

AGENDA ITEM SUMMARY

March 20, 2018

Electric Utility Enterprise Board

STAFF

Travis Storin, Accounting Director
Mike Beckstead, Chief Financial Officer
John Duval, Legal

SUBJECT

Items Relating to Electric Utility Enterprise Revenue Bonds, Series 2018.

EXECUTIVE SUMMARY

- A. First Reading of Ordinance No. 003, Authorizing the Issuance and Sale of Its Tax-Exempt Revenue Bonds, Series 2018A, and Its Taxable Revenue Bonds, Series 2018B, Providing for the Sources of Payment of the Bonds and Providing Other Details Concerning the Bonds and the Enterprise's System.
- B. First Reading of Ordinance No. 004, Authorizing the Defeasance of the Enterprises Taxable Revenue Bonds (Direct Pay Qualified Energy Conservation Bonds), Series 2010B.

The purpose of this item is to consider two ordinances related to the Electric Utility Enterprise's issuance of revenue bonds for the City's proposed Broadband System. Ordinance No. 003, authorizes the financing and construction of a Municipal Broadband System to provide telecommunication facilities and services, including the transmission of voice, data, graphics, and/or video to customers within Fort Collins. This agenda item is consistent with Strategic Objective 3.9 from the 2016 Strategic Plan: Encourage the development of reliable, high speed internet services throughout the community.

Ordinance No. 004, authorizes the defeasance of the Electric Utility Enterprise's 2018B outstanding bonds, for which remaining payments total \$5,270,000 principal and \$513,328 interest through maturity in 2020. This defeasance is necessary to eliminate certain restrictive covenants in the 2010B bonds that would otherwise affect the Enterprise's ability to issue the 2018 bonds for the Broadband System.

The aggregate principal amount of the Bonds being issued shall not exceed \$150,000,000. The net effective interest rate shall not exceed 5.45% on either the 2018A or 2018B Bonds. The 2018A Bonds shall mature no later than December 1, 2042, and the 2018B Bonds shall mature no later than December 1, 2032.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinances on First Reading.

BACKGROUND / DISCUSSION

Overview

Consistent with recent Council work sessions concerning Broadband, City staff is bringing forward two ordinances related to the issuance of Electric Utility Enterprise revenue bonds. Financing of the capital and early operating costs of Broadband is a critical, requisite step to launch the new project as staff enters the design, construction, hiring, marketing, and systems work of the project.

Table 1: Broadband Project Schedule

	2018												2019			
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Q1	Q2	Q3	Q4
Go Decision & Appropriation																
Preparatory Work																
Governance/Operational Authority																
Issue RFPs & Negotiate Contracts																
Recruitment for Key Position																
CAO Code Updates																
Bond Issuance																
Close on Bonds & Sign Contracts																
Business Launch																
Begin Staffing, Office, Policies, Operations																
Begin Design work																
Begin Billing/CRM system implementation																
Begin mobilizing construction																
Marketing & Sales plan development																
First Customer Live																

Bonding Process

Subsequent to the City’s November 2017 special election and Council’s November 28, 2017 work session, City staff assembled a bonding team consisting of Finance, Legal, and Utilities staff, the City’s bond advisor, external bond legal counsel, and underwriting support. The bonding team has completed several important due diligence steps in advance of first reading of Ordinance No. 003, (the “Bond Ordinance”), summarized below:

- Chose a Negotiated Sale and Public Offering, rather than Auction and/or private placement. The Negotiated Sale is preferred for large and complex bond issuances. This route means underwriters are selected via RFP in advance and partner with staff to structure the bonds
- Syndicated Model: staff has selected three underwriters to jointly manage the pricing and distribution of the bonds
- Completed two rating agency interviews. Obtaining ratings from multiple agencies is likely to make the offering more attractive to investors and thus lower costs. Ratings will be issued in late April shortly before the Preliminary Official Statement is published to investors.
- Chose \$1,000 denominated bonds, rather than the traditional \$5,000, to encourage retail and/or local investor interest.

Structure

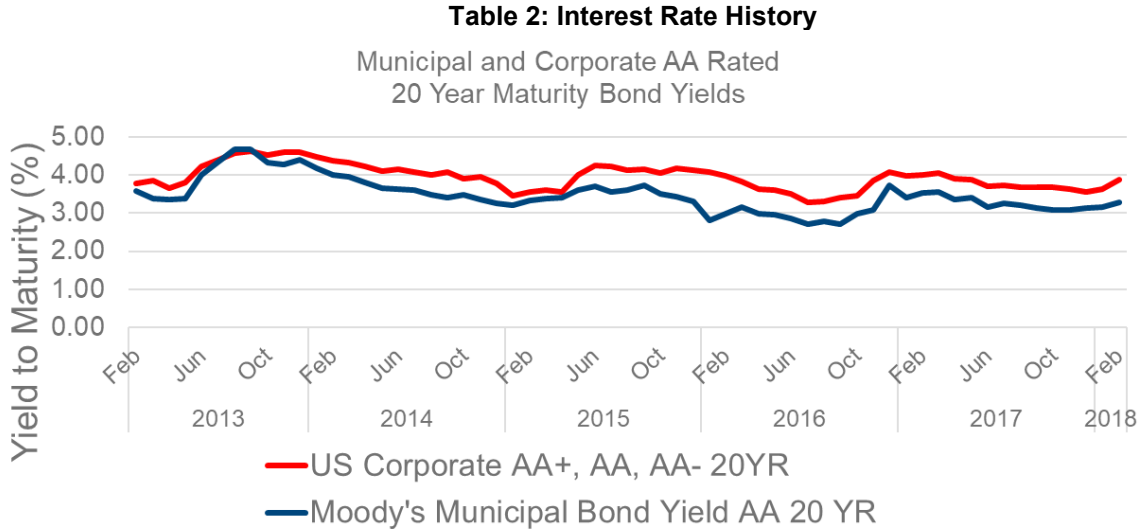
The bond issuance, defeasance, and structure are summarized as follows:

- Funding \$142.1M of gross proceeds, of which the City will use:
 - \$119.0M for capital and operating costs
 - \$8.2M for sequestered capital to be used for added market share and/or annexations
 - \$14.1M for capitalized interest to defer 30 months’ payments
 - \$0.8M for issuance costs
- 25 year maturity at 3.9% interest cost, early redemption (call) feature beginning after year 10
- Annual debt service cost will gradually ramp up from \$5.9M in 2021 to \$9.7M in 2024 and averaging \$10.2M from 2025 and beyond.
- Repayment of \$1.8M loan from General Fund with associated interest
- Defeasance of the existing 2010B Electric Utility Enterprise bonds of \$5.3M in principal and \$0.5M in interest

Interest Rate Risk

Interest rates are always subject to volatility and have inched upwards by 50 basis points in the last 90 days. Given another two months until pricing in mid-May, it is possible more movement in either direction could be seen. This Ordinance is written with parameters on interest that allow for up to 125 additional basis points on the rate.

Below, the previous five years of yields for 20-year maturity bonds are displayed for reference:



Comparison to Preliminary Business Plan

Table 3: Comparison of Proposed Broadband Bond Ordinance vs. Business Plan

Measure	Business Plan	Current
Term	15 years	25 year w/ 10 yr. call
Yields (exempt/taxable)*	4.0% / 5.0%	4.0% / 3.8%
Principal: Exempt / Taxable / Total	\$64.0M / \$68.0M / \$132.0M	\$98.2M / \$43.9M / \$142.1M
Full annual debt service	\$14.7M	\$10.2M
First cashflow positive year	Year 6	Year 5
Years to positive net cash	14 years	13 years

CITY FINANCIAL IMPACTS

The principal, interest, maturity, and price are subject to change upon pricing in mid-May within the proposed Bond Ordinance’s parameters. The parameters allow for a reasonable range of market scenarios in the weeks that elapse between first and second readings and final pricing of the bonds.

Structure

As currently structured, the bonds have a 25-year maturity but allow for early redemption, in part or in whole, semiannually beginning in year 10 (or mid-2028). The bonds would fund \$142,146,898 of gross proceeds. Funds would be used as follows:

Table 4: Use of Proceeds

	Series 2018A (Tax-exempt)	Series 2018B (Taxable)	Total
Project Fund	\$87,433,000	31,562,000	\$118,995,000
Sequestered capital for annexations and/or market share	-	8,200,000	8,200,000
Capitalized Interest Fund	10,272,106	3,856,444	14,128,550
Cost of Issuance	541,793	281,556	823,348
Total	\$98,246,898	\$43,900,000	\$142,146,898

Debt Service

Debt service costs for the Enterprise will be deferred for the first 30 months, or 2018-2020, through the use of a capitalized interest fund. The capitalized interest fund is currently projected at \$14,128,550 at inception. Upon the expiration of the capitalized interest fund in 2021, the Enterprise's annual debt service is structured to gradually increase concurrently with the Broadband Project's net revenues. Payments will reach their maximum in 2030 with \$10,319,256.

An amortization table of the combined Series A and B payments is included below for reference:

Table 5: Combined Amortization Table, Series A and B

NET DEBT SERVICE

City of Fort Collins, Colorado
 Electric Utility Enterprise Revenue Bonds, Series 2018
 25 Year Maturity Scenario

Period Ending	Principal	Interest	Total Debt Service	Capitalized Interest Fund	Net Debt Service
12/01/2018	-	3,066,515.87	3,066,515.87	3,066,515.87	-
12/01/2019	-	5,903,453.00	5,903,453.00	5,903,453.00	-
12/01/2020	-	5,903,453.00	5,903,453.00	5,903,453.00	-
12/01/2021	-	5,903,453.00	5,903,453.00	-	5,903,453.00
12/01/2022	1,095,000	5,903,453.00	6,998,453.00	-	6,998,453.00
12/01/2023	3,370,000	5,868,960.50	9,238,960.50	-	9,238,960.50
12/01/2024	3,990,000	5,757,750.50	9,747,750.50	-	9,747,750.50
12/01/2025	4,425,000	5,621,292.50	10,046,292.50	-	10,046,292.50
12/01/2026	4,725,000	5,465,532.50	10,190,532.50	-	10,190,532.50
12/01/2027	5,050,000	5,295,432.50	10,345,432.50	-	10,345,432.50
12/01/2028	5,145,000	5,108,582.50	10,253,582.50	-	10,253,582.50
12/01/2029	5,305,000	4,913,072.50	10,218,072.50	-	10,218,072.50
12/01/2030	5,645,000	4,708,830.00	10,353,830.00	-	10,353,830.00
12/01/2031	5,785,000	4,488,675.00	10,273,675.00	-	10,273,675.00
12/01/2032	5,990,000	4,253,500.00	10,243,500.00	-	10,243,500.00
12/01/2033	6,290,000	3,954,000.00	10,244,000.00	-	10,244,000.00
12/01/2034	6,600,000	3,639,500.00	10,239,500.00	-	10,239,500.00
12/01/2035	6,935,000	3,309,500.00	10,244,500.00	-	10,244,500.00
12/01/2036	7,275,000	2,962,750.00	10,237,750.00	-	10,237,750.00
12/01/2037	7,640,000	2,599,000.00	10,239,000.00	-	10,239,000.00
12/01/2038	8,025,000	2,217,000.00	10,242,000.00	-	10,242,000.00
12/01/2039	8,425,000	1,815,750.00	10,240,750.00	-	10,240,750.00
12/01/2040	8,845,000	1,394,500.00	10,239,500.00	-	10,239,500.00
12/01/2041	9,290,000	952,250.00	10,242,250.00	-	10,242,250.00
12/01/2042	9,755,000	487,750.00	10,242,750.00	-	10,242,750.00
	129,605,000	101,493,956.37	231,098,956.37	14,873,421.87	216,225,534.50

Defeasance

The currently outstanding 2010B Bonds have language limiting how Light & Power revenues are pledged. Staff recommends an “in-substance” defeasance of this debt to enable pledging Light & Power revenues for the 2018 Bonds. The City would need to fund the defeasance of \$5,270,000 in principal and \$513,328 in interest. The 2018 operating budget includes regular debt service payments of \$1,992,324. The remaining \$3,791,004 would be paid from Light & Power reserves instead of from ongoing 2019 and 2020 revenues, freeing those revenues for another purpose.

Since the 2010 Bonds were issued as Qualified Energy Conservation Bonds, the Light & Power Fund will lose access to interest credits totaling \$373,000 if the 2010B Bonds are fully defeased. Staff recommends that the Light & Power Fund be repaid these lost credits from the proceeds of the 2018 Bond.

BOARD / COMMISSION RECOMMENDATION

The City's Council Finance Committee supported proceeding to first readings with the full Council at a Special Meeting held February 27, 2018.

PUBLIC OUTREACH

Two separate ballot measures brought to voters were successful in authorizing the establishment of a municipal fiber retail broadband network.

ATTACHMENTS

1. Council Finance Committee Minutes, February 27, 2018 (draft) (PDF)
2. Powerpoint presentation (PDF)



Special Finance Committee Meeting Minutes

02/27/18

11 am - noon

CIC Room - City Hall

Council Attendees: Mayor Wade Troxell, Ross Cunniff, Ken Summers

Staff: Darin Atteberry, Mike Beckstead, Jeff Mihelich, Kevin Gertig, Carrie Daggett, Travis Storin, John Voss, John Duval, Andres Gavaldon, Lance Smith, Tyler Marr, Joanne Cech, Kelly DiMartino, Andres Gavaldon, Zach Mozer, Jennifer Poznanovic, SeonAh Kendall, Patrick Rowe, Allyssa Johnson, Blaine Dunn, Josh Birks

Others: James Manire, Tim Tilleson, Colin Garfield, Todd Parker, Kevin Brinkman, Kevin Jones (Chamber of Commerce), Dale Adamy (Citizen),

Meeting called to order at 11:04 am

A. 2018 Light & Power Revenue Bonds, Series A and B

Mike Beckstead, CFO

Travis Storin, Accounting Director

Lance Smith, Utilities Strategic Finance Director

James Manire, Bond Advisor

EXECUTIVE SUMMARY

Staff is preparing to bring forward ordinances for first reading on March 20th for the following:

- Issuance of 2018 Light & Power Revenue Bonds
- Defeasance of 2010 Light & Power Revenue Bonds
- Appropriation of proceeds for construction of a municipal retail broadband network

Subject to change and as currently structured, bonds will be issued in gross for \$141.9 million, which will cover issuance costs of \$0.9 million, establishment of a capitalized interest fund of \$13.8 million, and project proceeds of \$127.2 million.

Proceeds are split into separate tax-exempt and taxable series. Tax-exempt bonds have certain requirements to maintain their exempt status, including:

- A reasonable expectation to spend 85% of the exempt proceeds within a 3-year window
- A limitation on proceeds funding private use of up to 10%
- A limitation on "bad money", or the use of proceeds for working capital, of 5% of the issuance.



The bonds are structured with a 25-year maturity and allow for early redemption beginning in year 10, or mid-2028. Debt service at the currently contemplated terms is presented as follows:

Period Ending	Principal	Interest	Total Debt Service	Capitalized Interest Fund	Net Debt Service
12/01/2018		2,850,078.95	2,850,078.95	2,850,078.95	
12/01/2019		5,486,783.00	5,486,783.00	5,486,783.00	
12/01/2020		5,486,783.00	5,486,783.00	5,486,783.00	
12/01/2021		5,486,783.00	5,486,783.00		5,486,783.00
12/01/2022	1,460,000	5,486,783.00	6,946,783.00		6,946,783.00
12/01/2023	3,730,000	5,442,107.00	9,172,107.00		9,172,107.00
12/01/2024	4,355,000	5,318,271.00	9,673,271.00		9,673,271.00
12/01/2025	4,805,000	5,167,152.50	9,972,152.50		9,972,152.50
12/01/2026	5,120,000	4,993,211.50	10,113,211.50		10,113,211.50
12/01/2027	5,465,000	4,802,747.50	10,267,747.50		10,267,747.50
12/01/2028	5,590,000	4,587,973.00	10,177,973.00		10,177,973.00
12/01/2029	5,780,000	4,362,696.00	10,142,696.00		10,142,696.00
12/01/2030	6,155,000	4,123,982.00	10,278,982.00		10,278,982.00
12/01/2031	6,330,000	3,865,472.00	10,195,472.00		10,195,472.00
12/01/2032	6,605,000	3,562,400.00	10,167,400.00		10,167,400.00
12/01/2033	6,870,000	3,298,200.00	10,168,200.00		10,168,200.00
12/01/2034	7,140,000	3,023,400.00	10,163,400.00		10,163,400.00
12/01/2035	7,430,000	2,737,800.00	10,167,800.00		10,167,800.00
12/01/2036	7,725,000	2,440,600.00	10,165,600.00		10,165,600.00
12/01/2037	8,035,000	2,131,600.00	10,166,600.00		10,166,600.00
12/01/2038	8,355,000	1,810,200.00	10,165,200.00		10,165,200.00
12/01/2039	8,690,000	1,476,000.00	10,166,000.00		10,166,000.00
12/01/2040	9,035,000	1,128,400.00	10,163,400.00		10,163,400.00
12/01/2041	9,400,000	767,000.00	10,167,000.00		10,167,000.00
12/01/2042	9,775,000	391,000.00	10,166,000.00		10,166,000.00
	137,850,000	90,227,423.45	228,077,423.45	13,823,644.95	214,253,778.50

In addition, existing Light & Power bonds of \$5.3 million will be defeased by placing cash reserves into an irrevocable escrow account. Doing so will satisfy bond covenants limiting the ability to pledge net revenues toward the 2018 bond issuance.

Proceeds of the bonds will repay the \$1.8 million short-term loan made from the General Fund earlier in 2018. Defeasance of the 2010 bonds will forfeit approximately \$400,000 in Qualified Energy Conservation Bond subsidies, which will be repaid to Light and Power reserves from bond proceeds.

The bond ordinance will be brought forward as a parameters ordinance, allowing for a reasonable range of market scenarios in the weeks that elapse between second reading and pricing of the bonds.

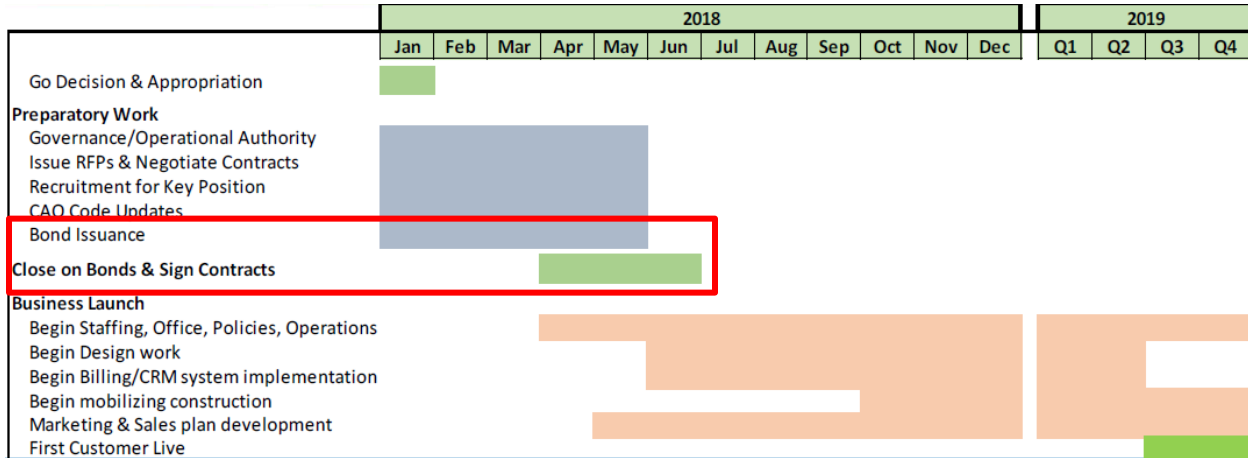
Staff recommends multiple external rating agencies to review the issuance in March and April, and pricing and distribution to take place in May after second reading of the ordinance April 3.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

Does the Finance Committee support proceeding to first reading on March 20, 2018?

BACKGROUND/DISCUSSION

For reference, below is the broadband implementation timeline, including the milestones on bond issuance:



Within the bond issuance milestone above are the below key dates:

Completed:

12/28	RFP for Underwriting team
01/26	Underwriter selections
02/08	Initial drafts and due diligence: ordinances and prelim. official stmt.

In Progress:

02/27	Finance Committee
03/07; 03/08	Rating agency reviews (Fitch and S&P, respectively)
03/20; 04/03	First and second readings: bond ordinance, defeasance, and appropriation
04/15 ~ 04/27	On-site follow-up with S&P (date is TBD)
05/01	Post Official Statement online
05/15	Final Pricing
05/24	Projected closing and delivery of proceeds



Debt Issuance Process: Underwriting

- **Negotiated Sale and public offering** rather than Auction Method and/or private placement. Preferred method for large and complex bond issuances. Underwriters are selected in advance and partner on structure.
- **Syndicated Model:** City has selected three underwriters. One is awarded Senior Manager and the others co-manage. Syndicated model assists with pricing for City, risk management for underwritings
- **Criteria for selection were:** a) issuance cost most favorably to the City, b) willing to buy bonds with own capital, c) support of rating agency process, d) local retail presence, and e) ability to market.

Discussion / Next Steps;

Mike Beckstead; this is completely neutral to L&P - no adverse impact on L&P revenues, reserves or rates. We had 13 organizations responded to our RFP - we interviewed 4 - the city should be proud as high-level firms participated. Very robust and transparent process.

Mike Beckstead; Travis sent an email yesterday talking about the rating agency review – 30-40% of rating is management / leadership as opposed to financial - how L&P has been managed - we want to highlight next week - this is a big part of the rating - qualitative side - Fitch / S&P

Option we are exploring - retail only order period of 1-2 days – access before the institutional investors - - access and can yield benefits to the city – it is not w/out risk as it is one more day it is in the marketplace. Institutional buyers projected to make up 70% - Encourage as much retail as possible anticipate it will top out 10-30% range.

Ross Cunniff; enable retail - are we talking with investment advisors around the city to let their clients know of this option?

Travis Storin; that will be part of what the underwriters do – we will work with the senior underwriter and CPIO to have a little bit of a marketing campaign on how to buy bonds via retail channels. newspaper, etc.



Term Summary: Use of Proceeds

	Series 2018A (Tax-exempt)	Series 2018B (Taxable)	Total
Project Fund	\$87,433,000	31,562,000	\$118,995,000
Sequestered capital for annexations and/or market share	-	8,200,000	8,200,000
Capitalized Interest Fund	9,537,735	4,285,910	13,823,645
Cost of Issuance	580,267	277,090	857,357
Total	\$97,551,002	\$44,325,000	\$141,876,002

Ross Cunniff; Will sequestering be part of the ordinance?

ACTION ITEM:

Mike Beckstead; we haven't thought that through yet but we will and will come back with a recommendation.

When fully ramped up this will be \$10 - 10.2M of annual debt service

Rates have ticked up 50 basis points recently - volatility - 2-3 months before we issue - there could be more movement up or down



Term/Maturity Considerations

Staff recommends 25 year term with early redemption option at 10 years, whereas business case assumed 15 year term. Factors for consideration include:

- 1) Flexibility if market share is slow; annual debt service \$4-5M less
- 2) With market share, creates positive cashflow sooner that could be used for success or annexation
- 3) Helps with debt service coverage and satisfying additional bonds test in 2023

Expanding to 25 year term with call option maximizes flexibility



Impacts to L&P Debt Service Coverage

Measurement	Debt Service Coverage Ratio
Staff practice for Light & Power	2.00
Bond covenant	1.25
Rating Stress Test	1.29
Projected ratio for life of bonds*	3.65 ~ 5.50

*Assumes:

1. Rate increases previously presented in Light & Power long-term plan
2. 2023 bonding of \$20M at 10 years for electric system

Utilizes existing debt capacity through 2022, then Broadband revenues will cover



Assumptions Comparison

Measure	Business Plan	Current
Term	15 years	25 year w/ 10 yr. call
Yields (exempt/taxable)	4.0% / 5.0%	3.8% / 4.0%
Principal: Exempt / Taxable / Total	\$64.0M / \$58.0M / \$122.0M	\$39.8M / \$87.4M / \$127.2M
Full annual debt service	\$14.7M	\$10.2M
First cashflow positive year	Year 6	Year 5
Years to positive net cash	14 years	14 years

Mayor Troxell; comprehensive and well thought through - ready to go

Ken Summers; I agree

Ross Cunniff; ordinance and reserve 8.2 - I do have a bias toward wanting that - keep body informed.

Mike Beckstead; to confirm, if we want to activate the reserve we need to come back to Council.

Ross Cunniff; yes, come back to Council

Carrie Daggett; make sure and touch base with bond council regarding this -

Jim Manire; satisfy that as a policy matter - appropriation

Ken Summers; confirming tax exempt is 3.8% - taxable is 4%

Mike Beckstead; based on proposals we received about 3-4 weeks ago - I have a feeling it will be north of that but do not know by how much

Travis Storin; taxable side scales up - earliest maturities are 3.1% in 2022, latest maturities are 3.9% in 2031.

Ken Summers; 4.0 is 25-year term

Travis Storin; because taxables are more expensive we have them maturing faster - maturing in year 13 where the exempt go through year 25. So taxable are 4% over 13 years, while exempt are 3.8% over 25 years

Jim Manire; your staff in the due diligence, development, research and consulting has been strong and puts the city in a terrific position for this project – favorable position because of the ability to combine your finances with the electric utility -gives you market access for a project like this that a lot of communities in Colorado simply don't have. Well organized approach to the project and financing.

Darin Atteberry; we had consultants in the business planning process - best in industry - 3 years ago
Jim is part of Bond Council which is a great team including Sally, Dee, Lance, Mike and Travis.
Thank you for your professionalism and competency.

Ross Cunniff; this has been a very streamlined and well done approach. Excited to move forward and get this off the ground.

Ken Summers; positive effect - flexibility - makes sense

Jeff Mihelich; appreciate Council's willingness to going forward with success capital - allow us to expand.

Meeting adjourned at 11:31 am



Broadband Project and 2018 Electric Bonds

March 20

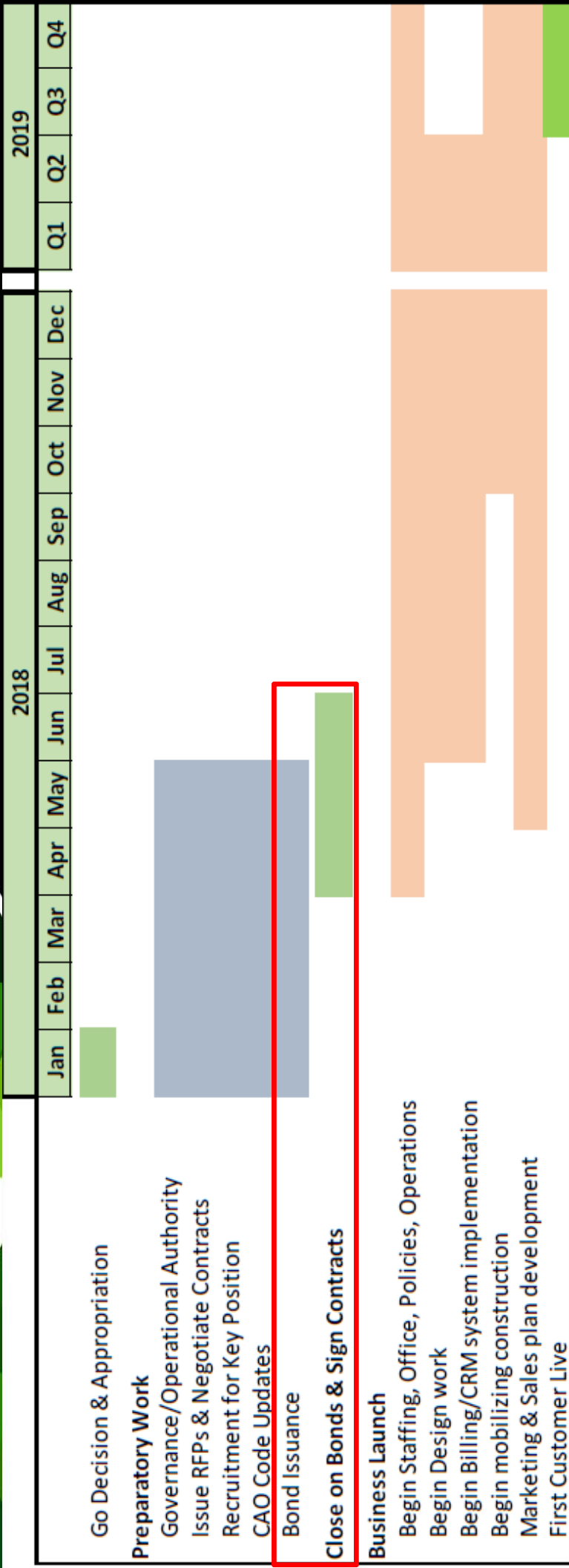
2018

Current structure:

- **Funding \$142.1M Revenue Bonds through L&P, netting \$127.2M to project**
 - Backed by revenue & rate making of L&P & current debt capacity
 - Series A – \$87.4M Tax Exempt – 3 year spend requirement; Series B – \$39.8M Taxable
 - Includes \$8.2M capital to be sequestered for additional market share or annexation
- **25 year maturity at 3.9% net interest cost; payments deferred 30 months**
- **Early redemption (call) feature beginning after year 10**

Current structure:

- **Defeasance of existing Light and Power debt (\$5.3M Principal, \$0.5M Interest)**
 - \$2.0M is included with 2018 Budget
 - Remaining \$3.8M would come from reserves vs. from 2019-2020 operating income
- **Reimbursement of 1) General Fund \$1.8M appropriation plus interest and 2) Forfeited QECB subsidies (\$0.4M)**
- **All terms subject to change through date of pricing (5/25)**



Objective: Align key hires, vendors and contracts while working on bond issuance to support aggressive timeline after bonds close

Completed:

12/28	RFP for Underwriting team
01/26	Underwriter selections
02/08	Initial drafts and due diligence: ordinances and prelim. official stmt.
02/27	Finance Committee
03/07; 03/08	Rating agency reviews (Fitch and S&P, respectively)

In Progress:

03/20; 04/03	First and second readings: bond ordinance, defeasance
04/2 ~ 04/18	On-site follow-up with S&P (date is TBD)
05/01	Post Official Statement online
05/01; 05/15	First and second readings: appropriations
05/25	Final Pricing
06/01	Projected closing and delivery of proceeds

Key components of process:

- Underwriting
- Ratings
- Sales and Distribution

- **Negotiated Sale and public offering** - preferred method for large and complex bond issuances.
- **Syndicated Model:** One Senior Managing Underwriter and two co-managers
- **Criteria for selection were:** a) issuance cost most favorably to the City, b) willing to buy bonds with own capital, c) support of rating agency process, d) local retail presence, and e) ability to market.

- **Secured by Light & Power revenue.** Light and Power is currently **S&P AA-**.
- Targeting ratings from **multiple rating agencies**, which can lower interest cost.
- Rating process will take place **on-site with Fort Collins leadership**. Focus is on electric utility, City operations, local community, and Broadband business plan.
- Difference in AA category vs. A can be 10-15 basis points, a present value of \$1.2M to \$1.8M at current rates

- Underwriting syndicate and staff are evaluating local distribution channels
- Current structure issues **\$1,000 denominations** rather than traditional \$5,000
- Options include a **retail-only order period** in advance of institutional sales (mutual funds, insurance companies, etc.).
 - This can increase access to residents who wish to invest while potentially lowering the City's cost.
 - Institutional sales still paramount to success

Term Summary: Proceeds

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Project Fund	\$87,433,000	31,562,000	\$118,995,000
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Measure	Business Plan	Current
Term	15 years	25 year w/ 10 yr. call
Yields (exempt/taxable)*	4.0% / 5.0%	4.0% / 3.8%
Principal: Exempt / Taxable / Total	\$64.0M / \$68.0M / \$132.0M	\$98.2M / \$43.9M / \$142.1M
Full annual debt service	\$14.7M	\$10.2M
First cashflow positive year	Year 6	Year 5
Years to positive net cash	14 years	13 years

*Note business case had taxable/exempt bonds paid concurrently over their terms. Current structure has taxable mature in 13 years and exempt in 25 years

- Ordinances on first reading:
 - Issuance of 2018 Bonds
 - Defeasance of 2010 Bonds

Appendix

Staff recommends 25 year term with early redemption option at 10 years, whereas business case assumed 15 year term. Factors for consideration include:

- 1) Flexibility if market share is slow; annual debt service \$4-5M less
- 2) With market share, creates positive cashflow sooner that could be used for success or annexation
- 3) Helps with debt service coverage and satisfying additional bonds test in 2023

Expanding to 25 year term with call option maximizes flexibility

Base Case: Level Debt Service, 2042 Final Maturity, Taxable Series Frontloaded

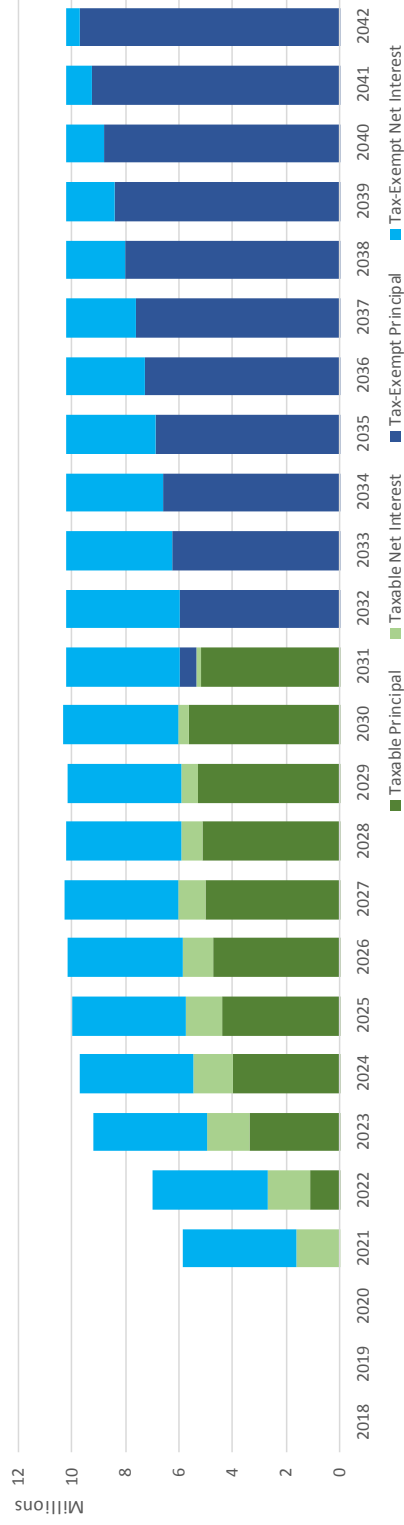
Overview of Structure

- **Series 2018 Bonds:**
 - Taxable bonds amortize from 2022-2031
 - Tax-Exempt bonds amortize from 2031-2042
 - Capitalized Interest through 2020
- **No prior bonds**
 - Existing 2010 bonds will be cash defeased prior to the issuance of Series 2018 A&B

Summary of Financing Results

	Tax-Exempt Results	Taxable Results
Par Amount:	\$85,705,000	\$43,900,000
Project Fund Deposit:	\$87,433,000	\$39,762,000
Amortized:	2031-2042	2022-2031
Capitalized Interest through 2020:	\$10,272,106	\$3,856,444
Average Life:	19.96 Yrs	9.72 Yrs
All-in Total Interest Cost (TIC):	3.97%	3.81%

Pro Forma Net Debt Service (Bond Year Basis)



Funding Sources:

Total 2018 Bond Proceeds	142,146,898
Earnings on Escrow for Capitalized Interest 2018-2020	744,872
Total Project Funding	<u>142,891,770</u>
2018 Operating Appropriations	
Cost of Issuance (legal, advisor, underwriter)	822,100
Interest on \$1.8 M loan from General Fund	15,000
2010 L&P defeasance, backfill QECB subsidy	373,000
Operating expenses 2018, repay GF loan	1,800,000
Operating Budget 2018	<u>3,010,100</u>
Multiyear Capital Appropriations	
Capitalized Interest 2018	3,070,000
Future capitalized interest (for 2019-20)	11,806,906
Capital Projects	108,604,765
Capital Budget	<u>123,481,671</u>
Appropriated by Ordinance in 2018	<u>126,491,770</u>

Leaves \$16.4M unspent proceeds: \$8.2M for Market Share and/or Annexations and \$8.2M for 2019-2020 operating costs brought during budget cycle

Annual Debt Service

Period Ending	Principal	Interest	Total Debt Service	Capitalized Interest Fund	Net Debt Service
12/01/2018	-	3,066,515.87	3,066,515.87	3,066,515.87	-
12/01/2019	-	5,903,453.00	5,903,453.00	5,903,453.00	-
12/01/2020	-	5,903,453.00	5,903,453.00	5,903,453.00	-
12/01/2021	-	5,903,453.00	5,903,453.00	-	5,903,453.00
12/01/2022	1,095,000	5,903,453.00	6,998,453.00	-	6,998,453.00
12/01/2023	3,370,000	5,868,960.50	9,238,960.50	-	9,238,960.50
12/01/2024	3,990,000	5,757,750.50	9,747,750.50	-	9,747,750.50
12/01/2025	4,425,000	5,621,292.50	10,046,292.50	-	10,046,292.50
12/01/2026	4,725,000	5,465,532.50	10,190,532.50	-	10,190,532.50
12/01/2027	5,050,000	5,295,432.50	10,345,432.50	-	10,345,432.50
12/01/2028	5,145,000	5,108,582.50	10,253,582.50	-	10,253,582.50
12/01/2029	5,305,000	4,913,072.50	10,218,072.50	-	10,218,072.50
12/01/2030	5,645,000	4,708,830.00	10,353,830.00	-	10,353,830.00
12/01/2031	5,785,000	4,488,675.00	10,273,675.00	-	10,273,675.00
12/01/2032	5,990,000	4,253,500.00	10,243,500.00	-	10,243,500.00
12/01/2033	6,290,000	3,954,000.00	10,244,000.00	-	10,244,000.00
12/01/2034	6,600,000	3,639,500.00	10,239,500.00	-	10,239,500.00
12/01/2035	6,935,000	3,309,500.00	10,244,500.00	-	10,244,500.00
12/01/2036	7,275,000	2,962,750.00	10,237,750.00	-	10,237,750.00
12/01/2037	7,640,000	2,599,000.00	10,239,000.00	-	10,239,000.00
12/01/2038	8,025,000	2,217,000.00	10,242,000.00	-	10,242,000.00
12/01/2039	8,425,000	1,815,750.00	10,240,750.00	-	10,240,750.00
12/01/2040	8,845,000	1,394,500.00	10,239,500.00	-	10,239,500.00
12/01/2041	9,290,000	952,250.00	10,242,250.00	-	10,242,250.00
12/01/2042	9,755,000	487,750.00	10,242,750.00	-	10,242,750.00
	129,605,000	101,493,956.37	231,098,956.37	14,873,421.87	216,225,534.50

Impacts to L&P Debt Service Coverage

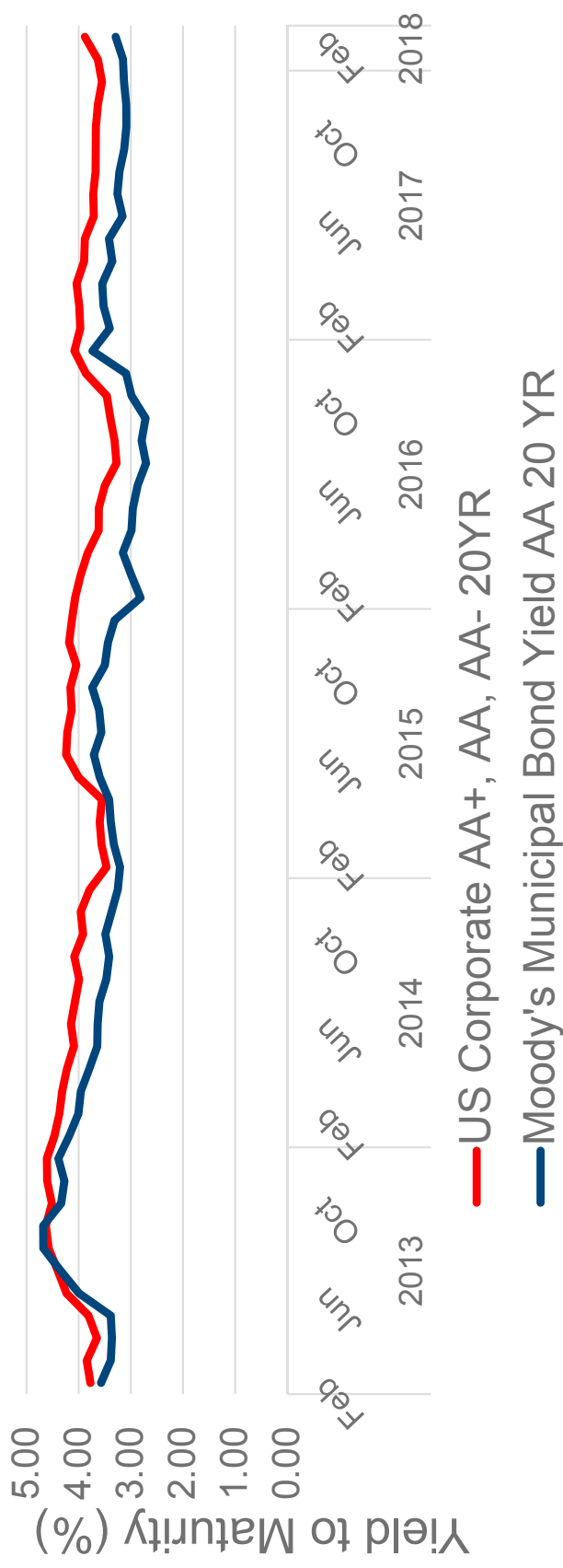
Measurement	Debt Service Coverage Ratio
Staff practice for Light & Power	2.00
Bond covenant	1.25
Rating Stress Test (2017)	1.30
Projected ratio for life of bonds*	3.20 ~ 5.00

*Assumes:

1. Rate increases previously presented in Light & Power long-term plan
2. 2023 bonding of \$20M at 10 years for electric system

Utilizes existing debt capacity through 2022, then Broadband revenues will cover

Municipal and Corporate AA Rated
20 Year Maturity Bond Yields



Possible 40-50 bps difference between now and pricing 5/15 pricing date

ORDINANCE NO. 003

AN ORDINANCE OF THE CITY OF FORT COLLINS, COLORADO, ELECTRIC UTILITY ENTERPRISE AUTHORIZING THE ISSUANCE AND SALE OF ITS TAX-EXEMPT REVENUE BONDS, SERIES 2018A AND ITS TAXABLE REVENUE BONDS, SERIES 2018B, PROVIDING FOR THE SOURCES OF PAYMENT OF THE BONDS, AND PROVIDING OTHER DETAILS CONCERNING THE BONDS AND THE ENTERPRISE'S SYSTEM.

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 provides that the Council may, by ordinance establish its electric utility as an enterprise of the City; and

WHEREAS, on November 3, 2015, the voters of the City approved a ballot question that authorized the City, in the exercise of its home-rule authority, to provide high-speed internet services, including, without limitation, high-bandwidth services, telecommunications services and/or cable television services to residents, businesses, schools, libraries, nonprofit entities and other users of such services located within the boundaries of the City's growth management area; and

WHEREAS, on November 7, 2017, the voters of the City approved an amendment to the City's Charter, by adding a new Section 7 to Charter Article XII, to authorize the City's provision of telecommunication facilities and services as a public utility pursuant to the following ballot question:

"Shall Article XII of the City of Fort Collins Charter be amended to allow, but not require, City Council to authorize, by ordinance and without a vote of the electors, the City's electric utility or a separate telecommunications utility to provide telecommunication facilities and services, including the transmission of voice, data, graphics and video using broadband Internet facilities, to customers within and outside Fort Collins, whether directly or in whole or part through one or more third-party providers, and in exercising this authority, to: (1) issue securities and other debt, but in a total amount not to exceed \$150,000,000; (2) set the customer charges for these facilities and services subject to the limitations in the Charter required for setting the customer charges of other City utilities; (3) go into executive session to consider matters pertaining to issues of competition in providing these facilities and services; (4) establish and delegate to a Council-appointed board or commission some or all of the Council's governing authority and powers granted in this Charter amendment, but not the power to issue securities and other debt; and (5) delegate to the City Manager some or all of

Council’s authority to set customer charges for telecommunication facilities and services?”; and

WHEREAS, the Council has heretofore established the City’s Electric Utility as an enterprise of the City (the “Enterprise”) pursuant to Charter Article V, Section 19.3(b), Ordinance No. 60, 1993 and Ordinance No. 38, 2010; and

WHEREAS, pursuant to Ordinance No. 011, 2018, the Council has amended the City Code to implement the authority granted in Section 7 of Article XII of the Charter and has authorized the Enterprise to acquire, construct, provide, fund and contract for telecommunication facilities and services in the City, and to take such other actions as may be necessary for the proper administration of said facilities and services; and

WHEREAS, Ordinance No. 60, 1993, Ordinance No. 038, 2010, and Ordinance No. 011, 2018 shall be collectively referred to herein as the “Enterprise Ordinances;” and,

WHEREAS, pursuant to the Charter and the Enterprise Ordinances, 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 obligations in the manner and to the full extent authorized in Section 7(b) of Charter Article XII and in City Code Section 26-392 to fund the Enterprise’s provision of telecommunication facilities and services; and

WHEREAS, Charter Article V, Section 19.3(b) provides that the ordinance issuing any such revenue bonds or other obligations of the Enterprise shall be adopted in the same manner and shall be subject to referendum to the same extent as ordinances of the Council; and

WHEREAS, City Code Section 26-392(c) provides that the Enterprise shall be authorized to bind the City to perform any obligation relating to the electrical utility system (the “System”) and to bind the City to perform any obligation relating to the System other than any multiple-fiscal year direct or indirect debt or other financial obligation of the City without adequate present cash reserves pledged irrevocably and held for payments in all future years; and

WHEREAS, the Board proposes to extend, better, otherwise improve and equip the System to provide directly or indirectly telecommunication facilities and services, including high-speed broadband Internet facilities and service in the City (as more fully described herein, the “Project”); and

WHEREAS, the Enterprise intends to issue 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 “Bonds”) to defray in part the Cost of the Project (defined herein); and

WHEREAS, the Enterprise has previously issued its Taxable Revenue Bonds (Direct Pay Qualified Energy Conservation Bonds), Series 2010B (the “2010B Bonds”) that are currently outstanding in the aggregate principal amount of \$5,270,000; and

WHEREAS, in connection with the issuance of the Bonds, the Board has determined that it is in the best interest of the City and the Enterprise to defease all of the outstanding 2010B Bonds prior to the of issuance of the Bonds in order to eliminate certain restrictive contractual provisions in the ordinance authorizing the 2010B Bonds; and

WHEREAS, the 2010B Bonds will no longer be outstanding at the time the Bonds are issued; and

WHEREAS, except for the 2010B Bonds, neither the City nor the Enterprise has pledged or hypothecated the Gross Pledged Revenues derived or to be derived from the operation of the System, or any part thereof, 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 Bonds; and

WHEREAS, the Enterprise intends to negotiate a proposal with the representative of the underwriters of the Bonds (collectively, the “Underwriters”) concerning the purchase of the Bonds; and

WHEREAS, pursuant to Section 11-57-205, Colorado Revised Statutes, the Enterprise desires to delegate to the President and the Treasurer the independent power to accept the proposal to purchase the Bonds and to make final determinations relating to the Bonds, subject to the parameters contained in this Ordinance; and

WHEREAS, the Board has determined and does hereby declare:

A. In order to meet the present and future needs of the City, it is necessary and in the best interest of the City to extend, better, and otherwise improve and equip the System in order to provide directly or indirectly telecommunication facilities and services, including high-speed broadband Internet service;

B. It is necessary and in the best interests of the City to issue the Bonds to defray a portion of the cost of the Project;

C. The construction, acquisition and installation of the Project and the issuance of the Bonds to pay a portion of the costs thereof will be beneficial to the ratepayers of the System;

D. The Net Pledged Revenues shall be pledged to the payment of the Bonds;

E. The Bonds shall be sold by negotiated sale to the Underwriters in accordance with its proposal, and such sale is in the best interest of the City; and

F. All action preliminary to the authorization of the issuance of the Bonds has been taken.

WHEREAS, there are on file with the Enterprise the forms of the following documents (which are hereinafter defined): (i) the form of the Bond Purchase Agreement; (ii) the

form of the Paying Agent Agreement; (iii) the form of a Preliminary Official Statement for the Bonds; and (iv) the form of the Continuing Disclosure Certificate; and

WHEREAS, it is necessary to provide for the form of the Bonds, the Bond details, the payment of the Bonds, and other provisions relating to the authorization, issuance, and sale of the Bonds.

BE IT ORDAINED BY THE BOARD OF THE CITY OF FORT COLLINS, COLORADO, ELECTRIC UTILITY ENTERPRISE AS FOLLOWS:

ARTICLE I

DEFINITIONS, INTERPRETATION, RATIFICATION AND EFFECTIVE DATE

Section 101. Meanings and Construction.

A. Definitions. The terms in this Section for all purposes of this Ordinance and of any Ordinance amendatory hereof or supplemental hereto, or relating hereto, and of any other Ordinance or any other document pertaining hereto, except where the context by clear implication otherwise requires, shall have the meanings herein specified:

“Acquire” or “acquisition” means the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the Federal Government, the State, any body corporate and politic therein, or any other Person, the endowment, bequest, devise, transfer, assignment, option to purchase, other contract, or other acquisition, or any combination thereof, of any properties pertaining to the System, or an interest therein, or any other properties herein designated.

“Board” means the governing body of the Enterprise.

“Bond Counsel” means an attorney or a firm of attorneys, designated by the Enterprise of nationally recognized standing in matters pertaining to the tax status of interest on bonds issued by states and their political subdivisions, duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

“Bond Fund” means, collectively, the 2018A Bond Fund and the 2018B Bond Fund.

“Bond Insurance Policy” means the municipal bond insurance policy or financial guaranty insurance policy, if any, issued by the Bond Insurer guaranteeing the payment when due of the principal of and interest on all or a portion of the Bonds, if set forth in the Sale Certificate.

“Bond Insurer” means the provider, if any, of the Bond Insurance Policy, or any successor thereto, if set forth in the Sale Certificate.

“Bond Purchase Agreement” means the Bond Purchase Agreement between the Enterprise and the Underwriters concerning the purchase of the Bonds.

“Bond Year” means the twelve (12) months commencing on the second day of December of any calendar year and ending on the first day of December of the next succeeding calendar year.

“Bonds” means, collectively, the 2018A Bonds and the 2018B Bonds; provided, however that should the Enterprise determine in the Sale Certificate to not issue either the 2018A Bonds or the 2018B Bonds, any reference herein to such specific series will be of no force and effect.

“Book-entry form” or “book-entry system” means, with respect to the Bonds, a form or system, as applicable, under which physical Bond certificates in fully registered form are registered only in the name of The Depository Trust Company or its nominee as Owner, with the physical bond certificates “immobilized” in the custody of The Depository Trust Company. The book-entry system maintained by and the responsibility of The Depository Trust Company and not maintained by or the responsibility of the Enterprise or the Paying Agent is the record that identifies, and records the transfer of the interests of, the owners of book-entry interests in the Bonds.

“Business Day” means a day of the year, other than a Saturday or Sunday, other than a day on which commercial banks located in the city in which the principal corporate trust office of the Paying Agent is located are required or authorized to remain closed and other than a day on which the New York Stock Exchange is closed.

“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.

“Charter” means the Home Rule Charter of the City, as amended.

“City” means the City of Fort Collins, Colorado.

“City Code” means the Code of the City.

“Closing Date” means the date of delivery of and payment for the Bonds.

“Combined Maximum Annual Debt Service Requirements” means the Maximum Annual Debt Service Requirements for all designated Securities for which such computation is being made, treated as a single issue.

“Commercial Bank” means a state or national bank or trust company which is a member of the Federal Deposit Insurance Corporation (or any successors thereto) and of the Federal Reserve System, which has a capital and surplus of \$10,000,000 or more, and which is located within the United States of America.

“Continuing Disclosure Certificate” means the Continuing Disclosure Certificate for the Bonds executed by the Enterprise.

“Costs of Issuance Fund” means the Costs of Issuance Fund created in the Paying Agent Agreement.

“Cost of the Project” means all costs, as designated by the Enterprise, of the Project, or any interest therein, which cost, at the option of the Enterprise (except as may be otherwise limited by law) may include all, any one or other portion of the incidental costs pertaining to the Project, including, without limitation:

(i) All preliminary expenses or other costs, including without limitation working capital costs, advanced or loaned by the City or the Enterprise or advanced by the Federal Government, the State or by any other Person from any source, with the approval of the Board, or any combination thereof, or otherwise;

(ii) The costs of making surveys and tests, audits, preliminary plans, other plans, specifications, estimates of costs and other preliminaries;

(iii) The costs of contingencies;

(iv) The costs of premiums on any builders’ risk insurance and performance bonds during the construction, installation and other acquisition of the Project, or a reasonably allocated share thereof;

(v) The costs of appraising, printing, estimates, advice, inspection, other services of engineers, architects, accountants, financial consultants, attorneys at law, clerical help and other agents and employees;

(vi) The costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the Project and the issuance of the Bonds;

(vii) All costs and expenses of issuing the Bonds including, without limitation, fees of the Paying Agent, Bond Counsel, counsel to the Underwriters, counsel to the City or the Enterprise, financial advisor, rating agencies and printers to the extent not defrayed as an Operation and Maintenance Expense;

(viii) The costs of the filing or recording of instruments and the cost of any title insurance premiums;

(ix) The costs of funding any construction loans and other temporary loans pertaining to the Project and of the incidental expenses incurred in connection with such loans;

(x) The costs of demolishing, removing, or relocating any buildings, structures, or other facilities on land acquired for the Project, and of acquiring lands to which such buildings, structures or other facilities may be moved or relocated;

- (xi) The costs of machinery and equipment;
- (xii) The costs of any properties, rights, easements or other interests in properties, or any licenses, privileges, agreements and franchises;
- (xiii) The payment of the premium for any Bond Insurance Policy and any Reserve Fund Insurance Policy to be deposited in the Reserve Fund, if any;
- (xiv) The costs of labor, material and obligations incurred to contractors, builders and materialmen in connection with the acquisition and construction of the Project;
- (xv) The costs of amending any ordinance or other instrument pertaining to the Bonds or otherwise to the System; and
- (xvi) All other costs and expenses pertaining to the Project, including any costs and expenditures required by law.

“Council” means the City Council of the City.

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

“Debt Service Requirements” means for any period, the amount required to pay the principal of and interest on any designated Outstanding Securities during such period; provided that the determination of Debt Service Requirements of any Securities shall assume the redemption and payment of such Securities on any applicable mandatory redemption date. In any computation relating to the issuance of additional Parity Bonds required by this Ordinance, or relating to the rate maintenance covenant set forth in Section 921 of this Ordinance, there shall be excluded from the computation of Debt Service Requirements (a) any proceeds on deposit in a bond fund for such Securities constituting capitalized interest, and (b) any moneys deposited by the City or the Enterprise in the bond fund for such Securities that does not constitute Net Pledged Revenues of the System and that have been irrevocably pledged to pay the principal of and interest on such Securities.

In determining the Debt Service Requirements for any issue of securities bearing interest at a variable, adjustable, convertible or other similar rate that is not fixed for the entire term thereof, it shall be assumed that any such Securities Outstanding at the time of the computation will bear interest during any period at the highest of (a) the actual rate on the date of calculation, or if the Securities are not yet outstanding, the initial rate (if established and binding), (b) if the Securities have been outstanding for at least twelve (12) months, the average rate over the twelve (12) months immediately preceding the date of calculation, and (c) (i) if interest on the Securities is excludable from gross income under the applicable provisions of the Tax Code, the average of the SIFMA Index during the preceding twelve (12) months plus one hundred (100) basis points, or (ii) if interest is not so excludable, the interest rate on direct Federal Securities with comparable maturities plus fifty (50) basis points. It shall further be assumed that any such Securities which may be tendered prior to maturity for purchase at the option of the Owner thereof will mature on their stated maturity dates or mandatory redemption

dates. The Enterprise or the City shall be permitted to treat any fixed rate payable on an interest rate exchange agreement or “swap” contract as the interest rate on any such issue of Securities if the counterparty to such agreement or contract has unconditionally agreed to pay all interest due on such Securities.

“DTC” means the Depository Trust Company, New York, New York, and its successors and assigns, as securities depository for the Bonds.

“Enterprise” means the City’s electric utility, which is in charge of the distribution and sale of electricity and the provision of telecommunication facilities and services in the City and is designated by City Code Section 26-392 as an enterprise of the City.

“Enterprise Ordinances” means, collectively, the following ordinances adopted by the Council of the City: Ordinance No. 063, 1993, Ordinance No. 038, 2010 and Ordinance No. 110, 2018, establishing the Enterprise and authorizing the Enterprise to have and exercise certain powers in furtherance of its purposes.

“Events of Default” means the events stated in Section 1003 hereof.

“Federal Government” means the United States of America and any agency, instrumentality or corporation thereof.

“Federal Securities” means bills, certificates of indebtedness, notes, or bonds which are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States of America.

“Fiscal Year” means the calendar year or any other 12 month period hereafter selected by the Enterprise as its fiscal year.

“Fitch” means Fitch Ratings Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and its assigns.

“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.

“Improve” or “improvement” means the extension, reconstruction, alteration, betterment or other improvement by the construction, purchase or other acquisition of facilities, including, without limitation, appurtenant machinery, apparatus, fixtures, structures and buildings.

“Independent Accountant” means any certified public accountant, or any firm of certified public accountants, duly licensed to practice and practicing as such under the laws of the State:

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

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

“Light and Power Fund” means the special fund of that name heretofore created by the City and referred to in Section 602 hereof.

“Maximum Annual Debt Service Requirements” means the maximum aggregate amount of Debt Service Requirements (excluding redemption premiums) due on the Securities for which such computation is being made in any Bond Year beginning with the Bond Year in which Debt Service Requirements of such Securities are first payable after the computation date and ending with the Bond Year in which the last of the Debt Service Requirements are payable.

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

“Official Statement” means the Official Statement delivered in connection with the original issuance and sale of the Bonds.

“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.

“Ordinance” means this Ordinance of the Enterprise, which provides for the issuance and delivery of the Bonds.

“Outstanding” when used with reference to the Bonds, the Parity Bonds, or any other designated securities and as of any particular date means all the Bonds, the Parity Bonds, or any such other securities payable from the Net Pledged Revenues or otherwise pertaining to the System, as the case may be, in any manner theretofore and thereupon being executed and delivered:

(i) Except any Bond, Parity Bonds, or other security canceled by the Enterprise, by any paying agent, or otherwise on the Enterprise’s behalf, at or before such date;

(ii) Except any Bond, Parity Bond, or other security deemed to be paid as provided in Section 1201 hereof or any similar provision of the Ordinance authorizing the issuance of such other security; and

(iii) Except any Bond, Parity Bond, or other security in lieu of or in substitution for which another Bond or other security shall have been executed and delivered pursuant to Sections 306, 307 or 1106 hereof or any similar provisions of the Ordinance authorizing the issuance of such other security.

“Owner” means the registered owner of any designated Bond, Parity Bond, or other designated security.

“Parity Bond Ordinances” means any ordinances or agreements hereafter entered into by the City or the Enterprise with respect to Parity Bonds and, without duplication, any ordinances hereafter adopted by the Council or the Board authorizing the issuance of Parity Bonds.

“Parity Bonds” means any Securities hereafter issued or executed by the Enterprise or the City and payable in whole or in part from all or a portion of the Net Pledged Revenues equally or on a parity with the Bonds.

“Paying Agent” means U.S. Bank National Association in Denver, Colorado, and being an agent of the Enterprise for the payment of the Debt Service Requirements due in connection with the Bonds, the registrar for the Bonds and for other administration of moneys pertaining to the Bonds, and includes any successor Commercial Bank as paying agent and registrar.

“Paying Agent Agreement” means the Paying Agent Agreement dated the date of issuance of the Bonds between the Enterprise and the Paying Agent.

“Permitted Investments” means any obligations permitted by the Charter and the ordinances of the City and, to the extent applicable, the laws of the State.

“Person” means a corporation, firm, other body corporate (including, without limitation, the Federal Government, the State, or any other body corporate and politic other than the City or the Enterprise), partnership, limited liability company, association or individual, and also includes an executor, administrator, trustee, receiver or other representative appointed according to law.

“Policy Costs” means repayment of draws under the Reserve Fund Insurance Policy, if any, plus all related reasonable expenses incurred by the Surety Provider, plus accrued interest thereon.

“Preliminary Official Statement” means the Preliminary Official Statement delivered in connection with the original issuance and sale of the Bonds.

“President” means the President of the Enterprise, who shall be the Mayor of the City.

“Project” means (a) the land, facilities and rights constructed, installed, purchased and otherwise acquired for the System to provide Telecommunication Facilities and Services, and which constitute Capital Improvements, and (b) working capital related to the System.

“Project Fund” means, collectively, the 2018A Project Fund and the 2018B Project Fund.

“Rating Agency” means each nationally recognized securities rating agency then maintaining a rating on the Bonds and initially means Standard & Poor’s and Fitch.

“Rebate Fund” means the special fund designated as the “City of Fort Collins, Colorado, Electric Utility Enterprise, Tax-Exempt Revenue Bonds, Series 2018A, Rebate Fund” created pursuant to Section 608 hereof.

“Record Date” means the close of business on the fifteenth day (whether or not a Business Day) of the calendar month next preceding an interest payment date.

“Redemption Date” means the date fixed for the redemption prior to their respective maturities of any Bonds or other designated Securities payable from Net Pledged Revenues in any notice of prior redemption or otherwise fixed and designated by the Enterprise.

“Reserve Fund” means any Reserve Fund established to secure the payment of the principal of and interest on all or any portion of the Bonds in accordance with the provisions of the Sale Certificate and Section 606 hereof. If a Reserve Fund is created in the Sale Certificate, the terms and provisions of the Sale Certificate relating to the Reserve Fund shall be incorporated herein as if set forth herein. If a Reserve Fund is not created in the Sale Certificate, all references herein to the Reserve Fund and Reserve Fund Requirement shall be of no force and effect.

“Reserve Fund Insurance Policy” means any insurance policy, surety bond, irrevocable letter of credit or similar instrument deposited in or credited to the Reserve Fund in lieu of or in partial substitution for moneys on deposit therein.

“Reserve Fund Requirement” has the meaning ascribed to such term in the Sale Certificate.

“Sale Certificate” means a certificate or certificates, executed by either the President or the Treasurer, dated on or before the date of delivery of the Bonds, setting forth the determinations that may be delegated to such officials pursuant to Section 11-57-205(1) of the Supplemental Act.

“Secretary” shall mean the Secretary of the Enterprise, who shall be the City Clerk of the City.

“Security or Securities” means bonds, notes, certificates, warrants, leases, contracts or other financial obligations or securities issued or executed by the Enterprise or the City and payable in whole or in part from a lien on the Net Pledged Revenues.

“SIFMA Index” means the Securities Industry and Financial Markets Association Municipal Swap Index, produced by Municipal Market Data, or if such index is not published, then such other index selected by the Treasurer which reflects the yield of tax-exempt seven-day variable rate demand bonds.

“Special Record Date” means the record date for determining ownership of the Bonds for purposes of paying accrued but unpaid interest, as such date may be determined pursuant to this Ordinance.

“Standard & Poor’s” means S & P Global Ratings, a division of Standard & Poor’s Financial Services LLC, its successors and its assigns.

“State” means the State of Colorado.

“Supplemental Act” means Part 2 of Article 57 of Title 11, C.R.S.

“Surety Provider” means the Bond Insurer or any other entity issuing a Reserve Fund Insurance Policy with respect to the Bonds, if any.

“System” means, collectively, the City’s electric distribution system that furnishes electricity and related services and the City’s broadband system using fiber-optic technology that provides Telecommunication Facilities and Services. 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.

“Tax Code” means the Internal Revenue Code of 1986, as amended to the date of delivery of the Bonds, and the regulations promulgated thereunder.

“Tax Compliance Certificate” means the Tax Compliance and No Arbitrage Certificate executed by the Enterprise in connection with the initial issuance and delivery of the 2018A Bonds.

“Telecommunication Facilities and Services” means those facilities used and services provided for the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received, to include, without limitation, any broadband Internet facilities and services using any technology having the capacity to transmit data to enable a subscriber to the service to originate and receive high-quality voice, data graphics and video. The term “Telecommunication Facilities and Services” shall be interpreted in the broadest possible way to cover the widest range of technologies and technology infrastructure, regardless of how these terms may be defined by federal or state law.

“Term Bonds” means Bonds that are payable on or before their specified maturing dates from sinking fund payments established for that purpose and calculated to retire such Bonds on or before their specified maturity dates.

“Treasurer” means the Treasurer of the Enterprise, who shall be the Financial Officer of the City.

“Trust Bank” means a Commercial Bank which is authorized to exercise and is exercising trust powers located within or without the State, and also means any branch of the Federal Reserve Bank.

“Underwriters” means, collectively, the underwriters of the Bonds.

“2010B Bonds” means the “City of Fort Collins, Colorado, Electric Utility Enterprise, Taxable Revenue Bonds (Direct Pay Qualified Energy Conservation Bonds), Series 2010B” that will be defeased in whole prior to the issuance of the Bonds.

“2018A Bond Fund” means the special fund designated as the “City of Fort Collins, Colorado, Electric Utility Enterprise, Tax-Exempt Revenue Bonds, Series 2018A, Bond Fund” created pursuant to Section 605 hereof.

“2018A Bonds” means the Enterprise’s Tax-Exempt Revenue Bonds, Series 2018A, issued pursuant to this Ordinance.

“2018A Project Fund” means the special fund designated as the “City of Fort Collins, Colorado, Electric Utility Enterprise, Tax-Exempt Revenue Bonds, Series 2018A, Project Fund” created pursuant to Section 502 hereof.

“2018B Bond Fund” means the special fund designated as the “City of Fort Collins, Colorado, Electric Utility Enterprise, Taxable Revenue Bonds, Series 2018B, Bond Fund” created pursuant to Section 605 hereof.

“2018B Bonds” means the Enterprise’s Taxable Revenue Bonds, Series 2018B, issued pursuant to this Ordinance.

“2018B Project Fund” means the special fund designated as the “City of Fort Collins, Colorado, Electric Utility Enterprise, Taxable Revenue Bonds, Series 2018B Project Fund” created pursuant to Section 502 hereof.

B. Enterprise-Held Securities. Any securities payable from any Net Pledged Revenues held by the Enterprise shall not be deemed to be Outstanding for the purpose of redemption nor Outstanding for the purpose of consents hereunder or for any other purpose herein.

Section 102. Ratification; Approval of Documents. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Board, the officers and employees of the Enterprise and otherwise taken by the Enterprise directed toward the Project and the issuance, sale and delivery of the Bonds for such purposes, be, and the same hereby is, ratified, approved and confirmed.

ARTICLE II

DETERMINATION OF THE ENTERPRISE'S AUTHORITY AND OBLIGATIONS; APPROVAL OF RELATED DOCUMENTS; AND ELECTION TO APPLY SUPPLEMENTAL ACT TO THE BONDS

Section 201. Authorization; Conclusive Recital. The Bonds are issued in accordance with the Constitution and laws of the State, Charter, the City Code, the provisions of this Ordinance, the Enterprise Ordinances, the Supplemental Act and all other laws of the State thereunto enabling. For the purpose of defraying the cost of the Project, the Enterprise hereby authorizes to be issued its 2018A Bonds and its 2018B Bonds in the respective aggregate principal amounts provided in the Sale Certificate as approved by the President or the Treasurer, subject to the parameters and restrictions contained in this Ordinance.

Section 202. Bonds Equally Secured. The covenants and agreements herein set forth to be performed on behalf of the Enterprise shall be for the equal benefit, protection and security of the Owners of any and all of the Outstanding Bonds and any Outstanding Parity Bonds heretofore or hereafter authorized and issued, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any of such securities over any other thereof, except as otherwise expressly provided in or pursuant to this Ordinance.

Section 203. Special Obligations. All of the Debt Service Requirements of the Bonds shall be payable and collectible solely out of the Net Pledged Revenues, which revenues are hereby so pledged; and the special funds pledged hereunder for the payment of the Debt Service Requirements of the Bonds. The Owner or Owners of the Bonds may not look to any general or other fund for the payment of such Debt Service Requirements, except the herein designated special funds pledged therefor; the Bonds shall not constitute a debt or indebtedness within the meaning of any constitutional, charter, or statutory provision or limitation; and the Bonds 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 issuance of the Bonds shall in any manner be construed as limiting or impairing the obligation of the Enterprise to comply with the provisions of this Ordinance or to pay the Debt Service Requirements of the Bonds as herein provided.

Section 204. Character of Agreement. None of the covenants, agreements, representations and warranties contained herein or in the Bonds 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).

Pursuant to the Enterprise Ordinances, the Enterprise is authorized to make covenants on behalf of the City and to bind the City to perform any obligation relating to the System other than any multiple-fiscal year direct or indirect debt or other financial obligation of the City without adequate present cash reserves pledged irrevocably and held for payment in future years. Notwithstanding anything in this Ordinance to the contrary, no such covenant of

the Enterprise on behalf of the City that would constitute such a direct or indirect debt or other financial obligation of the City may be enforced against the City.

Section 205. No Pledge of Property. The payment of the Bonds is not secured by an encumbrance, mortgage or other pledge of property of the City or the Enterprise, except for the Net Pledged Revenues and other special funds pledged for the payment of the Debt Service Requirements of the Bonds. No property of the City or the Enterprise, subject to such exception, shall be liable to be forfeited or taken in payment of the Bonds.

Section 206. No Recourse Against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Board or the Council, or any officer or agent of the Enterprise or the City acts in good faith, no civil recourse shall be available against such Board member or Council member, officer, or agent for payment of the principal or interest on the Bonds. Such recourse shall not be available either directly or indirectly through the Board, the Enterprise, the Council or the City, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the Bonds and as a part of the consideration of their sale or purchase, any person purchasing or selling such Bonds specifically waives any such recourse.

Section 207. Authorization of the Project. The Board, on behalf of the Enterprise, does hereby determine to undertake the Project, which is hereby authorized, and the net proceeds of the Bonds shall be used therefor.

Section 208. Enterprise Status. The Board, on behalf of the Enterprise, hereby confirms its determination that the System shall be an “enterprise” for the purposes of Article X, Section 20 of the State Constitution.

Section 209. Sale of Bonds. The Bonds shall be sold by negotiated sale to the Underwriters. Pursuant to the Supplemental Act, the Board hereby delegates to the President or the Treasurer the authority to execute the Bond Purchase Agreement, in accordance with the terms and limitations of this Ordinance.

Section 210. Official Statement. The preparation, distribution and use of the Preliminary Official Statement for use in connection with the offering and sale of the Bonds is hereby authorized, ratified, approved and confirmed. The Preliminary Official Statement is hereby deemed by the Board to be final as of its date within the meaning of Rule 15c2-12(b)(1) of the U.S. Securities and Exchange Commission. The President and the Treasurer are each independently authorized to prepare or cause to be prepared, and the President is authorized and directed to approve, on behalf of the Enterprise, and execute a final Official Statement for use in connection with the offering and sale of the Bonds in substantially the form of the Preliminary Official Statement, but with such amendments, additions and deletions as are in accordance with the facts and not inconsistent herewith. The execution of a final Official Statement by the President shall be conclusively deemed to evidence the approval of the form and contents thereof by the Enterprise.

Section 211. Paying Agent Agreement and Continuing Disclosure Certificate. The Board hereby approves the Paying Agent Agreement and the Continuing Disclosure

Certificate in substantially the forms of such documents on file with the Secretary, with only such changes therein as are not inconsistent herewith. The President is hereby authorized and directed to execute the Paying Agent Agreement and the Continuing Disclosure Certificate and the Secretary is hereby authorized to attest and to affix the seal of the Enterprise to the Paying Agent Agreement and the Continuing Disclosure Certificate. Such documents are to be executed in substantially the forms hereinabove approved, provided that such documents may be completed, corrected or revised as deemed necessary by the parties thereto in order to carry out the purposes of this Ordinance and to comply with the provisions of the Sale Certificate. The execution of any document or instrument by the appropriate officers of the Enterprise herein authorized shall be conclusive evidence of the approval by the Enterprise of such document or instrument in accordance with the terms hereof.

Section 212. Other Related Documents. The President, the Treasurer, the Secretary and all other appropriate officers or employees of the Enterprise are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including without limiting the generality of the foregoing, executing, attesting, authenticating and delivering for and on behalf of the Enterprise any and all necessary documents, instruments or certificates and performing all other acts that they deem necessary or appropriate, including without limitation any financial guaranty agreement required by the provider of any insurance policy or reserve fund insurance policy related to the Bonds. The execution of any instrument by the appropriate officers of the Enterprise herein authorized shall be conclusive evidence of the approval by the Enterprise of such instrument in accordance with the terms hereof.

Section 213. Election to Apply Supplemental Act to the Bonds; Delegation Section 11-57-204 of the Supplemental Act provides that a public entity, including the Enterprise, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act. The Board hereby elects to apply all of the Supplemental Act to the Bonds. The Bonds shall be issued under the authority of the Supplemental Act and shall so recite as provided herein. Pursuant to Section 11-57-210 of the Supplemental Act, such recital shall be conclusive evidence of the validity and regularity of the issuance of the Bonds after their delivery for value.

Pursuant to Section 11-57-205 of the Supplemental Act, the Board hereby delegates to the President or the Treasurer the authority to independently sign a contract for the purchase of the Bonds or to accept a binding bid for the Bonds and to execute any agreement or agreements in connection therewith, and the Board hereby further delegates to each of the President or the Treasurer the authority to independently make any determination delegable pursuant to Section 11-57-205(1)(a-i) of the Supplemental Act, in relation to the Bonds, and to execute the Sale Certificate setting forth such determinations, subject to the following parameters and restrictions:

(i) The aggregate principal amount of the Bonds shall not exceed \$150,000,000.

(ii) The net effective interest rate on the 2018A Bonds shall not exceed 5.45%; and the net effective interest rate on the 2018B Bonds shall not exceed 5.45%.

(iii) The price at which the Series 2018A Bonds will be sold to the Underwriters shall not be less than 98% of the aggregate principal amount of the Series 2018A Bonds; and the price at which the Series 2018B Bonds will be sold to the Underwriters shall be not less than 98% of the aggregate principal amount of the Series 2018B Bonds.

(iv) The Series 2018A Bonds shall mature no later than December 1, 2042, and the Series 2018B Bonds shall mature no later than December 1, 2032.

The President or the Treasurer are hereby independently authorized to determine if obtaining municipal bond insurance for all or a portion of the Bonds is in the best interests of the Enterprise, and if so, to select a Bond Insurer to issue a Bond Insurance Policy, execute a commitment relating to the same and execute any related documents or agreements required by such commitment. The President or the Treasurer are hereby independently authorized to determine if obtaining a Reserve Fund Insurance Policy for all or a portion of the Bonds is in the best interests of the Enterprise, and if so, to select a Surety Provider to issue a Reserve Fund Insurance Policy and execute any related documents or agreements required by such commitment. If the Enterprise determines that it will not obtain a Bond Insurance Policy all references herein to a Bond Insurance Policy or a Bond Insurer shall be of no force and effect. If the Enterprise determines that it will not obtain a Reserve Fund Insurance Policy, all references herein to a Reserve Fund Insurance Policy and a Surety Provider shall be of no force and effect.

The delegation set forth in this Section 213 shall be effective for one year following the effective date of this Ordinance.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND ISSUANCE OF BONDS

Section 301. Bond Details.

A. General. The Bonds shall be issued in fully registered form (*i.e.* registered as to payment of both principal and interest), in denominations of \$1,000 or any integral multiple thereof. The 2018A Bonds shall be lettered “RA” and shall be numbered separately from 1 upward. The 2018B Bonds shall be lettered “RB” and shall be numbered separately from 1 upward. The Bonds shall be dated as of the date of their delivery. The Bonds shall mature on December 1, in the years and amounts and be subject to prior redemption as set forth herein and in the Sale Certificate. The Bonds shall bear interest from the most recent interest payment date to which interest has been paid, or if no interest has been paid, from their date until their respective maturities (or prior redemption) at the rates set forth in the Sale Certificate. No interest shall accrue on any Bonds owned by or on behalf of the Enterprise. Interest on the Bonds shall be calculated on the basis of a 360-day year of twelve 30-day months, payable semiannually on each June 1 and December 1, commencing on the date provided in the Sale Certificate.

B. Payment of Bonds. The principal of, premium, if any, and final interest payment on each Bond shall be payable at the principal corporate trust office of the Paying

Agent, or at such other office as the Paying Agent directs in writing to the Owners of the Bonds, or at the principal office of its successor, upon presentation and surrender of the Bond. Payment of interest on any Bond (other than the final interest payment) shall be made to the Owner thereof by the Paying Agent on or before each interest payment date, (or, if such interest payment date is not a Business Day, on or before the next succeeding Business Day), to such Owner at his or her address as it appears on the registration records kept by the Paying Agent on the Record Date; but any such interest not so timely paid or duly provided for shall cease to be payable to the person who is the Owner thereof at the close of business on the Record Date and shall be payable to the person who is the Owner thereof at the close of business on a Special Record Date for the payment of any such defaulted interest. Such Special Record Date and the date fixed for payment of such defaulted interest shall be fixed by the Paying Agent whenever moneys become available for payment of the defaulted interest, and notice of the Special Record Date shall be given to the Owners not less than ten days prior to the Special Record Date by first-class mail to each such Owner as shown on the Paying Agent's registration books on a date selected by the Paying Agent, stating the date of the Special Record Date and the date fixed for the payment of such defaulted interest. The Paying Agent may make payments of interest on any Bond by such alternative means as may be mutually agreed to between the Owner of such Bond and the Paying Agent. If any Bond is not paid upon its presentation and surrender at or after its maturity or prior redemption, interest shall continue at its stated rate per annum until the principal thereof is paid in full. All such payments shall be made in lawful money of the United States of America.

Section 302. Execution of Bonds. The Bonds shall be executed in the name of the Enterprise by the manual or facsimile signature of the President, shall be sealed with the corporate seal of the Enterprise or a facsimile thereof thereunto affixed, imprinted, engraved or otherwise reproduced and shall be attested by the manual or facsimile signature of the Secretary. Any Bond may be signed (manually or by facsimile), sealed or attested on behalf of the Enterprise by any person who, at the date of such act, shall hold the proper office, notwithstanding that at the date of authentication, issuance or delivery, such person may have ceased to hold such office. The President and the Secretary may adopt as and for his or her own facsimile signature the facsimile signature of his or her predecessor in office in the event that such facsimile signature appears on any of the Bonds. Before the execution of any Bond, the President and the Secretary shall each file with the Colorado Secretary of State his or her manual signature certified by him or her under oath.

Section 303. Authentication Certificate. The authentication certificate upon the Bonds shall be substantially in the form and tenor provided in the form of the Bonds attached to this Ordinance as Exhibit A (with respect to the 2018A Bonds) and Exhibit B (with respect to the 2018B Bonds). No Bond shall be secured hereby or entitled to the benefit hereof, nor shall any Bond be valid or obligatory for any purpose, unless the certificate of authentication, substantially in such form, has been duly executed by the Paying Agent and such certificate of the Paying Agent upon any Bond shall be conclusive evidence that such Bond has been authenticated and delivered hereunder. The certificate of authentication shall be deemed to have been duly executed by it if manually signed by an authorized officer or employee of the Paying Agent, but it shall not be necessary that the same officer or employee sign the certificate of authentication on all of the Bonds.

Section 304. Registration and Payment. The Paying Agent shall also act as registrar and transfer agent for the Bonds and shall keep or cause to be kept sufficient records for the registration and transfer of the Bonds, which shall at all times be open to inspection by the Enterprise. Upon presentation for such purpose, the Paying Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said records, Bonds as herein provided. Except as provided in Section 306 hereof, the Person in whose name any Bond shall be registered on the registration records kept by the Paying Agent shall be deemed and regarded as the absolute owner thereof for the purpose of making payment of the Debt Service Requirements thereof and for all other purposes; and payment of or on account of the Debt Service Requirements of any Bond shall be made only to the Owner thereof or his or her legal representative, but such registration may be changed upon transfer of such Bond in the manner and subject to the conditions and limitations provided herein. All such payments shall be valid and effectual to discharge the liability upon such Bond to the extent of the sum or sums so paid. The foregoing provisions of this Section are subject to the provisions of Section 307 hereof.

Section 305. Transfer and Exchange. Any Bond may be transferred upon the records required to be kept pursuant to the provisions of Section 304 hereof by the Person in whose name it is registered, in person or by his, her or its duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a written instrument of transfer in a form approved by the Paying Agent, duly executed. Whenever any Bond or Bonds shall be surrendered for transfer, the Paying Agent shall authenticate and deliver a new Bond or Bonds for a like aggregate principal amount and of the same maturity and interest rate and of any authorized denominations. The Bonds may be exchanged by the Paying Agent for a like aggregate principal amount of Bonds of the same maturity and interest rate and of other authorized denominations. The execution by the Enterprise of any Bond of any denomination shall constitute full and due authorization of such denomination and the Paying Agent shall thereby be authorized to authenticate and deliver such Bond.

The Paying Agent shall not be required to transfer or exchange (a) any Bond subject to redemption during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of Bonds and ending at the close of business on the day such notice is mailed, or (b) any Bond so selected for redemption in whole or in part after the mailing of notice calling such Bond or any portion thereof for prior redemption except the unredeemed portion of Bonds being redeemed in part.

The Paying Agent shall require the payment by any Owner requesting exchange or transfer of any tax or other governmental charge required to be paid with respect to such exchange or transfer, and may charge a sum sufficient to pay the cost of preparing each new Bond upon each exchange or transfer and any other expenses of the Enterprise or the Paying Agent incurred in connection therewith.

The foregoing provisions of this Section are subject to the provisions of Section 307 hereof.

Section 306. Bond Replacement. If any Bond shall have been lost, destroyed or wrongfully taken, the Enterprise shall provide for the replacement thereof in the manner set forth

and upon receipt of the evidence, indemnity bond and reimbursement for expenses provided in Section 8-41 of the City Code. Any such new Bond shall bear a number not previously assigned. The applicant for any such new Bond may be required to pay all expenses and charges of the Enterprise and of the Paying Agent in connection with the issuance of such Bond. All Bonds shall be held and owned upon the express condition that, to the extent permitted by law, the foregoing conditions are exclusive with respect to the replacement and payment of mutilated, destroyed, lost or stolen Bonds, negotiable instruments or other securities.

Section 307. Book Entry.

A. Depository. Notwithstanding any contrary provision of this Ordinance, the Bonds initially shall be evidenced by one Bond for each maturity and interest rate in denominations equal to the aggregate principal amount of the Bonds of the same series, maturity and interest rate. Such initially delivered Bonds shall be registered in the name of “Cede & Co.” as nominee for DTC. The Bonds may not thereafter be transferred or exchanged except:

(1) to any successor of The Depository Trust Company or its nominee, which successor must be both a “clearing corporation” as defined in Section 4-8-102(a)(5), C.R.S. and a qualified and registered “clearing agency” under Section 17A of the Securities Exchange Act of 1934, as amended; or

(2) upon the resignation of The Depository Trust Company or a successor or new depository institution under clause (1) or this clause (2) of this paragraph A, or a determination by the Board that The Depository Trust Company or such successor or a new depository institution is no longer able to carry out its functions, and the designation by the Board of another depository institution acceptable to the Board and to the depository then holding the Bonds, which new depository must be both a “clearing corporation” as defined in Section 4-8-102(a)(5), C.R.S. and a qualified and registered “clearing agency” under Section 17A of the Securities Exchange Act of 1934, as amended, to carry out the functions of The Depository Trust Company or such successor new depository institution; or

(3) upon the resignation of The Depository Trust Company or a successor or new depository institution under clause (1) above or designation of a new depository institution pursuant to clause (2) above, or a determination of the Board that The Depository Trust Company or such successor or depository institution is no longer able to carry out its functions, and the failure by the Board, after reasonable investigation, to locate another depository institution under clause (2) to carry out such depository institution functions.

B. Successor. In the case of a transfer to a successor of The Depository Trust Company or its nominee as referred to in clause (1) or (2) of paragraph A hereof, upon receipt of the outstanding Bonds by the Paying Agent together with written instructions for transfer satisfactory to the Paying Agent, a new Bond for each maturity and interest rate of the Bonds then outstanding shall be issued to such successor or new depository, as the case may be, or its nominee, as is specified in such written transfer instructions. In the case of a resignation or determination under clause (3) of paragraph A hereof and the failure after reasonable investigation to located another qualified depository institution for the Bonds as provided in clause (3) of paragraph A hereof, and upon receipt of the outstanding Bonds by the Paying

Agent, together with written instructions for transfer satisfactory to the Paying Agent, new Bonds shall be issued in authorized denominations as provided in and subject to the limitations of Sections 301, 304, and 305 hereof, registered in the names of such Persons, as are requested in such written transfer instructions; however, the Paying Agent shall not be required to deliver such new Bonds within a period of less than 60 days from the date of receipt of such written transfer instructions.

C. Absolute Owner. The Enterprise and the Paying Agent shall be entitled to treat the Owner of any Bond as the absolute owner thereof for all purposes hereof and any applicable laws, notwithstanding any notice to the contrary received by any or all of them and the Enterprise and the Paying Agent shall have no responsibility for transmitting payments or notices to the beneficial owners of the Bonds held by The Depository Trust Company or any successor or new depository named pursuant to paragraph A hereof.

D. Payment. The Enterprise and the Paying Agent shall endeavor to cooperate with The Depository Trust Company or any successor or new depository named pursuant to clause (1) or (2) of paragraph A hereof in effectuating payment of the principal amount of the Bonds upon maturity or prior redemption by arranging for payment in such a manner that funds representing such payments are available to the depository on the date they are due.

E. Redemption. Upon any partial redemption of any maturity and interest rate of the Bonds, Cede & Co. (or its successor) in its discretion may request the Enterprise to issue and authenticate a new Bond or shall make an appropriate notation on the Bond indicating the date and amount of prepayment, except in the case of final maturity, in which case the Bond must be presented to the Paying Agent prior to payment. The records of the Paying Agent shall govern in the case of any dispute as to the amount of any partial prepayment made to Cede & Co. (or its successor).

Section 308. Bond Cancellation. Whenever any Bond shall be surrendered to the Paying Agent upon payment thereof, or to the Paying Agent for transfer, exchange or replacement as provided herein, such Bond shall be promptly canceled and destroyed by the Paying Agent.

Section 309. Negotiability. Subject to the provisions expressly stated or necessarily implied herein, the Bonds shall be fully negotiable and shall have all the qualities of negotiable paper, and the holder or holders thereof shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Colorado Uniform Commercial Code.

Section 310. Resignation or Removal of Paying Agent. If the Paying Agent shall resign in accordance with the terms and provisions of the Paying Agent Agreement or if the Enterprise shall determine to remove the Paying Agent, the Enterprise may, upon notice mailed to each Owner of Bonds at the addresses last shown on the registration books of the Enterprise, accept the resignation of the Paying Agent or remove the Paying Agent, as the case may be, and appoint a successor paying agent. Every such successor paying agent shall be a Commercial Bank. Any such resignation or removal shall become effective only on the appointment of a

successor and acceptance by the successor of its duties hereunder and under the Paying Agent Agreement.

Section 311. Bond Form. Subject to the provisions of this Ordinance, each 2018A Bond shall be in substantially the form attached hereto as Exhibit A and each 2018B Bond shall be in substantially the form attached hereto as Exhibit B, with such omissions, insertions, endorsements and variations as to any recitals of fact or other provisions as may be required by the circumstances, be required or permitted by this Ordinance or the Sale Certificate, be consistent with this Ordinance or be necessary or appropriate to conform to the rules and requirements of any governmental authority or any usage or requirement of law with respect thereto.

ARTICLE IV

REDEMPTION

Section 401. Optional Redemption. The Bonds shall be subject to redemption at the option of the Enterprise from any legally available funds on the dates, at the prices, and in the manner set forth in the Sale Certificate.

Section 402. Mandatory Sinking Fund Redemption. The Term Bonds, if any, shall be subject to mandatory sinking fund redemption at the times, in the amounts and at the prices provided in the Sale Certificate.

On or before the thirtieth day prior to each such sinking fund payment date, the Paying Agent shall proceed to call the Term Bonds, if any, as provided in the Sale Certificate (or any Term Bond or Term Bonds issued to replace such Term Bonds) for redemption from the sinking fund on the next December 1, and give notice of such call without further instruction or notice from the Enterprise.

At its option, to be exercised on or before the sixtieth day next preceding each such sinking fund Redemption Date, the Enterprise may (a) deliver to the Paying Agent for cancellation Term Bonds subject to mandatory sinking fund redemption on such date in an aggregate principal amount desired or (b) receive a credit in respect of its sinking fund redemption obligation for any Term Bonds of the maturity and interest rate subject to mandatory sinking fund redemption on such date, which prior to said date have been redeemed (otherwise than through the operation of the sinking fund) and canceled by the Paying Agent and not theretofore applied as a credit against any sinking fund redemption obligation. Each Term Bond so delivered or previously redeemed will be credited by the Paying Agent at the principal amount thereof against the obligation of the Enterprise on such sinking fund date and such sinking fund obligation will be accordingly reduced. The Enterprise will on or before the sixtieth day next preceding each sinking fund Redemption Date furnish the Paying Agent with its certificate indicating whether or not and to what extent the provisions of (a) and (b) of the preceding sentence are to be availed with respect to such sinking fund payment. Failure of the Enterprise to deliver such certificate shall not affect the Paying Agent's duty to give notice of sinking fund redemption as provided in this paragraph.

Section 403. Partial Redemption. In the case of Bonds of a denomination larger than \$1,000, a portion of such Bond (\$1,000 or any integral multiple thereof) may be redeemed, in which case the Paying Agent shall, without charge to the owner of such Bond, authenticate and issue a replacement Bond or Bonds for the unredeemed portion thereof.

Section 404. Notice of Prior Redemption. Unless waived in writing by the Owner of a Bond to be redeemed, notice of redemption shall be given by the Paying Agent in the name of the Enterprise by mailing such notice at least thirty days and not more than sixty days prior to the redemption date, by first-class mail, postage prepaid, to the Owners of the Bonds to be redeemed at their addresses as shown on the registration records, or in the event that the Bonds to be redeemed are registered in the name of DTC, such notice may, in the alternative, be

given by electronic means in accordance with the requirements of DTC. Notwithstanding the foregoing, the Paying Agent may provide notice of redemption by such alternative means as may be mutually agreed to between the Owner of the Bonds and the Paying Agent. Failure to give such notice to the Owner of any Bond, or any defect therein, shall not affect the validity of the proceedings for the redemption of any other Bonds. All such notices of redemption shall be dated and shall state: (i) the redemption date, (ii) the redemption price, (iii) if less than all outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (iv) that on the redemption date the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date, and (v) if applicable, the place where such Bonds are to be surrendered for payment of the redemption price. Except as provided below, after such notice has been given in the manner provided herein, the Bond or Bonds called for redemption shall become due and payable on the designated redemption date, and upon presentation thereof the Enterprise shall pay the Bond or Bonds called for redemption. Installments of interest due on the redemption date shall be payable as provided in this Ordinance for the payment of interest. A certificate by the Paying Agent that a notice of redemption has been given as herein set forth shall be conclusive and receipt by the Owner of a notice of redemption shall not be a condition precedent to the redemption of that Bond. Unless waived by the Paying Agent, the Enterprise agrees to provide the Paying Agent with not less than 10 days' notice of any prior redemption.

Notwithstanding the provisions of this Section, any notice of redemption shall either (a) contain a statement that the redemption is conditioned upon the receipt by the Paying Agent on or before the redemption date of funds sufficient to pay the redemption price of the Bonds so called for redemption, and that if such funds are not available, such redemption shall be cancelled by written notice to the Owners of the Bonds called for redemption in the same manner as the original redemption notice was given, or (b) be given only if funds sufficient to pay the redemption price of the Bonds so called for redemption are on deposit with the Paying Agent in the applicable fund or account.

All Bonds surrendered for redemption pursuant to the provisions of this Section shall be canceled and destroyed by the Paying Agent and shall not be reissued.

ARTICLE V

USE OF BOND PROCEEDS AND OTHER MONEYS

Section 501. Disposition of Bond Proceeds. When the Bonds have been duly executed by appropriate Enterprise officers and authenticated by the Paying Agent, the Enterprise shall cause the Bonds to be delivered to the Underwriters on receipt of the agreed purchase price. The Bonds shall be delivered in such denominations as the Underwriters shall direct, subject to the provisions of this Ordinance and the Sale Certificate, and the Paying Agent shall initially register the Bonds in such name or names as the Underwriters shall direct.

The net proceeds derived from the sale of the Bonds, upon the receipt thereof, shall be applied by the Enterprise as set forth in the Sale Certificate.

The Underwriters and any subsequent Owners of any of the Bonds are not responsible for the application or disposal by the Enterprise or by any of its officers, agents and employees of the moneys derived from the sale of the Bonds or of any other moneys herein designated.

Section 502. Project Fund. There is hereby created, and shall be held by the Enterprise, the special and separate accounts to be known as the (a) “City of Fort Collins, Colorado, Electric Utility Enterprise, Tax-Exempt Revenue Bonds, Series 2018A Project Fund” and the (b) “City of Fort Collins, Colorado, Electric Utility Enterprise, Taxable Revenue Bonds, Series 2018B Project Fund.” Proceeds of the 2018A Bonds in the amount set forth in the Sale Certificate shall be deposited in the 2018A Project Fund and proceeds of the 2018B Bonds in the amount set forth in the Sale Certificate shall be deposited in the 2018B Project Fund.

Except as otherwise provided herein, moneys on deposit in the Project Fund shall be used solely for the purpose of paying the Cost of the Project. The expenditure of moneys on deposit in the 2018A Project Fund shall be subject to the tax covenants set forth in Section 929 of this Ordinance and the Tax Compliance Certificate, and shall not be applied to the payment of working capital expenses except to the extent permitted by Section 929 of this Ordinance and the Tax Compliance Certificate. Moneys on deposit in the Project Fund may also be used and paid out by the Enterprise to defray the ongoing administrative costs of the Project, including, without limitation, amounts to be paid to the Paying Agent, legal fees, and accounting fees. The Enterprise may defray any such administrative costs from time to time as Operation and Maintenance Expenses to the extent the moneys deposited in the Project Fund are insufficient therefor.

Section 503. Completion of Project. When the portion of the Project that is being financed with the proceeds of the Bonds is completed in accordance with the relevant plans and specifications and all amounts due therefor, including all proper incidental expenses and all administrative costs of the Project referred to in Section 502 hereof, are paid, or for which full provision is made, the Treasurer, to the extent permitted by the Tax Compliance Certificate, shall cause all surplus moneys remaining in the Project Fund, if any, except for any moneys designated in the certificate to be retained to pay any unpaid accrued costs or contingent obligations, to be transferred as follows:

A. With respect to the 2018A Bonds, (a) to the Rebate Fund so as to enable the Enterprise to comply with Section 929 hereof, (b) if the Reserve Fund is created in the Sale Certificate, to the Reserve Fund to the extent set forth in the Sale Certificate, to such extent as shall not cause the amount in the Reserve Fund to exceed the Reserve Fund Requirement, and (c) to the 2018A Bond Fund to the extent of any remaining balance of such moneys to be applied against the next principal payment or payments coming due on the 2018A Bonds. Nothing herein prevents the transfer from the 2018A Project Fund to the 2018A Bond Fund, at any time prior to the termination of the 2018A Project Fund, of any moneys which the Treasurer by certificate determines will not be necessary for the Project and will not be designated to be transferred to the Rebate Fund.

B. With respect to the 2018B Bonds, (a) if the Reserve Fund is created in the Sale Certificate, to the Reserve Fund to the extent set forth in the Sale Certificate, to such extent

as shall not cause the amount in the Reserve Fund to exceed the Reserve Fund Requirement, and (b) to the 2018B Bond Fund to the extent of any remaining balance of such moneys to be applied against the next principal payment or payments coming due on the 2018B Bonds. Nothing herein prevents the transfer from the 2018B Project Fund to the 2018B Bond Fund, at any time prior to the termination of the 2018B Project Fund, of any moneys which the Treasurer by certificate determines will not be necessary for the Project.

Section 504. Lien on Bond Proceeds. Until the proceeds of the Bonds deposited in the Project Fund are applied as herein provided, such Bond proceeds are subject to a lien thereon and pledge thereof for the benefit of the Owners of the Outstanding Bonds as provided in Section 601 hereof.

ARTICLE VI

ADMINISTRATION OF AND ACCOUNTING FOR PLEGDED REVENUES

Section 601. Pledge Securing Bonds. The Net Pledged Revenues are hereby pledged, and a lien thereon is hereby created, to secure the payment of the Debt Service Requirements of the Bonds in accordance with the provisions of this Ordinance. All moneys and securities paid or to be paid to or held or to be held in the Bond Fund, the Project Fund and the Reserve Fund are also hereby pledged, and a lien thereon is hereby created, to secure the payment of the Debt Service Requirements of the Outstanding Bonds, subject to the right of the Enterprise to cause amounts to be withdrawn from the Project Fund to pay the Cost of the Project as provided herein. Amounts on deposit in the Rebate Fund shall not be subject to the lien and pledge of this Ordinance to secure the payment of the Bonds.

The pledge of the Net Pledged Revenues shall be valid and binding from and after the date of the delivery of the Bonds. The creation, perfection, enforcement, and priority of the pledge of revenues to secure or pay the Bonds as provided herein shall be governed by Section 11-57-208 of the Supplemental Act and this Ordinance. The revenues pledged for the payment of the Bonds, as received by or otherwise credited to the Enterprise, shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge on the revenues pledged for payment of the Bonds and the obligation to perform the contractual provisions made herein shall have priority over any or all other obligations and liabilities of the Enterprise except any Outstanding Parity Bonds hereafter authorized. The lien of the pledge of the Net Pledged Revenues as described in this section shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Enterprise (except as herein otherwise provided) irrespective of whether such parties have notice thereof.

Section 602. Light and Power Fund Deposits. So long as any of the Bonds shall be Outstanding, the entire Gross Pledged Revenues, upon their receipt from time to time by the Enterprise, shall be set aside and credited immediately to the special and separate account heretofore created by the City and known as the "Light and Power Fund."

Section 603. Administration of Light and Power Fund. So long as any of the Bonds shall be Outstanding, the following payments shall be made from the Light and Power Fund, as provided in Sections 604 through 610 hereof.

Section 604. Operation and Maintenance Expenses. First, as a first charge on the Light and Power Fund, from time to time there shall continue to be held therein moneys sufficient to pay Operation and Maintenance Expenses, as they become due and payable, and thereupon they shall be promptly paid. For purposes of determining the amount of moneys that shall be held in the Light and Power Fund to pay Operation and Maintenance Expenses, the Enterprise may take into consideration the proceeds of the 2018B Bonds, if any, that are on deposit in the 2018B Project Fund that will be applied to pay Operation and Maintenance Expenses. Any surplus remaining in the Light and Power Fund and not needed for Operation and Maintenance Expenses shall be used for other purposes of the Light and Power Fund as herein provided.

Section 605. Bond Fund. Second, from any remaining Net Pledged Revenues, there shall be credited each month, concurrently with each other and with amounts required to meet the Debt Service Requirements with respect to any Outstanding Parity Bonds, to the special and separate accounts hereby created and to be known as the “City of Fort Collins, Colorado, Electric Utility Enterprise, Tax-Exempt Revenue Bonds, Series 2018A, Bond Fund,” (the “2018A Bond Fund”) and the “City of Fort Collins, Colorado, Electric Utility Enterprise, Taxable Revenue Bonds, Series 2018B, Bond Fund,” (the “2018B Bonds Fund”) the following amounts:

A. Interest Payments. Monthly (i) to the 2018A Bond Fund, commencing with the month immediately succeeding the delivery of the 2018A Bonds, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the interest due and payable on the Outstanding 2018A Bonds on the next succeeding interest payment date; and (ii) to the 2018B Bond Fund, commencing with the month immediately succeeding the delivery of the 2018B Bonds, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the interest due and payable on the Outstanding 2018A Bonds on the next succeeding interest payment date.

B. Principal Payments. Monthly (i) to the 2018A Bond Fund, commencing on the first day of the month immediately succeeding the delivery of any of the 2018A Bonds, or commencing on the first day of the month one year next prior to the first principal payment date of any of the 2018A Bonds, whichever commencement date is later, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the next installment of principal (whether at maturity or on a mandatory redemption date) due on the Outstanding 2018A Bonds, and (ii) to the 2018B Bond Fund, commencing on the first day of the month immediately succeeding the delivery of any of the 2018B Bonds, or commencing on the first day of the month one year next prior to the first principal payment date of any of the 2018B Bonds, whichever commencement date is later, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the next installment of principal (whether at maturity or on a mandatory redemption date) due on the Outstanding 2018B Bonds.

If prior to any interest payment date or principal payment date, there has been accumulated in the Bond Fund the entire amount necessary to pay the next maturing installment of interest or principal, or both, the payment required in paragraph A or B (whichever is applicable) of this Section 605 may be appropriately reduced; but the required annual amounts again shall be so credited to such account commencing on such interest payment date or principal payment date.

The moneys credited to the 2018A Bond Fund shall be used to pay the Debt Service Requirements of the 2018A Bonds then Outstanding, as such Debt Service Requirements become due, except as provided in Sections 608 and 1201 hereof. The moneys credited to the 2018B Bond Fund shall be used to pay the Debt Service Requirements of the 2018B Bonds then Outstanding, as such Debt Service Requirements become due, except as provided in Section 1201 hereof.

The City shall be authorized to create capitalized interest accounts within the 2018A Bond Fund and the 2018B Bond Fund. The amounts to be deposited to any such capitalized interest accounts shall be set forth in the Sale Certificate.

Section 606. Reserve Fund. A Reserve Fund to secure the payment of the principal of and interest on the Bonds may be established pursuant to the Sale Certificate. In the event that a Reserve Fund is established, the following provisions shall apply. In the event that no Reserve Fund is established in the Sale Certificate, all references herein to the Reserve Fund and the Reserve Fund Requirement shall be of no force and effect.

In satisfaction of the Reserve Fund Requirement, upon delivery of the Bonds or at such time as required by the Sale Certificate, either proceeds of the Bonds, cash or a Reserve Fund Insurance Policy in the amount of the Reserve Fund Requirement being provided by Surety Provider shall be deposited in the special and separate fund hereby created and to be known as the "City of Fort Collins, Colorado, Electric Utility Enterprise, Revenue Bonds, Series 2018, Reserve Fund". The proceeds of the Bonds, cash or a Reserve Fund Insurance Policy shall be credited to Reserve Fund as provided in the Sale Certificate. Any Reserve Fund Insurance Policy shall be held by the Paying Agent. Any Reserve Fund Insurance Policy deposited to the credit of the Reserve Fund shall be valued at the amount available to be drawn or otherwise paid pursuant to such Reserve Fund Insurance Policy at the time of calculation. The Paying Agent shall maintain adequate records as to the amount available to be drawn at any time under the Reserve Fund Insurance Policy and as to the amounts, of which it has knowledge, of Policy Costs paid and owing to the Surety Provider. Such records shall be open to inspection and verification by the Surety Provider during business hours of the Paying Agent.

After the payments or deposits required by Sections 604 and 605 have been made or provided for (and except as provided in Section 607 and 608 hereof), and concurrently with any payments required to be made pursuant to any Parity Bond Ordinances with respect to any reserve funds which may be, but are not required to be, established thereby and concurrently with any repayment or similar obligations payable to any surety provider issuing any reserve fund insurance policy with respect to any Parity Bonds, from any moneys remaining in the Light and Power Fund there shall be credited to the Reserve Fund monthly, commencing on the first day of the month next succeeding each date on which the moneys accounted for in the Reserve

Fund for any reason are less than the Reserve Fund Requirement, such amounts in substantially equal monthly payments on the first day of each month to re-accumulate the Reserve Fund Requirement by not more than 12 such monthly payments. If a Reserve Fund Insurance Policy is on deposit in the Reserve Fund to fund all or a part of the Reserve Fund Requirement, the amounts payable into the Reserve Fund pursuant to the immediately preceding sentence shall be paid by the Enterprise first to the Surety Provider to reimburse it for Policy Costs due and owing and second to replenish cash in the Reserve Fund. If there are insufficient Net Pledged Revenues to comply with the requirements of the first sentence of this paragraph, available Net Pledged Revenues shall be credited or paid to the Reserve Fund and to reserve funds which may be established by any Parity Bond Ordinances (or to the Surety Provider or any other surety provider issuing any reserve fund insurance policy with respect to any Parity Bonds) pro rata, based upon the aggregate principal amount of the Bonds and any such Parity Bonds then Outstanding. If there are insufficient Net Pledged Revenues to comply with the requirements of the first sentence of this paragraph and more than one Reserve Fund Insurance Policy is on deposit in the Reserve Fund, available Net Pledged Revenues credited to or paid to the Reserve Fund shall be applied to reimburse the Surety Provider and any other surety provider providing a Reserve Fund Insurance Policy pro rata, based upon the original amount available to be drawn on each.

The Reserve Fund Requirement shall be accumulated and, if necessary, re-accumulated from time to time, in the Reserve Fund from Net Pledged Revenues, except to the extent other moneys are credited to the Reserve Fund, and maintained as a continuing reserve to be used, except as hereinafter provided in Sections 607, 608, 704 and 1201 hereof, only to prevent deficiencies in the payment of the Debt Service Requirements of the Bonds Outstanding from time to time from the failure to deposit into the Bond Fund sufficient moneys to pay such Debt Service Requirements as the same accrue and become due. Moneys on deposit in the Reserve Fund may also be applied to the defeasance of the Bonds and to the last principal payments due on the Bonds.

No payment need be made into the Reserve Fund at any time so long as the moneys and/or the Reserve Fund Insurance Policy therein equal not less than the Reserve Fund Requirement and there are no Policy Costs due and owing. Unless otherwise provided in the Sale Certificate, the Reserve Fund Requirement shall be re-calculated upon (i) any principal payment, whether at stated maturity or upon redemption, or (ii) the defeasance of all or a portion of the Bonds.

The Enterprise may at any time substitute (a) cash or Investment Securities for a Reserve Fund Insurance Policy or (b) a Reserve Fund Insurance Policy for cash or Investment Securities, so long as the amount on deposit in the Reserve Fund after such substitution is at least equal to the Reserve Fund Requirement. Notwithstanding the foregoing, no Reserve Fund Insurance Policy shall be deposited by the Enterprise in the Reserve Fund for such substitution unless the Enterprise has received an opinion of Bond Counsel to the effect that such substitution and the intended use by the Enterprise of the cash or Investment Securities to be released from the Reserve Fund will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the 2018A Bonds.

Section 607. Termination of Deposits. No payment need be made into the Bond Fund or the Reserve Fund, if any, if the amount in the Bond Fund and the amount in the Reserve Fund total a sum at least sufficient so that all Bonds Outstanding are deemed to have been paid pursuant to Section 1201 hereof, in which case moneys therein (taking into account the known minimum gain from any investment if such moneys in Permitted Investments from the time of any such investment or deposit shall be needed for such payment which will not be designated for transfer to the Rebate Fund) shall be used (together with any such gain from such investments) solely to pay the Debt Service Requirements of the Outstanding Bonds as the same become due; and any moneys in excess thereof in those accounts and any other moneys derived from the Net Pledged Revenues or otherwise pertaining to the System may be used to make required payments into the Rebate Fund or in any other lawful manner determined by the Council.

Section 608. Rebate Fund. After any payments required to be made pursuant to Sections 604 and 605 have been made, and after any required transfers have been made to the Reserve Fund, if any, there shall be deposited into the special and separate account hereby created, and held by the Enterprise, and to be known as the “City of Fort Collins, Colorado, Electric Utility Enterprise, Tax-Exempt Revenue Bonds, Series 2018A, Rebate Fund” moneys in the amounts and at the times specified in the Tax Compliance Certificate so as to enable the Enterprise to comply with Section 929 hereof. Any such payments shall be made concurrently with any payments required to be made pursuant to any Parity Bond Ordinances with respect to any rebate funds established thereby. Amounts on deposit in the Rebate Fund shall not be subject to the lien and pledge of this Ordinance. The Enterprise shall cause amounts on deposit in the Rebate Fund to be forwarded to the United States Treasury (at the address provided in the Tax Compliance Certificate) at the times and in the amounts set forth in the Tax Compliance Certificate.

If the moneys on deposit in the Rebate Fund are insufficient for the purposes thereof, the Enterprise shall transfer moneys in the amount of the insufficiency to the Rebate Fund from the Project Fund, the Bond Fund and the Reserve Fund, if any. Upon receipt by the Enterprise of an opinion of Bond Counsel to the effect that the amount in the Rebate Fund is in excess of the amount required to be contained therein, such excess may be transferred to the Light and Power Fund.

Section 609. Payment of Subordinate Securities. Subject to the provisions hereinabove in this Article, but subsequent to the payments required by Sections 604, 605 and 608 hereof and any required payments to the Reserve Fund, any moneys remaining in the Light and Power Fund may be used by the Enterprise for the payment of Debt Service Requirements of subordinate securities, including reasonable reserves for such subordinate securities and for rebate of amounts to the United States Treasury with respect to such subordinate securities.

Section 610. Use of Remaining Revenues. After the payments hereinabove required to be made by Sections 602 through 609 hereof have been made or provided for in each month, any remaining Net Pledged Revenues in the Light and Power Fund shall be used, first, for any one or any combination of reasonably necessary purposes and in the Council’s discretion relating to the operation, improvement or debt management of the System and, second, to the

extent of any remaining surplus, for any one or any combination of lawful purposes as the Council may from time to time conclusively determine.

Section 611. Budget and Appropriation of Sums. The sums required to make the payments specified in this Article VI shall be included in the budget and the annual, biennial, or supplemental appropriation ordinances or measures to be adopted or passed by the Council in each year while the Bonds, either as to principal or interest, are Outstanding and unpaid. No provisions of any constitution, Charter, statute, ordinance, resolution, or other order or measure enacted after the issuance of the Bonds shall in any manner be construed as limiting or impairing the obligations of the City and the Enterprise to keep and perform the covenants contained in this Ordinance so long as any of the Bonds remain Outstanding and unpaid.

ARTICLE VII

GENERAL ADMINISTRATION

Section 701. Administration of Accounts. The special funds and accounts designated in Articles V and VI hereof shall be administered as provided in this Article (but not any account under Section 1201 hereof).

Section 702. Places and Times of Deposits. Except for the Costs of Issuance Fund, each of the special funds or accounts created or adopted herein hereof shall be maintained by the Enterprise as a book account and kept separate and apart from all other funds or accounts of the Enterprise and the City as trust funds solely for the purposes herein designated therefor. For purposes of investment of moneys, nothing herein prevents the commingling of moneys accounted for in any two or more such funds or accounts pertaining to the Gross Pledged Revenue. Such funds or accounts shall be continuously secured to the fullest extent required or permitted by the laws of the State for the securing of public funds and shall be irrevocable and not withdrawable by anyone for any purpose other than the respective designated purposes of such funds or accounts. Each periodic payment shall be credited to the proper fund or account not later than the date therefor herein designated, except that when any such date shall be not be a Business Day, then such payment shall be made on or before the next preceding Business Day. The Costs of Issuance Fund shall be held and maintained by the Paying Agent pursuant to the provisions of the Paying Agent Agreement.

Section 703. Investment of Moneys. Any moneys in the Light and Power Fund, Project Fund, Bond Fund, Reserve Fund, if any, and Rebate Fund and not needed for immediate use shall be invested or reinvested by the Treasurer in Permitted Investments. All such investments shall (a) either be subject to redemption at any time at a fixed value by the holder thereof at the option of such holder, or (b) mature not later than the estimated date or respective dates on which the proceeds are to be expended as estimated by the Treasurer at the time of such investment or reinvestment; provided that (1) Permitted Investments credited to the Reserve Fund shall not mature later than ten years from the date of such investment or reinvestment and (2) collateral securities of any Permitted Investments may have a maturity of more than five years from the date of purchase thereof. For the purpose of any such investment or reinvestment, Permitted Investments shall be deemed to mature at the earliest date on which the obligor is, on demand, obligated to pay a fixed sum in discharge of the whole of such obligations.

Section 704. Accounting for Investments. The Permitted Investments so purchased as an investment or reinvestment of moneys in any such account hereunder shall be deemed at all times to be a part of the account. Any interest or other gain from any investments and reinvestments of moneys accounted for in the Light and Power Fund, the Project Fund, the Bond Fund and the Rebate Fund shall be credited to such account, and any loss resulting from any such investments or reinvestments of moneys accounted for in the Light and Power Fund, the Project Fund, the Bond Fund, the Reserve Fund and the Rebate Fund shall be charged or debited to such Fund.

Any interest or other gain from any investment or reinvestment of moneys accounted for in the Reserve Fund (a) shall be credited to the Rebate Fund or the Bond Fund, at the discretion of the Treasurer, if the amount credited to the Reserve Fund immediately after such credit to the Rebate Fund or the Bond Fund is not less than the Reserve Fund Requirement and (b) if the amount credited to the Reserve Fund is less than the Reserve Fund Requirement, shall be credited to the Reserve Fund (up to the amount of the deficiency).

No loss or profit in any account on any investments or reinvestments in Permitted Investments shall be deemed to take place as a result of market fluctuations of the Permitted Investments prior to the sale or maturity thereof. In the computation of the amount in any account for any purpose hereunder, except as herein otherwise expressly provided or for rebate purposes, as described in the Tax Compliance Certificate, Permitted Investments shall be valued at the cost thereof (including any amount paid as accrued interest at the time of purchase of the obligation); provided that any time or demand deposits shall be valued at the amounts deposited, in each case exclusive of any accrued interest or any other gain to the Enterprise until such gain is realized by the presentation of matured coupons for payment or otherwise.

Section 705. Redemption or Sale of Permitted Investments. The Treasurer shall present for redemption or sale on the prevailing market at the best price obtainable any Permitted Investments so purchased as an investment or reinvestment of moneys in the account whenever it shall be necessary in order to provide moneys to meet any withdrawal, payment or transfer from such account. Neither the Treasurer nor any other officer or employee of the Enterprise shall be liable or responsible for any loss resulting from any such investment or reinvestment made in accordance with this Ordinance.

Section 706. Character of Funds. The moneys in any account designated in Articles V and VI hereof shall consist either of lawful money of the United States or Permitted Investments, or both such money and such Permitted Investments. Moneys deposited in a demand or time deposit account in a bank or savings and loan association, appropriately secured according to the laws of the State, shall be deemed lawful money of the United States.

Section 707. Payment of Debt Service Requirements. The moneys credited to any fund or account designated in Article VI hereof for the payment of the Debt Service Requirements of any Bonds shall be used without requisition, voucher, warrant, further order or authority (other than is contained herein), or any other preliminaries, to pay promptly the Debt Service Requirements of any Bonds payable from such fund or account as such amounts are due, except to the extent any other moneys are available therefor.

ARTICLE VIII

SECURITIES LIENS AND ADDITIONAL SECURITIES

Section 801. Lien. The Bonds shall constitute an irrevocable lien (but not necessarily an exclusive lien) upon the Net Pledged Revenues on a parity with the lien of the Net Pledged Revenues of the Parity Bonds.

Section 802. Equality of Bonds. The Bonds and any Parity Bonds hereafter authorized to be issued and from time to time Outstanding are equitably and ratably secured by a lien on the Net Pledged Revenues and shall not be entitled to any priority one over the other in the application of the Net Pledged Revenues regardless of the time or times of the issuance of the Bonds and any other such Parity Bonds, it being the intention of the Board that there shall be no priority among the Bonds and any such Parity Bonds regardless of the fact that they may be actually issued and delivered at different times, except that (a) moneys in the Project Fund, Bond Fund and Reserve Fund, if any, shall secure only the Bonds and the moneys in any project fund, bond fund, reserve fund or similar funds established for other Parity Bonds shall secure only such Parity Bonds; and (b) other Parity Bonds may have a lien on Net Pledged Revenues on a parity with the lien thereon of the Bonds even if no reserve fund is established for such Parity Bonds or a reserve fund is established but with a different requirement as to the amount of moneys (or the value of a reserve fund insurance policy with respect to such Parity Bonds) required to be on deposit therein or the manner in which such reserve fund is funded or the period of time over which such reserve fund is funded.

Section 803. Issuance of Parity Bonds. The Enterprise and the City shall be authorized to issue Parity Bonds provided that the following conditions are satisfied:

A. **Current on Payments; No Event of Default.** The Enterprise is current in all payments required to have been accumulated in the Bond Fund and the Reserve Fund as required herein and in any Parity Bond Ordinances, and no Event of Default has occurred and is continuing hereunder.

B. **Historic Earnings Test.** The Net Pledged Revenues for any 12 consecutive months out of the 18 months preceding the month in which such proposed Parity Bonds are to be issued are at least equal to the sum of 125% of the Combined Maximum Annual Debt Service Requirements of the Outstanding Bonds, all Outstanding Parity Bonds and such additional Parity Bonds proposed to be issued.

C. **Adjustment of Gross Pledged Revenues.** In any computation under paragraph B of this Section, the amount of the Gross Pledged Revenues for the applicable period shall be decreased and may be increased by the amount of loss or gain conservatively estimated by an Independent Accountant, Independent Engineer or the Treasurer, as the case may be, which results from any changes, which became effective not less than 60 days prior to the last day of the period for which Gross Pledged Revenues are determined, in any schedule of fees, rates and other charges constituting Gross Pledged Revenues based on the number of users during the applicable period as if such modified schedule of fees, rates and other charges shall have been in effect during such entire time period. However, the Gross Pledged Revenues need

not be decreased by the amount of any such estimated loss to the extent the Independent Accountant, the Independent Engineer or the Treasurer estimates the loss is temporary in nature or will be offset within a reasonable temporary period by an increase in revenues or a reduction in Operation and Maintenance Expenses not otherwise included in the calculations under this Section, and estimates any loss under this sentence will not at any time materially and adversely affect the Enterprise's apparent ability to comply with the rate maintenance covenant stated in Section 921 hereof without modification because of any restrictive legislation, regulation or other action under the police power exercised by any governmental body.

D. Reduction of Annual Requirements. The respective annual Debt Service Requirements (including as such a requirement the amount of any prior redemption premiums due on any Redemption Date) shall be reduced to the extent such Debt Service Requirements are scheduled to be paid in each of the respective Fiscal Years with moneys held in trust or in escrow for that purpose by any Trust Bank, including the known minimum yield from any investment in Federal Securities and any bank deposits, including any certificate of deposit.

E. Consideration of Additional Expenses. In determining whether or not additional Parity Bonds may be issued as aforesaid, consideration shall be given to any probable increase (but not reduction) in the Operation and Maintenance Expenses of the System as estimated by the Treasurer that will result from the expenditure of the funds proposed to be derived from the issuance and sale of the additional securities; but the Treasurer may reduce any such increase in Operation and Maintenance Expenses by the amount of any increase in revenues or any reduction in Operation and Maintenance Expenses resulting from the Capital Improvements to which such expenditure relates and not otherwise included in the calculations under this Section, if the Treasurer also opines that any such increase in revenues or reduction in any increase in Operation and Maintenance Expenses will not materially and adversely affect the Enterprise's apparent ability to comply with the rate maintenance covenant stated in Section 921 hereof without modification because of any restrictive legislation, regulation or other action under the police power exercised by any governmental body.

F. Refunding of Parity Bonds. In the case of additional Parity Bonds issued for the purpose of refunding less than all of the Bonds and other Parity Bonds then Outstanding, compliance with Sections 803B, 803C, 803D and 803E shall not be required (unless by the provisions of any Parity Bond Ordinances authorizing the issuance of other Outstanding Parity Bonds) so long as the Debt Service Requirements on all Bonds and other Parity Bonds Outstanding after the issuance of such additional Parity Bonds in each Bond Year does not exceed the Debt Service Requirements on all Bonds and other Parity Bonds Outstanding prior to the issuance of such additional Parity Bonds in each Bond Year.

Section 804. Certification of Revenues. A written certificate or written opinion by the Treasurer under Section 803 B that such annual revenues, when adjusted as hereinabove provided in paragraphs C, D, and E of Section 803 hereof, are sufficient to pay such amounts, as provided in paragraph B of Section 803 hereof, shall be conclusively presumed to be accurate in determining the right of the Enterprise to authorize, issue, sell and deliver additional securities on a parity with the Bonds.

Section 805. Subordinate Securities Permitted. Nothing herein prevents the Enterprise from issuing additional Securities payable from all or a portion of the Net Pledged Revenues and having a lien thereon subordinate, inferior and junior to the lien thereon of the Bonds.

Section 806. Superior Securities Prohibited. Nothing herein permits the Enterprise or the City to issue additional Securities payable from all or a portion of the Net Pledged Revenues and having a lien thereon prior and superior to the lien thereon of the Bonds.

ARTICLE IX

PROTECTIVE COVENANTS

Section 901. General. The Enterprise hereby particularly covenants and agrees with the Owners of the Bonds from time to time, and makes provisions which shall be a part of its contract with such Owners, which covenants and provisions shall be kept by the Enterprise or the City continuously until all of the Bonds have been fully paid or discharged.

Section 902. Performance of Duties. The City, acting by and through its officers or otherwise, shall faithfully and punctually perform, or cause to be performed, all duties with respect to the Gross Pledged Revenues and the System required by the Constitution and laws of the State, the Charter and the various Ordinances of the City and the Enterprise, including, without limitation, the making and collection of reasonable and sufficient fees, rates and other charges for services rendered or furnished by or the use of the System, as herein provided, and the proper segregation of the proceeds of the Bonds and of any securities hereafter authorized and the Gross Pledged Revenues and their application from time to time to the respective accounts provided therefor.

Section 903. Contractual Obligations. The Enterprise or the City shall perform all contractual obligations undertaken by it under any agreements relating to the Bonds, the Gross Pledged Revenues, the Project, or the System, or any combination thereof.

Section 904. Further Assurances. At any and all times the Enterprise or the City 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 the 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 or the City may hereafter become bound to pledge or to assign, or as may be reasonable and required to carry out the purposes of this Ordinance and to comply with any instrument of the Enterprise or the City amendatory thereof, or supplemental thereto. The Enterprise and the City, acting by and through its respective 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 every Owner of any Bond hereunder against all claims and demands of all Persons whomsoever.

Section 905. Conditions Precedent. Upon the date of issuance of the Bonds, all conditions, acts and things required by the Federal or State Constitution, the Charter, the City Code, the Supplemental Act, this Ordinance, the Enterprise Ordinances, or any other applicable law to exist, to have happened and to have been performed precedent to or in the issuance of the Bonds shall exist, have happened, and have been performed; and the Bonds, together with all other obligations of the Enterprise or the City, shall not contravene any debt or other limitation prescribed by the State Constitution.

Section 906. Efficient Operation and Maintenance. The City shall at all times operate the System properly and in a sound and economical manner; and the City shall maintain, preserve and keep the same properly or cause the same so to be maintained, preserved and kept, with the appurtenances and every part and parcel thereof in good repair, working order and condition, and shall from time to time make or cause to be made all necessary and proper repairs, replacements and renewals so that at all times the operation of the System may be properly and advantageously conducted. All salaries, fees, wages and other compensation paid by the City in connection with the maintenance, repair and operation of the System shall be fair and reasonable.

Section 907. Rules, Regulations and Other Details. The City, acting by and through its officers, shall establish and enforce reasonable rules and regulations governing the operation, use and services of the System. The Enterprise or the City shall observe and perform all of the terms and conditions contained in this Ordinance, 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 or the City, except for any period during which the same are being contested in good faith by proper legal proceedings.

Section 908. Payment of Governmental Charges. The Enterprise or the City 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. Neither the Enterprise nor the City shall 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 this Ordinance for the payment of the Debt Service Requirements of the Bonds and except as herein otherwise permitted. The Enterprise or the City 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 or the City 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 909. Protection of Security. The Enterprise and the City and their 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 Debt Service Requirements of the Bonds, the Parity Bonds, and any other securities payable from the Net Pledged Revenues according to the

terms thereof. No contract shall be entered into nor any other action taken by which the rights of any Owner of any Bond or other security payable from Net Pledged Revenues might be prejudicially and materially impaired or diminished, provided that nothing herein shall prevent the City from granting any franchise or license to any provider of Telecommunication Facilities and Services.

Section 910. Prompt Payment of Bonds. The Enterprise shall promptly pay the Debt Service Requirements of the Bonds at the places, on the dates and in the manner specified herein and in the Bonds according to the true intent and meaning hereof.

Section 911. Use of Funds and Accounts. The funds and accounts described herein shall be used solely and only for the purposes described herein.

Section 912. Other Liens. Other than as provided herein, 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 the Bonds. The 2010B Bonds shall be defeased in whole and shall no longer be outstanding at the time the Bonds are issued.

Section 913. Corporate Existence. The City shall maintain its corporate identity and existence so long as any of the Bonds remain Outstanding, unless another body corporate and politic by operation of law succeeds to the powers, privileges, rights, liabilities, disabilities, duties and immunities of the City and is obligated by law to operate and maintain the System and to fix and collect the Gross Pledged Revenues as herein provided without adversely and materially affecting at any time the privileges and rights of any Owner of any Outstanding Bond.

Section 914. Disposal of System Prohibited. Except for the use of the System and services pertaining thereto in the normal course of business, or as provided in Section 915 hereof, neither all nor a substantial part of the System shall be sold, leased, mortgaged, pledged, encumbered, alienated or otherwise disposed of, until all the Bonds have been paid in full, as to all Debt Service Requirements, or unless provision has been made therefor, or until the Bonds have otherwise been redeemed, including, without limitation, the termination of the pledge as herein authorized; and the City shall not dispose of its title to the System or to any useful part thereof, including any property necessary to the operation and use of the System and the lands and interests in lands comprising the sites of the System.

Section 915. Disposal or Leasing of Unnecessary Property. The City at any time and from time to time may sell, exchange, lease or otherwise dispose of any property constituting a part of the System that is (i) not useful in the construction, reconstruction or operation thereof, or (ii) which shall have ceased to be necessary for the efficient operation of the System, or (iii) which shall have been replaced by other property of at least equal value, or (iv) which is not currently being utilized by the City, including without limitation, the leasing of dark fibers of the System. Any proceeds of any such sale, exchange, lease or other disposition received that is not used to replace such property so sold, exchanged, leased or otherwise disposed of, shall be deposited by the City in the Light and Power Fund or into a special book account for the betterment, enlargement, extension, other improvement and equipment of the System, or any combination thereof, as the City may determine; provided that any proceeds of

any such lease of the System shall be deposited by the City as Gross Pledged Revenues in the Light and Power Fund.

Section 916. Competing System. Nothing herein shall prevent the City from granting any franchise or license to any provider of Telecommunication Facilities and Services.

Section 917. Loss From Condemnation. If any part of the System is taken by the exercise of the power of eminent domain, the amount of any award received by the City as a result of such taking shall be paid into the Light and Power Fund or into a capital improvement account pertaining to the System for the purposes thereof, or, applied to the redemption of the Outstanding Bonds and any Outstanding Parity Bonds relating thereto, all as the City may determine.

Section 918. Employment of Managers and Engineers. If the Enterprise defaults in paying the Debt Service Requirements of the Bonds, the Parity Bonds, or any other securities payable from the Net Pledged Revenues promptly as the same become due, or an Event of Default has occurred and is continuing, or if the Net Pledged Revenues in any Fiscal Year fail to equal at least the amount of the Debt Service Requirements of the Outstanding Bonds, Parity Bonds, and any other securities (including all reserves therefor specified in the authorizing proceedings, including, without limitation, this Ordinance) payable from the Net Pledged Revenues in that Fiscal Year, the Enterprise or the City shall retain a firm of competent managers and engineers skilled in the operation of such facilities to assist the management of the System so long as such default continues or so long as the Net Pledged Revenues are less than the amount hereinabove designated in this Section.

Section 919. Budgets. The Council and officials of the City shall biennially and at such other times as may be provided by law prepare and adopt a budget pertaining to the System.

Section 920. Reasonable and Adequate Charges. While the Bonds remain Outstanding and unpaid, the fees, rates and other charges due to the City for the use of or otherwise pertaining to and services rendered by the System to the City, to its inhabitants and to all other users within and without the boundaries of the City 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 Bonds, the Parity Bonds, and any other securities payable from the Net Pledged Revenues, including, without limitation, reserves and any replacement accounts therefor.

Section 921. 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 922 hereof, such fees, rates and other charges so that the Gross Pledged Revenues shall be adequate to meet the requirements of this and the preceding Sections hereof. 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. An 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 Bonds and any Parity Bonds then Outstanding payable from the Net Pledged Revenues 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 922. 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, including Telecommunication Facilities and Services, 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 923. Collection of Charges. The City 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 Ordinance and any other Ordinance supplemental thereto.

Section 924. Procedure for Collecting Charges. All bills for services or facilities furnished or served by or through the System shall be rendered to customers on a regularly established basis. The fees, rates and other charges due shall be collected in a lawful manner, including, without limitation, discontinuance of service.

Section 925. Maintenance of Records. So long as any of the Bonds and any Parity Bonds payable from the Gross Pledged Revenues remain Outstanding, proper books of record and account shall be kept by the City and the Enterprise, separate and apart from all other records and accounts.

Section 926. Audits Required. The City, annually following the close of each Fiscal Year, shall order an audit for the Fiscal Year of the books and accounts pertaining to the System to be made forthwith by an Independent Accountant and order an audit report showing the receipts and disbursements for each fund or account pertaining to the System and the Gross Pledged Revenues. All expenses incurred in the making of the audits and reports required by this subsection may be regarded and paid as Operating Expense.

Section 927. 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 effective date of this Ordinance.

Section 928. Insurance and Reconstruction. Except to the extent of any self-insurance, the City shall at all times maintain with responsible insurers fire and extended coverage insurance, worker's compensation insurance, public liability insurance and all such other insurance as is customarily maintained with respect to utilities of like character against loss of or damage to the System and against loss of revenues and against public and other liability to the extent reasonably necessary to protect the interests of the City, the Enterprise and of each Owner of a Bond. If any useful part of the System shall be damaged or destroyed, the City shall, as expeditiously as may be possible, commence and diligently proceed with the repair or replacement of the damaged property so as to restore the same to use. The proceeds of any such insurance shall be payable to the City and (except for proceeds of any use and occupancy insurance) shall be applied to the necessary costs involved in such repair and replacement and to the extent not so applied shall (together with the proceeds of any such use and occupancy insurance) be deposited in the Light and Power Fund by the City as revenues derived from the operation of the System. If the costs of such repair and replacement of the damaged property exceed the proceeds of such insurance available for the payment of the same, moneys in the Light and Power Fund shall be used to the extent necessary for such purposes, as permitted by Section 610 hereof.

Section 929. Tax Covenant. The City and the Enterprise covenant for the benefit of the Owners of the 2018A Bonds that it will not take any action or omit to take any action with respect to the 2018A Bonds, the proceeds thereof, any other funds of the City or the Enterprise or any facilities financed with the proceeds of the 2018A Bonds if such action or omission (i) would cause the interest on the 2018A Bonds to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Tax Code, (ii) would cause interest on the 2018A Bonds to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code, or (iii) would cause interest on the 2018A Bonds to lose its exclusion from Colorado taxable income or Colorado alternative minimum taxable income under present State law.

In furtherance of this covenant, the City and the Enterprise agree to comply with the procedures set forth in the Tax Compliance Certificate with respect to the 2018A Bonds.

The foregoing covenant shall remain in full force and effect notwithstanding the payment in full or defeasance of the 2018A Bonds until the date on which all obligations of the City and the Enterprise in fulfilling the above covenant under the Tax Code and Colorado law have been met. Notwithstanding any provision of this Section, if the City or the Enterprise shall obtain an opinion of nationally recognized bond counsel that any specified action required under this Section is no longer required or that some further or different action is required to maintain the tax-exempt status of interest on the 2018A Bonds, the City or the Enterprise, as the case may be, may conclusively rely on such opinion in complying with the requirements of this Section, and the covenants hereunder shall be deemed to be modified to that extent.

Section 930. Continuing Disclosure. The Enterprise shall comply with the provisions of the Continuing Disclosure Certificate. Any failure by the Enterprise to perform in

accordance with this Section shall not constitute an Event of Default under this Ordinance, and the rights and remedies provided by this Ordinance upon the occurrence of an Event of Default shall not apply to any such failure. The Paying Agent shall not have any power or duty to enforce this Section. No Owner of a Bond shall be entitled to damages for the Enterprise's non-compliance with its obligations under this Section.

ARTICLE X

PRIVILEGES, RIGHTS AND REMEDIES

Section 1001. Owners' Remedies. Each Owner of any Bond shall be entitled to all of the privileges, rights and remedies provided or permitted in this Ordinance, and as otherwise provided or permitted by law or in equity or by any statutes, except as provided in Sections 202 through 206 hereof, but subject to the provisions herein concerning the pledge of and the covenants and the other contractual provisions concerning the Gross Pledged Revenues and the proceeds of the Bonds.

Section 1002. Right to Enforce Payment. Nothing in this Article affects or impairs the right of any Owner of any Bond to enforce the payment of the Debt Service Requirements due in connection with his or her Bond or the obligation of the Enterprise to pay the Debt Service Requirements of each Bond to the Owner thereof at the time and the place expressed in the Bond.

Section 1003. Events of Default. Each of the following events is hereby declared an "Event of Default:"

A. **Nonpayment of Principal.** Payment of the principal of any of the Bonds is not made when the same becomes due and payable, either at maturity or by proceedings for prior redemption, or otherwise;

B. **Nonpayment of Interest.** Payment of any installment of interest on any of the Bonds is not made when the same becomes due and payable;

C. **Cross Defaults.** The occurrence and continuance of an "event of default," as defined in any Parity Bond Ordinance;

D. **Failure to Reconstruct.** The Enterprise unreasonably delays or fails to carry out with reasonable dispatch the reconstruction of any part of the System which is destroyed or damaged and is not promptly repaired or replaced (whether such failure promptly to repair the same is due to impracticability of such repair or replacement or is due to a lack of moneys therefor or for any other reason), but it shall not be an Event of Default if such reconstruction is not essential to the efficient operation of the System;

E. **Appointment of Receiver.** An order or decree is entered by a court of competent jurisdiction with the consent or acquiescence of the City appointing a receiver or receivers for the System or for the Gross Pledged Revenues and any other moneys subject to the lien to secure the payment of the Bonds, or if an order or decree having been entered without the

consent or acquiescence of the City is not vacated or discharged or stayed on appeal within 60 days after entry; and

F. Default of Any Other Provision. The City or the Enterprise defaults in the due and punctual performance of any other of the representations, covenants, conditions, agreements and other provisions contained in the Bonds or in this Ordinance on its part to be performed (other than Section 930 hereof), and such default continues for 60 days after written notice specifying such default and requiring the same to be remedied is given to the City and Enterprise specifying the failure and requiring that it be remedied, which notice may be given by the Paying Agent in its reasonable discretion and shall be given by the Paying Agent at the written request of the Owners of not less than 25 percent in aggregate principal amount of Bonds then Outstanding. The Paying Agent shall not be required to take notice or be deemed to have notice of any such defaults under the Bonds or this Ordinance, except for defaults arising from failure to make any required payments to the Paying Agent or defaults of which the Paying Agent has actual knowledge, unless the Paying Agent is specifically notified in writing of such default by the City, Enterprise, or the Owners of twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding. Except as otherwise expressly provided herein, the Paying Agent shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements herein or of any of the documents executed in connection with the Bonds, or as to the existence of a default thereunder.

Section 1004. Remedies for Defaults. Upon the happening and continuance of any Event of Default, the Owner or Owners of not less than 25% in aggregate principal amount of the Bonds then Outstanding, including, without limitation, a trustee or trustees therefor, may proceed against the City and the Enterprise and its agents, officers and employees to protect and to enforce the rights of any Owner of Bonds under this Ordinance by mandamus or by other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for the appointment of a receiver or for the specific performance of any covenant or agreement contained herein or in an award of execution of any power herein granted for the enforcement of any proper legal or equitable remedy as such Owner or Owners may deem most effectual to protect and to enforce the rights aforesaid, or thereby to enjoin any act or thing which may be unlawful or in violation of any right of any Owner of any Bond, or to require the City or the Enterprise to act as if it were the trustee of an expressed trust, or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Bonds.

Section 1005. Receiver's Rights and Privileges. Any receiver appointed in any proceedings to protect the rights of such Owners hereunder, the consent to any such appointment being hereby expressly granted by the City and the Enterprise, may enter and may take possession of the System, may operate and maintain the same, may prescribe fees, rates and other charges, and may collect, receive and apply all Gross Pledged Revenues arising after the appointment of such receiver in the same manner as the City itself might do.

Section 1006. Rights and Privileges Cumulative. The failure of any Owner of any Outstanding Bond to proceed in any manner herein provided shall not relieve the Enterprise, or any of its officers, agents or employees of any liability for failure to perform or carry out any duty, obligation or other commitment. Each right or privilege of any such Owner (or trustee

thereof) is in addition and is cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any Owner shall not be deemed a waiver of any other right or privilege thereof.

Section 1007. Duties upon Defaults. Upon the happening of any Event of Default, the Enterprise and the City shall do and perform all proper acts on behalf of and for the Owners of Bonds to protect and to preserve the security created for the payment of the Bonds and to insure the payment of the Debt Service Requirements promptly as the same become due. While any Event of Default exists, except to the extent it may be unlawful to do so, all Gross Pledged Revenues shall be paid into the Bond Fund and into bond or similar funds established for any Parity Bonds then Outstanding, pro rata based upon the aggregate principal amount of the Bonds and Parity Bonds then Outstanding. If the Enterprise or the City fails or refuses to proceed as in this Section provided, the Owner or Owners of not less than 25% in aggregate principal amount of the Bonds then Outstanding, after demand in writing, may proceed to protect and to enforce the rights of the Owners of the Bonds as hereinabove provided, and to that end any such Owners of the Outstanding Bonds shall be subrogated to all rights of the Enterprise and the City under any agreement, lease or other contract involving the System or the Gross Pledged Revenues entered into prior to the effective date of this Ordinance or thereafter while any of the Bonds are Outstanding.

ARTICLE XI

AMENDMENT OF ORDINANCE

Section 1101. Amendment of Ordinance Not Requiring Consent of Bond Owners. The Enterprise may, without the consent of or notice to the Owners of the Bonds, adopt such ordinances supplemental hereto (which amendments shall thereafter form a part hereof) for any one or more or all of the following purposes:

A. to add to the covenants and agreements of the Enterprise or the City in this Ordinance contained other covenants and agreements thereafter to be observed;

B. to subject to the covenants and agreements of the Enterprise and the City in this Ordinance additional System revenues, to be defined and treated as Gross Pledged Revenues, for the purpose of providing additional security for the Bonds and any Parity Bonds;

C. in connection with the provision of a Reserve Fund Insurance Policy subsequent to the issuance of the Bonds;

D. to provide for the appointment of a new Paying Agent;

E. to make such provisions for the purpose of curing any ambiguity or of curing or correcting any formal defect or omission in this Ordinance, or in regard to questions arising under this Ordinance, as the Enterprise may deem necessary or desirable, and which shall not materially adversely affect the interests of the Owners of the Bonds;

F. in order to preserve or protect the excludability from gross income for federal income tax purposes of the interest allocable to the 2018A Bonds;

G. To designate a trustee for the owners of the Bonds, to transfer custody and control of the Gross Pledged Revenues to such trustee, and to provide for the rights and obligations of such trustee;

H. To cause this ordinance to comply with the Trust Indenture Act of 1939, as amended from time to time; or

I. To effect any such other changes hereto which do not materially adversely affect the interests of the Owners of the Bonds.

Section 1102. Amendment of Ordinance Requiring Consent of Bond Owners.

Exclusive of the amendatory ordinances covered by Section 1101 hereof, this Ordinance may be amended or modified by ordinances or other instruments duly adopted by the Enterprise, without receipt by it or any additional consideration, but with the written consent of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding at the time of the adoption of such amendatory ordinance, provided that no such amendatory resolution shall permit:

A. Changing Payment. A change in the maturity or in the terms of redemption of the principal of any Outstanding Bond or any interest thereon without the consent of the Owner of each Bond adversely affected thereby; or

B. Reducing Return. A reduction in the principal amount of any Bond or the rate of interest thereon without the consent of the Owner of each Bond adversely affected thereby; or

C. Prior Lien. The creation of a lien upon or a pledge of revenues ranking prior to the lien or to the pledge created by this Ordinance, except as otherwise permitted by this Ordinance, without the consent of the Owners of all Bonds Outstanding; or

D. Modifying Amendment Terms. A reduction of the principal amount or percentages of Bonds, or any modification otherwise affecting the description of Bonds, otherwise changing the consent of the Owners of Bonds, which may be required herein for any amendment hereto, without the consent of the Owners of all Bonds Outstanding; or

E. Priorities Among Bonds or Parity Lien Bonds. The establishment of priorities as among Bonds issued and Outstanding under the provisions of this Ordinance or as among the Bonds and other Parity Lien Bonds, without the consent of the Owners of all Bonds Outstanding; or

F. Partial Modification. Any modifications otherwise materially and prejudicially affecting the rights or privileges of the Owners of less than all of the Bonds then Outstanding, without the consent of the Owners of all Bonds Outstanding.

Whenever the Board proposes to amend or modify this Ordinance under the provisions of this Section 1102, it shall cause notice of the proposed amendment to be mailed to the Owners of all Outstanding Bonds at their addresses as the same last appear on the registration records maintained by the Paying Agent. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy of the proposed amendatory Ordinance is on file with the Secretary for public inspection.

Section 1103. Time for and Consent to Amendment. Whenever at any time within one (1) year from the date of the completion of the notice required to be given by Section 1102 hereof there shall be filed in the office of the Secretary an instrument or instruments executed by the Owners of at least a majority in aggregate principal amount of the Bonds then Outstanding, which instrument or instruments shall refer to the proposed amendatory ordinance or other instrument described in such notice and shall specifically consent to and approve the adoption of such ordinance or other instrument, thereupon, but not otherwise, the Board may adopt such amendatory ordinance or instrument and such ordinance or instrument shall become effective. If the Owners of at least a majority in aggregate principal amount of the Bonds then Outstanding, at the time of the adoption of such amendatory ordinance or instrument, or the predecessors in title of such Owners, shall have consented to and approved the adoption thereof as herein provided, no Owner of any Bond whether or not such Owner shall have consented to or shall have revoked any consent as herein provided shall have any right or interest to object to the adoption of such amendatory ordinance or other instrument or to object to any of the terms or provisions therein contained or to the operation thereof or to enjoin or restrain the City from taking any action pursuant to the provisions thereof. Any consent given by the Owner of a Bond pursuant to the provisions thereof shall be irrevocable for a period of six (6) months from the date of the completion of the notice above provided for and shall be conclusive and binding upon all future Owners of the same Bond during such period. Such consent may be revoked at any time after six (6) months from the completion of such notice, by the Owner who gave such consent or by a successor in title, by filing notice of such revocation with the Secretary, but such revocation shall not be effective if the Owners of a majority in aggregate principal amount of the Bonds Outstanding as herein provided, prior to the attempted revocation, shall have consented to and approved the amendatory instrument referred to in such revocation.

Section 1104. Unanimous Consent. Notwithstanding anything in the foregoing provisions contained, the terms and the provisions of this Ordinance, or of any ordinance or instrument amendatory thereof, and the rights and the obligations of the City, the Enterprise and the Owners of the Bonds may be modified or amended in any respect upon the adoption by the Council and upon the filing with the Secretary of an instrument to that effect and with the consent of the Owners of all the then Outstanding Bonds, such consent to be given in the manner provided herein Section 1103 hereof; and no notice to Owners of Bonds shall be required as provided in Section 1102 hereof, nor shall the time of consent be limited except as may be provided in such consent.

Section 1105. Exclusion of Bonds. At the time of any consent or of other action taken hereunder the Enterprise shall furnish to the Secretary a certificate, upon which the Secretary may rely, describing all Bonds to be excluded for the purpose of consent or of other action or any calculation of Outstanding Bonds provided for hereunder, and, with respect to such

excluded Bonds, the Enterprise shall not be entitled or required with respect to such Bonds to give or obtain any consent or to take any other action provided for hereunder.

Section 1106. Notation on Bonds. Any of the Bonds delivered after the effective date of any action taken as provided in Section 1102, or Bonds Outstanding at the effective date of such action, may bear a notation thereon by endorsement or otherwise in form approved by the Board as to such action; and if any such Bonds so executed and delivered after such date does not bear such notation, then upon demand of the Owner of any Bond Outstanding at such effective date and upon presentation of his Bond for such purpose at the principal office of the City, suitable notation shall be made on such Bond by the Secretary as to any such action. If the Board so determines, new Bonds so modified as in the opinion of the Board to conform to such action shall be prepared, executed and delivered; and upon demand of the Owner of any Bond then Outstanding, shall be exchanged without cost to such Owner for Bonds then Outstanding upon surrender of such Outstanding Bonds.

Section 1107. Proof of Instruments and Bonds. The fact and date of execution of any instrument under the provisions of this Article, the amount and number of the Bonds held by any Person executing such instrument, and the date of his or her holding the same may be proved as provided by Section 1301 hereof.

Section 1108. Copies of Supplemental Ordinances to Rating Agencies. Copies of any supplemental or amendatory ordinance shall be sent by the Enterprise to the Rating Agencies then maintaining a rating on the Bonds on or prior to the effective date thereof.

ARTICLE XII

DEFEASANCE

Section 1201. Defeasance. When all Debt Service Requirements of the Bonds have been duly paid, the pledge and lien and all obligations hereunder shall thereby be discharged and the Bonds shall no longer be deemed to be Outstanding within the meaning of this Ordinance. There shall be deemed to be such due payment when the Enterprise or the City has placed in escrow or in trust with a Trust Bank, located within or without the State, moneys or Federal Securities, or both, in an amount sufficient (including the known minimum yield available for such purpose from Federal Securities in which such amount wholly or in part may be initially invested) to pay all Debt Service Requirements of the Bonds as the same become due. The Federal Securities shall become due prior to the respective times at which the proceeds thereof shall be needed, in accordance with a schedule established and agreed upon between the Enterprise or the City and such bank at the time of the creation of the escrow or trust, or the Federal Securities shall be subject to redemption at the option of the Owner thereof to assure such availability as so needed to meet such schedule. Nothing herein shall be construed to prohibit a partial defeasance of the Outstanding Bonds in accordance with the provisions of this Section 1201.

In the case of the 2018B Bonds, the Enterprise is obligated to contribute additional securities or monies to the escrow or trust if necessary to provide sufficient amounts to satisfy the payment obligations on the 2018B Bonds.

The release of the obligations of the Enterprise under this Section shall be without prejudice to the right of the Paying Agent to be paid reasonable compensation for all services rendered by it hereunder and all its reasonable expenses, charges and other disbursements incurred on or about the administration of and performance of its powers and duties hereunder.

Upon compliance with the foregoing provisions of this Section with respect to all Bonds then Outstanding, this Ordinance may be discharged in accordance with the provisions of this Section but the liability of the Enterprise in respect of the Bonds shall continue; provided that the Owners thereof shall thereafter be entitled to payment only out of the moneys or Federal Securities deposited with the Trust Bank as provided in this Section.

ARTICLE XIII

MISCELLANEOUS

Section 1301. Provisions Relating to Bond Insurance. If the Sale Certificate provides that the Bonds will be insured by a Bond Insurance Policy, the following provisions shall apply notwithstanding anything to the contrary in this Ordinance:

A. Except as provided in Section 1102, the Bond Insurer is hereby deemed to be the sole holder of the Bonds insured by it for the purpose of exercising any voting right or privilege or giving any consent or direction or taking any other action that the holders of the Bonds insured by it are entitled to take pertaining to defaults and remedies.

B. Upon a payment default with respect to the Bonds, the Bond Insurer shall be entitled to appoint a receiver for the Net Pledged Revenues.

C. The Bond Insurer is hereby deemed to be a third party beneficiary to this Ordinance.

D. The rights of the Bond Insurer to direct or consent to Enterprise or bondholder actions under this Ordinance shall be suspended during any period in which the Bond Insurer is in default in its payment obligations under the Bond Insurance Policy (except to the extent of amounts previously paid by the Bond Insurer and due and owing to the Bond Insurer) and shall be of no force or effect in the event the Bond Insurance Policy is no longer in effect or the Bond Insurer asserts that the Bond Insurance Policy is not in effect or the Bond Insurer shall have provided written notice that it waives such rights.

E. Amounts paid by the Bond Insurer under the Bond Insurance Policy shall not be deemed paid for purposes of this Ordinance and shall remain Outstanding and continue to be due and owing until paid by the Enterprise in accordance with this Ordinance. This Ordinance shall not be discharged unless all amounts due or to become due to the Bond Insurer have been paid in full or duly provided for.

F. The Bond Insurer shall, to the extent it makes any payment of principal of or interest on the Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Bond Insurance Policy.

Section 1302. Evidence of Bond Owners. Evidence of any request, consent or other instrument which this Ordinance may require or may permit to be signed and to be executed by the Owners of any Bonds may be in one or more instruments of similar tenor and shall be signed or shall be executed by each such Owner in person or by his or her attorney appointed in writing. Proof of the execution of any such instrument or of an instrument appointing any such attorney, or the holding by any Person of the Bonds shall be sufficient for any purpose of this Ordinance (except as otherwise herein expressly provided) if made in the following manner:

A. **Proof of Execution.** The fact and the date of the execution by any Owner of any Bonds or his or her attorney of such instrument may be established by a certificate, which need not be acknowledged or verified, of an officer of a bank or trust company satisfactory to the President or Treasurer of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he or she purports to act, that the individual signing such request or other instrument acknowledged to him or her the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer; the authority of the individual or individuals executing any such instrument on behalf of a corporate Owner of any securities may be established without further proof if such instrument is signed by an individual purporting to be the president or vice president of such corporation with a corporate seal affixed and attested by an individual purporting to be its secretary or an assistant secretary; and the authority of any Person or Persons executing any such instrument in any fiduciary or representative capacity may be established without further proof if such instrument is signed by a Person or Persons purporting to act in such fiduciary or representative capacity; and

B. **Proof of Holdings.** The amount of Bonds held by any Person and the numbers, date and other identification thereof, together with the date of his or her holding the Bonds, shall be proved by the registration records maintained by the Paying Agent.

Section 1303. Business Days. If the date for making any payment or the last date for performance of any act or the exercising of any rights, as provided in this Ordinance, shall not be a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Ordinance, and no interest shall accrue for the period after such nominal date.

Section 1304. Parties Interested Herein. Nothing herein expressed or implied confers any right, remedy or claim upon any Person, other than the Enterprise, the Board, the City, the Council, the Paying Agent, the Owners of the Bonds and the Owners of any Parity Bonds or other securities payable from the Net Pledged Revenues when reference is expressly made thereto. All the covenants, stipulations, promises and agreements herein contained by and on behalf of the Enterprise and the City shall be for the sole and exclusive benefit of the Enterprise, the Board, the City, the Council, the Paying Agent, the Owners of the Bonds and the Owners of any such other securities in the event of such a reference.

Section 1305. Repealer. All ordinances, resolutions, bylaws, orders, and other instruments, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such

inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw, order, or other instrument, or part thereof, heretofore repealed.

Section 1306. Severability. If any section, subsection, paragraph, clause or other provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability thereof shall not affect any of the remaining sections, subsections, paragraphs, clauses or provisions of this Ordinance.

Section 1307. Ordinance Irrepealable. This Ordinance is, and shall constitute, a legislative measure of the Enterprise and after any of the Bonds are issued, this Ordinance shall constitute an irrevocable contract between the Enterprise and the Owner or Owners of the Bonds and this Ordinance shall be and shall remain irrepealable until the Bonds, as to all Debt Service Requirements, shall be fully paid, canceled, and discharged, except as herein otherwise provided.

Section 1308. Limitation of Actions. Pursuant to Section 11-57-212 of the Supplemental Act, no legal or equitable action brought with respect to any legislative acts or proceedings of the Enterprise in connection with the authorization or issuance of the Bonds, including but not limited to the adoption of this Ordinance, shall be commenced more than thirty days after the authorization of the Bonds.

Section 1309. Governing Law. This Ordinance shall be governed by and construed in accordance with the laws of the State of Colorado.

Introduced, considered favorably on first reading and ordered published this 20th day of March, 2018, and to be presented for final passage on April 3, 2018.

CITY OF FORT COLLINS, COLORADO,
ELECTRIC UTILITY ENTERPRISE

By: _____
Vice President

(ENTERPRISE)
(SEAL)

ATTEST:

Secretary

Passed and adopted on final reading this 3rd day of April, 2018.

CITY OF FORT COLLINS, COLORADO,
ELECTRIC UTILITY ENTERPRISE

By: _____
President

(ENTERPRISE)
(SEAL)

ATTEST:

Secretary

EXHIBIT A

(FORM OF 2018A Bond)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation (“DTC”), to the Enterprise or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

UNITED STATES OF AMERICA

STATE OF COLORADO

COUNTY OF LARIMER

CITY OF FORT COLLINS, COLORADO,
ELECTRIC UTILITY ENTERPRISE
TAX-EXEMPT REVENUE BOND
SERIES 2018A

No. RA- _____ \$ _____

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATED AS OF</u>	<u>CUSIP</u>
_____ %	December 1, 20__	[Date of Delivery]	_____

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: _____ DOLLARS

The City of Fort Collins, Colorado, Electric Utility Enterprise (the “Enterprise”), in the County of Larimer and State of Colorado (the “State”), for value received, hereby promises to pay to the registered owner specified above, or registered assigns, upon the presentation and surrender of this bond, solely from the special funds provided therefor, as hereinafter set forth, the principal amount set forth above on the maturity date specified above (unless this bond shall have been called for prior redemption, in which case on the Redemption Date) and to pay solely from such special funds interest hereon at the interest rate per annum specified above, payable semiannually on June 1 and December 1 in each year, beginning on _____ 1, 2018, until the principal amount is paid or payment has been provided for. If upon presentation at maturity or prior redemption payment of the principal sum is not made as provided herein, interest continues at the interest rate until the principal sum is paid in full.

This Bond is one of an authorized series of bonds designated as the “City of Fort Collins, Colorado, Electric Utility Enterprise, Tax-Exempt Revenue Bonds, Series 2018A (the “2018A Bonds”) in the aggregate principal amount of \$ _____ issued under an ordinance adopted on second reading by the Board of Directors of the Enterprise on _____, 2018 (the “Ordinance”). The 2018A Bonds are also issued pursuant to the provisions of a Sale Certificate executed in connection therewith (the “Sale Certificate”). The 2018A Bonds are all issued under and equally and ratably secured by and entitled to the security of the Ordinance. To the extent not defined herein, terms used in this Bond shall have the same meanings as set forth in the Ordinance.

This Bond bears interest, matures, is payable, is subject to redemption and is transferable as provided in the Ordinance and the Sale Certificate.

It is hereby certified, recited, and warranted that the 2018A Bonds are issued under the authority of and in full conformity with the Constitution of the State of Colorado, the home rule charter (the “Charter”) of the City of Fort Collins, Colorado (the “City”), the ordinances of the City establishing the Enterprise and authorizing it to have and exercise certain powers in furtherance of its purposes, Part 2 of Article 57 of Title 11, Colorado Revised Statutes (the “Supplemental Act”), and all other laws of the State of Colorado thereunto enabling and pursuant to the Ordinance duly adopted prior to the issuance of this Bond. Pursuant to the Supplemental Act, the foregoing recital that the 2018A Bonds are issued pursuant to the Supplemental Act shall be conclusive evidence of the validity and regularity of the issuance of the 2018A Bonds after their delivery for value.

Concurrently with the issuance of the 2018A Bonds, the Enterprise is issuing its “City of Fort Collins, Colorado, Electric Utility Enterprise, Taxable Revenue Bonds, Series 2018B” in the aggregate principal amount of \$ _____ (the “2018B Bonds” and together with the 2018A Bonds, the “Bonds”). The Bonds have been duly authorized for the purpose of providing moneys to defray a portion of the cost of extending, bettering or otherwise improving and equipping the System of the City..

Payment of the principal of and interest of the 2018A Bonds shall be made solely from and as security for such payment there are irrevocably (but not exclusively) pledged, pursuant to the Ordinance, revenues derived from the operation and use of and otherwise pertaining to the System after provision is made only for the payment of all necessary and reasonable expenses of the operation and maintenance of the System (such remaining revenues the “Net Pledged Revenues”), sums sufficient to pay when due the principal of and interest of the Bonds and any other Parity Bonds hereafter issued or entered into.

Reference is made to the Ordinance and to the Sale Certificate and to all ordinances supplemental thereto, with respect to the nature and extent of the security for the Bonds, the accounts, funds or revenues pledged to the payment of the Bonds, the rights, duties and obligations of the Enterprise, the City and the Paying Agent, the rights of the Owners of the Bonds, the events of defaults and remedies, the circumstances under which any Bond is no longer Outstanding, the

issuance of additional bonds and the terms on which such additional bonds may be issued under and secured by the Ordinance, the ability to amend the Ordinance, and to all the provisions of which the Owner hereof by the acceptance of this Bond assents.

The 2018A Bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Colorado, and pursuant to the Ordinance. The 2018A Bonds are special, limited obligations of the Enterprise, secured by the Net Pledged Revenues and certain funds and accounts created under the Ordinance. The 2018A Bonds do not constitute a general obligation debt of the Enterprise, the City, the State or any political subdivision thereof, and neither the Enterprise, the City, the State nor any of the political subdivisions thereof is liable therefor. Neither the members of the Board of Directors of the Enterprise nor any persons executing this Bond shall be personally liable for this Bond.

It is certified, recited and warranted that all the requirements of law have been fully complied with by the proper officers of the Enterprise in the issuance of this Bond; that it is issued pursuant to and in strict conformity with the Constitution and laws of the State, and with the Ordinance and any ordinances supplemental thereto; and that this Bond does not contravene any Constitutional, home rule charter or statutory limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Ordinance until the certificate of authentication hereon shall have been duly executed by the Paying Agent.

IN WITNESS WHEREOF, the Enterprise has caused this Bond to be signed and executed in its name and upon its behalf with the facsimile signature of its President, has caused the facsimile of the seal of the Enterprise to be affixed hereon and has caused this Bond to be signed, executed and attested with the facsimile signature of its Secretary, all as of the date specified above.

CITY OF FORT COLLINS, COLORADO
ELECTRIC UTILITY ENTERPRISE

By: (Facsimile or Manual Signature)
President of the Enterprise

(FACSIMILE SEAL)

Attest:

(Facsimile or Manual Signature)
Secretary of the Enterprise

CERTIFICATE OF AUTHENTICATION

This Bond is issued pursuant to the Ordinance herein described, and this Bond has been duly registered on the registration books kept by the undersigned as registrar for such Bonds.

U.S. BANK NATIONAL ASSOCIATION,
as paying agent and registrar

(Manual Signature)
Authorized Signatory

Date of Authentication and Registration: _____

(END OF FORM OF CERTIFICATE OF AUTHENTICATION)

(FORM OF ASSIGNMENT)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ to transfer the within Bond on the records kept for the registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within Bond in every particular, without alteration or enlargement or any change whatever. The signature must be guaranteed by an eligible guarantor institution as defined in 17 CFR § 240.17 Ad-15(a)(2).

Signature Guaranteed:

Signature must be guaranteed by a member of a Medallion Signature Program.

Address of Transferee:

Social Security or other tax identification number of transferee:

(END OF FORM OF ASSIGNMENT)

(FORM OF PREPAYMENT PANEL)

PREPAYMENT PANEL

The following installments of principal (or portions thereof) of this Bond have been prepaid in accordance with the terms of the Ordinance.

<u>Date of Prepayment</u>	<u>Principal Prepaid</u>	<u>Signature of Authorized Representative of DTC</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(END OF FORM OF PREPAYMENT PANEL)

(END OF FORM OF 2018A Bond)

EXHIBIT B

(FORM OF 2018B Bond)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation (“DTC”), to the Enterprise or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

UNITED STATES OF AMERICA

STATE OF COLORADO

COUNTY OF LARIMER

CITY OF FORT COLLINS, COLORADO,
ELECTRIC UTILITY ENTERPRISE
TAXABLE REVENUE BOND
SERIES 2018B

No. RB- _____ \$ _____

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATED AS OF</u>	<u>CUSIP</u>
_____ %	December 1, 20__	[Date of Delivery]	_____

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: _____ DOLLARS

The City of Fort Collins, Colorado, Electric Utility Enterprise (the “Enterprise”), in the County of Larimer and State of Colorado (the “State”), for value received, hereby promises to pay to the registered owner specified above, or registered assigns, upon the presentation and surrender of this bond, solely from the special funds provided therefor, as hereinafter set forth, the principal amount set forth above on the maturity date specified above (unless this bond shall have been called for prior redemption, in which case on the Redemption Date) and to pay solely from such special funds interest hereon at the interest rate per annum specified above, payable semiannually on June 1 and December 1 in each year, beginning on _____ 1, 2018, until the principal amount is paid or payment has been provided for. If upon presentation at maturity or prior redemption payment of the principal sum is not made as provided herein, interest continues at the interest rate until the principal sum is paid in full.

This Bond is one of an authorized series of bonds designated as the “City of Fort Collins, Colorado, Electric Utility Enterprise, Taxable Revenue Bonds, Series 2018B (the “2018B Bonds”) in the aggregate principal amount of \$ _____ issued under an ordinance adopted on second reading by the Board of Directors of the Enterprise on _____, 2018 (the

“Ordinance”). The 2018B Bonds are also issued pursuant to the provisions of a Sale Certificate executed in connection therewith (the “Sale Certificate”). The 2018B Bonds are all issued under and equally and ratably secured by and entitled to the security of the Ordinance. To the extent not defined herein, terms used in this Bond shall have the same meanings as set forth in the Ordinance.

This Bond bears interest, matures, is payable, is subject to redemption and is transferable as provided in the Ordinance and the Sale Certificate.

Interest on this Bond is includable in gross income for federal and Colorado income tax purposes.

It is hereby certified, recited, and warranted that the 2018B Bonds are issued under the authority of and in full conformity with the Constitution of the State of Colorado, the home rule charter (the “Charter”) of the City of Fort Collins, Colorado (the “City”), the ordinances of the City establishing the Enterprise and authorizing it to have and exercise certain powers in furtherance of its purposes, Part 2 of Article 57 of Title 11, Colorado Revised Statutes (the “Supplemental Act”), and all other laws of the State of Colorado thereunto enabling and pursuant to the Ordinance duly adopted prior to the issuance of this Bond. Pursuant to the Supplemental Act, the foregoing recital that the 2018B Bonds are issued pursuant to the Supplemental Act shall be conclusive evidence of the validity and regularity of the issuance of the 2018B Bonds after their delivery for value.

Concurrently with the issuance of the 2018B Bonds, the Enterprise is issuing its “City of Fort Collins, Colorado, Electric Utility Enterprise, Tax-Exempt Revenue Bonds, Series 2018A” in the aggregate principal amount of \$ _____ (the “2018A Bonds” and together with the 2018B Bonds, the “Bonds”). The Bonds have been duly authorized for the purpose of providing moneys to defray a portion of the cost of extending, bettering or otherwise improving and equipping the System of the City.

Payment of the principal of and interest of the 2018B Bonds shall be made solely from and as security for such payment there are irrevocably (but not exclusively) pledged, pursuant to the Ordinance, revenues derived from the operation and use of and otherwise pertaining to the System, after provision is made only for the payment of all necessary and reasonable expenses of the operation and maintenance of the System (such remaining revenues the “Net Pledged Revenues”), sums sufficient to pay when due the principal of and interest of the Bonds and any other Parity Bonds, heretofore or hereafter issued or entered into.

Reference is made to the Ordinance and to the Sale Certificate and to all ordinances supplemental thereto, with respect to the nature and extent of the security for the Bonds, the accounts, funds or revenues pledged to the payment of the Bonds, the rights, duties and obligations of the Enterprise, the City and the Paying Agent, the rights of the Owners of the Bonds, the events of defaults and remedies, the circumstances under which any Bond is no longer Outstanding, the issuance of additional bonds and the terms on which such additional bonds may be issued under and secured by the Ordinance, the ability to amend the Ordinance, and to all the provisions of which the Owner hereof by the acceptance of this Bond assents.

The 2018B Bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Colorado, and pursuant to the Ordinance. The 2018B Bonds are special, limited obligations of the Enterprise, secured by the Net Pledged Revenues and certain funds and accounts created under the Ordinance. The 2018B Bonds do not constitute a general obligation debt of the Enterprise, the City, the State or any political subdivision thereof, and neither the Enterprise, the City, the State nor any of the political subdivisions thereof is liable therefor. Neither the members of the Board of Directors of the Enterprise nor any persons executing this Bond shall be personally liable for this Bond.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Ordinance until the certificate of authentication hereon shall have been duly executed by the Paying Agent.

It is certified, recited and warranted that all the requirements of law have been fully complied with by the proper officers of the Enterprise in the issuance of this Bond; that it is issued pursuant to and in strict conformity with the Constitution and laws of the State, and with the Ordinance and any ordinances supplemental thereto; and that this Bond does not contravene any Constitutional, home rule charter or statutory limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Ordinance until the certificate of authentication hereon shall have been duly executed by the Paying Agent.

IN WITNESS WHEREOF, the Enterprise has caused this Bond to be signed and executed in its name and upon its behalf with the facsimile signature of its President, has caused the facsimile of the seal of the Enterprise to be affixed hereon and has caused this Bond to be signed, executed and attested with the facsimile signature of its Secretary, all as of the date specified above.

CITY OF FORT COLLINS, COLORADO
ELECTRIC UTILITY ENTERPRISE

By: (Facsimile or Manual Signature)
President of the Enterprise

(FACSIMILE SEAL)

Attest:

(Facsimile or Manual Signature)
Secretary of the Enterprise

CERTIFICATE OF AUTHENTICATION

This Bond is issued pursuant to the Ordinance herein described, and this Bond has been duly registered on the registration books kept by the undersigned as registrar for such Bonds.

U.S. BANK NATIONAL ASSOCIATION,
as paying agent and registrar

(Manual Signature) _____
Authorized Signatory

Date of Authentication and Registration: _____

(END OF FORM OF CERTIFICATE OF AUTHENTICATION)

(FORM OF ASSIGNMENT)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ to transfer the within Bond on the records kept for the registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within Bond in every particular, without alteration or enlargement or any change whatever. The signature must be guaranteed by an eligible guarantor institution as defined in 17 CFR § 240.17 Ad-15(a)(2).

Signature Guaranteed:

Signature must be guaranteed by a member of a Medallion Signature Program.

Address of Transferee:

Social Security or other tax identification number of transferee:

(END OF FORM OF ASSIGNMENT)

(FORM OF PREPAYMENT PANEL)

PREPAYMENT PANEL

The following installments of principal (or portions thereof) of this Bond have been prepaid in accordance with the terms of the Ordinance.

<u>Date of Prepayment</u>	<u>Principal Prepaid</u>	<u>Signature of Authorized Representative of DTC</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(END OF FORM OF PREPAYMENT PANEL)

(END OF FORM OF 2018B Bond)

ORDINANCE NO. 004

AN ORDINANCE OF THE CITY OF FORT COLLINS, COLORADO, ELECTRIC UTILITY ENTERPRISE AUTHORIZING THE DEFEASANCE OF THE ENTERPRISE'S TAXABLE REVENUE BONDS (DIRECT PAY QUALIFIED ENERGY CONSERVATION BONDS), SERIES 2010B.

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 or appointed and qualified; and

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

WHEREAS, the Council has heretofore established the City's Electric Utility as an enterprise of the City (the "Enterprise") pursuant to Charter Article V, Section 19.3(b), Ordinance No. 60, 1993 and Ordinance No. 38, 2010; and

WHEREAS, pursuant to Ordinance No. 011, 2018, the City Council has amended the City Code to implement the authority granted in Section 7 of Article XII of the Charter and has authorized the Enterprise to acquire, construct, provide, fund, and contract for telecommunication facilities and services in the City, and to take such other actions as may be necessary for the proper administration of said facilities and services; and

WHEREAS, Ordinance No. 60, 1993, Ordinance No. 38, 2010, and Ordinance No. 011, 2018 shall be collectively referred to herein as the "Enterprise Ordinances" and

WHEREAS, pursuant to the Charter and the Enterprise Ordinances, 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 obligations in the manner and to the full extent authorized in Section 7(b) of Charter Article XII and in Code Section 26-392 to fund the Enterprise's provision of telecommunication facilities and services; and

WHEREAS, Charter Article V, Section 19.3(b) provides that the ordinance issuing any such revenue bonds or other obligations of the Enterprise shall be adopted in the same manner and shall be subject to referendum to the same extent as ordinances of the Council; and

WHEREAS, the Board proposes to extend, better, otherwise improve and equip the electrical utility system (the "System") to provide directly or indirectly telecommunication facilities and services, including high-speed broadband Internet facilities and service in the City (the "Project"); and

WHEREAS, the Enterprise intends to issue its "City of Fort Collins, Colorado, Electric Utility Enterprise, Tax-Exempt Revenue Bonds, Series 2018A" and its "City of Fort Collins,

Colorado, Electric Utility Enterprise, Taxable Revenue Bonds, Series 2018B” (collectively, the “2018 Bonds”) to defray in part the cost of the Project; and

WHEREAS, pursuant to Ordinance No. 001, 2010 (the “2010B Bond Ordinance”), the Board previously authorized the issuance of the City of Fort Collins, Colorado, Electric Utility Enterprise, Tax-Exempt Revenue Bonds, Series 2010A in the aggregate principal amount of \$9,675,000 (the “2010A Bonds”), and its City of Fort Collins, Colorado, Electric Utility Enterprise, Taxable Revenue Bonds (Direct Pay Qualified Energy Conservation Bonds), Series 2010B in the aggregate principal amount of \$6,410,000 (the “2010B Bonds”) to finance various improvements to the System; and

WHEREAS, the 2010A Bonds have been fully paid in accordance with their terms and are no longer outstanding; and

WHEREAS, the 2010B Bonds are currently outstanding in the aggregate principal amount of \$5,270,000; and

WHEREAS, in connection with the issuance of the 2018 Bonds, the Board has determined and hereby determines that it is in the best interest of the Enterprise to defease the outstanding 2010B Bonds in full prior to the issuance of the 2018 Bonds in order to eliminate certain restrictive contractual provisions contained in the 2010B Bond Ordinance; and

WHEREAS, upon such defeasance, the 2010B Bonds will no longer be deemed to be outstanding within the meaning of the 2010B Bond Ordinance; and

WHEREAS, the Board has determined that the Enterprise will utilize available moneys of the Enterprise to defease the 2010B Bonds, subject to appropriation by the Council; and

WHEREAS, in connection with the defeasance of the 2010B Bonds, the Enterprise will enter into an escrow agreement (the “Escrow Agreement”) with U.S. Bank National Association, as escrow agent; and

WHEREAS, the form of the Escrow Agreement is on file with the Enterprise.

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

Section 1. Recitals Incorporated. The foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Board.

Section 2. Ratification and Approval of Prior Actions. All actions heretofore taken (not inconsistent with the provisions of this Ordinance) by the Board, the officers, and employees of the Enterprise and otherwise taken by the Enterprise directed toward the defeasance of the 2010B Bonds are ratified, approved, and confirmed.

Section 3. Finding of Best Interests; Authorization. The Board hereby finds and determines that the defeasance of the 2010B Bonds with available moneys of the Enterprise in connection with the issuance of the 2018 Bonds is in the best interest of the City and the

Enterprise, and the Board hereby authorizes and approves the same. The President is hereby authorized to determine the date that the 2010B Bonds shall be defeased, provided that such defeasance shall occur prior to the issuance of the 2018 Bonds, and provided further that the Council has appropriated the money necessary to defease the 2010B Bonds.

Section 4. Approval of Escrow Agreement. The Board hereby approves the Escrow Agreement in substantially the form of such document on file with the Secretary of the Enterprise, with only such changes therein as are not inconsistent herewith. The President of the Enterprise is hereby authorized and directed to execute the Escrow Agreement and the Secretary is hereby authorized to attest and to affix the seal of the Enterprise to the Escrow Agreement. The Escrow Agreement is to be executed in substantially the form hereinabove approved, provided that such documents may be completed, corrected, or revised as deemed necessary by the parties thereto in order to carry out the purposes of this Ordinance. The execution of the Escrow Agreement by the appropriate officers of the Enterprise herein authorized shall be conclusive evidence of the approval by the Enterprise of the Escrow Agreement in accordance with the terms hereof.

Section 5. Other Related Documents. The President and the Secretary and all other appropriate officers or employees of the Enterprise are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including without limiting the generality of the foregoing, executing, attesting, authenticating, and delivering for and on behalf of the Enterprise any and all necessary documents, instruments, or certificates and performing all other acts that they deem necessary or appropriate. The execution of any instrument by the appropriate officers of the Enterprise herein authorized shall be conclusive evidence of the approval by the Enterprise of such instrument in accordance with the terms hereof.

Section 6. Repealer. All ordinances, resolutions, bylaws, orders, and other instruments, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw, order, or other instrument, or part thereof, heretofore repealed.

Section 7. Severability. If any section, subsection, paragraph, clause or other provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability thereof shall not affect any of the remaining sections, subsections, paragraphs, clauses or provisions of this Ordinance.

Section 8. Governing Law. This Ordinance shall be governed by and construed in accordance with the laws of the State of Colorado.

Introduced, considered favorably on first reading and ordered published this 20th day of March, A.D. 2018, and to be presented for final passage on the 3rd day of April, A.D., 2018.

By: _____
Vice President

ATTEST:

Secretary

Passed and adopted on final reading this 3rd day of April, A.D., 2018.

By: _____
President

ATTEST:

Secretary