

ORDINANCE NO. 008
OF THE CITY OF FORT COLLINS ELECTRIC UTILITY ENTERPRISE
AMENDING ITS ORDINANCE NO. 007 WHICH AUTHORIZED A LOAN
AGREEMENT WITH U.S. BANK NATIONAL ASSOCIATION TO
PROVIDE FUNDING FOR THE EPIC LOAN PROGRAM

WHEREAS, the City of Fort Collins, Colorado (the “City”) is a duly organized and existing home rule municipality of the State of Colorado, created and operating pursuant to Article XX of the Constitution of the State of Colorado and the home rule charter of the City (the “Charter”); and

WHEREAS, the members of the City Council of the City (the “Council”) have been duly elected and qualified; and

WHEREAS, Section 19.3(b) of the Charter Article V (“Section 19.3(b)”) provides that the Council may, by ordinance establish the City’s electric utility (the “Utility”) as an enterprise of the City; and

WHEREAS, pursuant to Section 19.3(b), the Council has heretofore established the Utility as an enterprise of the City (the “Enterprise”) in ordinances codified in Section 26-392 of the Municipal Code of the City of Fort Collins (the “Code”); and

WHEREAS, pursuant to Section 19.3(b) and Code Section 26-392, the Council has authorized the Enterprise, by and through the Council sitting as the board of the Enterprise (the “Board”), to issue, by ordinance, revenue and refunding securities and other debt; and

WHEREAS, the City has established a program to assist certain customers of the Utility in financing home energy efficiency and renewable energy improvements (the “Epic Program”) by making loans to customers who are property owners (“Epic Loans”); and

WHEREAS, on September 17, 2019, the Board adopted on second reading Ordinance No. 007 (“Ordinance No. 007”) authorizing the Enterprise to finance Epic Loans (the “Project”) by entering into the loan agreement attached as Exhibit A to Ordinance No. 007 (the “Loan Agreement”) with U.S. Bank National Association (the “Bank”) pursuant to which the Bank will loan the Enterprise an amount of not to exceed \$2,500,000 (the “Loan”) for such purposes, and to issue a promissory note to the Bank to evidence the Enterprise’s repayment obligations under the Loan Agreement (the “Note”); and

WHEREAS, since the Board’s approval of Ordinance No. 007, the Bank has requested that Section 2.07 of the Loan Agreement and the “Form of Advance Request” attached as Exhibit B to the Loan Agreement be amended to provide that as a precondition of the Enterprise exercising its option to convert the variable-rate line-of-credit provided under the Loan Agreement to a fix-rate and fixed-term loan, the Enterprise’s Senior Debt must be rated in one of the four highest rating categories of a nationally recognized organization which regularly rates obligations such as the Senior Debt (the “Ratings Amendment”) ; and

WHEREAS, the Enterprise’s Senior Debt is currently rated by Standard & Poor’s and Fitch as AA-, which is their second highest rating category; and

WHEREAS, it is also proposed that the definition of “Authorized Person” in Article I of the Loan Agreement be amended to clarify that the President of the Enterprise and any individual authorized by the President to act as an “Authorized Person” under the Loan Agreement are each, along with the Enterprise’s Treasurer, an “Authorized Person” under the Loan Agreement (the “Definition Amendment”); and

WHEREAS, the Ratings Amendment and the Definition Amendment have been made to Loan Agreement attached as Exhibit A to this Ordinance, but otherwise the Loan Agreement remains unchanged as approved in Ordinance No. 007 (the “Amended Loan Agreement”); and

WHEREAS, the purpose of this Ordinance is to amend Ordinance No. 007 to replace the Loan Agreement attached as Exhibit A to Ordinance No. 007 with the Amended Loan Agreement and to otherwise ratify and reaffirm all other provisions, terms and conditions Ordinance No. 007.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF THE ELECTRIC UTILITY ENTERPRISE OF THE CITY OF FORT COLLINS, as follows:

Section 1. Adoption of Recitals, Approvals, Authorizations, and Amendments.

The Board hereby adopts and incorporates herein by reference as operative provisions of this Ordinance the recitals set forth above. The Amended Loan Agreement in substantially the form attached hereto as Exhibit “A” is incorporated herein by reference and hereby approved. The Enterprise shall enter into and perform its obligations under the Amended Loan Agreement and Note (jointly, the “Financing Documents”) in the forms of such documents, with such changes as are not inconsistent herewith and as are hereafter approved by the President or the Treasurer. The President and Secretary are hereby authorized and directed to execute the Financing Documents and to affix the seal of the Enterprise thereto, and further to execute and authenticate such other documents or certificates as are deemed necessary or desirable in connection therewith. The Financing Documents shall be executed in substantially the forms approved at this meeting. The execution of any instrument or certificate or other document in connection with the matters referred to herein by the President, the Secretary, the Treasurer, any member of the Board, or by other appropriate officers of the Enterprise, shall be conclusive evidence of the approval by the Enterprise of such instrument.

Section 2. Ratification and Approval of Prior Actions. All actions heretofore taken by the officers of the Enterprise and members of the Board, not inconsistent with the provisions of this Ordinance, relating to the Financing Documents, or actions to be taken in respect thereof, are hereby ratified, approved, and confirmed.

Section 3. Severability. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

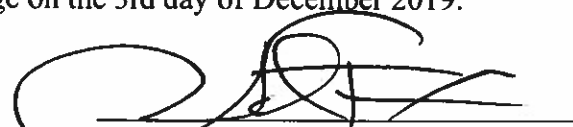
Section 4. Ordinance Irrepealable. After the Financing Documents are executed and delivered, this Ordinance shall constitute an irrevocable contract between the Enterprise and the Bank and shall be and remain irrepealable until the Loan and the interest thereon, as applicable, shall have been fully paid, satisfied, and discharged. No provisions of any

constitution, statute, charter, ordinance, resolution or other measure enacted after the Financing Documents are executed and delivered shall in any manner be construed as impairing the obligations of the Enterprise to keep and perform the covenants contained in this Ordinance.

Section 5. Disposition. A true copy of this Ordinance, as adopted by the Board, shall be numbered and recorded on the official records of the Board and its adoption and publication shall be authenticated by the signatures of the President and the Secretary, and by a certificate of the publisher.

Section 6. Effective Date. This Ordinance shall take effect on the tenth day following its adoption.

Introduced, considered favorably on first reading and ordered published this 19th day of November 2019, and to be presented for final passage on the 3rd day of December 2019.

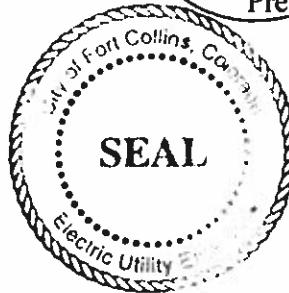


President

ATTEST:



Secretary



Passed and adopted on final reading this 3rd day of December 2019.



President

ATTEST:



Secretary



LOAN AGREEMENT

by and between

CITY OF FORT COLLINS, COLORADO, ELECTRIC UTILITY ENTERPRISE

and

U.S. BANK NATIONAL ASSOCIATION

Relating to:

Not to exceed \$2,500,000 2019 Taxable Subordinate Lien Revenue Note

Dated as of [Closing Date], 2019

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LOAN AGREEMENT

THIS LOAN AGREEMENT (this “Agreement”) is made and entered into as of [Closing Date], 2019, by and between **CITY OF FORT COLLINS, COLORADO, ELECTRIC UTILITY ENTERPRISE**, an enterprise established and existing pursuant to the home rule charter of the City of Fort Collins, Colorado (the “Enterprise”), and **U.S. BANK NATIONAL ASSOCIATION**, a national banking association, in its capacity as lender (the “Bank”).

WITNESSETH:

WHEREAS, the City of Fort Collins, Colorado (the “City”) is a duly organized and existing home rule municipality of the State of Colorado, created and operating pursuant to Article XX of the Constitution of the State of Colorado and the home rule charter of the City (the “Charter”); and

WHEREAS, the members of the City Council of the City (the “Council”) have been duly elected and qualified; and

WHEREAS, Section 19.3(b) of the Charter Article V (“Section 19.3(b)”) provides that the Council may, by ordinance establish the City’s electric utility (the “Utility”) as an enterprise of the City; and

WHEREAS, pursuant to Section 19.3(b), the Council has heretofore established the Utility as an enterprise of the City (the “Enterprise”) in ordinances codified in Section 26-392 of the Code of the City of Fort Collins (“Section 26-392”); and

WHEREAS, pursuant to Section 19.3(b) and Section 26-392, the Council has authorized the Enterprise, by and through the Council, sitting as the board of the Enterprise (the “Board”), to issue revenue and refunding securities and other debt; and

WHEREAS, the Enterprise has established a program (the “Epic Program”) to assist certain customers of the Utility in financing home energy efficiency and renewable energy improvements by making loans to customers who are property owners (“Epic Loans”); and

WHEREAS, the Board has determined that in order to finance Epic Loans (the “Project”), it is necessary and advisable and in the best interests of the Enterprise (i) to enter into this Agreement with the Bank pursuant to which the Bank shall loan the Enterprise an amount of not to exceed \$2,500,000 (the “Loan”) for such purposes, and (ii) to issue a promissory note (the “Note”) to the Bank to evidence the Enterprise’s repayment obligations under this Agreement; and

WHEREAS, the Enterprise has previously issued its “City of Fort Collins, Colorado, Electric Utility Enterprise, Tax-Exempt Revenue Bonds, Series 2018A” (the “2018A Bonds”) and its “City of Fort Collins, Colorado, Electric Utility Enterprise, Taxable Revenue Bonds, Series 2018B” (the “2018B Bonds” and, together with the 2018A Bonds, the “2018 Bonds”) which are payable from a secured by a lien on the Net Pledged Revenues (as herein defined); and

WHEREAS, except for the 2018 Bonds, neither the City nor the Enterprise has pledged or hypothecated the Gross Net Pledged Revenues (as herein defined) to the payment of any bonds or

for any other purpose, with the result that the Net Pledged Revenues may now be pledged lawfully and irrevocably to the payment of the Loan which pledge will be subordinate to the pledge of Net Pledged Revenues to the payment of the 2018 Bonds; and

WHEREAS, the Bank is willing to enter into this Agreement and to make the Loan to the Enterprise pursuant to the terms and conditions stated below; and

WHEREAS, the Loan shall be payable from and secured by the Net Pledged Revenues as more fully set forth herein;

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the parties hereto agree as follows.

ARTICLE I

DEFINITIONS

Words and terms defined in the recitals hereof, as hereby supplemented and amended, shall have the same meanings herein or therein assigned to them, unless the context or use indicates another meaning or intent, and except to the extent amended by the definitions hereinafter set forth. In addition, the following terms shall have the meanings set forth herein:

“*2018 Bond Ordinance*” means the ordinance of the Enterprise which provides for the issuance and delivery of the 2018A Bonds and 2018B Bonds.

“*2018A Bonds*” means the Enterprise’s Tax-Exempt Revenue Bonds, Series 2018A.

“*2018B Bonds*” means the Enterprise’s Taxable Revenue Bonds, Series 2018B.

“*2019 Note*” or “*Note*” means the City of Fort Collins, Colorado, Electric Utility Enterprise not to exceed \$2,500,000 2019 Taxable Subordinate Lien Revenue Note evidencing the Loan from the Enterprise, as maker, to the Bank, as payee.

“*Advance*” means a disbursement of proceeds of the Unfunded Portion of the Loan pursuant to the terms hereof.

“*Advance Maturity Date*” means the second anniversary of the Closing Date.

“*Advance Period*” means the period commencing on the date of the Closing Date and terminating on the second anniversary of the Closing Date unless terminated or extended as provided herein.

“*Advance Termination Date*” means the earlier to occur of (a) the Full Funding Date; (b) the date which is the last day of the Advance Period or (c) a date determined by the Enterprise and provided in writing to the Bank.

“*Authorized Person*” means the President of the Enterprise or the Treasurer of the Enterprise and also means any other individual authorized by the President to act as an Authorized Person hereunder.

“*Authorizing Ordinance*” means the Ordinance adopted by the Board on September 17, 2019 authorizing the Enterprise to finance the Project, enter into the Loan and execute and deliver the Note, this Agreement, and the other Financing Documents.

“*Bank*” means U.S. Bank National Association, a national banking association, in its capacity as lender of the Loan.

“*Business Day*” means any day of the week on which the Bank is conducting its banking operations nationally and on which day the Bank’s offices are open for business in Denver, Colorado.

“*Capital Improvements*” means the acquisition of land, easements, facilities, and equipment (other than ordinary repairs and replacements), and those property improvements or any combination of property improvements which will constitute enlargements, extensions or betterments to the System and will be incorporated into the System.

“*Closing*” means the date of the execution and delivery of the Note, this Agreement, and the other Financing Documents by the respective parties thereto.

“*Closing Date*” means date of the Closing for the Loan.

“*Conversion Notice*” means a notice of a conversion pursuant to Sections 2.07, which shall be substantially in the form of Exhibit C.

“*Cost of Funds*” means the rate at which Bank would be able to borrow funds of comparable amounts in the Money Markets for a period equal to the term of a Term Loan, adjusted for any reserve requirement and any subsequent costs arising from a change in government regulation; such rate rounded up to the nearest one-eighth percent.

“*C.R.S.*” means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

“*Debt*” means, without duplication, all of the following obligations of the Enterprise for the payment of which the Enterprise has promised or is required to pay from the Net Pledged Revenues: (a) borrowed money of any kind; (b) obligations evidenced by bonds, debentures, notes or similar instruments; (c) obligations upon which interest charges are customarily paid; (d) obligations arising from guarantees made by the Enterprise; (e) obligations as an account party in respect of letters of credit and bankers’ acceptances or similar obligations issued in respect of the Enterprise; and (f) obligations evidenced by any interest rate exchange agreement; provided that notwithstanding the foregoing, the term “*Debt*” does not include obligations issued for any purpose, the repayment of which is contingent upon the Enterprise’s annual determination to appropriate moneys therefore.

“*Default Interest Rate*” means a rate per annum equal to the greater of the Interest Rate plus 3% or the Maximum Rate.

“*Electronic Notification*” means telecopy, facsimile transmissions, email transmissions or other similar electronic means of communication providing evidence of transmission.

“*Event of Default*” has the meaning set forth in Section 7.01 hereof.

“*Financing Documents*” means this Agreement, the Note, the Authorizing Ordinance, and any other document or instrument required or stated to be delivered hereunder or thereunder, all in form and substance satisfactory to the Bank.

“*Fiscal Year*” means the 12 months commencing January 1 of any year and ending December 31 of such year.

“*Full Funding Date*” means the date on which, if at all, the aggregate amount of all Advances equals the Maximum Advance Amount.

“*Gross Pledged Revenues*” means all rates, fees, charges 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 Capital Improvements or otherwise, and includes all rates, fees, charges and revenues received by the City from the System, including without limitation:

(i) All rates, fees and other charges for the use of the System, or for any service rendered by the City or the Enterprise in the operation thereof, directly or indirectly, the availability of any such service, or the sale or other disposal of any commodities derived therefrom, including, without limitation, connection charges, but:

(a) Excluding any moneys borrowed and used for the acquisition of Capital Improvements or for the refunding of securities, and all income or other gain from any investment of such borrowed moneys; and

(b) Excluding any moneys received as grants, appropriations or gifts from the Federal Government, the State, or other sources, the use of which is limited by the grantor or donor to the construction of Capital Improvements, except to the extent any such moneys shall be received as payments for the use of the System, services rendered thereby, the availability of any such service, or the disposal of any commodities therefrom; and

(ii) All income or other gain from any investment of Gross Pledged Revenues (including without limitation the income or gain from any investment of all Net Pledged Revenues, but excluding borrowed moneys and all income or other gain thereon in any project fund, construction fund, reserve fund, or any escrow fund for any Parity Bonds payable from Net Pledged Revenues heretofore or hereafter issued and excluding any unrealized gains or losses on any investment of Gross Pledged Revenues); and

(iii) All income and revenues derived from the operation of any other utility or other income-producing facilities added to the System and to which the pledge and lien herein provided are lawfully extended by the Board or by the qualified electors of the City; and

(iv) All revenues which the Enterprise receives from the repayment of Epic Loans.

“*Initial Advance*” means the first Advance made by the Bank to the Enterprise pursuant to Section 2.06 hereof.

“*Interest Payment Date*” means, for Advances, the first Business Day of each month, commencing the first such day occurring after the Initial Advance, and continuing through and including the Advance Maturity Date and, for Term Loans, the first Business Day of each month, commencing the first such day occurring after an Advance has been converted to a Term Loan continuing through and including the Term Loan Maturity Date.

“*Interest Rate*” means for Advances, a variable rate of interest equal to 76% of the Prime Rate, and for Term Loans, a fixed rate of interest determined on the date an Advance converts to a Term Loan pursuant to Section 2.07 hereof.

“*Light and Power Fund*” means the special fund of that name heretofore created by the City pursuant to Section 8-77 of the Code of the City of Fort Collins .

“*Loan*” means all Advances and Term Loans.

“*Loan Amount*” means, with respect to the Loan, a maximum amount of Two Million Five Hundred Thousand and 00/100 U.S. Dollars (\$2,500,000), or such lesser amount that has been Advanced by the Bank from time to time in accordance with the terms and provisions of this Agreement.

“*Material Adverse Effect*” means a material adverse effect on (a) the business, property, liabilities (actual and contingent), operations or condition (financial or otherwise), results of operations, or prospects of the Enterprise taken as a whole, (b) the ability of the Enterprise to perform its obligation under this Agreement, or (c) the validity or enforceability of this Agreement or the rights or remedies of the Bank under this Agreement.

“*Maturity Date*” means for Advances the Advance Maturity Date and for Term Loans the Term Loan Maturity Date.

“*Maximum Advance Amount*” means, with respect to the 2019 Note, \$2,500,000.

“*Maximum Rate*” has the meaning set forth in Section 2.02(i) hereof.

“*Money Markets*” refers to one or more wholesale funding markets available to and selected by Bank, including negotiable certificates of deposit, commercial paper, Eurodollar deposits, bank notes, federal funds, interest rate swaps or others. The Enterprise acknowledges that Bank is under no obligation to actually purchase and/or match funds to determine the Interest Rate for any Term Loan.

“*Net Pledged Revenues*” means the Gross Pledged Revenues remaining after the payment of the Operation and Maintenance Expenses of the System.

“*Non-Use Fee*” has the meaning set forth in Section 2.01(d) hereof.

“*Operation and Maintenance Expenses*” means such reasonable and necessary current expenses of the City, paid or accrued, of operating, maintaining and repairing the System including, except as limited by contract or otherwise limited by law, without limiting the generality of the foregoing:

(a) All payments made to the Platte River Power Authority, a wholesale electricity provider that acquires, constructs and operates generation capacity for the City, or its successor in function;

(b) Engineering, auditing, legal and other overhead expenses directly related and reasonably allocable to the administration, operation and maintenance of the System;

(c) Insurance and surety bond premiums appertaining to the System;

(d) The reasonable charges of any paying agent, registrar, transfer agent, depository or escrow agent appertaining to the System or any bonds or other securities issued therefor;

(e) Annual payments to pension, retirement, health and hospitalization funds appertaining to the System;

(f) Any taxes, assessments, franchise fees or other charges or payments in lieu of the foregoing;

(g) Ordinary and current rentals of equipment or other property;

(h) Contractual services, professional services, salaries, administrative expenses, and costs of labor appertaining to the System and the cost of materials and supplies used for current operation of the System;

(i) The costs incurred in the billing and collection of all or any part of the Gross Pledged Revenues; and

(j) Any costs of utility services furnished to the System by the City or otherwise.

“*Operation and Maintenance Expenses*” does not include:

(a) Any allowance for depreciation;

(b) Any costs of reconstruction, improvement, extensions, or betterments, including without limitation any costs of Capital Improvements;

(c) Any accumulation of reserves for capital replacements;

(d) Any reserves for operation, maintenance, or repair of the System;

(e) Any allowance for the redemption of any bonds or other securities payable from the Net Pledged Revenues or the payment of any interest thereon;

(f) Any liabilities incurred in the acquisition of any properties comprising the System;
and

(g) Any other ground of legal liability not based on contract.

“*Parity Debt*” means any obligations of the Enterprise payable from and with a lien on the Net Pledged Revenues on a parity basis with the 2019 Note.

“*Permitted Investments*” means any investment or deposit permissible under then applicable law for governmental entities such as the Enterprise.

“*Person*” means an individual, a corporation, a partnership, an association, a joint venture, a trust, an unincorporated organization or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

“*Prime Rate*” means a variable per annum rate of interest equal at all times to the rate of interest established and quoted by the Bank as its “Prime Rate,” “Base Rate” or “Reference Rate,” such rate to change contemporaneously with each change in such established and quoted rate, provided that it is understood that the Prime Rate shall not necessarily be representative of the rate of interest actually charged by the Bank on any loan or class of loans.

“*Principal Payment Date*” means the Maturity Date.

“*Senior Debt*” means the 2018A Bonds, the 2018B Bonds, and any obligations of the Enterprise payable from and with a lien on the Net Pledged Revenues on a basis superior to the 2019 Note.

“*Supplemental Public Securities Act*” means Title 11, Article 57, C.R.S.

“*System*” means the City’s electric distribution system that furnishes electricity and related services and excludes the City’s broadband system using fiber-optic technology. The System consists of all properties, real, personal, mixed and otherwise, now owned or hereafter acquired by the City, through purchase, construction and otherwise, and used in connection with such system of the City, and in any way pertaining thereto and consisting of all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the City, whether situated within or without the City boundaries, used in connection with such system of the City, and in any way appertaining thereto, including all present or future improvements, extensions, enlargements, betterments, replacements or additions thereof or thereto and administrative facilities.

“*Term Loan*” has the meaning specified in Section 2.07.

“*Term Loan Maturity Date*” means the maturity date of a Term Loan as determined pursuant to Section 2.07.

“*Unfunded Portion*” means, as of any date, an amount equal to the Maximum Advance Amount, less the total amount of all Advances funded as of such date, less any reduction of the Unfunded Portion made pursuant to Section 2.01 hereof.

ARTICLE II

LOAN

Section 2.01. Loan.

(a) **Agreement to Make Loan.** The Bank hereby agrees to extend the Loan to the Enterprise in the maximum aggregate principal amount of \$2,500,000 subject to the terms and conditions of this Agreement. The Loan shall be evidenced by the 2019 Note, the form of which is set forth in Exhibit A attached hereto.

(b) **Advances.** Subject to the terms and conditions of this Agreement, including without limitation satisfaction of the conditions set forth in Section 2.06 hereof and upon delivery to the Bank of an Advance Request in the form of Exhibit B hereto, the Bank hereby agrees to make Advances to the Enterprise from time to time during the Advance Period in the aggregate original principal amounts not to exceed \$2,500,000 with respect to the Loan (as more particularly defined in Article I hereof, the “Maximum Advance Amount”). On the Advance Termination Date, the Unfunded Portion shall be reduced to zero and no further Advances will be made hereunder.

(c) **Note.** The Loan shall be evidenced by the 2019 Note. On the Closing Date, the Enterprise shall execute and deliver the 2019 Note payable to the Bank, in substantially the form set forth in Exhibit A attached hereto. The Enterprise shall maintain a book for the registration of ownership of the 2019 Note. Upon any transfer of the 2019 Note as provided herein, such transfer shall be entered on such registration books of the Enterprise.

With respect to each Advance funded by the Bank from time to time hereunder, the Bank shall maintain, in accordance with its usual practices, records evidencing the indebtedness resulting from each such Advance and the amounts of principal and interest payable and paid from time to time hereunder. In any legal action or proceeding in respect of any Advance or the Loan, the entries made in such records shall be conclusive evidence (absent manifest error) of the existence and amounts of the obligations therein recorded. The Note shall evidence the obligation of the Enterprise to pay the Loan and shall evidence the obligation of the Enterprise to pay the principal amount of each Advance funded by the Bank hereunder, as such amounts are outstanding from time to time, and accrued interest

(d) **Non-Use Fees** The Enterprise shall pay to the Bank a nonrefundable fee (the “Non-Use Fee”), which shall be in the amount of 0.30% of the weighted average balance of the Unfunded Portion from the Closing Date to the Advance Termination Date. The Non-Use Fee shall be calculated and paid on the Advance Termination Date.

(e) **Application of Loan Proceeds.** The Enterprise shall apply the proceeds of each Advance to pay the costs of the Project.

(f) **Special Obligations.** All amounts due under this Agreement or the 2019 Note shall be payable and collectible solely out of the Net Pledged Revenues, which revenues are hereby so pledged which pledge is in all respects subordinate to the pledge and lien thereon of the Senior Debt at any time outstanding. The Bank may not look to any general or other fund for the

payment of such amounts; this Agreement and the 2019 Note shall not constitute a debt or indebtedness within the meaning of any constitutional, charter, or statutory provision or limitation; and this Agreement and the 2019 Note shall not be considered or held to be general obligations of the Enterprise or the City but shall constitute special obligations of the Enterprise. No statutory or constitutional provision enacted after the execution and delivery of this Agreement or the 2019 Note shall in any manner be construed as limiting or impairing the obligation of the Enterprise to comply with the provisions of this Agreement or the 2019 Note. None of the covenants, agreements, representations and warranties contained herein or in the 2019 Note shall ever impose or shall be construed as imposing any liability, obligation or charge against the Enterprise or the City (except the Net Pledged Revenues and the special funds pledged therefor), or against its general credit, or as payable out of its general fund or out of any funds derived from taxation or out of any other revenue source (other than those pledged therefor). The payment of the amounts due under this Agreement or the 2019 Note is not secured by an encumbrance, mortgage or other pledge of property of the City or the Enterprise, except for the Net Pledged Revenues. No property of the City or the Enterprise, subject to such exception, shall be liable to be forfeited or taken in payment of such amounts.

Section 2.02. Interest Rate; Interest Payments; Principal Payments.

(a) ***Interest Rate.*** The unpaid principal balance of the Loan will bear interest at the Interest Rate. All interest due and payable under this Agreement shall be calculated on the basis of a 360-day year of twelve 30-day months. Interest payments on the Loan shall be due on each Interest Payment Date and on the Maturity Date.

(b) ***Default Interest Rate.*** Immediately upon the occurrence of an Event of Default or upon the Maturity Date, interest shall begin to accrue on all principal amounts owing on the Loan at the Default Interest Rate for so long as such Event of Default continues and remains uncured or, if after the Maturity Date, for so long as amounts due on the Loan remain unpaid.

(c) ***Principal Payments.*** Repayment of principal amounts owing under the Loan shall occur on each Principal Payment Date.

(d) ***Prepayment.*** The Loan may be prepaid, in whole or in part, at the option of the Enterprise, at a prepayment price equal to the principal amount so prepaid, plus accrued interest to the prepayment date, with no prepayment fee. Any prepayment under this paragraph shall only be made after the Enterprise gives two Business Days written notice to the Bank.

(e) ***Obligations Unconditional.*** The Enterprise's obligation to repay the Loan hereunder and all of its other obligations under this Agreement shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment which the Enterprise may have against the Bank or any other Person, including, without limitation, any defense based on the failure of any nonapplication or misapplication of the proceeds of the Loan hereunder, and irrespective of the legality, validity, regularity or enforceability of all or any of the Financing Documents, and notwithstanding any amendment or waiver of (other than an amendment or waiver signed by the Bank explicitly reciting the release or discharge of any such obligation), or any consent to, or departure from, all or any of the Financing Documents or any exchange, release, or nonperfection of any collateral securing the obligations of the Enterprise

hereunder and any other circumstances or happening whatsoever, whether or not similar to any of the foregoing; provided, however, that nothing contained in this Section 2.02(e) shall abrogate or otherwise affect the rights of the Enterprise pursuant to Section 8.05 hereof.

(f) ***Waivers, Etc.*** To the full extent permitted by law: (i) the Enterprise hereby waives (A) presentment, demand, notice of demand, protest, notice of protest, notice of dishonor and notice of nonpayment; (B) to the extent the Bank is not in default hereunder, the right, if any, to the benefit of, or to direct application of, any security hypothecated to the Bank until all obligations of the Enterprise to the Bank hereunder, howsoever arising, have been paid; (C) the right to require the Bank to proceed against the Enterprise hereunder, or against any Person under any guaranty or similar arrangement, or under any agreement between the Bank and any Person or to pursue any other remedy in the Bank's power; and (D) any defense arising out of the election by the Bank to foreclose on any security by one or more non-judicial or judicial sales; (ii) the Bank may exercise any other right or remedy, even though any such election operates to impair or extinguish the Enterprise's right to repayment from, or any other right or remedy it may have against, any Person, or any security; and (iii) the Enterprise agrees that the Bank may proceed against the Enterprise or any Person directly and independently of any other, and that any forbearance, change of rate of interest, or acceptance, release or substitution of any security, guaranty, or loan or change of any term or condition thereunder or under any Financing Document (other than by mutual agreement between the Enterprise and the Bank) shall not in any way affect the liability of the Enterprise hereunder.

(g) ***Manner of Payments.*** All interest, fees, and other payments to be made hereunder by or on behalf of the Enterprise to the Bank shall be made, and shall not be considered made until received, in United States dollars in immediately available funds. The Enterprise shall make each payment hereunder in the manner and at the time necessary so that each such payment is received by the Bank not later than 12:00 p.m., Colorado time, on the day when due in lawful money of the United States of America in immediately available funds. Any payment received after 12:00 p.m., Colorado time, shall be deemed made on the next succeeding Business Day. All payments made hereunder by or on behalf of the Enterprise to the Bank shall be applied to such amounts due hereunder and under the Financing Documents in the following order: first, to unpaid Non-Use Fees, second, to accrued but unpaid interest, third, to principal and, fourth, to any other amounts due hereunder.

(h) ***Default Interest Rate; Calculation of Interest and Fees.*** All interest and fees due and payable under this Agreement shall be calculated on the basis of a 360-day year of twelve 30-day months. Any sum due to the Bank and not paid when due and any sum due to the Bank upon the occurrence or during the continuance of any Event of Default hereunder shall bear interest at the Default Interest Rate.

(i) ***Maximum Interest Rate.*** If the interest due and payable on any obligation hereunder computed at the applicable rate as provided in Section 2.02 hereof is in excess of 9.5% (the "Maximum Rate"), the difference between what would have been the interest payable on such amounts had they accrued interest at the rate provided in Section 2.02 and the Maximum Rate (the "Interest Differential") shall remain an obligation of the Enterprise. Notwithstanding anything herein or in the Financing Documents to the contrary, if at any time there is an Interest Differential owed to the Bank, any reduction in interest rate that would result from the application of the

Maximum Rate to the Default Interest Rate, shall not reduce the rate of interest below the Maximum Rate until the total amount due has been paid to the Bank as if the applicable rate computed as provided in Section 2.02 hereof had at all times been utilized.

Section 2.03. Costs, Expenses and Taxes. The Enterprise agrees to pay all reasonable costs and expenses actually incurred by the Bank in connection with (a) the preparation, execution and delivery of this Agreement or any other documents, including the other Financing Documents, which may be delivered by any party in connection with this Agreement and the other Financing Document, and (b) the filing, recording, administration (other than normal, routine administration), enforcement, transfer, amendment, maintenance, renewal or cancellation of this Agreement and all amendments or modifications thereto (or supplements hereto), including, without limitation, the reasonable fees and out-of-pocket expenses of counsel for the Bank and independent public accountants and other outside experts retained by the Bank in connection with any of the foregoing; and. In addition, the Enterprise agrees to pay promptly all reasonable costs and expenses of the Bank, including, without limitation, the actual, reasonable fees and expenses of external counsel, for (i) any and all amounts which the Bank has paid relative to the Bank's curing of any Event of Default under this Agreement or any of the Financing Documents; (ii) the enforcement of this Agreement or any of the Financing Documents; or (iii) any action or proceeding relating to a court order, injunction, or other process or decree restraining or seeking to restrain the Bank from paying any amount hereunder. Without prejudice to the survival of any other agreement of the Enterprise hereunder, the agreements and obligations contained in this Section 2.03 shall survive the payment in full of all amounts owing to the Bank hereunder.

Section 2.04. Pledge. The Enterprise hereby pledges, assigns and grants to the Bank a lien in the Net Pledged Revenues, which is subordinate to the lien which is pledged to secure the payment of Senior Debt, to secure its obligations to the Bank hereunder and under the other Financing Documents. The lien of the Bank on the Net Pledged Revenues hereunder shall be subject to no other liens except those liens granted on the Net Pledged Revenues to any Senior Debt heretofore or hereafter issued in accordance with the terms hereof and the Subordinate Debt. The Enterprise represents and warrants that, except for the Senior Debt, the Net Pledged Revenues is not and shall not be subject to any other lien or encumbrance without the prior written consent of the Bank except as otherwise permitted pursuant to this Agreement.

Section 2.05. Conditions to Closing. The Closing on the Loan is conditioned upon the satisfaction of each of the following:

(a) all Financing Documents and other instruments applicable to the Loan are in form and content satisfactory to the Bank and have been duly executed and delivered in form and substance satisfactory to the Bank and shall have not been modified, amended or rescinded, shall be in full force and effect on and as of the Closing Date and executed original or certified copies of each thereof shall have been delivered to the Bank;

(b) the Bank has received a certified copy of the Authorizing Ordinance of the Enterprise, which shall be in form and content satisfactory to the Bank and authorize the Enterprise to finance the Project, obtain the Loan and perform all acts contemplated by this Agreement and all other Financing Documents; and a certified copy of all other ordinances, resolutions and proceedings taken by the Enterprise authorizing the Enterprise to finance the Project, obtain the

Loan and the execution, delivery and performance of this Agreement and the other Financing Documents and the transactions contemplated hereunder and thereunder, together with such other certifications as to the specimen signatures of the officers of the Enterprise authorized to sign this Agreement and the other Financing Documents to be delivered by the Enterprise hereunder and as to other matters of fact as shall reasonably be requested by the Bank;

(c) the Enterprise has provided a certificate certifying that on the Closing Date each representation and warranty on the part of the Enterprise contained in this Agreement and in any other Financing Document is true and correct and no Event of Default, or event which would, with the passage of time or the giving of notice, constitute an Event of Default, has occurred and is continuing and no default exists under any other Financing Documents, or under any other agreements by and between the Enterprise and the Bank and certifying as to such other matters as the Bank might reasonably request;

(d) the Enterprise has provided a certificate certifying that the only Senior Debt outstanding as of the Closing Date is the 2018A Bonds and the 2018B Bonds and that no Parity Debt is outstanding as of the Closing Date;

(e) the Bank shall have received the opinion of Butler Snow LLP to the effect that (i) the obligation of the Enterprise to pay the principal of and interest on the Loan constitutes a valid and binding special obligation of the Enterprise payable solely from the Net Pledged Revenues with a lien on the Net Pledged Revenues which is subordinate to the lien thereon of the Senior Debt, and (ii) this Agreement and the Note are valid and binding obligations of the Enterprise, enforceable against the Enterprise in accordance with their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity;

(f) all proceedings taken in connection with the transactions contemplated by this Agreement, and all instruments, authorizations and other documents applicable thereto, are satisfactory to the Bank and its counsel;

(g) no law, regulation, ruling or other action of the United States, the State of Colorado or any political subdivision or authority therein or thereof shall be in effect or shall have occurred, the effect of which would be to prevent the Enterprise from fulfilling its obligations under this Agreement or the other Financing Documents;

(h) all Bank counsel fees and any other fees and expenses due and payable in connection with the execution and delivery of this Agreement shall have been paid by the Enterprise upon execution and delivery of this Agreement;

(i) the Bank shall have been provided with the opportunity to review all pertinent financial information regarding the Enterprise, agreements, documents, and any other material information relating to the Enterprise or the Net Pledged Revenues or any other component of the collateral securing the obligations of the Enterprise hereunder;

(j) all information provided by the Enterprise to the Bank is accurate in all respects;

(k) the Bank shall have received such other certificates, approvals, filings, opinions and documents as shall be reasonably requested by the Bank;

(l) all other legal matters pertaining to the execution and delivery of this Agreement and the other Financing Documents shall be reasonably satisfactory to the Bank.

Section 2.06. Procedure for Requesting and Funding Advances.

(a) *Conditions to Funding Advances.* No Advance shall be requested by the Enterprise and the Bank shall have no obligation to honor an Advance Request except in accordance with the provisions and upon fulfillment of the terms and conditions set forth in this Agreement. The funding by the Bank of each Advance is conditioned upon the satisfaction of each of the following, each of which shall be satisfactory in all respects to the Bank:

(i) *Advance Frequency.* Advance Requests may only be made during the Advance Period and shall be submitted to the Bank no more than once in any calendar month, unless permitted more frequently by the Bank. Advances shall be made in amounts of \$75,000 or more.

(ii) *Representations and Warranties True; No Default.* At the time any Advance is to be made and as a result thereof, immediately thereafter, all representations and warranties of the Enterprise set forth in Article IV are true and correct as though made on the date of such Advance Request and on the date when such Advance is funded and no Event of Default hereunder has occurred and is continuing and no litigation is then pending or threatened concerning the Enterprise's authority to pledge the Net Pledged Revenues as provided herein, and the Enterprise shall deliver an executed certificate of an Authorized Person to such effect in connection with each Advance in substantially the form of Exhibit B.

(iii) *Payments Current.* The Enterprise shall be current on all of its obligations hereunder.

(iv) *Advance Request.* The Bank shall have received an Advance Request from the Enterprise, the form of which is attached hereto as Exhibit B (each, an "Advance Request"), signed by the Authorized Person of the Enterprise and containing the calculation of the amount of such Advance requested by the Enterprise.

(v) *Amount of Advance.* The amount of the requested Advance, when combined with the sum of all prior Advances made hereunder shall not exceed the Maximum Advance Amount for the Loan. From each Advance the Bank will transfer amounts as specified in each Advance Request.

(vi) *Material Adverse Changes.* Since December 31, 2018, there has been no change in the business, property, prospects, condition (financial or otherwise) or results

of operations of the Enterprise which could reasonably be expected to have a Material Adverse Effect.

(vii) *Other Conditions Precedent to Funding Each Advance.* No Advance shall be requested or made after the Advance Termination Date.

(b) *Funding of Advances.* Provided that the conditions set forth in Section 2.06(a) above are satisfied, within 2 days of receipt by the Bank of an Advance Request signed by the Authorized Person, the Bank shall provide the amount of such Advance to the Enterprise at such depository as the Enterprise may direct.

Section 2.07. Conversion to Term Loan. Provided that (i) no Event of Default shall have occurred and be continuing (ii) all representations and certifications and agreements herein are then true and correct, and (iii) the outstanding Senior Debt is rated in one of its four highest rating categories by a national recognized organization which regularly rates obligations such as the Senior Debt, the Enterprise may elect to convert all or a portion of the outstanding Advances on or before the Advance Loan Maturity Date to one or more term loans, but not more than four term loans (each a “Term Loan”) that shall be payable in full by no later than the 8th anniversary of the Advance Loan Maturity Date. Such election shall be exercised by the Enterprise delivering to the Bank a Conversion Notice, appropriately completed and signed by an Authorized Person, at least three (3) Business Days prior to the Maturity Date. Each Term Loan shall be a fully amortizing loan in approximately equal installments of principal and interest and shall mature on the Term Loan Maturity Date specified in the Conversion Notice, which date shall be either the 3rd anniversary of the Advance Loan Maturity Date or the 8th anniversary of the Advance Loan Maturity Date. Principal and interest on each Term Loan shall be payable on each Interest Payment Date. The Interest Rate on a Term Loan shall be a fixed rate determined on the date an Advance converts to a Term Loan and shall equal the Cost of Funds plus 1.65% for a Term Loan which matures on the 3rd anniversary of the Advance Loan Maturity Date or the Cost of Funds plus 1.85% for a Term Loan which matures on the 8th anniversary of the Advance Loan Maturity Date. The Enterprise and the Bank agree that the aggregate principal amount of all Advances which is converted to a Term Loan shall be divided approximately equally between Term Loans which mature on the 3rd anniversary of the Advance Loan Maturity Date and Term Loans which mature on the 8th anniversary of the Advance Loan Maturity Date

ARTICLE III

FUNDS AND ACCOUNTS

Section 3.01. Light and Power Fund. So long as this Agreement is in effect, the entire Gross Pledged Revenues, upon their receipt from time to time by the Enterprise, shall be set aside and credited immediately to the Light and Power Fund. In each month, after making in full all deposits or payments required in connection with the Senior Debt, the Enterprise shall pay to the Bank from the Net Pledged Revenues remaining in the Light and Power Fund, the amounts due under this Agreement and the Note.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE ENTERPRISE

While any obligations hereunder or under any of the other Financing Documents are unpaid or outstanding, the Enterprise continuously represents and warrants to the Bank as follows:

Section 4.01. Due Organization. The Enterprise is an enterprise of the City duly organized and validly existing under Charter and Enterprise Ordinances.

Section 4.02. Power and Authorization. The Enterprise has all requisite power and authority to own and convey its properties and to carry on its business as now conducted and as contemplated to be conducted under the Financing Documents; to execute, deliver and to perform its obligations under this Agreement and the other Financing Documents; and to cause the execution, delivery and performance of the Financing Documents.

Section 4.03. No Legal Bar. To the best of the Enterprise's knowledge, the Enterprise is not in violation of any of the provisions of the laws of the State of Colorado or the United States of America or any of the provisions of any order of any court of the State of Colorado or the United States of America which would affect its existence, or its powers referred to in the preceding Section 4.02. The execution, delivery and performance by the Enterprise of this Agreement and of the other Financing Documents (a) will not violate any provision of any applicable law or regulation or of any order, writ, judgment or decree of any court, arbitrator or governmental authority; (b) will not violate any provisions of any document constituting, regulating or otherwise affecting the operations or activities of the Enterprise; and (c) will not violate any provision of, constitute a default under, or result in the creation, imposition or foreclosure of any lien, mortgage, pledge, charge, security interest or encumbrance of any kind other than liens created or imposed by the Financing Documents, on any of the revenues or other assets of the Enterprise which could have a material adverse effect on the assets, financial condition, business or operations of the Enterprise, on the Enterprise's power to cause the Financing Documents to be executed and delivered, or its ability to pay in full in a timely fashion the obligations of the Enterprise under this Agreement or the other Financing Documents.

Section 4.04. Consents. The Enterprise has obtained all consents, permits, licenses and approvals of, and has made all registrations and declarations with any governmental authority or regulatory body required for the execution, delivery and performance by the Enterprise of this Agreement and the other Financing Documents.

Section 4.05. Litigation. Except as disclosed in writing to the Bank, there is no action, suit, inquiry or investigation or proceeding to which the Enterprise is a party, at law or in equity, before or by any court, arbitrator, governmental or other board, body or official which is pending or, to the best knowledge of the Enterprise, threatened in connection with any of the transactions contemplated by this Agreement or the Financing Documents or against or affecting the assets of the Enterprise, nor, to the best knowledge of the Enterprise, is there any basis therefor, wherein an unfavorable decision, ruling or finding (a) would adversely affect the validity or enforceability of, or the authority or ability of the Enterprise to perform its obligations under, the Financing Documents; or (b) would, in the reasonable opinion of the Enterprise, have a materially adverse

effect on the ability of the Enterprise to conduct its business as presently conducted or as proposed or contemplated to be conducted.

Section 4.06. Enforceability. This Agreement and each other Financing Document constitutes the legal, valid and binding special obligation of the Enterprise, enforceable against the Enterprise in accordance with its terms (except as such enforceability may be limited by bankruptcy, moratorium or other similar laws affecting creditors' rights generally and provided that the application of equitable remedies is subject to the application of equitable principles).

Section 4.07. Changes in Law. To the best knowledge of the Enterprise, there is not pending any change of law which, if enacted or adopted could have a material adverse effect on the assets, financial condition, business or operations of the Enterprise, on the Enterprise's power to enter into this Agreement or the other Financing Documents or its ability to pay in full in a timely fashion the obligations of the Enterprise under this Agreement or the other Financing Documents.

Section 4.08. Financial Information and Statements. The financial statements and other information previously provided to the Bank or provided to the Bank in the future are or will be complete and accurate and prepared in accordance with generally accepted accounting principles. There has been no material adverse change in the Enterprise's financial condition since such information was provided to the Bank.

Section 4.09. Accuracy of Information. All information, certificates or statements given to the Bank pursuant to this Agreement and the other Financing Documents will be true and complete when given.

Section 4.10. Financing Documents. Each representation and warranty of the Enterprise contained in any Financing Document is true and correct as of the Closing Date.

Section 4.11. Regulations U and X. The Enterprise is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U or X issued by the Board of Governors of the Federal Reserve System); and no proceeds of the Loan will be or have been used to extend credit to others for the purpose of purchasing or carrying any margin stock.

Section 4.12. Default, Etc. The Enterprise is not in default in the performance, observance, or fulfillment of any of the obligations, covenants or conditions contained in any Financing Document or other ordinance, resolution, agreement or instrument to which it is a party which would have a material adverse effect on the ability of the Enterprise to perform its obligations hereunder or under the other Financing Documents, or which would affect the enforceability hereof or thereof.

Section 4.13. Sovereign Immunity. The Enterprise represents that, under Section 24-10-106, C.R.S., its governmental immunity is limited to claims for injury which lie in tort or could lie in tort. Under existing law, the Enterprise is not entitled to raise the defense of sovereign immunity in connection with any legal proceedings to enforce its contractual obligations under the Financing Documents, or the transactions contemplated hereby or thereby including, without limitation, the payment of the principal of and interest on the Note.

Section 4.14. No Filings. No filings, recordings, registrations or other actions are necessary to create and perfect the pledges provided for herein; all obligations of the Enterprise hereunder are secured by the lien and pledge provided for herein; and the liens and pledges provided for herein constitute valid prior liens subject to no other liens.

Section 4.15. Outstanding Debt. Upon the execution and delivery of this Agreement, except for the Financing Documents and the 2018A Bonds and 2018B Bonds, the Enterprise will have no other Debt outstanding payable from or secured by the Net Pledged Revenues or any portion thereof. The Enterprise represents and warrants that it will incur additional Debt only in accordance with the provisions of Section 5.23 of this Agreement.

ARTICLE V

COVENANTS OF THE ENTERPRISE

While any obligations hereunder or under any of the other Financing Documents are unpaid or outstanding, the Enterprise continuously warrants and agrees as follows:

Section 5.01. Performance of Covenants, Authority. The Enterprise covenants that it will faithfully perform and observe at all times any and all covenants, undertakings, stipulations, and provisions contained in the Authorizing Ordinance, this Agreement, the Note, the other Financing Documents and all its proceedings pertaining thereto as though such covenants, undertakings, stipulations, and provisions were set forth in full herein (for the purpose of this provision the Financing Documents shall be deemed to continue in full force and effect notwithstanding any earlier termination thereof so long as any obligation of the Enterprise under this Agreement shall be unpaid or unperformed). The Enterprise covenants that it is duly authorized under the constitution and laws of the State of Colorado, including, particularly and without limitation, the Charter and the Enterprise Ordinances, to obtain the Loan and to execute and deliver the Note, this Agreement, and the other Financing Documents, and that all action on its part for the execution and delivery of the Note, this Agreement, and the other Financing Documents has been duly and effectively taken and will be duly taken as provided herein, and that the Loan, the Note, this Agreement, and the other Financing Documents are and will be valid and enforceable obligations of the Enterprise according to the terms hereof and thereof.

Section 5.02. Contractual Obligations. The Enterprise shall perform all contractual obligations undertaken by it under any agreements relating to the Loan, the Gross Pledged Revenues, the Project, or the System, or any combination thereof.

Section 5.03. Further Assurances. At any and all times the Enterprise shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge, deliver and file or record all and every such further instruments, acts, deeds, conveyances, assignments, transfers, other documents and assurances as may be reasonably necessary or desirable for better assuring, conveying, granting, assigning and confirming all and singular the rights, the Net Pledged Revenues and other moneys and accounts hereby pledged or assigned, or intended so to be, or which the Enterprise may hereafter become bound to pledge or to assign, or as may be reasonable and required to carry out the purposes of this Agreement and to comply with any instrument of the Enterprise amendatory thereof, or supplemental thereto. The Enterprise, acting by and through its officers,

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 moneys and accounts pledged hereunder and all the rights of the Bank hereunder against all claims and demands of all Persons whomsoever.

Section 5.04. Conditions Precedent. Upon the date of the execution and delivery of this Agreement, all conditions, acts and things required by the Federal or State Constitution, the Charter, the Supplemental Act, the Enterprise Ordinances, or any other applicable law to exist, to have happened and to have been performed precedent to the execution and delivery of this Agreement shall exist, have happened, and have been performed; and the Bonds, together with all other obligations of the Enterprise, shall not contravene any debt or other limitation prescribed by the State Constitution.

Section 5.05. Rules, Regulations and Other Details. The Enterprise shall observe and perform all of the terms and conditions contained in this Agreement, and shall comply with all valid acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body applicable to the System, the Enterprise, except for any period during which the same are being contested in good faith by proper legal proceedings.

Section 5.06. Payment of Governmental Charges. The Enterprise shall pay or cause to be paid all taxes and assessments or other governmental charges, if any, lawfully levied or assessed upon or in respect of the System, or upon any part thereof, or upon any portion of the Gross Pledged Revenues, when the same shall become due, and shall duly observe and comply with all valid requirements of any governmental authority relative to the System or any part thereof, except for any period during which the same are being contested in good faith by proper legal proceedings. The Enterprise shall not create or suffer to be created any lien upon the System, or any part thereof, or upon the Gross Pledged Revenues, except the pledge and lien created by for Senior Debt and Parity Debt and except as herein otherwise permitted. The Enterprise shall pay or cause to be discharged or shall make adequate provision to satisfy and to discharge, within 60 days after the same shall become payable, all lawful claims and demands for labor, materials, supplies or other objects which, if unpaid, might by law become a lien upon the System, or any part thereof, or the Gross Pledged Revenues; but nothing herein requires the Enterprise to pay or cause to be discharged or to make provision for any such tax, assessment, lien or charge, so long as the validity thereof is contested in good faith and by appropriate legal proceedings.

Section 5.07. Protection of Security. The Enterprise and its officers, agents and employees shall not take any action in such manner or to such extent as might prejudice the security for the payment of the amounts due under this Agreement or the Note. No contract shall be entered into nor any other action taken by which the rights of the Bank might be prejudicially and materially impaired or diminished.

Section 5.08. Prompt Payment. The Enterprise shall promptly pay the amounts due under this Agreement or the Note at the places, on the dates and in the manner specified herein and in the Agreement or the Note according to the true intent and meaning hereof.

Section 5.09. Use of Funds and Accounts. The funds and accounts described herein shall be used solely and only for the purposes described herein.

Section 5.10. Other Liens. Other than the 2018A Bonds and 2018B Bonds, there are no liens or encumbrances of any nature whatsoever on or against the System, or any part thereof, or on or against the Net Pledged Revenues on a parity with or superior to the lien thereon of this Agreement and the Note.

Section 5.11. Reasonable and Adequate Charges. The fees, rates and other charges due to the Enterprise for the use of or otherwise pertaining to and services rendered by the System to the Enterprise, to its inhabitants and to all other users within and without the boundaries of the Enterprise shall be reasonable and just, taking into account and consideration public interests and needs, the cost and value of the System, the Operation and Maintenance Expenses thereof, and the amounts necessary to meet the debt service requirements of all Senior Debt, Parity Debt, and any other securities payable from the Net Pledged Revenues, including, without limitation, reserves and any replacement accounts therefor.

Section 5.12. Adequacy and Applicability of Charges. There shall be charged against users of service pertaining to and users of the System, except as provided by Section 5.13 hereof, such fees, rates and other charges so that the Gross Pledged Revenues shall be adequate to meet the requirements of this Section. Such charges pertaining to the System shall be at least sufficient so that the Gross Pledged Revenues annually are sufficient to pay in each Fiscal Year:

(a) Operation and Maintenance Expenses. amount equal to the annual Operation and Maintenance Expenses for such Fiscal Year that are payable from the Gross Pledged Revenues

(b) Principal and Interest An amount equal to 125% of the debt service requirements on the Senior Debt and any Parity Debt then outstanding in that Fiscal Year (excluding the reserves therefor), and

(c) Deficiencies. All sums, if any, due and owing to meet then existing deficiencies pertaining to any fund or account relating to the Gross Pledged Revenues or any securities payable therefrom.

Section 5.13. Limitations Upon Free Service. No free service or facilities shall be furnished by the System, except that the City shall not be required to pay for any use by the City of any facilities of the System for municipal purposes. If the City chooses, in its sole discretion, to pay for its use of the System, all the income so derived from the City shall be deemed to be income derived from the operation of the System, to be used and to be accounted for in the same manner as any other income derived from the operation of the System.

Section 5.14. Collection of Charges. The Enterprise shall cause all fees, rates and other charges pertaining to the System to be collected as soon as is reasonable, shall reasonably prescribe and enforce rules and regulations or impose contractual obligations for the payment of such charges, and for the use of the System, and shall provide methods of collection and penalties, to the end that the Gross Pledged Revenues shall be adequate to meet the requirements of this Agreement and the Note

Section 5.15. Maintenance of Records. Proper books of record and account shall be kept by the Enterprise, separate and apart from all other records and accounts.

Section 5.16. Accounting Principles. System records and accounts, and audits thereof, shall be currently kept and made, as nearly as practicable, in accordance with the then generally accepted accounting principles, methods and terminology followed and construed for utility operations comparable to the System, except as may be otherwise provided herein or required by applicable law or regulation or by contractual obligation existing on the execution and delivery of this Agreement.

Section 5.17. Laws, Permits and Obligations. The Enterprise will comply in all material respects with all applicable laws, rules, regulations, orders and directions of any governmental authority and all agreements and obligations binding on the Enterprise, noncompliance with which would have a material adverse effect on the Enterprise, its financial condition, assets or ability to perform its obligations under the other Financing Documents; provided that the Enterprise may in good faith contest such laws, rules, regulations, orders and directions and the applicability thereof to the Enterprise to the extent that such action would not be likely to have a material adverse effect on the Enterprise's ability to perform its obligations hereunder.

Section 5.18. Bonding and Insurance. The Enterprise shall carry general liability coverage, workers' compensation, public liability, and such other forms of insurance on insurable Enterprise property upon the terms and conditions, and issued by recognized insurance companies, as in the judgment of the Enterprise would ordinarily be carried by entities having similar properties of equal value, such insurance being in such amounts as will protect the Enterprise and its operations.

Section 5.19. Other Liabilities. The Enterprise shall pay and discharge, when due, all of its liabilities, except when the payment thereof is being contested in good faith by appropriate procedures which will avoid financial liability and with adequate reserves provided therefor.

Section 5.20. Proper Books and Records. The Enterprise shall keep or cause to be kept adequate and proper records and books of account in which complete and correct entries shall be made with respect to the Enterprise, the Net Pledged Revenues and all of the funds and accounts established or maintained pursuant to any of the Financing Documents. The Enterprise shall (a) maintain accounting records in accordance with generally recognized and accepted principles of accounting consistently applied throughout the accounting periods involved; (b) provide the Bank with such information concerning the business affairs and financial condition (including insurance coverage) of Enterprise as the Bank may request; and (c) without request, provide the Bank with the information set forth below.

Section 5.21. Reporting Requirements.

(a) The Enterprise shall notify the Bank promptly of all interim litigation or administrative proceedings, threatened or pending, against the Enterprise which would, if adversely determined, in the Enterprise's reasonable opinion, have a material effect on the Enterprise's financial condition arising after the date hereof.

(b) The Enterprise shall provide the following to the Bank at the times and in the manner provided below:

(i) as soon as available, but not later than 210 days following the end of each Fiscal Year, the Enterprise shall furnish to the Bank its audited financial statements prepared in accordance with generally accepted accounting principles consistently applied, in reasonable detail and certified by a firm of independent certified public accountants selected by the Enterprise; and

(ii) promptly upon request of the Bank, the Enterprise shall furnish to the Bank such other reports or information regarding the collateral securing the obligations of the Enterprise hereunder or the assets, financial condition, business or operations of the Enterprise, as the Bank may reasonably request.

(c) The Enterprise shall promptly notify the Bank of any Event of Default of which the Enterprise has knowledge, setting forth the details of such Event of Default and any action which the Enterprise proposes to take with respect thereto.

(d) The Enterprise shall notify the Bank as soon as possible after the Enterprise acquires knowledge of the occurrence of any event which, in the reasonable judgment of the Enterprise, is likely to have a material adverse effect on the financial condition of the Enterprise or affect the ability of the Enterprise to perform its obligations under this Agreement or under any other Financing Documents.

Section 5.22. Visitation and Examination. Unless otherwise prohibited by law, the Enterprise will permit any Person designated by the Bank to visit any of its offices to examine the Enterprise's books and financial records, and make copies thereof or extracts therefrom, and to discuss its affairs, finances and accounts with its principal officers, all at such reasonable times and as often as the Bank may reasonably request.

Section 5.23. Additional Debt. The Enterprise may issue Debt with a lien on the Net Pledged Revenues that is on a parity with or subordinate to the lien of this Agreement, without the Bank's prior written consent. The Enterprise may issue Debt with a lien on the Net Pledged Revenues that is senior to the lien of this Agreement, without the Bank's prior written consent, if such Debt is issued pursuant to the provisions of the 2018 Bond Ordinance.

ARTICLE VI

INVESTMENTS

Section 6.01. Permitted Investments Only. All moneys held in the Light and Power Fund shall be invested in Permitted Investments only.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.01. Events of Default. The occurrence of any one or more of the following events or the existence of any one or more of the following conditions shall constitute an Event of Default under this Agreement (whatever the reason for such event or condition and whether it shall

be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree, rule, regulation or order of any court or any administrative or governmental body):

(a) the Enterprise fails to pay the principal of or interest on the Note or any Parity Debt when due;

(b) the Enterprise fails to pay when due any other amounts due and payable to the Bank under this Agreement or any other Financing Documents;

(c) the Enterprise fails to observe or perform any other of the covenants, agreements or conditions on the part of the Enterprise in this Agreement, the Note, or the Authorizing Ordinance and the Enterprise fails to remedy the same within 30 days after the Bank has provided the Enterprise with notice thereof;

(d) any representation or warranty made by the Enterprise in this Agreement or in any other Financing Document or any certificate, instrument, financial or other statement furnished by the Enterprise to the Bank, proves to have been untrue or incomplete in any material respect when made or deemed made;

(e) the pledge of the collateral or any other security interest created hereunder fails to be fully enforceable with the priority required hereunder or thereunder;

(f) any judgment or court order for the payment of money exceeding any applicable insurance coverage by more than \$100,000 in the aggregate is rendered against the Enterprise and the Enterprise fails to vacate, bond, stay, contest, pay or satisfy such judgment or court order for 60 days;

(g) the Enterprise shall initiate, acquiesce or consent to any proceedings to dissolve the Enterprise or to consolidate the Enterprise with other similar entities into a single entity or the Enterprise shall otherwise cease to exist;

(h) a change occurs in the financial or operating conditions of the Enterprise, or the occurrence of any other event that, in the Bank's reasonable judgment, will have a materially adverse impact on the ability of the Enterprise to generate Net Pledged Revenues sufficient to satisfy the Enterprise's obligations under this Agreement or its other obligations, and the Enterprise fails to cure such condition within six months after receipt by the Enterprise of written notice thereof from the Bank;

(i) the Enterprise shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it or seeking to adjudicate it insolvent or a bankrupt or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts; or (B) seeking appointment of a receiver, trustee, custodian or other similar official for itself or for any substantial part of its property, or the Enterprise shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against the Enterprise any case, proceeding or other action of a nature referred to in clause (i) and the same shall remain undismissed; or (iii) there shall be commenced against the Enterprise any case, proceeding or other

action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its property which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal, within 60 days from the entry thereof; (iv) the Enterprise shall take action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii) or (iii) above; or (v) the Enterprise shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due;

(j) this Agreement or any other Financing Document, or any material provision hereof or thereof, (i) ceases to be valid and binding on the Enterprise or is declared null and void, or the validity or enforceability thereof is contested by the Enterprise (unless being contested by the Enterprise in good faith), or the Enterprise denies it has any or further liability under any such document to which it is a party; or (ii) any pledge or security interest created fails to be fully enforceable with the priority required hereunder or thereunder; and

(k) the Enterprise's auditor delivers a qualified opinion with respect to the Enterprise's status as an on-going concern.

Section 7.02. Remedies. Upon the occurrence and during the continuance of any Event of Default, the Loan shall bear interest at the Default Interest Rate. Upon the occurrence and during the continuance of any Event of Default, the Bank, at its option, may take any action or remedy available under the other Financing Documents or any other document, or at law or in equity. Notwithstanding anything to the contrary herein, acceleration of the Loan shall not be an available remedy for the occurrence or continuance of an Event of Default. In exercising any remedy hereunder, the Bank shall give notice to all Notice Parties.

Section 7.03. Notice to Bank of Default. Notwithstanding any cure period described above, the Enterprise will immediately notify the Bank in writing when the Enterprise obtains knowledge of the occurrence of any Event of Default or any event which would, with the passage of time or the giving of notice, constitute an Event of Default.

Section 7.04. Additional Bank Rights. Upon the occurrence of an Event of Default the Bank may at any time take such other steps to protect or preserve the Bank's interest in the Net Pledged Revenues.

Section 7.05. Delay or Omission No Waiver. No delay or omission of the Bank to exercise any right or power accruing upon any default shall exhaust or impair any such right or power or shall be construed to be a waiver of any such default, or acquiescence therein; and every power and remedy given by this Agreement may be exercised from time to time and as often as may be deemed expedient.

Section 7.06. No Waiver of One Default to Affect Another; All Remedies Cumulative. No waiver of any Event of Default hereunder shall extend to or affect any subsequent or any other then existing Event of Default or shall impair any rights or remedies consequent thereon. All rights and remedies of the Bank provided herein shall be cumulative and the exercise of any such right or remedy shall not affect or impair the exercise of any other right or remedy.

Section 7.07. Other Remedies. Nothing in this Article VII is intended to restrict the Bank's rights under any of the Financing Documents or at law or in equity, and the Bank may exercise all such rights and remedies as and when they are available.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Loan Agreement and Relationship to Other Documents. The warranties, covenants and other obligations of the Enterprise (and the rights and remedies of the Bank) that are outlined in this Agreement and the other Financing Documents are intended to supplement each other. In the event of any inconsistencies in any of the terms in the Financing Documents, all terms will be cumulative so as to give the Bank the most favorable rights set forth in the conflicting documents, except that if there is a direct conflict between any preprinted terms and specifically negotiated terms (whether included in an addendum or otherwise), the specifically negotiated terms will control.

Section 8.02. Assignments, Participations, etc. by the Bank. The Bank may not assign or transfer this Agreement or the Note or participate any of the Bank's interests in the Agreement or the Note without the Enterprise's prior written consent. Any such assignment without the Enterprise's prior written consent shall be deemed null and void and of no effect.

Section 8.03. Notices. Notices shall be deemed delivered when the notice has been (a) deposited in the United States Mail, postage pre-paid; (b) received by overnight delivery service; (c) received by Electronic Notification; or (d) when personally delivered at the following addresses (the "Notice Parties"): Notice of any record shall be deemed delivered when the record has been (a) deposited in the United States Mail, postage pre-paid; (b) received by overnight delivery service; (c) received by Electronic Notification; or (d) when personally delivered at the following addresses (the "Notice Parties"):

to Enterprise: City of Fort Collins, Colorado, Electric Utility Enterprise

to Bank: U.S. Bank National Association

Section 8.04. Payments. Payments due on the Loan shall be made in lawful money of the United States. All payments may be applied by the Bank to principal, interest and other amounts due under the Note and this Agreement pursuant to the terms of this Agreement.

Section 8.05. Applicable Law and Jurisdiction; Interpretation; Severability. This Agreement and all other Financing Documents will be governed by and interpreted in accordance with the internal laws of the State of Colorado, except to the extent superseded by Federal law. Invalidity of any provisions of this Agreement will not affect any other provision. TO THE EXTENT PERMITTED BY LAW, THE ENTERPRISE AND THE BANK HEREBY CONSENT TO THE EXCLUSIVE JURISDICTION OF ANY STATE COURT SITUATED IN LARIMER COUNTY, COLORADO, AND WAIVE ANY OBJECTIONS BASED ON *FORUM NON CONVENIENS*, WITH REGARD TO ANY ACTIONS, CLAIMS, DISPUTES OR PROCEEDINGS RELATING TO THIS AGREEMENT, THE NOTE, THE NET PLEDGED REVENUES, ANY OTHER FINANCING DOCUMENT, OR ANY TRANSACTIONS ARISING THEREFROM, OR ENFORCEMENT AND/OR INTERPRETATION OF ANY OF THE FOREGOING. Nothing in this Agreement will affect the Bank's rights to serve process in any manner permitted by law. This Agreement, the other Financing Documents and any amendments hereto (regardless of when executed) will be deemed effective and accepted only at the Bank's offices, and only upon the Bank's receipt of the executed originals thereof. Invalidity of any provision of this Agreement shall not affect the validity of any other provision.

Section 8.06. Copies; Entire Agreement; Modification. The Enterprise hereby acknowledges the receipt of a copy of this Agreement and all other Financing Documents.

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING, EXPRESSING CONSIDERATION AND SIGNED BY THE PARTIES ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. THE TERMS OF THIS AGREEMENT MAY ONLY BE CHANGED BY ANOTHER WRITTEN AGREEMENT. THIS NOTICE SHALL ALSO BE EFFECTIVE WITH RESPECT TO ALL OTHER CREDIT AGREEMENTS NOW IN EFFECT BETWEEN THE ENTERPRISE AND THE BANK. A MODIFICATION OF ANY OTHER CREDIT AGREEMENT NOW IN EFFECT BETWEEN THE ENTERPRISE AND THE BANK, WHICH OCCURS AFTER RECEIPT BY THE ENTERPRISE OF THIS NOTICE, MAY BE MADE ONLY BY ANOTHER WRITTEN INSTRUMENT. ORAL OR IMPLIED MODIFICATIONS TO ANY SUCH CREDIT AGREEMENT IS NOT ENFORCEABLE AND SHOULD NOT BE RELIED UPON.

Section 8.07. Waiver of Jury Trial. TO THE EXTENT PERMITTED BY LAW, THE ENTERPRISE AND THE BANK HEREBY JOINTLY AND SEVERALLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO ANY OF THE FINANCING DOCUMENTS, THE OBLIGATIONS THEREUNDER, ANY COLLATERAL SECURING THE OBLIGATIONS, OR ANY TRANSACTION ARISING THEREFROM OR CONNECTED THERETO. THE ENTERPRISE AND THE BANK EACH REPRESENTS TO THE OTHER THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY GIVEN.

Section 8.08. Attachments. All documents attached hereto, including any appendices, schedules, riders and exhibits to this Agreement, are hereby expressly incorporated by reference.

Section 8.09. No Recourse Against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Public Securities Act, if a member of the Board, or any officer or agent of the Enterprise, acts in good faith in the performance of his duties as a member, officer, or agent of the Board or the Enterprise and in no other capacity, no civil recourse shall be available against such member, officer or agent for payment of the principal of and interest on the Loan. Such recourse shall not be available either directly or indirectly through the Board or the Enterprise, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the delivery of the Note evidencing the Loan and as a part of the consideration for such transfer, the Bank and any Person purchasing or accepting the transfer of the obligation representing the Loan specifically waives any such recourse.

Section 8.10. Conclusive Recital. Pursuant to Section 11-57-210 of the Supplemental Public Securities Act, this Agreement is entered into pursuant to certain provisions of the Supplemental Public Securities Act. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of this Agreement after delivery for value.

Section 8.11. Limitation of Actions. Pursuant to Section 11-57-212 of the Supplemental Public Securities Act, no legal or equitable action brought with respect to any legislative acts or proceedings in connection with the authorization or issuance of the Loan shall be commenced more than 30 days after the authorization of the Loan.

Section 8.12. Pledge of Revenues. The creation, perfection, enforcement, and priority of the pledge of revenues to secure or pay the Loan provided herein shall be governed by Section 11-57-208 of the Supplemental Public Securities Act, this Agreement, the Note, and the Authorizing Ordinance. The amounts pledged to the payment of the Loan shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge shall have a first priority. The lien of such pledge shall be valid, binding, and enforceable as against all Persons having claims of any kind in tort, contract, or otherwise against the Enterprise irrespective of whether such Persons have notice of such liens.

Section 8.13. No Liability. The Bank, including its agents, employees, officers, directors and controlling Persons, shall not have any liability to the Enterprise, and the Enterprise assumes all risk, responsibility and liability for (a) the form, sufficiency, correctness, validity, genuineness, falsification and legal effect of any demands and other documents, instruments and other papers relating to the Loan even if such documents, should prove to be in any or all respects invalid, insufficient, fraudulent or forged; (b) the general and particular conditions stipulated therein; (c) the good faith acts of any Person whosoever in connection therewith; (d) failure of any Person (other than the Bank, subject to the terms and conditions hereof) to comply with the terms of the Loan; (e) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telex, telegraph, wireless or otherwise, whether or not they be in code; (f) errors in translation or errors in interpretation of technical terms; (g) for any other consequences arising from causes beyond the Bank's control; or (h) any use of which may be made of the proceeds of the Loan, except to the extent of any direct, as opposed to indirect, consequential, or special damages suffered by the Enterprise which direct damages are proven by the Enterprise to be caused by the Bank's willful or grossly negligent failure to make lawful payment under the Loan.

Section 8.14. No Waiver; Modifications in Writing. No failure or delay on the part of the Bank in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other right, power or remedy. The remedies provided for herein are cumulative and are not exclusive of any remedies that may be available to the Bank at law or in equity or otherwise. No amendment, modification, supplement, termination or waiver of or to any provision of this Agreement, nor consent to any departure by the Enterprise therefrom, shall be effective unless the same shall be in writing and signed by or on behalf of the Bank and the Enterprise. Any amendment, modification or supplement of or to any provision of this Agreement, and any consent to any departure by the Enterprise from the terms of any provision of this Agreement, shall be effective only in the specific instance and for the specific purpose for which made or given. No notice to or demand on the Enterprise in any case shall entitle the Enterprise to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the Bank to any other or further action in any circumstances without notice or demand.

Section 8.15. Payment on Non-Business Days. Whenever any payment hereunder shall be stated to be due on a day which is not a Business Day, such payment may be made on the next succeeding Business Day.

Section 8.16. Execution in Counterparts; Electronic Storage. This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same Agreement. The parties hereto agree that the transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 8.17. Severability. Any provision of this Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or nonauthorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

Section 8.18. Headings. Article and Section headings used in this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

Section 8.19. Waiver of Rules of Construction. The Enterprise hereby waives any and all provisions of law to the effect that an ambiguity in a contract or agreement should be interpreted against the party responsible for its drafting.

Section 8.20. Integration. This Agreement is intended to be the final agreement between the parties hereto relating to the subject matter hereof and this Agreement and any agreement, document or instrument attached hereto or referred to herein shall supersede all oral negotiations and prior writings with respect to the subject matter hereof.

Section 8.21. Termination of Agreement. At such time as all amounts due to the Bank have been duly paid, or provided for, this Agreement shall terminate.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date set forth above.

U.S. BANK NATIONAL ASSOCIATION, a
national banking association

By _____

Name _____

Title _____

CITY OF FORT COLLINS, COLORADO,
ELECTRIC UTILITY ENTERPRISE, an
enterprise of the City of Fort Collins, Colorado

By _____

President

[SEAL]

Attest:

By _____

Secretary

[Signature Page to Loan Agreement]

EXHIBIT A

FORM OF 2019 NOTE

THIS NOTE MAY NOT BE SOLD TRANSFERRED OR OTHERWISE DISPOSED OF WITHOUT THE CONSENT OF THE ENTERPRISE.

**UNITED STATES OF AMERICA
STATE OF COLORADO
CITY OF FORT COLLINS, COLORADO, ELECTRIC UTILITY ENTERPRISE**

2019 TAXABLE SUBORDINATE LIEN REVENUE NOTE

**IN THE AGGREGATE PRINCIPAL AMOUNT OF
NOT TO EXCEED \$2,500,000**

Advances Not to Exceed US \$2,500,000 _____, 2019

FOR VALUE RECEIVED, CITY OF FORT COLLINS, COLORADO, ELECTRIC UTILITY ENTERPRISE, an enterprise of the City of Fort Collins, Colorado, (hereinafter referred to as “Maker”), promises to pay to the order of U.S. BANK NATIONAL ASSOCIATION, a national banking association, its successors and assigns (hereinafter referred to as “Payee”), at the office of Payee or its agent, designee, or assignee at _____ or at such place as Payee or its agent, designee, or assignee may from time to time designate in writing, all Advances made in an amount not to exceed the principal sum of TWO MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (US \$2,500,000) (this “Note”) pursuant to the terms of the Loan Agreement dated of even date herewith by and between Maker and Payee (the “Loan Agreement”), in lawful money of the United States of America.

This Note shall bear interest, be payable, and mature pursuant to the terms and provisions of the Loan Agreement. All capitalized terms used and not otherwise defined herein shall have the respective meanings ascribed in the Loan Agreement.

All amounts due under this Note shall be payable and collectible solely out of the Net Pledged Revenues, which revenues are hereby so pledged which pledge is in all respects subordinate to the pledge and lien thereon of the Senior Debt at any time outstanding. The Bank may not look to any general or other fund for the payment of such amounts; this Note shall not constitute a debt or indebtedness within the meaning of any constitutional, charter, or statutory provision or limitation; and this Note shall not be considered or held to be general obligations of the Enterprise or the City but shall constitute a special obligation of the Enterprise. No statutory or constitutional provision enacted after the execution and delivery of the Note shall in any manner be construed as limiting or impairing the obligation of the Enterprise to comply with the provisions of this Note. None of the covenants, agreements, representations and warranties contained herein or in this Note shall ever impose or shall be construed as imposing any liability, obligation or charge against the Enterprise or the City (except the Net Pledged Revenues and the special funds pledged therefor), or against its general credit, or as payable out of its general fund or out of any funds derived from taxation or out of any other revenue source (other than those pledged therefor).

The payment of the amounts due under this Note is not secured by an encumbrance, mortgage or other pledge of property of the City or the Enterprise, except for the Net Pledged Revenues. No property of the City or the Enterprise, subject to such exception, shall be liable to be forfeited or taken in payment of such amounts.

Amounts received by Payee under this Note shall be applied in the manner provided by the Loan Agreement. All amounts due under this Note shall be payable without setoff, counterclaim or any other deduction whatsoever by Maker.

Unless payments are made in the required amount in immediately available funds in accordance with the provisions of the Loan Agreement, remittances in payment of all or any part of the amounts due and payable hereunder shall not, regardless of any receipt or credit issued therefor, constitute payment until the required amount is actually received by Payee in funds immediately available at the place where this Note is payable (or any other place as Payee, in Payee's sole discretion, may have established by delivery of written notice thereof to Maker) and shall be made and accepted subject to the condition that any check or draft may be handled for collection in accordance with the practice of the collecting bank or banks. Acceptance by Payee of any payment in an amount less than the amount then due shall be deemed an acceptance on account only and any unpaid amounts shall remain due hereunder, all as more particularly provided in the Loan Agreement.

In the event of nonpayment of this Note, Payee shall be entitled to all remedies under the Loan Agreement and at law or in equity, and all remedies shall be cumulative.

It is expressly stipulated and agreed to be the intent of Maker and Payee at all times to comply with applicable state law and applicable United States federal law. If the applicable law (state or federal) is ever judicially interpreted so as to render usurious any amount called for under this Note or under the Loan Agreement, or contracted for, charged, taken, reserved or received with respect to the indebtedness evidenced by this Note, then it is Maker's and Payee's express intent that all excess amounts theretofore collected by Payee be credited on the principal balance of this Note (or, if this Note has been or would thereby be paid in full, refunded to Maker), and the provisions of this Note shall immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and under the Loan Agreement. All sums paid or agreed to be paid to Payee for the use, forbearance and detention of the indebtedness evidenced hereby and by the Loan Agreement shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the rate or amount of interest on account of such indebtedness does not exceed the maximum rate permitted under applicable law from time to time in effect and applicable to the indebtedness evidenced hereby for so long as such indebtedness remains outstanding.

Maker and any endorsers, sureties or guarantors hereof jointly and severally waive presentment and demand for payment, protest and notice of protest and nonpayment, all applicable exemption rights, valuation and appraisal, notice of demand, and all other notices in connection with the delivery, acceptance, performance, default or enforcement of the payment of this Note and the bringing of suit and diligence in taking any action to collect any sums owing

hereunder or in proceeding against any of the rights and collateral securing payment hereof. Maker and any surety, endorser or guarantor hereof agree (a) that the time for any payments hereunder may be extended from time to time without notice and consent; (b) to the acceptance of further collateral; (c) to the release of any existing collateral for the payment of this Note; (d) to any and all renewals, waivers or modifications that may be granted by Payee with respect to the payment or other provisions of this Note; and/or (e) that additional makers, endorsers, guarantors or sureties may become parties hereto all without notice to them and without in any manner affecting their liability under or with respect to this Note. No extension of time for the payment of this Note shall affect the liability of Maker under this Note or any endorser or guarantor hereof even though Maker or such endorser or guarantor is not a party to such agreement.

Failure of Payee to exercise any of the options granted herein to Payee upon the happening of one or more of the events giving rise to such options shall not constitute a waiver of the right to exercise the same or any other option at any subsequent time in respect to the same or any other event. The acceptance by Payee of any payment hereunder that is less than payment in full of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the options granted herein or in the Loan Agreement to Payee at that time or at any subsequent time or nullify any prior exercise of any such option without the express written acknowledgment of Payee.

Maker (and the undersigned representative of Maker, if any) represents that Maker has full power, authority and legal right to execute, deliver and perform its obligations pursuant to this Note and this Note constitutes the legal, valid and binding obligation of Maker.

All notices or other communications required or permitted to be given hereunder shall be given in the manner and be effective as specified in the Loan Agreement, directed to the parties at their respective addresses as provided therein.

This Note is governed by and interpreted in accordance with the internal laws of the State of Colorado, except to the extent superseded by federal law. Invalidity of any provisions of this Note will not affect any other provision.

Pursuant to Section 11-57-210 of the Colorado Revised Statutes, as amended, this Note is entered into pursuant to and under the authority of the Supplemental Public Securities Act, being Title 11, Article 57, of the Colorado Revised Statutes, as amended. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of this Note after delivery for value and shall conclusively impart full compliance with all provisions and limitations of said statutes, and this Note shall be incontestable for any cause whatsoever after delivery for value.

By acceptance of this instrument, the Payee agrees and consents to all of the limitations in respect of the payment of the principal of and interest on this Note contained herein, in the Authorizing Ordinance of the Maker authorizing the issuance of this Note and in the Agreement, as the same may be amended from time to time.

TO THE EXTENT PERMITTED BY LAW, MAKER HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF ANY STATE COURT SITUATED IN LARIMER COUNTY, COLORADO, AND WAIVES ANY OBJECTION BASED ON FORUM NON CONVENIENS,

WITH REGARD TO ANY ACTIONS, CLAIMS, DISPUTES OR PROCEEDINGS RELATING TO THIS NOTE, THE LOAN AGREEMENT, THE NET PLEDGED REVENUES, ANY OTHER FINANCING DOCUMENT, OR ANY TRANSACTIONS ARISING THEREFROM, OR ENFORCEMENT AND/OR INTERPRETATION OF ANY OF THE FOREGOING.

TO THE EXTENT PERMITTED BY LAW, MAKER HEREBY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO THIS NOTE, THE LOAN AGREEMENT, OR ANY OF THE OTHER FINANCING DOCUMENTS, THE OBLIGATIONS THEREUNDER, ANY COLLATERAL SECURING THE OBLIGATIONS, OR ANY TRANSACTION ARISING THEREFROM OR CONNECTED THERETO. MAKER REPRESENTS TO PAYEE THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY GIVEN.

THE PROVISIONS OF THIS NOTE MAY BE AMENDED OR REVISED ONLY BY AN INSTRUMENT IN WRITING SIGNED BY MAKER AND PAYEE. THERE ARE NO ORAL AGREEMENTS BETWEEN MAKER AND PAYEE WITH RESPECT TO THE SUBJECT MATTER HEREOF.

IN WITNESS WHEREOF, an authorized representative of City of Fort Collins, Colorado, Electric Utility Enterprise, as Maker, has executed this Note as of the day and year first above written.

CITY OF FORT COLLINS, COLORADO,
ELECTRIC UTILITY ENTERPRISE

By _____
President

[SEAL]

Attest:

By _____
Secretary

EXHIBIT B

FORM OF ADVANCE REQUEST

**City of Fort Collins, Colorado, Electric Utility Enterprise
Loan Agreement**

The undersigned certifies that he/she is an Authorized Person under that certain Loan Agreement dated as of [Closing Date], 2019 (the "Agreement") by and between City of Fort Collins, Colorado, Electric Utility Enterprise and U.S. Bank National Association (the "Bank"). All capitalized terms used in this Advance Request ("Advance Request") shall have the respective meanings assigned in the Agreement.

The undersigned Authorized Person hereby makes a request to the Bank for an Advance on the Loan, and in support thereof states:

(i) The amount of the Advance so requested is \$_____.

(ii) Upon the funding of such Advance, the sum of all Advances will not exceed the Maximum Advance Amount of the Loan.

(iii) At the time the requested Advance is to be made and as a result thereof, immediately thereafter, all representations and warranties of the Enterprise set forth in Article IV of the Loan Agreement are true and correct as though made on the date hereof and will be true and correct as though made on the Advance Date and no Event of Default shall have occurred and be continuing on the date hereof and on the Advance Date and no litigation is currently pending or threatened concerning the Enterprise's authority to pledge the Net Pledged Revenues as provided in the Loan Agreement.

(iv) The outstanding Senior Debt is rated in one of its four highest rating categories by a national recognized organization which regularly rates obligations such as the Senior Debt

(v) The requested Advance shall be made by the Bank by ACH batch transfer to the Enterprise in accordance with the instructions set forth below:

[Insert wire instructions]

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____,
20__.

CITY OF FORT COLLINS, COLORADO,
ELECTRIC UTILITY ENTERPRISE

By _____
Authorized Person

EXHIBIT C

FORM OF CONVERSION NOTICE

**City of Fort Collins, Colorado, Electric Utility Enterprise
Loan Agreement**

The undersigned certifies that he/she is an Authorized Person under that certain Loan Agreement dated as of [Closing Date], 2019 (the "Agreement") by and between City of Fort Collins, Colorado, Electric Utility Enterprise and U.S. Bank National Association (the "Bank"). All capitalized terms used in this Conversion Notice have the respective meanings assigned in the Agreement.

You are hereby notified that the Enterprise has elected to convert the followings Advances to a Term Loan effective as of the ____ and maturing on _____, 20__ (which date is not later than the 8th anniversary of the Closing Date):

Advance Date

Outstanding Principal Amount

2. No Event of Default has occurred and is continuing under the Agreement.

3. All representations and certifications of Enterprise in the Agreement are true and correct as of the date hereof.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 20__.

CITY OF FORT COLLINS, COLORADO,
ELECTRIC UTILITY ENTERPRISE

By _____
Authorized Person