

DRAFT 5/15/2024

**FIRST AMENDMENT TO
LOAN AGREEMENT**

by and between

CITY OF FORT COLLINS, COLORADO, ELECTRIC UTILITY ENTERPRISE

AND

ZIONS BANCORPORATION, N.A., DBA VECTRA BANK COLORADO

Relating to:

Not to exceed \$3,500,000 2022 Taxable Subordinate Lien Revenue Note

Dated as of [_____, 2024]

EXHIBIT A TO ORDINANCE NO. 017

FIRST AMENDMENT TO LOAN AGREEMENT

THIS FIRST AMENDMENT TO LOAN AGREEMENT (this “Amendment”) is made and entered into as of [_____, 2024] (the “First Amendment Effective Date”), by and between **CITY OF FORT COLLINS, COLORADO, ELECTRIC UTILITY ENTERPRISE**, an enterprise established and existing pursuant to the home rule charter of the City of Fort Collins, Colorado (the “Enterprise”), and **ZIONS BANCORPORATION, N.A., DBA VECTRA BANK COLORADO** (formerly known as ZB, N.A. dba Vectra Bank Colorado), a national banking association, in its capacity as lender (the “Bank”).

WITNESSETH:

WHEREAS, the Enterprise and the Bank previously entered into that certain Loan Agreement dated as of July 13, 2022 (the “Original Agreement”), pursuant to which the Bank made a loan to the Enterprise in an amount not to exceed \$1,800,000, pursuant to the terms and conditions set forth in the Original Agreement; and

WHEREAS, pursuant to Section 8.06 and Section 8.14 of the Original Agreement, no amendment, modification, supplement, termination or waiver of or to any provision of the Original Agreement, nor consent to any departure by the Enterprise therefrom, shall be effective unless the same shall be in writing and signed by or on behalf of the Bank and the Enterprise; and

WHEREAS, the Enterprise and the Bank wish to amend the Original Agreement as provided herein.

NOW, THEREFORE, in consideration of the foregoing and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

INTENTION OF PARTIES, AGREEMENT PROVISIONS

The Enterprise and the Bank have entered into this Amendment pursuant to Section 8.06 and Section 8.14 of the Original Agreement to amend their rights and obligations set forth in the Original Agreement and agree that this Amendment does not constitute a novation of and in no way satisfies or refinances the debt evidenced by the Original Agreement. The terms of the Original Agreement, as amended by this Amendment (as so amended, the “Agreement”), shall govern the rights and obligations of the Enterprise and the Bank in connection with the transactions contemplated by the Agreement to the extent provided therein. Capitalized terms used but not defined in this Amendment have the respective meanings assigned thereto in the Original Agreement.

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ARTICLE II

AMENDMENT

Section 2.01. Amendment to Definitions. The following terms contained in Article I of the Original Agreement are hereby amended and replaced to read as follows:

“*2022 Loan Agreement*” means the Enterprise’s Loan Agreement with U.S. Bank National Association dated as of May 31, 2022, as amended by the First Amendment to Loan Agreement dated as of [_____, 2024].

“*2022 Note*” or “*Note*” means the City of Fort Collins, Colorado, Electric Utility Enterprise not to exceed \$3,500,000 2022 Taxable Subordinate Lien Revenue Note dated as of July 13, 2022, as amended and restated on [_____, 2024], which evidences the Loan made by the Bank to the Enterprise pursuant to this Agreement.

“*2023 Bond Ordinance*” means the ordinance of the Enterprise which provides for the issuance and delivery of the 2023 Bonds

“*2023 Bonds*” means the Enterprise’s Revenue Bonds, Series 2023.

“*Advance Period*” means the period commencing on the date of the Closing Date and terminating on November 30, 2025, unless terminated or extended as provided herein.

“*Authorizing Ordinance*” means, collectively, the Ordinance adopted by the Board on May 3, 2022, authorizing the Enterprise to finance the Project, enter into the Loan and execute and deliver the Note, this Agreement, and the other Financing Documents and the Ordinance adopted by the Board on June 4, 2024, authorizing the First Amendment.

“*Closing*” means July 13, 2022.

“*Closing Date*” means July 13, 2022.

“*Final Advance Maturity Date*” means November 30, 2025.

“*Final Advance Period*” means the period commencing on the Third Anniversary Advance Maturity Date and terminating on November 30, 2025, unless terminated or extended as provided herein.

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

“*First Amendment*” means the First Amendment to Loan Agreement by and between the Enterprise and the Bank dated as of [_____, 2024].

“*First Amendment Effective Date*” means [_____, 2024].

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“*Interest Payment Date*” means, for Advances, the first Business Day of each month, commencing the first such day occurring after the Initial Advance, and continuing through and including the First, Second, and Third Anniversary Advance Maturity Dates, and the Final Advance Maturity Date, as applicable.

“*Loan Amount*” means, with respect to the Loan, a maximum amount of Three Million Five Hundred Thousand and 00/100 U.S. Dollars (\$3,500,000), or such lesser amount that has been Advanced by the Bank from time to time in accordance with the terms and provisions of this Agreement.

“*Maximum Advance Amount*” means, with respect to the 2022 Note, \$3,500,000.

“*Prior Obligations*” means the outstanding Parity Debt and the outstanding Senior Debt.

“*Senior Debt*” means the 2018A Bonds, the 2018B Bonds, the 2023 Bonds and any obligations of the Enterprise payable from and with a lien on the Net Pledged Revenues on a basis superior to the 2022 Note.

Section 2.02. Amendment to Exhibit A of the Original Agreement. Exhibit A to the Original Agreement is hereby amended and replaced by Appendix A of the First Amendment.

Section 2.03. Amendment to Section 2.01 of the Original Agreement. Section 2.01 of the Original Agreement is hereby amended and replaced to read as follows:

(a) ***Agreement to Make Loan.*** The Bank hereby agrees to extend the Loan to the Enterprise in the maximum aggregate principal amount of \$3,500,000 subject to the terms and conditions of this Agreement. The Loan shall be evidenced by the 2022 Note, the form of which is set forth in **Exhibit A** attached hereto.

(b) ***Advances.*** Subject to the terms and conditions of this Agreement, including without limitation satisfaction of the conditions set forth in Section 2.06 hereof and upon delivery to the Bank of an Advance Request in the form of **Exhibit B** hereto, the Bank hereby agrees to make Advances to the Enterprise from time to time during the Advance Period in the aggregate original principal amounts not to exceed \$3,500,000 with respect to the Loan (as more particularly defined in Article I hereof, the “Maximum Advance Amount”). On the Advance Termination Date, the Unfunded Portion shall be reduced to zero and no further Advances will be made hereunder.

(c) ***Note.*** The Loan shall be evidenced by the 2022 Note. On the Closing Date, the Enterprise shall execute and deliver the 2022 Note payable to the Bank, in substantially the form set forth in **Exhibit A** attached hereto. On the First Amendment Effective Date, the Enterprise shall execute and deliver an amended and restated 2022 Note payable to the Bank, in substantially the form set forth in Exhibit A attached hereto. The Enterprise shall maintain a book for the registration of ownership of the 2022 Note. Upon any transfer of the 2022 Note as provided herein, such transfer shall be entered on such registration books of the Enterprise.

With respect to each Advance funded by the Bank from time to time hereunder, the Bank shall maintain, in accordance with its usual practices, records evidencing the indebtedness resulting from each such Advance and the amounts of principal and interest payable and paid from

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time to time hereunder. In any legal action or proceeding in respect of any Advance or the Loan, the entries made in such records shall be conclusive evidence (absent manifest error) of the existence and amounts of the obligations therein recorded. The 2022 Note shall evidence the obligation of the Enterprise to pay the Loan and shall evidence the obligation of the Enterprise to pay the principal amount of each Advance funded by the Bank hereunder, as such amounts are outstanding from time to time, and accrued interest

(d) ***Commitment Fee.*** The Enterprise shall pay to the Bank a nonrefundable fee (the “Commitment Fee”), which shall be in the amount of 0.005% (\$9,000) of \$1,800,000. The Commitment Fee shall be paid on the Closing Date.

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

(f) ***Special Obligations.*** All amounts due under this Agreement or the 2022 Note shall be payable and collectible solely out of the Net Pledged Revenues, which revenues are hereby so pledged which pledge is in all respects subordinate to the pledge and lien thereon of the Senior Debt at any time outstanding. The Bank may not look to any general or other fund for the payment of such amounts; this Agreement and the 2022 Note shall not constitute a debt or indebtedness within the meaning of any constitutional, charter, or statutory provision or limitation; and this Agreement and the 2022 Note shall not be considered or held to be general obligations of the Enterprise or the City but shall constitute special obligations of the Enterprise. No statutory or constitutional provision enacted after the execution and delivery of this Agreement or the 2022 Note shall in any manner be construed as limiting or impairing the obligation of the Enterprise to comply with the provisions of this Agreement or the 2022 Note. None of the covenants, agreements, representations and warranties contained herein or in the 2022 Note shall ever impose or shall be construed as imposing any liability, obligation or charge against the Enterprise or the City (except the Net Pledged Revenues and the special funds pledged therefor), or against its general credit, or as payable out of its general fund or out of any funds derived from taxation or out of any other revenue source (other than those pledged therefor). The payment of the amounts due under this Agreement or the 2022 Note is not secured by an encumbrance, mortgage or other pledge of property of the City or the Enterprise, except for the Net Pledged Revenues. No property of the City or the Enterprise, subject to such exception, shall be liable to be forfeited or taken in payment of such amounts.

Section 2.04. Amendment to Section 2.02(a) of the Original Agreement. Section 2.02(a) of the Original Agreement is hereby amended and replaced to read as follows:

(a) ***Interest Rate and Payments.*** The unpaid principal balance of the Loan will bear interest at the Interest Rate as determined in Sections 2.07 and 2.08 below. All interest due and payable under this Agreement shall be calculated on the basis of actual interest due based on a 360-day year. Interest payments on each Advance under the Loan shall be due on each Interest Payment Date and on the First, Second, and Third Anniversary Advance Maturity Dates, and on the Final Advance Maturity Date, as applicable. Principal and interest payments on each Term Loan shall be due on each Principal and Interest Payment Date.

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Section 2.05. Amendment to Section 2.07 of the Original Agreement. Section 2.07 of the Original Agreement is hereby amended and replaced to read as follows:

Section 2.07. Setting Interest Rate on Advances.

(a) For all Advances made to the Enterprise during the First Anniversary Advance Period, the Interest Rate shall be the rate of interest of the United States 10-Year Treasury Note at the end of the Business Day on the date of the first Advance made to the Enterprise during the First Anniversary Advance Period plus 2.75%.

(b) For all Advances made to the Enterprise during the Second Anniversary Advance Period, the Interest Rate shall be the rate of interest of the United States 10-Year Treasury Note at the end of the Business Day on the date of the first Advance made to the Enterprise during the Second Anniversary Advance Period plus 2.75%.

(c) For all Advances made to the Enterprise during the Third Anniversary Advance Period, the Interest Rate shall be the rate of interest of the United States 10-Year Treasury Note at the end of the Business Day on the date of the first Advance made to the Enterprise during the Third Anniversary Advance Period plus 2.75%.

(d) For all Advances made to the Enterprise during the Final Advance Period, the Interest Rate shall be the rate of interest of the United States 10-Year Treasury Note at the end of the Business Day on the date of the first Advance made to the Enterprise during the Final Anniversary Advance Period plus 2.75%.

Section 2.06. Amendment to Section 2.08 of the Original Agreement. Section 2.08 of the Original Agreement is hereby amended and replaced to read as follows:

Section 2.08. Conversion to Amortizing Term Loan and Interest Rate. Provided that (i) no Event of Default shall have occurred and be continuing, (ii) all representations and certifications and agreements herein are then true and correct, and (iii) the outstanding Senior Debt is rated on the date of conversion in one of its four highest rating categories by a national recognized organization which regularly rates obligations such as the Senior Debt, Advances shall convert to a term loan, bear interest, and be payable in full by no later than the Maturity Date as hereafter provided (a "Term Loan"):

(a) All Advances made to the Enterprise during the First Anniversary Advance Period shall convert in total to a single Term Loan on the First Anniversary Advance Maturity Date with the Interest Rate being the rate of interest of the United States 10-Year Treasury Note at the end of the Business Day on the First Anniversary Advance Maturity Date;

(b) All Advances made to the Enterprise during the Second Anniversary Advance Period shall convert in total to a single Term Loan on the Second Anniversary Advance Maturity Date with the Interest Rate being the rate of interest of the United States 10-Year Treasury Note at the end of the Business Day on the Second Anniversary Advance Maturity Date; and

(c) All Advances made to the Enterprise during the Third Anniversary Advance Period

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shall convert in total to a single Term Loan on the Third Anniversary Advance Maturity Date with the Interest Rate being the rate of interest of the United States 10-Year Treasury Note at the end of the Business Day on the Third Anniversary Advance Maturity Date.

(d) All Advances made to the Enterprise during the Final Advance Period shall convert in total to a single Term Loan on the Final Advance Maturity Date with the Interest Rate being the rate of interest of the United States 10-Year Treasury Note at the end of the Business Day on the Final Advance Maturity Date.

Section 2.07. Amendment to Section 5.23 of the Original Agreement. Section 5.23 of the Original Agreement is hereby amended and replaced to read as follows:

Section 5.23. Additional Debt. The Enterprise may issue Debt with a lien on the Net Pledged Revenues that is on a parity with or subordinate to the lien of this Agreement, without the Bank's prior written consent. The Enterprise may issue Debt with a lien on the Net Pledged Revenues that is senior to the lien of this Agreement, without the Bank's prior written consent, if such Debt is issued pursuant to the provisions of the 2018 Bond Ordinance and the 2023 Bond Ordinance.

ARTICLE III

REISSUANCE OF NOTE

Section 3.01. Reissuance of Note. In connection with the execution of this Amendment, the Bank shall surrender the Note delivered to the Bank by the Enterprise on July 13, 2022, evidencing the Loan, to the Enterprise to be canceled, which Note will no longer evidence the outstanding Loan Amount. The Enterprise shall execute and deliver to the Bank a new Note, in substantially the form attached hereto as Appendix A, in the name of the Bank, as payee, which shall evidence the Loan and shall bear interest as set forth in the Loan Agreement.

ARTICLE IV

MISCELLANEOUS

Section 4.01. Full Force and Effect. The Original Agreement is hereby amended as of the First Amendment Effective Date to the extent provided in this Amendment and, except as specifically provided herein, the Original Agreement shall remain in full force and effect in accordance with its terms.

Section 4.02. Applicable law and jurisdiction. This Amendment will be governed by and interpreted as provided in Section 8.05 of the Original Agreement and the Parties hereto consent to the exclusive jurisdiction of any state court situated in Larimer County, Colorado in accordance with Section 8.05 of the Original Agreement.

Section 4.03. Headings. Section headings in this Amendment are included herein for convenience of reference only and shall not have any effect for purposes of interpretation or construction of the terms of this Amendment.

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Section 4.04. Counterparts. This Amendment may be signed in any number of counterpart copies, but all such copies shall constitute one and the same instrument.

Section 4.05. Representations and Warranties. Each party hereto represents and warrants to the other that this Amendment has been duly authorized and validly executed by it and that the Original Agreement as hereby amended constitutes its valid obligation, enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by bankruptcy, insolvency or other laws affecting creditors' rights generally and subject to the application of general principles of equity including but not limited to the right of specific performance.

The Enterprise further represents and warrants to the Bank that (a) as of the First Amendment Effective Date, no Event of Default has occurred and is continuing and (b) since the Closing Date, the organizational documents of the Enterprise have not been amended, restated, supplemented or otherwise modified, rescinded or revoked.

Section 4.06. Severability. In case any one or more of the provisions contained herein should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired hereby.

Section 4.07. Electronic Signature; Electronically Signed Document. The parties agree that the electronic signature of a party to this Amendment (or any amendment or supplement of this Amendment) shall be as valid as an original signature of such party and shall be effective to bind such party to this Amendment. The parties agree that any electronically signed document (including this Amendment) shall be deemed (i) to be "written" or "in writing," (ii) to have been signed, and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. For purposes hereof, "electronic signature" means a manually-signed original signature that is then transmitted by electronic means; "transmitted by electronic means" means sent in the form of a facsimile or sent via the Internet as a pdf (portable document format) or other replicating image attached to an e-mail message; and, "electronically signed document" means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature. Paper copies or "printouts", if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule.

ARTICLE V

CONDITIONS PRECEDENT

Section 5.01. Conditions Precedent. This Amendment shall become effective as of the First Amendment Effective Date subject to the satisfaction, in the opinion of the Bank, of or waiver by the Bank of each of the following conditions precedent:

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(a) Delivery by the Enterprise to the Bank of an executed counterpart of this Amendment.

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

(c) All other legal matters pertaining to the execution and delivery of this Amendment shall be satisfactory to the Bank and its counsel (and the execution and delivery hereof by the Bank shall constitute conclusive evidence that all such legal matters have been completed to the satisfaction of the Bank).

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IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to Loan Agreement to be duly executed and delivered as of the date set forth above.

**ZIONS BANCORPORATION, N.A., DBA
VECTRA BANK COLORADO**, a national
banking association

By _____

Name _____

Title _____

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

By _____

President

[ENTERPRISE SEAL]

Attest:

By _____

Secretary

[Signature Page to First Amendment to Loan Agreement]

APPENDIX A TO FIRST AMENDMENT TO LOAN AGREEMENT

EXHIBIT A

FORM OF 2022 NOTE

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

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

2022 TAXABLE SUBORDINATE LIEN REVENUE NOTE

**IN THE AGGREGATE PRINCIPAL AMOUNT OF
NOT TO EXCEED \$3,500,000**

Advances Not to Exceed US \$3,500,000

Original Date July 13, 2022

Amended and Restated Date _____, 2024

FOR VALUE RECEIVED, CITY OF FORT COLLINS, COLORADO, ELECTRIC UTILITY ENTERPRISE, an enterprise of the City of Fort Collins, Colorado, (hereinafter referred to as “Maker”), promises to pay to the order of ZIONS BANCORPORATION, N.A., DBA VECTRA BANK COLORADO, a national banking association, its successors and assigns (hereinafter referred to as “Payee”), at the office of Payee or its agent, designee, or assignee at 2000 South Colorado Blvd., Denver, Colorado 80222, or at such place as Payee or its agent, designee, or assignee may from time to time designate in writing, all Advances made in an amount not to exceed the principal sum of THREE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (US \$3,500,000) (this “Note”) pursuant to the terms of the Loan Agreement dated as of July 13, 2022, as amended by the First Amendment to Loan Agreement dated as of [_____, 2024], by and between Maker and Payee (as amended, the “Loan Agreement”), in lawful money of the United States of America.

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

All amounts due under this Note shall be payable and collectible solely out of the Net Pledged Revenues, which revenues are hereby so pledged which pledge is in all respects subordinate to the pledge and lien thereon of the Senior Debt at any time outstanding. The Bank may not look to any general or other fund for the payment of such amounts; this Note shall not constitute a debt or indebtedness within the meaning of any constitutional, charter, or statutory provision or limitation; and this Note shall not be considered or held to be general obligations of the Enterprise or the City but shall constitute a special obligation of the Enterprise. No statutory

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or constitutional provision enacted after the execution and delivery of the Note shall in any manner be construed as limiting or impairing the obligation of the Enterprise to comply with the provisions of this Note. None of the covenants, agreements, representations and warranties contained herein or in this Note shall ever impose or shall be construed as imposing any liability, obligation or charge against the Enterprise or the City (except the Net Pledged Revenues and the special funds pledged therefor), or against its general credit, or as payable out of its general fund or out of any funds derived from taxation or out of any other revenue source (other than those pledged therefor).

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

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

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

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

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

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permitted under applicable law from time to time in effect and applicable to the indebtedness evidenced hereby for so long as such indebtedness remains outstanding.

Maker and any endorsers, sureties or guarantors hereof jointly and severally waive presentment and demand for payment, protest and notice of protest and nonpayment, all applicable exemption rights, valuation and appraisal, notice of demand, and all other notices in connection with the delivery, acceptance, performance, default or enforcement of the payment of this Note and the bringing of suit and diligence in taking any action to collect any sums owing hereunder or in proceeding against any of the rights and collateral securing payment hereof. Maker and any surety, endorser or guarantor hereof agree (a) that the time for any payments hereunder may be extended from time to time without notice and consent; (b) to the acceptance of further collateral; (c) to the release of any existing collateral for the payment of this Note; (d) to any and all renewals, waivers or modifications that may be granted by Payee with respect to the payment or other provisions of this Note; and/or (e) that additional makers, endorsers, guarantors or sureties may become parties hereto all without notice to them and without in any manner affecting their liability under or with respect to this Note. No extension of time for the payment of this Note shall affect the liability of Maker under this Note or any endorser or guarantor hereof even though Maker or such endorser or guarantor is not a party to such agreement.

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

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

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

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

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

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

TO THE EXTENT PERMITTED BY LAW, MAKER HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF ANY STATE COURT SITUATED IN LARIMER COUNTY, COLORADO, AND WAIVES ANY OBJECTION BASED ON FORUM NON CONVENIENS, WITH REGARD TO ANY ACTIONS, CLAIMS, DISPUTES OR PROCEEDINGS RELATING TO THIS NOTE, THE LOAN AGREEMENT, THE NET PLEDGED REVENUES, ANY OTHER FINANCING DOCUMENT, OR ANY TRANSACTIONS ARISING THEREFROM, OR ENFORCEMENT AND/OR INTERPRETATION OF ANY OF THE FOREGOING.

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

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

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

CITY OF FORT COLLINS, COLORADO,
ELECTRIC UTILITY ENTERPRISE

By _____
President

[SEAL]

Attest:

By _____
Secretary