specified in the definition of such term. The expenses of purchase, safekeeping, sale and all other expenses incident to any investment or reinvestment of moneys pursuant to this Section 6.03 shall be accounted for as Operations and Maintenance Expenses. The Chief Financial Officer or her designee shall present for redemption or sale on the prevailing market at the best price obtainable any investments of moneys in the fund or account whenever it shall be necessary so to do in order to provide moneys to meet any withdrawal, payment or transfer from such fund or account. The Chief Financial Officer or her designee shall not be liable or responsible for any loss resulting from any such investment made in accordance with this Ordinance.

Section 6.04. Character of Funds. The moneys in any fund or account herein authorized shall consist either of lawful money of the United States of America insured by the Federal Deposit Insurance Corporation or collateralized by obligations listed in paragraph (a) of the definition of Permitted Investments or lawful investments constituting Permitted Investments, or both such money and such investments. Moneys deposited in a demand or time deposit account in or evidenced by a certificate of deposit of an Insured Bank pursuant to Section 6.02 hereof, appropriately secured according to the laws of the State, shall be deemed lawful money of the United States of America.

Section 6.05. Accelerated Payments. Nothing contained in Article V hereof shall be construed to prevent the accumulation in any fund or account herein designated of any monetary requirements at a faster rate than the rate or minimum rate, as the case may be, provided in Article V; provided, however, that no payment shall be so accelerated if such acceleration shall cause the Council to default in the payment of any obligation of the City appertaining to the Enterprise. Nothing herein contained shall be construed to require in any fiscal year the accumulation in any account for the payment of the principal of, the interest on, and any prior redemption premiums due in connection with any series of bonds payable from Net Pledged Revenues and herein or hereafter authorized, in excess of any principal, the interest, and any

prior redemption premiums, but excluding any reserves required to be accumulated and maintained therefor.

Section 6.06. Payment of Bonds Requirements. The moneys credited to any account designated in Article V hereof for the payment of the principal of, the interest on, and any prior redemption premiums due in connection with any series of bonds or other securities herein or hereafter authorized shall be used, without requisition, voucher or other direction or further authority than is contained herein, to pay promptly the principal of, the interest on, and any prior redemption premiums due in connection with the bonds payable therefrom as the same become due, as herein provided, except to the extent any other moneys are available therefor, including without limitation moneys accounted for in the 2018 Bond Account.

Section 6.07. Payment of Redemption Premiums. Nothing herein contained shall be construed as not requiring the accumulation in any fund or account designated in Article V hereof for the payment of any series of bonds payable from Net Pledged Revenues of amounts sufficient to pay not only the principal thereof and interest thereon but also the prior redemption premiums due in connection therewith, as the same become due, whenever the City shall have exercised or shall have obligated itself to exercise a prior redemption option appertaining thereto, except to the extent provision is otherwise made therefor, if any prior redemption premium be due in connection therewith.

ARTICLE VII

SECURITIES LIENS AND ADDITIONAL BONDS

Section 7.01. First Lien Bonds. The Series 2018 Bonds authorized herein constitute an irrevocable and first lien (but not necessarily an exclusive first lien) upon the resulting Net Pledged Revenues.

Section 7.02. Equality of Bonds. The Series 2018 Bonds authorized to be issued hereunder and from time to time Outstanding are equitably and ratably secured by a lien on the Net Pledged Revenues and shall not be entitled to any priority one over the other in the application of the Net Pledged Revenues regardless of the time or times of the issuance of the Series 2018 Bonds, it being the intention of the Council that there shall be no priority among the Series 2018 Bonds regardless of the fact that they may be actually issued and delivered at different times.

Section 7.03. Issuance of Parity Bonds. Nothing in this Ordinance contained shall be construed in such a manner as to prevent the issuance by the City of additional bonds payable from any Net Pledged Revenues and constituting a lien thereupon on a parity with, but not prior nor superior to, the lien of the Series 2018 Bonds, nor to prevent the issuance of bonds refunding all or a part of the Series 2018 Bonds; provided, however, that before any such additional parity bonds are authorized or actually issued (excluding any parity refunding bonds other than any bonds refunding subordinate bonds as permitted in Section 7.10 hereof):

(a) ***Absence of Default.*** The City shall not have defaulted in making any payments required by Article V hereof.

(b) ***Financial Test.*** Either (i) the annual Gross Revenues for the fiscal year immediately preceding the date of the issuance of such additional parity bonds shall have been sufficient to pay the annual Operations and Maintenance Expenses of the System for said fiscal year, and, in addition, sufficient to pay an amount representing 150% of the combined maximum annual principal and interest requirements of the Outstanding Series 2018 Bonds, any additional parity bonds of the City payable from and constituting a lien upon Net Pledged Revenues and the bonds proposed to be issued, except as hereinafter otherwise expressly provided, or (ii) the City shall have prepared a projection based upon the assumptions set forth below showing that for the two fiscal years following completion of the project to be financed with the proceeds of such additional parity bonds proposed to be issued, the annual Gross Revenues for each such fiscal year shall be sufficient to pay the annual Operations and Maintenance Expenses of the System for each such fiscal year, and, in addition, sufficient to pay an amount representing 150% of the combined maximum annual principal and interest requirements of the Outstanding Series 2018 Bonds, any additional parity bonds of the City payable from and constituting a lien upon Net Pledged Revenues and the bonds proposed to be issued.

(c) ***Reduction of Annual Requirements.*** The respective annual principal and interest requirements (including as a principal requirement the amount of any prior redemption premiums due on any prior redemption date as of which any outstanding bonds have been called or have been ordered to be called for prior redemption) shall be reduced to the extent such requirements are scheduled to be paid each of the respective Fiscal Years with moneys held in trust or in escrow for that purpose by any Insured Bank located within or without the State and exercising trust powers, including the known minimum yield from any investment in Federal Securities.

(d) ***Reserve Account.*** In the event that the Series 2018 Bonds are secured by the 2018 Reserve Account, there may be established in the same manner as provided in Section 5.06 hereof for the Series 2018 Bonds a reserve account in an amount equal to the Minimum Bond Reserve therefor.

At the time any additional Parity Bonds are issued, the City shall have the option of establishing separate reserve accounts as set forth in the prior paragraph, or making one or more common reserve accounts (including a common reserve account with respect to those reserve accounts securing outstanding Parity Bonds), but only to the extent that the amount on deposit in any such common reserve account is equal to at least the maximum annual debt service on all Parity Bonds to be secured thereby. In such case, amendments may be made to this Ordinance to reflect the same.

Section 7.04. Certification of Gross Revenues and Operations and Maintenance Expenses. A written certification by an authorized officer of the City that said annual Gross Revenues and Operations and Maintenance Expenses, when calculated as hereinabove provided in Section 7.03 hereof, is sufficient to pay said amounts, as provided in Subsection (b) of Section 7.03 hereof, shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell and deliver additional bonds on a parity with the Series 2018 Bonds.

Section 7.05. Subordinate Bonds Permitted. Nothing herein contained shall be construed so as to prevent the City from issuing additional bonds payable from the Net Pledged Revenues and having a lien thereon subordinate, inferior and junior to the lien of the Series 2018 Bonds authorized to be issued by this Ordinance.

Section 7.06. Superior Bonds Prohibited. Nothing herein contained shall be construed so as to permit the City to issue additional bonds payable from the Net Pledged Revenues and having a lien thereon prior and superior to the Series 2018 Bonds.

Section 7.07. Payment Dates of Additional Bonds. Any additional parity or subordinate bonds (including any refunding bonds) issued in compliance with the terms hereof shall bear interest payable semiannually on the 1st days of June and December in each year, except that the first interest payment date may be for interest accruing for any period not in excess in the aggregate of one year; and such additional bonds shall mature on the 1st day of December in the years designated by the Council during the term of the additional bonds.

Section 7.08. Refunding Bonds. The provisions of Sections 7.03 and 7.04 hereof are subject to the exceptions provided in Sections 7.09 through 7.11 hereof for the issuance of refunding bonds.

Section 7.09. Issuance of Refunding Bonds. If at any time after the Series 2018 Bonds, or any part thereof, shall have been issued and remain Outstanding, the Council shall find it desirable to refund any Outstanding Series 2018 Bonds payable from and constituting a lien upon Net Pledged Revenues, said Series 2018 Bonds or any part thereof, may be refunded.

Section 7.10. Issuance of Parity Refunding Bonds. No refunding bonds payable from Net Pledged Revenues shall be issued on a parity with the Series 2018 Bonds herein authorized unless:

(a) ***Parity Lien.*** The lien on Net Pledged Revenues of the Outstanding bonds so refunded is on a parity with the lien thereon of the Series 2018 Bonds herein authorized; or

(b) ***Default and Earnings Tests.*** The refunding bonds are issued in compliance with Section 7.03 hereof (including Subsections (a), (b), (c) and (d) thereof).

Section 7.11. Partial Refundings. The refunding bonds so issued shall enjoy complete equality of lien with the portion of any bonds of the same issue which is not refunded, if any there be; and the Registered Owner or Registered Owners of such refunding bonds shall be subrogated to all of the rights and privileges enjoyed by the Registered Owner or Registered Owners of the unrefunded bonds of the same issue partially refunded by the refunding bonds.

Section 7.12. Limitations Upon Refundings. Any refunding bonds payable from Net Pledged Revenues shall be issued with such details as the Council may provide, subject to the provisions of Section 7.07 hereof, and subject to the inclusion of any such rights and privileges designated in Section 7.11 hereof, but without any impairment of any contractual obligation imposed upon the City by any proceedings authorizing the issuance of any unrefunded portion of such Outstanding bonds of any one or more issues (including but not necessarily limited to the

Series 2018 Bonds herein authorized). If only a part of the Outstanding bonds of any issue or issues payable from Net Pledged Revenues is refunded, then such bonds may not be refunded without the consent of the Registered Owner or Registered Owners of the unrefunded portion of such bonds:

(a) ***Requirements Not Increased.*** Unless the refunding bonds do not increase any aggregate annual principal and interest requirements evidenced by such refunding bonds and by the Outstanding bonds not refunded on and prior to the last maturity date of such unrefunded bonds, and the lien of any refunding bonds on the Net Pledged Revenues is not raised to a higher priority than the lien thereon of the bonds thereby refunded; or

(b) ***Subordinate Lien.*** Unless the lien on Net Pledged Revenues for the payment of the refunding bonds is subordinate to each such lien for the payment of any bonds not refunded.

Section 7.13. Supplemental Ordinance. Additional bonds payable from Net Pledged Revenues shall be issued only after authorization thereof by a supplemental ordinance of the Council stating the purpose or purposes of the issuance of such additional bonds, directing the application of the proceeds thereof to such purpose or purposes, directing the execution thereof, and fixing and determining the date, principal amount, maturities, designation and numbers thereof, the maximum rate or the rate or rates of interest to be borne thereby, any prior redemption privileges of the City with respect thereto and other provisions thereof in accordance with this Ordinance.

All additional bonds shall bear such date, shall bear such numbers and series designation, letters or symbols prefixed to their numbers distinguishing them from each other security, shall be payable at such place or places, may be subject to redemption prior to maturity on such terms and conditions, and shall bear interest at such rate or at such different or varying rates per annum, as may be fixed by ordinance of the Council.

ARTICLE VIII

PROTECTIVE COVENANTS

Section 8.01. General. The City hereby particularly covenants and agrees with the Registered Owners of the Series 2018 Bonds and makes provisions which shall be a part of its contract with such Registered Owners to the effect and with the purpose set forth in the following provisions and sections of this Article VIII hereof.

Section 8.02. Performance of Duties. The City, acting by and through the Council or otherwise, will faithfully and punctually perform or cause to be performed all duties with respect to the Net Pledged Revenues and the Enterprise required by the Constitution and laws of the State and the various ordinances and Charter of the City, including but not limited to the making and collection of reasonable and sufficient rates and charges for services rendered or furnished by or the use of the System, as herein provided, and the proper segregation of the Net Pledged

Revenues and its application to the respective accounts or funds provided from time to time therefor.

Section 8.03. Further Assurances. At any and all times the City shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver all and every such further ordinances, acts, deeds, conveyances, assignments, transfers, other documents, and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights, the Net Pledged Revenues, and other funds and accounts hereby pledged or assigned, or intended so to be, or which the City may hereafter become bound to pledge or to assign, or as may be reasonable and required to carry out the purposes of this Ordinance and to comply with the Charter. The City, acting by and through the Council, or otherwise, shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Net Pledged Revenues and other funds and accounts pledged hereunder and all the rights of every Registered Owner of any Series 2018 Bond hereunder against all claims and demands of all persons whomsoever.

Section 8.04. Conditions Precedent. Upon the date of issuance of any Series 2018 Bonds, all conditions, acts and things required by the Constitution or statutes of the State or this Ordinance to exist, to have happened, and to have been performed precedent to or in the issuance of the Series 2018 Bonds shall exist, have happened, and have been performed; and the Series 2018 Bonds, together with all other obligations of the City, shall be within every debt and other limitation prescribed by the State Constitution, statutes, or Charter of the City.

Section 8.05. Efficient Operation and Maintenance; No Sale. The City shall at all times operate the System properly and in a sound and economical manner such that the City shall be able to perform the duties provided in Sections 8.02 and 8.16 hereof. The City shall not sell or otherwise dispose of any material portion of the System unless the City shall have determined that for each of the three full fiscal years immediately prior to the date of sale or disposition of such portion of the System, the City would have been in compliance with Section 8.15 hereof for each of such fiscal years if the revenues and expenses attributable to that portion of the System to be sold or otherwise disposed of had not been included in such calculation.

Section 8.06. Prejudicial Action Prohibited. No contract will be entered into nor any other action taken by the City which the rights of any Registered Owner of any Series 2018 Bond might be impaired or diminished.

Section 8.07. Protection of Security. The City, the officers, agents and employees of the City, and the Council shall not take any action in such manner or to such extent as might prejudice the security for the payment of the Series 2018 Bonds and the interest thereon according to the terms thereof.

Section 8.08. Accumulation of Interest Claims. In order to prevent any claims for interest after maturity, the City will not directly or indirectly extend or assent to the extension of the time for the payment of any claim for interest on any of the Series 2018 Bonds; and the City will not directly or indirectly be a party to or approve any arrangements for any such extension or for the purpose of keeping alive any such claims. In case the time for the payment of any interest shall be extended, such installment or installments of interest after such extension or

arrangement shall not be entitled in case of default hereunder to the benefit or the security of this Ordinance, except upon the prior payment in full of the principal of all Series 2018 Bonds then Outstanding and of all matured interest on such Series 2018 Bonds the payment of which has not been extended.

Section 8.09. Prompt Payment of Series 2018 Bonds. The City will promptly pay the principal of and the interest on every Series 2018 Bond issued hereunder and secured hereby at the place, on the dates, and in the manner specified herein and in the Series 2018 Bonds according to the true intent and meaning hereof.

Section 8.10. Use of 2018 Reserve Account Moneys. The 2018 Reserve Account shall be used solely and only and the moneys credited therein are hereby pledged for the purpose of paying the interest on and the principal of the Series 2018 Bonds, except for those moneys in the 2018 Reserve Account as are in excess of the interest on and the principal of the Series 2018 Bonds, accrued and not accrued, to their respective maturities (subject to the provisions of Section 9.01 hereof), and except for those moneys in the respective accounts of the 2018 Reserve Account in excess of the Minimum Bond Reserve, as hereinabove provided.

Section 8.11. Additional Bonds. The City shall not hereafter issue any bonds payable from the Net Pledged Revenues and having a lien on a parity with the Series 2018 Bonds herein authorized so long as any Series 2018 Bonds herein authorized are Outstanding, unless such additional bonds (other than bonds issued pursuant to Section 7.08 through 7.11 hereof and refunding bonds on a parity with the Series 2018 Bonds) on a parity with the bonds herein authorized are issued in such manner as provided in Sections 7.03, 7.10 and 7.11 hereof. Any other bonds hereafter authorized to be issued and payable from the Net Pledged Revenues shall not hereafter be issued, unless such additional bonds are also issued in conformance with the provisions of Articles V, VII and VIII hereof.

Section 8.12. Corporate Existence. The City will maintain its corporate identity and existence so long as any of the Series 2018 Bonds herein authorized remain Outstanding, unless another body corporate and politic by operation of law succeeds to the duties, privileges, powers, liabilities, immunities and rights of the City and is obligated by law to operate and maintain the System as herein provided without adversely affecting to any substantial degree the privileges and rights of any Registered Owner of any Outstanding Series 2018 Bond at any time.

Section 8.13. Fidelity Bonds. Each official of the City or other person having custody of any Net Pledged Revenues or of any other moneys appertaining to the System, including without limitation bond proceeds, or responsible for the handling of such moneys, shall be bonded at all times to the extent required by law, which bond shall be conditioned upon the proper application of said funds. The costs of each such bond shall be considered as Operations and Maintenance Expenses.

Section 8.14. Budgets. The Council and officials of the City shall annually and at such other times as may be provided by law prepare and adopt a budget appertaining to the Enterprise.

Section 8.15. Adequacy and Applicability of Charges. There shall be charged against all users of the System, including the City, such rates, fees, tolls and other charges as shall be

adequate to meet the requirements of this and the preceding sections hereof. Such rates and amounts from the fees and tolls shall be sufficient to produce Gross Revenues annually to pay the annual Operations and Maintenance Expenses and 115% of both the principal of and the interest due on the Series 2018 Bonds and any other parity bonds payable annually from Net Pledged Revenues, all of which Gross Revenues, including any income received from the City, shall be subject to distribution to the payment of Operations and Maintenance Expenses of the Enterprise and to the payment of principal of and interest on all bonds payable from any Net Pledged Revenues, including reasonable reserves therefor.

In the event that Gross Revenues collected during a Fiscal Year are not sufficient to meet the requirements set forth in the preceding paragraph, the City shall cause an Independent Rate Consultant to prepare a rate study for the purpose of recommending a schedule of rates, fees, tolls and charges for the use of the System which in the opinion of the firm conducting the study would be sufficient to provide Gross Revenues to be collected in the next succeeding Fiscal Year sufficient to provide compliance with the requirements of this section. The City shall, within three months of receipt of such study, adopt rates, fees and charges for the use of the System, based upon the recommendations contained in such study, which would provide compliance with the requirements of this section. So long as the City continuously complies with the provisions of this paragraph, the failure to produce Gross Revenues annually in an amount sufficient to pay the annual Operations and Maintenance Expenses and 115% of both the principal of and the interest due on the Series 2018 Bonds and any other parity bonds payable annually from Net Pledged Revenue shall not constitute an Event of Default.

Section 8.16. Collection of Charges. The City shall cause all rates, fees and other charges to be collected as soon as reasonable, shall prescribe and enforce rules and regulations for the payment thereof and shall provide methods of collection and penalties, to the end that Net Pledged Revenues of the System shall be adequate to meet the requirements hereof.

Section 8.17. Records. So long as any of the Series 2018 Bonds remain Outstanding, proper books of record and account will be kept by the City, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Enterprise. All requisitions, requests, certificates, opinions and other documents received by any Person on behalf of the City in connection with the Enterprise under the provisions of this Ordinance shall be retained in such Person's possession or in the City's official records.

Section 8.18. Rights Concerning Records and System. Any Registered Owner of any of the Series 2018 Bonds or any duly authorized agent or agents of such Registered Owner shall have the right at all reasonable times to inspect all records, accounts and data relating thereto, concerning the Enterprise or the Net Pledged Revenues, or both, to make copies of such records, accounts and data, and to inspect the System and all properties comprising the System.

Section 8.19. Audits Required. The City shall, following the close of each Fiscal Year, order an audit for the Fiscal Year of such books and accounts to be made forthwith by an Independent Accountant. The Enterprise need not be separately audited, and the combined financial statement audit of the City shall satisfy the conditions of this Section 8.19 so long as the balance sheet and income statement with respect to the Enterprise shall be shown in a supplemental information section.

Section 8.20. Tax Covenants.

(a) The City covenants that it shall not use or permit the use of any proceeds of the Series 2018 Bonds or any other funds of the City from whatever source derived, directly or indirectly, to acquire any securities or obligations and shall not take or permit to be taken any other action or actions, which would cause any of the Series 2018 Bonds to be an “arbitrage bond” within the meaning of Section 148 of the Tax Code, or would otherwise cause the interest on the Series 2018 Bonds to be included in gross income for federal income tax purposes. The City covenants that it shall at all times do and perform all acts and things permitted by law and which are necessary in order to assure that interest paid by the City on the Series 2018 Bonds shall, for purposes of federal income taxation, not be included in gross income under the Tax Code or any other valid provision of law.

(b) In particular, but without limitation, the City further represents, warrants and covenants to comply with the following restrictions of the Tax Code, unless it receives an opinion of nationally recognized bond counsel stating that such compliance is not necessary:

(i) Gross proceeds of the Series 2018 Bonds shall not be used in a manner which will cause the Series 2018 Bonds to be considered “private activity bonds” within the meaning of the Tax Code.

(ii) The Series 2018 Bonds are not and shall not become directly or indirectly “federally guaranteed.”

(iii) The City shall timely file Internal Revenue Form 8038-G which shall contain the information required to be filed pursuant to Section 149(e) of the Tax Code.

(iv) The City shall comply with the Tax Letter of Instructions delivered to it on the date of issue of the Series 2018 Bonds with respect to the application and investment of Series 2018 Bond proceeds.

Section 8.21. Various Findings, Determinations, Declarations and Covenants. The Council, having been fully informed of and having considered all the pertinent facts and circumstances, hereby finds, determines, declares and covenants with the Registered Owners of the Series 2018 Bonds that:

(a) the City has entered into a DTC Letter of Representations which will govern the book entry registration system for the Series 2018 Bonds;

(b) it is in the best interest of the City and its residents that the Series 2018 Bonds be authorized, sold, issued and delivered at the time, in the manner and for the purposes provided in this Ordinance;

(c) the City elects to apply the provisions of the Supplemental Act to this Ordinance and the Series 2018 Bonds; and

(d) the issuance of the Series 2018 Bonds and all procedures undertaken incident thereto are in full compliance and conformity with all applicable requirements, provisions and limitations prescribed by the Constitution and laws of the State and the City, including the Charter, and all conditions and limitations of the Charter and other applicable law relating to the issuance of the Series 2018 Bonds have been satisfied.

ARTICLE IX

DEFEASANCE, DELEGATION OF POWERS, STATUTE OF LIMITATIONS AND MISCELLANEOUS

Section 9.01. Defeasance. When all principal and interest due in connection with the Series 2018 Bonds have been duly paid, the pledge and lien and all obligations hereunder shall thereby be discharged and the Series 2018 Bonds shall no longer be deemed to be Outstanding within the meaning of this Ordinance. Notwithstanding anything in this Ordinance to the contrary, in the event that the principal and/or interest due on the Series 2018 Bonds shall be paid by the Bond Insurer pursuant to the Financial Guaranty Insurance Policy, the Series 2018 Bonds shall remain Outstanding for all purposes, shall not be defeased or otherwise satisfied and shall not be considered paid by the City, and the pledge and lien and all covenants, agreements and other obligations of the City hereunder shall continue to exist and shall run to the benefit of the Bond Insurer, and the Bond Insurer shall be subrogated to the rights of such Registered Owners. There shall be deemed to be such due payment when the City has placed in escrow or in trust with a commercial bank located within or without the State and exercising trust powers on amount sufficient (including the known minimum yield from non-callable Federal Securities in which such amount wholly or in part may be initially invested) to meet all requirements of principal, interest and any prior redemption premiums due as the same become due to the final maturities of the Series 2018 Bonds or upon any prior redemption date as of which the City shall have exercised or shall have obligated itself to exercise its prior redemption option by a call of the Series 2018 Bonds for payment then. The Federal Securities shall become due prior to the respective times on which the proceeds thereof shall be needed in accordance with a schedule established and agreed upon between the City and such bank at the time of the creation of the escrow or trust, or the Federal Securities shall be subject to redemption at the option of the Registered Owners thereof to assure such availability as so needed to meet such schedule.

Section 9.02. Delegated Powers. The officers of the City be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance including, without limitation, the generality of the foregoing:

(a) ***Printing Bonds.*** The printing of the Series 2018 Bonds including, without limitation, the printing on each bond of a certified true copy of bond counsel's approving opinion; and

(b) ***Final Certificates.*** The execution of such certificates as may be reasonably required by the Underwriter relating, inter alia, to the signing of the Series 2018 Bonds, the tenure and identity of the officials of the Council and of the City, the delivery of the Series 2018 Bonds, the receipt of the bond purchase price and, if it be in

accordance with fact, the absence of litigation, pending or threatened, affecting the validity thereof.

Section 9.03. Statute of Limitations. No action or suit based upon any Series 2018 Bond or other obligation of the City shall be commenced after it is barred by any statute of limitations appertaining thereto. Any trust or fiduciary relationship between the City and the Registered Owner of any Series 2018 Bond or other obligee regarding any such obligation shall be conclusively presumed to have been repudiated on the maturity date or other due date thereof unless the bond is presented for payment or demand for payment of any such obligation is otherwise made before the expiration of the applicable limitation period. Any moneys from whatever source derived remaining in any fund or account reserved, pledged or otherwise held for the payment of any such obligation, action or suit for the collection of which is barred shall revert to the Enterprise Fund unless the Council shall otherwise provide by Ordinance of the City. Nothing herein contained shall be so construed as to prevent the payment of any such obligation after any action or suit for its collection has been barred if the Council deems it in the best interests of the public so to do and orders such payment to be made.

Section 9.04. Evidence of Registered Owners. Any request, consent or other ordinance which this Ordinance may require or may permit to be signed and to be executed by the Registered Owner of any Series 2018 Bonds may be in one or more ordinances of similar tenor and shall be signed or shall be executed by each such Registered Owner in person or by his attorney appointed in writing as shown on the registration books of the Paying Agent although the Paying Agent may nevertheless, in its discretion, require further or other proof as it deems advisable.

Section 9.05. Warranty Upon Issuance of Series 2018 Bonds. Any Series 2018 Bonds authorized as herein provided, when duly executed and delivered for the purpose provided for in this Ordinance, shall constitute a warranty by and on behalf of the City for the benefit of each and every future Registered Owner of any of the Series 2018 Bonds that the Series 2018 Bonds have been issued for a valuable consideration in full conformity with law.

ARTICLE X

PRIVILEGES, RIGHTS AND REMEDIES

Section 10.01. Registered Owner's Remedies. Each Registered Owner of any Series 2018 Bond issued hereunder shall be entitled to all of the privileges, rights and remedies permitted at law or in equity or by statute, except no real or personal property appertaining to the Enterprise or otherwise has been conveyed to secure the payment of the Series 2018 Bonds by deed of trust or mortgage to a trustee for the benefit and the security of the Registered Owner or Registered Owners from time to time of the Series 2018 Bonds, or by any other encumbrance or other pledge of property, subject to the provisions herein concerning the pledge of and the covenants and the other contractual provisions concerning the Net Pledged Revenues of the System.

Section 10.02. Right to Enforce Payment. Nothing contained in this article shall affect or impair the right of any Registered Owner of any Series 2018 Bond issued hereunder to enforce

the payment of the principal of and the interest on such Series 2018 Bond or the special obligation of the City in accordance with Section 2.03 hereof to pay the principal of and the interest on each Series 2018 Bond issued hereunder to the Registered Owner thereof at the time and the place expressed in the Series 2018 Bond; provided, however, that upon the occurrence of an event of default hereunder and so long as the Bond Insurer has not defaulted with respect to its payment obligations under the Financial Guaranty Insurance Policy, anything in this Ordinance to the contrary notwithstanding, the Bond Insurer shall be entitled to control and direct the enforcement of all rights and remedies granted hereunder to the Registered Owners of the Series 2018 Bonds for the benefit of such Registered Owners, including without limitation (i) the approval of all waivers of events of default and (ii) the exercise of remedies set forth in Section 10.04 hereof.

Section 10.03. Events of Default. Each of the following events is hereby declared an “event of default”:

(a) ***Nonpayment of Principal and Premium.*** Payment of the principal of any of the Series 2018 Bonds or any prior redemption premium due in connection therewith or both shall not be made by the City when the same shall become due and payable either at maturity or by proceedings for prior redemption or otherwise.

(b) ***Nonpayment of Interest.*** Payment of any installment of interest on the Series 2018 Bonds shall not be made by the City when the same becomes due and payable.

(c) ***Incapable to Perform.*** The City shall for any reason be rendered incapable of fulfilling its obligations hereunder.

(d) ***Nonperformance of Duties.*** The City shall have failed to carry out and to perform (or in good faith to begin the performance of) all acts and things lawfully required to be carried out or to be performed by it under any contract relating to Gross Revenues or Net Pledged Revenues or to the Enterprise or otherwise and such failure shall continue for 60 days after receipt of notice from either the Underwriter, from the Bond Insurer or from the Registered Owners of 10% in principal amount of the Series 2018 Bonds authorized by this Ordinance and then Outstanding.

(e) ***Failure to Reconstruct.*** The City shall discontinue or shall unreasonably delay or shall fail to carry out with reasonable dispatch the reconstruction of any part of the System which shall be destroyed or damaged and shall not be promptly repaired or replaced unless such failure to repair is due to obsolescence.

(f) ***Appointment of Receiver.*** An order or decree shall be entered by a court of competent jurisdiction with the consent or acquiescence of the City appointing a receiver or receivers for the Enterprise or for the Net Pledged Revenues of the System or both or if an order or decree having been entered without the consent or acquiescence of the City shall not be vacated or discharged or stayed on appeal within 60 days after entry.

(g) ***Default of Any Provision.*** The City shall be in default in the due and punctual performance of any other of the covenants, conditions, agreements and

provisions contained in the Series 2018 Bonds or this Ordinance on its part to be performed, and such default shall continue for 60 days after written notice specifying such default and requiring the same to be remedied shall have been given to the City by either the Underwriter, by the Bond Insurer or by the Registered Owners or Registered Owner of 10% in principal amount of the Series 2018 Bonds then Outstanding.

Section 10.04. Remedies for Defaults. Upon the happening and continuance of any of the events of default as provided in Section 10.03 hereof, then and in every case, subject to the rights of the Bond Insurer as provided in Section 10.02 hereof, the Registered Owner or Registered Owners of not less than 10% in principal amount of the Series 2018 Bonds then Outstanding, including, but not limited to, a trustee or trustees therefor, may proceed against the City and its agents, officers and employees to protect and to enforce the rights of any Registered Owner of the Series 2018 Bonds under this Ordinance by mandamus or by other suit, action or special proceedings in equity or at appointment of a receiver or for the specific performance of any covenant or agreement contained herein or in an award of execution of any power herein granted for the enforcement of any proper legal or equitable remedy as such Registered Owner or Registered Owners may deem most effectual to protect and to enforce the rights aforesaid, or thereby to enjoin any act or thing which may be unlawful or in violation of any right of any Registered Owner of any bond, or to require the City to act as if it were the trustees of an express trust or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Registered Owners of the Series 2018 Bonds then Outstanding.

Section 10.05. Rights and Privileges Cumulative. The failure of the Bond Insurer or any Registered Owner of any Outstanding Series 2018 Bond to proceed in any manner herein provided shall not relieve the City, its Council or any of its officers, agents or employees of any liability for failure to perform or carry out any duty, obligation or other commitment. Each right or privilege of the Bond Insurer or any such Registered Owner (or trustee thereof) is in addition and is cumulative to any other right or privilege, and the exercise of any right or privilege by the Bond Insurer or by or on behalf of any Registered Owner shall not be deemed a waiver of any other right or privilege thereof.

Section 10.06. Duties Upon Defaults. Upon the happening of any of the events of default as provided in Section 10.03 hereof, the City, in addition, will do and perform all proper acts on behalf of and for the Registered Owners of the Series 2018 Bonds to protect and to preserve the security created for the payment of their bonds and to insure the payment of the principal of and the interest on the Series 2018 Bonds promptly as the same become due. During any period of default, so long as any of the Series 2018 Bonds herein authorized either as to principal or as to interest are outstanding, all Net Pledged Revenues shall be paid in the 2018 Bond Account or, in the event of bonds issued and Outstanding during said period of time on a parity with the Series 2018 Bonds herein authorized, shall be paid into bond accounts for all “parity” bonds on an equitable and prorated basis and used for the purposes therein provided. In the event the City fails or refuses to proceed as in this Section provided, the Bond Insurer or, subject to Section 10.02 hereof, the Registered Owner or Registered Owners of not less than 10% in principal amount of the Series 2018 Bonds then outstanding, after demand in writing, may proceed to protect and to enforce the rights of the Registered Owners of the Series 2018 Bonds as hereinabove provided; and to that end the Bond Insurer or any such Registered Owners

of outstanding Series 2018 Bonds shall be subrogated to all rights of the City under any agreement, lease or other contract involving the Enterprise entered into prior to the effective date of this Ordinance or thereafter while any of the Series 2018 Bonds herein authorized are Outstanding.

ARTICLE XI

AMENDMENT OF ORDINANCE

Section 11.01. Limitations Upon Amendments. This Ordinance may be amended or supplemented by ordinances adopted by the Council in accordance with the laws of the State without receipt by the City of any additional consideration but with the written consent of the Bond Insurer and the Registered Owners of more than 50% of the Series 2018 Bonds authorized by this Ordinance and Outstanding at the time of the adoption of such amendatory or supplemental ordinance (not including in any case any Series 2018 Bonds which may then be held or owned for the account of the City but including such refunding any of the Series 2018 Bonds herein authorized if such refunding securities are not owned by the City).

Notwithstanding the foregoing, this Ordinance may be amended or supplemented by ordinances adopted by the Council in accordance with the constitution and laws of the State without receipt by the City of any additional consideration and without receipt by the City of any additional consideration and without notice to and consent from the Registered Owners of any of the Series 2018 Bonds, for the purposes of (i) curing any ambiguity or defective or inconsistent provision contained in this Ordinance as the City may deem necessary and desirable and not inconsistent with the provisions of this Ordinance and which shall not adversely affect the interests of the Registered Owners of the Series 2018 Bonds or any other parity bonds, (ii) subjecting additional properties to the lien of this Ordinance, (iii) issuing additional parity or subordinate bonds pursuant to the provisions of this Ordinance (iv) providing for a common reserve account and changes required in connection therewith, or (v) making any other change which shall not adversely affect the interests of the Registered Owners of the Series 2018 Bonds; provided, however, that any provision of this Ordinance expressly recognizing or granting rights in or to the Bond Insurer and any provision of this Ordinance initiating or approving any action which requires consent from the Registered Owners, may not be amended in any manner which affects the rights of the Bond Insurer without the prior written consent of the Bond Insurer. The Bond Insurer reserves the right to charge the City a fee for any consent or amendment to this Ordinance while the Financial Guaranty Insurance Policy is outstanding.

The foregoing paragraphs are subject to the condition, however, that no such ordinance shall have the effect of permitting:

(a) ***Changing Payment.*** A change in the maturity or in the terms of redemption of the principal of any Outstanding bond or any installment of interest thereon; or

(b) ***Reducing Return.*** A reduction in the principal amount of any bond, the rate of interest thereon or any prior redemption premium payable in connection, therewith without the consent of the Registered Owner of the bond; or

(c) ***Prior Lien.*** The creation of a lien upon or a pledge of revenues ranking prior to the lien or to the pledge created by this Ordinance; or

(d) ***Modifying Any Bond.*** A reduction of the principal amount, percentages or otherwise affecting the description of Series 2018 Bonds the consent of the Registered Owners of which is required for any such modification or amendment; or

(e) ***Priorities Between Bonds.*** The establishment of priorities as between Series 2018 Bonds issued and Outstanding under the provisions of this Ordinance; or

(f) ***Partial Modification.*** The modification of or otherwise affecting the rights of the Registered Owners of less than all of the Series 2018 Bonds then Outstanding.

Section 11.02. Notice of Amendment. Whenever the Council shall propose to amend or modify this Ordinance under the provisions of this article, unless otherwise not required it shall cause notice of the proposed amendment to be provided in the same manner specified in Section 3.05 hereof. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy of the proposed amendatory ordinance is on file in the office of the Clerk for public inspection.

Section 11.03. Time for Amendment. Whenever at any time within one year from the date of the publication or mailing of said notice there shall be filed in the office of the Clerk an ordinance or ordinances executed by the Registered Owners of more than 50% in aggregate amount of the Series 2018 Bonds then Outstanding as in this article defined, which ordinance or ordinances shall refer to the proposed amendatory ordinance described in said notice and shall specifically consent to and approve the adoption thereof, thereupon, but not otherwise (except as provided in Section 11.01 whereby consent is not required), the Council may adopt such amendatory ordinance and such ordinance shall become effective.

Section 11.04. Binding Consent to Amendment. If the Registered Owners of more than 50% in aggregate principal amount of the Series 2018 Bonds Outstanding as in this article defined at the time of the adoption of such amendatory ordinance, or in the predecessors in title of such Registered Owners, shall have consented to and approved the adoption thereof as herein provided, no Registered Owner of any bond, whether or not such Registered Owner shall have consented to or shall have revoked any interest to object to the adoption of such amendatory ordinance or to object to any of the terms or provisions therein contained or to the operation thereof or to enjoin or restrain the City from taking any action pursuant to the provisions thereof.

Section 11.05. Time Consent Binding. Any consent given by the Registered Owner of a bond pursuant to the provisions of this article shall be irrevocable for a period of six months from the date of the publication or mailing of the notice above provided for and shall be conclusive and binding upon all future Registered Owners of the same bond during said period. Such consent may be revoked at any time after six months from the date of the publication or mailing of such notice, by the Registered Owner who gave such consent or by a successor in title by filing notice of such revocation with the Clerk, but such revocation shall not be effective if the Registered Owners of 50% in aggregate principal amount of the Series 2018 Bonds Outstanding

as in this article defined have, prior to the attempted revocation, consented to and approved the amendatory ordinance referred to in such revocation.

Section 11.06. Unanimous Consent. Notwithstanding anything contained in the foregoing provisions of this article, the terms and the provisions of this Ordinance or of any ordinance amendatory thereof or supplemental thereto and the rights and the obligations of the City and of the Registered Owners of the Series 2018 Bonds thereunder may be modified or amended in any respect upon the adoption by the City and upon the filing with the Clerk of an ordinance to that effect and with the consent of the Registered Owners of all the then Outstanding Series 2018 Bonds, such consent to be given as provided in Section 9.04 hereof; and no notice to Registered Owners of bonds shall be required as provided in Section 11.02 hereof, nor shall the time of consent be limited except as may be provided in such consent.

Section 11.07. Exclusion of City's Bonds. Series 2018 Bonds owned or held by or for the account of the City shall not be deemed Outstanding and shall be excluded for the purpose of consent or of other action or of any calculation of Outstanding Series 2018 Bonds provided for in this article, and the City shall not be entitled with respect to such Series 2018 Bonds to give any consent or to take any other action provided for in this article. At the time of any consent or of other action taken under this article, the City shall furnish the Clerk and the Paying Agent a certificate of the Chief Financial Officer upon which the City may rely describing all Series 2018 Bonds so to be excluded.

Section 11.08. Notation on Bonds. Series 2018 Bonds authenticated and delivered after the effective date of any action taken as in this article provided may bear a notation by endorsement or otherwise in form approved by the Council as to such action; and if any such bond so authenticated and delivered shall bear such notation, then upon demand of the Registered Owner of any bond Outstanding at such effective date and upon presentation of his or her bond for the purpose at the principal office of the Paying Agent, suitable notation shall be made on such bond by the Clerk and the Paying Agent as to any such action. If the Council shall so determine, new bonds so modified as in the opinion of the Council to conform to such action shall be prepared, authenticated and delivered and upon demand of the Registered Owner of any bond then Outstanding shall be exchanged without cost to such Registered Owner for bonds then Outstanding upon surrender of such bonds.

Section 11.09. Proof of Instruments. The fact and date of execution of any ordinance under the provisions of this article may be proved as provided in Section 9.04 hereof.

Section 11.10. Proof of Series 2018 Bonds. The amount and number of the Series 2018 Bonds held by any Person executing such ordinance and the date of his holding the same may be proved as provided by Section 9.04 hereof.

ARTICLE XII

MISCELLANEOUS

Section 12.01. Approval of Official Statement and Miscellaneous Documents. The Council hereby approves the distribution and use of the Preliminary Official Statement;

authorizes and directs the City staff to prepare a final Official Statement for use in connection with the sale of the Series 2018 Bonds in substantially the form thereof presented to the Council at the meeting at which this Ordinance is adopted, with such changes therein, if any, not inconsistent herewith, as are approved by the City; provided however that such changes may include such modification of the form of the Official Statement consistent with its being distributed and used as a limited offering memorandum or other similar offering document consistent with generally accepted disclosure guidelines and in all cases approved by the City. The Chief Financial Officer is hereby authorized and directed to execute the final Official Statement and the Chief Financial Officer and all other officers of the City are hereby authorized and directed to execute the Continuing Disclosure Undertaking, the Paying Agent Agreement, a "Tax Compliance Certificate" or similar certificate describing the City's expectations regarding the use and investment of proceeds of the Series 2018 Bonds and other moneys, an Internal Revenue Service Form 8038-G with respect to the Series 2018 Bonds, the Bond Purchase Agreement and all other documents and certificates necessary or desirable to effectuate the issuance of the Series 2018 Bonds, the use and investment of proceeds of the Series 2018 Bonds and the other transactions contemplated hereby.

Section 12.02. Undertaking to Provide Ongoing Disclosure. The City hereby covenants and agrees with the Underwriter and the Registered Owners of the Series 2018 Bonds that it will comply with and carry out all of the provisions of the Continuing Disclosure Undertaking. Notwithstanding any other provision of this Ordinance, failure of the City to comply with the Continuing Disclosure Undertaking shall not be considered an Event of Default; provided that the Registered Owners of the Series 2018 Bonds may take such action as may be necessary or appropriate, including seeking a mandatory injunction or specific performance, to cause the City to comply with its obligations under this Section 12.02.

Section 12.03. Publication. This Ordinance may be published by title and summary written by the Clerk, together with statement that the Ordinance is available for public inspection and acquisition in the office of the Clerk as provided by the Charter.

Section 12.04. Effective Date. This Ordinance shall be in full force and effect from and after its passage and publication as provided by the Charter.

ARTICLE XIII

AUTHORIZATION OF BOND INSURANCE

One or more providers of municipal bond insurance listed in the Bond Buyers Municipal Marketplace may be requested to submit a bid to issue the Financial Guaranty Insurance Policy. In the event that the Mayor, or his designee, determines, based in part upon information provided by the City's financial advisor, that the premium bid for issuance of the Financial Guaranty Insurance Policy is less than the interest cost savings to be realized by the City as a result of the issuance of the Financial Guaranty Insurance Policy, the Council hereby delegates to the Mayor, or his designee, the authority to execute the Commitment with the lowest bidder effecting the greatest savings to the City. The execution of the Commitment by the Chief Financial Officer or appropriate officer of the City is hereby ratified and approved.

[Remainder of Page Left Intentionally Blank]

INTRODUCED, READ, PASSED ON FIRST READING AND ORDERED
PUBLISHED BY TITLE THIS ____ DAY OF _____, 2018.

By _____
Richard Skorman, Council President

FINALLY PASSED ON THIS ____ DAY OF _____, 2018.

By _____
Richard Skorman, Council President

Attest:

By _____
Sarah B. Johnson, City Clerk

By _____
John W. Suthers, Mayor