

CERTIFIED RECORD

OF

PROCEEDINGS

OF

THE BOARD OF

THE CITY OF FORT MORGAN, COLORADO,  
WATER WORKS AND DISTRIBUTION ENTERPRISE

RELATING TO AN ORDINANCE

AUTHORIZING THE ISSUANCE OF ITS

WATER REVENUE REFUNDING BONDS

SERIES 2015

IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$15,000,000

**ORDINANCE NO. 1175**

AN ORDINANCE AUTHORIZING THE ISSUANCE BY THE CITY OF FORT MORGAN, COLORADO, ACTING BY AND THROUGH ITS WATER WORKS AND DISTRIBUTION ENTERPRISE, OF CITY OF FORT MORGAN, COLORADO, WATER WORKS AND DISTRIBUTION ENTERPRISE, WATER REVENUE REFUNDING BONDS, SERIES 2015, IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$15,000,000 FOR THE PURPOSE OF REFUNDING, PAYING AND DISCHARGING CERTAIN OF ITS OUTSTANDING WATER REVENUE OBLIGATIONS; APPROVING AN ESCROW AGREEMENT AND OTHER DOCUMENTS IN CONNECTION WITH THE BONDS, AND PROVIDING OTHER DETAILS.

BE IT ORDAINED BY THE BOARD OF THE CITY OF FORT MORGAN, COLORADO, WATER WORKS AND DISTRIBUTION ENTERPRISE THAT:

Section 1. Definitions and Construction.

A. Definitions. In this Ordinance the following terms have the following respective meanings unless the context hereof clearly requires otherwise:

(1) Act: part 4 of article 35 of title 31, Colorado Revised Statutes, as amended and the Supplemental Public Securities Act.

(2) Additional Parity Bonds: any bonds, warrants, notes, Securities, leases or other contracts payable from the Net Pledged Revenues equally or on a parity with the Bonds issued after the issuance of the Bonds.

(3) Authorized Denominations: the amount of \$250,000 or any integral multiple of \$5,000 in excess thereof, provided that:

(a) no individual Bond may be in an amount which exceeds the principal amount coming due on any maturity date; and

(b) in the event a Bond is partially redeemed and the unredeemed portion is less than \$250,000, such unredeemed portion of such Bond may be issued in the largest possible denomination of less than \$250,000, in integral multiples of not less than \$1,000 each or any integral multiple thereof.

(4) Board: the governing body of the Enterprise.

(5) Bond Fund: the special fund heretofore created by Ordinance No. 842-W of the Board and referred to in Section 5D hereof.

(6) Bond Year: the 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, except that the first Bond Year shall commence on the date of issuance of the Bonds and end on December 1, 2015.

(7) Bonds: the Enterprise's Water Revenue Refunding Bond, Series 2015, dated their date of issuance, in an aggregate principal amount not to exceed \$15,000,000.

(8) Business Day: means any day on which banks located in Denver, Colorado are open.

(9) Chairman: the Chairman of the Board.

(10) Charter: the home rule charter of the City, as amended.

(11) City: the City of Fort Morgan, Colorado, and as context requires indicates the City of Fort Morgan, Colorado, acting by and through the Enterprise.

(12) Code: the Internal Revenue Code of 1986, as amended.

(13) Commercial Bank: a state or national bank or trust company which is a member of the Federal Deposit Insurance Corporation and of the Federal Reserve System, which has capital and surplus of \$1,000,000 or more and which is located within the United States of America.

(14) Council: the governing body of the City.

(15) Debt Service Requirements: the scheduled principal of, interest on and any redemption premium due in connection with the Bonds, any Additional Parity Bonds, any Prior Parity Obligations or any other Securities payable from the Net Pledged Revenues.

(16) Default Rate: is the rate of interest set forth in the Final Terms Certificate plus an additional 3.00% per annum.

(17) Enterprise: the City of Fort Morgan, Colorado, Water Works and Distribution Enterprise.

(18) Enterprise Ordinance: City Ordinance No. 788, authorizing the Enterprise to have and exercise certain powers in furtherance of its purposes.

(19) Escrow Agreement: an agreement, substantially in the form presented to this meeting, between the Escrow Bank and the City, providing for the application of the proceeds of the Bonds to the refunding, payment and discharge of the Refunded Bonds.

(20) Escrow Bank: shall be the entity designated as such in the Final Terms Certificate.

(21) Event of Default: any one of the events described in Section 10A hereof.

(22) Federal Securities: bills, certificates of indebtedness, notes or bonds which are direct obligations of, or the principal and interest on which obligations are unconditionally guaranteed by, the United States of America. No Federal Securities may be callable prior to their scheduled maturities by the issuer thereof.

(23) Final Terms Certificate: the certificate to be executed by the Mayor, dated on or before the date of delivery of the Bonds, setting forth: (a) the rate or rates of interest on the Bonds; (b) the aggregate principal amount and principal amount of each maturity of the Bonds and (c) any other provision related to the delegated duties provided for in Section 12D including but not limited to mandatory sinking fund redemption provisions, optional redemption provisions and optional redemption premium. The Final Terms Certificate shall also identify the Bonds refunded by the Bonds. The Final Terms Certificate shall be construed as if it were a part of this Ordinance, provided that all provisions of the Final Terms Certificate shall be subject to the parameters and restrictions contained in this Ordinance.

(24) Income: all income from rates, fees, tolls and charges and tap fees for the commodities or services furnished by, or the direct or indirect connection with or use of, the Water Facilities, excluding special assessments, and all income or other gain, if any, from investment of the Income and of the proceeds of Securities payable from the Net Pledged Revenues (except income or other gain from any investment of moneys held in any escrow fund for the payment of any refunded Securities) to the extent not required to be rebated to the federal government, and all moneys held in any fund or account adopted or created hereunder.

(25) Independent Accountant: any certified public accountant, or any firm of such accountants, duly licensed to practice and practicing as such under the laws of the State, appointed and paid by the Enterprise or the City, who or which (a) is, in fact, independent and not under the domination of the Enterprise or the City, (b) does not have any substantial interest, direct or indirect, in any of the affairs of the Enterprise or the City, and (c) is not connected with the Enterprise or the City as a member, officer or employee but who may be regularly retained to make annual or similar audits of any books or records of the City.

(26) Initial Purchaser: NBH Bank, N.A.

(27) Interest Payment Date: the date designated by this Ordinance for the payment of interest on the Bonds which shall be December 1 and June 1 in each year commencing on December 1, 2015.

(28) Maturity Date: the date designated by this Ordinance for the payment of the principal of the Bonds, which shall not be later than June 1, 2035.

(29) Maximum Debt Service Year: the single calendar year, during the term of the Bonds, in which occurs the greatest combined Debt Service Requirements on the Bonds then Outstanding, the Additional Parity Bonds then Outstanding, the Prior Parity Obligations then Outstanding, and the Additional Parity Bonds proposed to be

issued, disregarding in such calculation any such Debt Service Requirements that have been defeased with monies (and any expected investment income therefrom) then on deposit in an irrevocable escrow account established with a Trust Bank for the purpose of paying such Debt Service Requirements.

(30) Net Pledged Revenues: all Income remaining after the deduction of Operation and Maintenance Expenses.

(31) Operation and Maintenance Expenses: such reasonable and necessary current expenses of the City, paid or accrued, of operating, maintaining and repairing the Water Facilities as may be determined by the Board or the Council. The term may include at the option of the Board or the Council, except as limited by contract or otherwise limited by law, without limiting the generality of the foregoing:

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

(b) Insurance and surety bond premiums appertaining to the Water Facilities;

(c) The reasonable charges of any paying agent, registrar, transfer agent, depository or escrow bank appertaining to the Water Facilities or any bonds or other Securities issued therefor;

(d) Annual payments to pension, retirement, health and hospitalization funds appertaining to the Water Facilities;

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

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

(g) Contractual services, professional services, salaries, administrative expenses and costs of labor appertaining to the Water Facilities and the cost of materials and supplies used for current operation or routine maintenance and repair of the Water Facilities;

(h) The costs incurred in the collection of all or any part of the Income;

(i) Any costs of utility services furnished to the Water Facilities by the City or otherwise;

(j) payments to the United States Treasury pursuant to section 148(f) of the Code or similar requirements to pay rebate; and

(k) Any other such expenses considered by the City in determining the amount of water rates, fees, tolls and charges imposed for operation and maintenance.

“Operation and Maintenance Expenses” does not include:

- (a) Any allowance for depreciation;
- (b) Any costs of improvements, extensions, or betterments;
- (c) Any accumulation of reserves for capital replacements;
- (d) Any accumulation of reserves for operation, maintenance or repair of the Water Facilities;
- (e) Any allowance for the redemption of any bonds or other Securities or the payment of any interest thereon;
- (f) Any liabilities incurred in the acquisition of any properties comprising the Water Facilities or any existing properties comprising the Water Facilities or any combination thereof; and
- (g) Any other ground of legal liability not based on contract.

(32) Operation and Maintenance Fund: the special fund heretofore created by Ordinance No. 842-W of the Board and referred to in Section 5C hereof.

(33) Ordinance: this Ordinance No. 1175 of the Board.

(34) Outstanding: as of any particular date, all of the Bonds, Additional Parity Bonds, Prior Parity Obligations and such other Securities payable in whole or in part from the Net Pledged Revenues which have been authorized, executed and delivered, except the following:

- (a) Any Bond, Additional Parity Bond, Prior Parity Obligation or other Security cancelled by the Paying Agent or otherwise on behalf of the Enterprise on or before such date;
- (b) Any Bond, Additional Parity Bond, Prior Parity Obligation or other Security held by or on behalf of the Enterprise;
- (c) Any Additional Parity Bond, Prior Parity Obligation or other Security of the Enterprise for the payment or the redemption of which moneys or Federal Securities 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 of the Debt Service Requirements of such Additional Parity Bond, Prior Parity Obligations or other Security to the specified maturity date or specified redemption date of such obligations thereof

shall have theretofore been deposited in escrow or in trust with a Trust Bank for that purpose; and

(d) Any lost, destroyed, or wrongfully taken Bond, Additional Parity Bond, Prior Parity Obligation or other Security of the Enterprise in lieu of or in substitution for which another bond or other Security shall have been executed and delivered.

(35) Owner: the registered owner or owners of all or any portion of the Bonds. The Initial Purchaser is initially the sole Owner of all of the Bonds.

(36) Paying Agent: initially the City, and, if applicable, any Commercial Bank thereafter designated to act as the Paying Agent by the City.

(37) Permitted Investments: obligations permitted under part 6 of article 75 of title 24, Colorado Revised Statutes, as amended, constituting readily marketable securities backed by the full faith and credit of the United States of America.

(38) Person: any individual, firm, partnership, corporation, company, association, joint stock association or body politic or any trustee, receiver, assignee or similar representative thereof.

(39) Prior Parity Obligations: the 1998 Bonds.

(40) Project: the refinancing of all or a portion of the 1995 Note, the 1999 Note and the 1999 Bonds and paying certain other costs associated with the issuance of the Bonds.

(41) Rebate Account: the “City of Fort Morgan, Colorado, Water Works and Distribution Enterprise, Series 2015, Rebate Account” created and designated as such pursuant to Section 5H hereof.

(42) Redemption Date: a date fixed for the redemption prior to maturity the Bonds or other designated Securities in any ordinance or in any notice of prior redemption given by or on behalf of the Enterprise.

(43) Registrar: initially the City, and, if applicable, any Commercial Bank thereafter designated to act as the Registrar by the City.

(44) Refunded Bonds: all or any portion of the 1995 Note, the 1999 Bonds, and the 1999 Note.

(45) Refunding Bonds shall mean any Additional Parity Bonds issued to refund or defease all or a portion of any Outstanding Securities.

(46) Regular Record Date: the fifteenth day of the calendar month next preceding an Interest Payment Date for the Bonds.

- (47) Secretary: the Secretary of the Board.
- (48) Security: any bond issued by the Enterprise or any other evidence of the advancement of money to the Enterprise or the City.
- (49) Special Record Date: the date fixed by the Paying Agent for the determination of ownership of Bonds for the purpose of paying interest not paid when due or interest accruing after maturity.
- (50) State: the State of Colorado.
- (51) Subordinate Bonds or Subordinate Securities: bonds or Securities payable from the Net Pledged Revenues having a lien thereon subordinate or junior to the lien thereon of the Bonds.
- (52) Superior Bonds or Superior Securities: bonds or Securities payable from the Net Pledged Revenues having a lien thereon superior or senior to the lien thereon of the Bonds.
- (53) Supplemental Public Securities Act: being Part 2, Article 57, Title 11 of the Revised Statutes of the State of Colorado, as now in effect and as it may from time to time be amended.
- (54) Tax Compliance Certificate: means that tax compliance certificate entered into in conjunction with the issuance of the Bonds.
- (55) Transfer Agent: the Paying Agent, or its successors.
- (56) Treasurer: the Treasurer of the Board.
- (57) Trust Bank: a Commercial Bank which is authorized to exercise and is exercising trust powers.
- (58) Water Facilities: any one or more works and improvements used in and as a part of the collection, treatment, or distribution of water for the beneficial uses and purposes for which the water has been or may be appropriated, including, but not limited to, uses for domestic, municipal, irrigation, power, and industrial purposes and including construction, operation, and maintenance of a system of raw and clear water and distribution storage reservoirs, deep and shallow wells, pumping, ventilating, and gauging stations, inlets, tunnels, flumes, conduits, canals, collection, transmission, and distribution lines, infiltration galleries, hydrants, meters, filtration and treatment plants and works, power plants, all pumping, power, and other equipment and appurtenances, all extensions, improvements, remodeling, additions, and alterations thereof, and any and all rights or interests in such works and improvements.
- (59) Water Fund: the special fund heretofore created by the City referred to in Section 5B hereof.

(60) 1995 Note: the Enterprise's Loan Contract and Promissory Note, dated August 7, 1995, in the principal amount of \$5,500,000.

(61) 1997 Bonds: the Enterprise's Water Revenue Bonds, Series 1997, dated December 16, 1997.

(62) 1998 Bonds: the Enterprise's Water Revenue Refunding Bonds, Series 1998, dated June 1, 1998.

(63) 1999 Bonds: collectively, the 1999A Bonds and the 1999B Bonds.

(64) 1999 Note: the Enterprise's Loan Contract and Promissory Note, dated June 22, 1999.

(65) 1999A Bonds: the Enterprise's Water Revenue Refunding Bonds, Series 1999A, dated June 15, 1999.

(66) 1999B Bonds: the Enterprise's Water Revenue Refunding Bonds, Series 1999B, dated June 15, 1999.

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

(1) Words in the singular include the plural, and words in the plural include the singular.

(2) Words in the masculine gender include the feminine and the neuter, and when the sense so indicates words of the neuter gender refer to any gender.

(3) Articles, sections, subsections, paragraphs and subparagraphs mentioned by number, letter, or otherwise, correspond to the respective articles, sections, subsections, paragraphs and subparagraphs of this Ordinance so numbered or otherwise so designated.

(4) The titles and headlines applied to articles, sections and subsections of this Ordinance are inserted only as a matter of convenience and ease in reference and in no way define or limit the scope or intent of any provisions of this Ordinance.

## Section 2. Recitals.

A. Pursuant to a resolution passed, adopted and approved by the Council on November 2, 1993, the City has established the Enterprise as an enterprise of the City within the meaning of art. X § 20 of the Colorado Constitution and authorized the Enterprise to issue its own revenue bonds.

B. Pursuant to the Enterprise Ordinance, the City has authorized the Enterprise to have and exercise the following powers to hold meetings concurrently with regular

or special meetings of the Council, to adopt ordinances in the manner in which City ordinances may be adopted, to issue revenue bonds in the manner in which City revenue bonds may be issued without voter approval in advance, to pledge any revenue of the Water Facilities to the payment of such revenue bonds and to pay such revenue bonds therefrom, to enter into contracts relating to the Water Facilities in the manner in which City contracts may be entered into, to make representations, warranties and covenants on behalf of the City relating to the Water Facilities and to bind the City to perform any obligation relating to the Water Facilities other than any multiple-fiscal year direct or indirect debt or other financial obligation whatsoever without adequate present cash reserves pledged irrevocably and held for payments in all future years.

C. The Enterprise has heretofore authorized and issued or executed and delivered the 1995 Note for the purpose of acquiring, improving and equipping Water Facilities consisting of constructing phase 2 of the Southern Water Supply Project.

D. The 1995 Note may be prepaid in all or in part at any time prior to maturity without penalty at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date.

E. The Enterprise has heretofore authorized and issued or executed and delivered the 1999 Note for the purpose of acquiring, improving and equipping Water Facilities consisting of constructing the Morgan Pipeline portion of the Southern Water Supply Project.

F. The 1999 Note may be prepaid in all or in part at any time prior to maturity without penalty at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date.

G. The Enterprise has heretofore authorized and issued or executed and delivered the 1999 Bonds for the purpose of refinancing a portion of the 1997 Bonds.

H. The 1999 Bonds are subject to optional redemption, in whole or in part, at any time prior to maturity at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date.

I. The Board deems it necessary and advantageous for the Enterprise at this time to issue the Bonds for the purpose of refinancing all or a portion of the 1995 Note, the 1999 Note and the 1999 Bonds and paying certain other costs associated with the issuance of the Bonds.

J. The Board has received a commitment from the Initial Purchaser to purchase the Bonds on terms favorable to the Enterprise pursuant to this Ordinance in the principal amount of not to exceed \$15,000,000, and the Board has determined that it is in the best interest of the Enterprise to sell the Bonds to the Initial Purchaser which evidences the amounts owed by the City to the Initial Purchaser.

### Section 3. The Bonds.

#### A. Authorization.

(1) The Bonds, payable as to all Debt Service Requirements solely out of Net Pledged Revenues, are hereby authorized to be issued, the proceeds of the Bonds to be used solely for the Project.

(2) The forms of the Escrow Agreement and the Bonds and any changes thereto as may be necessary in the opinion of the City and bond counsel for the Enterprise to effectuate the intention of the parties or to comply with the provisions of applicable law are hereby approved. The Chairman of the Board and the Secretary of the Enterprise are authorized and directed to execute and deliver the Escrow Agreement in conjunction with the issuance of the Bonds.

(3) The Enterprise shall issue the Bonds, in accordance with this Ordinance and the Final Terms Certificate. The Bonds shall be in the principal amounts, mature on the dates, bear interest payable at the rate or rates and on the dates, be prepayable on the dates and at the prices, be in the form and be secured in the manner provided herein and as determined by the Mayor as certified in the Final Terms Certificate.

B. Bond Details.

(1) Generally. The Bonds shall be issued in fully registered form in Authorized Denominations.

Pursuant to the recommendations of the Committee on Uniform Security Identification Procedures, CUSIP numbers may be printed on the Bonds but shall not be printed on any Bonds owned by the Initial Purchaser.

The Bonds shall mature on a date not later than June 1, 2035. The Bonds shall be dated as of their date of issuance, and shall bear interest from their date of issuance at the rate or rates set forth in the Final Terms Certificate (except in the case of an Event of Default, in which case the Bond shall bear interest at the Default Rate), not to exceed 3.50%, calculated on the basis of a 360-day year and actual days elapsed, payable on each June 1 and December 1, commencing on December 1, 2015. If any principal of the Bonds is not paid when due (whether at maturity or upon optional or mandatory sinking fund redemption), such interest shall continue thereon at the same interest rate until such principal is paid in full.

The Debt Service Requirements of the Bonds shall be payable in lawful money of the United States of America, to the Owners of the Bonds by the Paying Agent. Except for principal payments due on any mandatory sinking fund redemption date, the principal and the final installment of interest shall be payable to the Owner of each of the Bonds upon presentation and surrender thereof at maturity or upon prior redemption, by check or draft mailed to such Owner at the address appearing on the registration books of the Enterprise maintained by the Registrar or, upon the written request of an Owner of the Bonds submitted to the Paying Agent before the Regular Record Date by wire transfer in immediately available funds to the bank account number for such Owner on file with the Paying Agent. Except as hereinbefore and hereinafter provided, interest payable before

the Maturity Date shall be payable to the Owner of each of the Bonds determined as of the close of business on the Regular Record Date irrespective of any transfer of ownership of the Bonds subsequent to the Regular Record Date and prior to such Interest Payment Date, by check or draft mailed to such Owner as aforesaid, or, upon the written request of an Owner of the Bonds submitted to the Paying Agent before the Regular Record Date, by wire transfer in immediately available funds to the bank account number for such Owner on file with the Paying Agent. Any interest not paid when due and any interest accruing after maturity shall be payable to the Owner of each of the Bonds entitled to receive such interest determined as of the close of business on the Special Record Date irrespective of any transfer of ownership of the Bonds subsequent to the Special Record Date and prior to the date fixed by the Paying Agent for the payment of such interest, by wire, check or draft mailed to such Owner as aforesaid. Notice of the Special Record Date and of the date fixed for the payment of such interest shall be given by sending a copy thereof by certified or registered first-class, postage prepaid mail, at least ten (10) days prior to the special record date, to the Owner of each of the Bonds upon which interest will be paid determined as of the close of business on the day preceding such mailing at the address appearing on the registration books of the Enterprise. Any premium shall be payable to the Owner of each of the Bonds redeemed upon presentation and surrender thereof upon prior redemption, by wire, check or draft mailed to such Owner as aforesaid. If the date for making or giving any payment, determination or notice described herein is a not a Business Day, such payment, determination or notice shall be made or given on the next preceding day which is not a Business Day.

(2) Redemption. The Bonds shall be subject to optional redemption and mandatory sinking fund redemption on such terms and conditions as set forth in the Final Terms Certificate subject to compliance with this Ordinance and the related provisions of the Charter.

(3) Interest Rates. The maximum net effective interest rate authorized for the Bonds is 3.5% per annum.

(4) Execution and Authentication. The Bonds shall be executed by and on behalf of the Enterprise with the manual or facsimile signature of the Chairman, shall bear a manual or facsimile impression of the corporate seal of the Enterprise, shall be attested with the manual or facsimile signature of the Secretary, shall be countersigned with the manual or facsimile signature of the Treasurer and shall be authenticated with the manual signature of the Registrar. Should any officer whose facsimile signature appears on the Bonds cease to be such officer before delivery of the Bonds to the Initial Purchaser, such facsimile signature shall nevertheless be valid and sufficient for all purposes. No Bonds shall be valid or become obligatory for any purpose or be entitled to any security or benefit under this Ordinance unless and until the certificate of authentication on such Bonds shall have been duly executed by the Registrar, and such executed certificate upon any such Bonds shall be conclusive evidence that such Bonds have been authenticated and delivered under this Ordinance. The certificate of authentication on any of the Bonds shall be deemed to have been duly executed by the

Registrar if signed by an authorized signatory thereof, but it shall not be necessary that the same signatory sign the certificate of authentication on all of the Bond.

(5) Registration, Transfer and Exchange. Upon their execution and authentication and prior to their delivery, the Bonds shall be registered for the purpose of payment of principal and interest by the Registrar. Thereafter, the Bonds shall be transferable only upon the registration books of the Enterprise by the Transfer Agent at the request of the Owner thereof or his, her or its duly authorized attorney-in-fact or legal representative. The Registrar or Transfer Agent shall accept a Bond for registration or transfer only if the Owner is to be an individual, a corporation, a partnership or a trust and furthermore, such party may only be either a "qualified institutional buyer" within the meaning of rule 144A promulgated under the Securities Act of 1933, as amended (the "Securities Act"), or an "accredited investor" within the meaning of rule 501(a) of Regulation D promulgated by the Securities and Exchange Commission under the Securities Act. A Bond may be transferred in whole or in part and if in part in Authorized Denominations, upon surrender thereof together with a written instrument of transfer duly executed by the Owner or his, her or its duly authorized attorney-in-fact or legal representative with guaranty of signature satisfactory to the Transfer Agent, containing written instructions as to the details of the transfer, along with the social security number or federal employer identification number of the transferee and, if the transferee is a trust, the names and social security numbers of the settlors and the beneficiaries of the trust. The Transfer Agent shall not be required to transfer ownership of any of the Bonds during the 15 days prior to the first mailing of any notice of redemption or to transfer ownership of any of the Bonds selected for redemption on or after the date of such mailing. The Owner of the Bonds may also exchange such Bond for another Bond or Bonds of Authorized Denominations. Transfers and exchanges shall be made at the expense of the transferor or exchanger, and the Transfer Agent may also require payment of a sum sufficient to defray any tax or other governmental charge that may hereafter be imposed in connection with any transfer or exchange of the Bond. No transfer or exchange of any of the Bonds shall be effective until entered on the registration books of the Enterprise. In the case of every transfer or exchange, the Registrar shall authenticate and the Transfer Agent shall deliver to the new Owner a new Bond in the same Authorized Denominations and the same aggregate principal amount, maturing in the same year and bearing interest at the same per annum rate as the Bonds surrendered. Such Bonds shall be dated as of their date of authentication. A new Bond delivered upon any transfer or exchange shall be valid obligations of the Enterprise, evidencing the same obligations as the Bonds surrendered, shall be secured by this Ordinance and shall be entitled to all of the security and benefits hereof to the same extent as the Bonds surrendered. The Enterprise may deem and treat the Person in whose name any Bond is last registered upon the books of the Enterprise as the absolute owner thereof for the purpose of receiving payment of the principal of and interest on such Bonds and for all other purposes, and all such payments so made to such Person or upon his, her or its order shall be valid and effective to satisfy and discharge the liability of the Enterprise upon such Bonds to the extent of the sum or sums so paid, and the Enterprise shall not be affected by any notice to the contrary.

(6) Resignation of Agents. If the Paying Agent, Registrar or Transfer Agent shall resign, or if the Enterprise shall reasonably determine that the Paying Agent, Registrar or Transfer Agent has become incapable of fulfilling its duties hereunder, the Enterprise may, upon notice mailed to the Owner of the Bonds at the addresses last shown on the registration books of the Enterprise, appoint a successor paying agent, registrar or transfer agent. Every such successor paying agent, registrar or transfer agent shall be a Commercial Bank. It shall not be required that the same institution serve as paying agent, registrar, and transfer agent hereunder, but the Enterprise shall have the right to have the same institution serve as paying agent, registrar and transfer agent hereunder.

(7) Replacement of the Bond. If the Bonds shall have been lost, destroyed or wrongfully taken, it may be reissued in the form and tenor of the lost, destroyed or wrongfully taken Bonds upon the Owner's furnishing, to the satisfaction of the Registrar: (a) proof of ownership, (b) proof of loss, destruction or theft, (c) a surety bond in the amount of all principal and interest remaining unpaid on the Bond, and (d) payment of the cost of preparing and issuing the new Bond. Nothing herein prohibits the Enterprise from reissuing, upon such terms and conditions as the Enterprise may determine, provided that such terms and conditions are not otherwise contrary to the provisions of this Ordinance or the requirements of law, any Outstanding Bonds which shall not have become lost, destroyed, or wrongfully taken.

(8) Recitals in the Bonds. The Bonds shall recite in substance that the Bonds are special and limited obligation of the Enterprise payable solely out of and secured by an irrevocable pledge of and first lien (but not necessarily an exclusive first lien) upon the Net Pledged Revenues, that the Bonds does not constitute a debt or an indebtedness of the Enterprise or the City within the meaning of any constitutional or statutory provision or limitation, that the Bonds are not payable in whole or in part from the proceeds of general property taxes, and that the full faith and credit of the City is not pledged for the payment of the principal of or interest on the Bonds. Each of the Bonds shall further recite that it is issued under the authority of the State Constitution, the Act and this Ordinance. Such recital shall conclusively impart full compliance with all of the provisions of the Act, and a Bond issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value.

(9) Form of the Bonds. The Bonds shall be in substantially the form set forth in Appendix A.

C. 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 the Bonds and any Additional Parity Bonds and Prior Parity Obligations then Outstanding, all of which, regardless of the time or times of their maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds and any Additional Parity Bonds and Prior Parity Obligations then Outstanding over any other thereof, except as otherwise expressly provided in or pursuant to this Ordinance.

D. Special Obligations. All of the Bonds, as to all Debt Service Requirements thereof, shall be payable solely out of the Net Pledged Revenues. The Owners of the Bonds may not look to the general fund or any other fund of the City for the payment of the Debt Service Requirements, except the special funds pledged therefor. The Bonds shall not constitute a debt or indebtedness of the Enterprise or the City within the meaning of any constitutional or statutory provision or limitation, and the Bonds shall not be considered or held to be general obligations of the City but shall constitute special and limited obligations of the Enterprise. The Bonds are not payable in whole or in part from the proceeds of general property taxes, and the full faith and credit of the City is not pledged for payment of the Bonds.

Section 4. Sale of Bonds. The commitment for the purchase of the Bonds received from the Initial Purchaser is hereby accepted by the Enterprise. The Bonds shall be sold to the Initial Purchaser at a price of par.

Section 5. Disposition of Bond Proceeds and Income; Funds and Accounts Adopted or Created by Ordinance; Security for Bonds. The proceeds of the Bonds and the Income shall be deposited by the Enterprise in the funds described in this Section 5, to be accounted for in the manner and priority set forth in this Section 5.

Neither the Initial Purchaser nor any subsequent Owner of any Bonds shall be in any manner 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 designated in this Section 5.

The Net Pledged Revenues are hereby pledged to secure the payment of the Debt Service Requirements of the Bonds on a parity with the payment of the Debt Service Requirements of any Additional Parity Bonds and the Prior Parity Obligations. This pledge shall be valid and binding from and after the date of the first delivery of the Bonds, and the moneys, as received by the Enterprise and hereby pledged, shall immediately be subject to the lien of this pledge without any physical delivery thereof, any filing, or further act. The lien of this pledge and the obligation to perform the contractual provisions hereby made shall have priority over any or all other obligations and liabilities of the Enterprise (except as herein otherwise expressly provided), and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Enterprise (except as herein otherwise expressly provided), irrespective of whether such parties have notice thereof.

A. Application of Bond Proceeds. The proceeds of the Bonds shall be deposited by the Enterprise in the funds described in this Section 5A and as further described in the Final Terms Certificate.

(1) The Enterprise shall deposit, to the extent not used immediately to redeem the Refunded Bonds, in a special account created under the Escrow Agreement to be designated as the City of Fort Morgan, Water Revenue Refunding Bonds, Series 2015, Refunding Escrow Account (the "Refunding Escrow Account"), the amounts necessary to pay costs of the Project. Moneys in the Refunding Escrow Account, and interest or investment income thereon, are not included within the Net Pledged Revenues and do not constitute security for the Bonds;

(2) The balance of the proceeds of the Bonds shall be used to pay the costs of issuance of the Bonds and other incidental costs necessary or appropriate in connection with the Project and the financing thereof.

(3) Moneys and investments in the Refunding Escrow Account shall be held and applied by the Escrow Bank to the extent provided in the Escrow Agreement.

B. Water Fund; Flow of Funds. Except as otherwise provided herein, the entire Income, upon receipt thereof from time to time by the City, shall be set aside and credited immediately to the Water Fund.

The Water Fund shall be administered and the moneys on deposit therein shall be deposited and applied in the following order of priority:

(1) First, to the Operation and Maintenance Fund to pay Operation and Maintenance Expenses, including payments to the Rebate Account as required by Section 5H hereof, in the manner set forth in Section 5C hereof;

(2) Second, to the Bond Fund to pay the Debt Service Requirements of the Bonds, the Prior Parity Obligations and any Additional Parity Bonds in the manner set forth in Section 5D hereof;

(3) Third, to the credit of any reserve or similar fund or account hereafter created to secure Additional Parity Bonds, or Prior Parity Obligations then outstanding (or for repayment pursuant to any insurance policy, surety bond, letter or line of credit, or similar credit facility utilized in lieu of such fund or account), in the amounts and at the times required in connection with such Additional Parity Bonds, or Prior Parity Obligations then outstanding.

(4) Fourth, to the payment of the Debt Service Requirements of Subordinate Bonds or other Subordinate Securities in accordance with Section 5F hereof;

(5) Fifth, to the credit of any reserve or similar fund or account hereafter created to secure Subordinate Bonds or other Subordinate Securities then outstanding (or for repayment pursuant to any insurance policy, surety bond, letter or line of credit, or similar credit facility utilized in lieu of such fund or account), in the amounts and at the times required in connection with Subordinate Bonds or other Subordinate Securities; and

(6) Sixth, to be used in accordance with Section 5G hereof.

C. Operation and Maintenance Fund. As a first charge on the Water Fund, there shall be credited from time to time to the Operation and Maintenance Fund Income sufficient to pay the Operation and Maintenance Expenses of the Water Facilities as they become due and payable, and thereupon the Operation and Maintenance Expenses shall be promptly paid.

D. Bond Fund. Subject to the payments required by Section 5C hereof, the Enterprise shall deposit Net Pledged Revenues in the General Account of the Bond Fund which shall be applied to the payment when due of Debt Service Requirements of the Bonds, the Prior Parity Obligations and any Additional Parity Bonds.

The Bond Fund shall be maintained as a sinking fund for the mandatory sinking fund redemption of the Bonds. Any mandatory sinking fund redemption shall be treated as an installment of principal for purposes of this Section 5D.

Nothing herein shall be construed so as to prevent the Enterprise from creating separate Bond Funds for the Bonds and any Additional Parity Bonds and accounting separately for any deposits made thereto on account of the Bonds and any Additional Parity Bonds, if such action is deemed by the Enterprise to be necessary or desirable in order to comply with any statute or regulation governing the tax treatment of interest on the Bonds or any such Additional Parity Bonds, provided that any such separate accounts shall have claims to the Net Pledged Revenues equal to and on a parity with those of the other such accounts. Furthermore, to the extent the Enterprise is obligated to fund a reserve or similar fund or account, moneys can be used from the Bond Fund to replenish said reserves in accordance with the terms of such reserve fund or account.

E. Termination of Deposits. No payment need be made into the Bond Fund if the amount in the Bond Fund is a sum at least equal to the entire amount of the Outstanding Bonds, any Outstanding Additional Parity Bonds and any Outstanding Prior Parity Obligations, as to all Debt Service Requirements, to their respective Maturity Dates or to any Redemption Date or Redemption Dates on which the Enterprise shall have exercised or shall have obligated itself to exercise its option to redeem, prior to their respective Maturity Dates, any Bonds, any Additional Parity Bonds and any Prior Parity Obligations, then Outstanding and thereafter maturing, in which case moneys in the Bond Fund in an amount, except for any known interest or other gain to accrue from any investment or deposit of moneys pursuant to Section 6B hereof from the time of any such investment or deposit to the time or respective times the proceeds of any such investment or deposit shall be needed for such payment, at least equal to such Debt Service Requirements, shall be used together with any such gain from such investments and deposits solely to pay such Debt Service Requirements as the same become due. Any moneys in excess thereof in the Bond Fund and any other moneys derived from the Income or otherwise pertaining to the Water Facilities may be used in any lawful manner determined by the Enterprise.

F. Payment of Subordinate Securities. After there has been deposited to the Bond Fund an amount sufficient to pay all the Debt Service Requirements due on the next Interest Payment Date on all Bonds, Additional Parity Bonds and Prior Parity Obligations then Outstanding to be made in the current Bond Year have been made, any moneys remaining in the Water Fund for such Bond Year may be used by the Enterprise or the City for the payment of Debt Service Requirements of Subordinate Securities payable from the Net Pledged Revenues and authorized to be issued in accordance with this Ordinance; but the lien of such Subordinate Securities on the Net Pledged Revenues and the pledge thereof for the payment of such Subordinate Securities shall be subordinate to the lien and pledge of the Bonds, any Additional Parity Bonds and any Prior Parity Obligations as herein provided. Furthermore, to the extent the

Enterprise is obligated to fund a reserve or similar fund or account for such Subordinate Securities, moneys can be used from the Bond Fund to replenish said reserves in accordance with the terms of such reserve fund or account.

G. Use of Remaining Revenues. After the payments required to be made by Sections 5A through 5F hereof are made, at the end of any Bond Year, or whenever in any Bond Year there shall have been credited to the Bond Fund all amounts required to be deposited in those special funds during said Bond Year, as herein provided, any remaining moneys credited to the Water Fund may be used only for the acquisition or erection of Water Facilities or for the acquisition, improvement or equipment of Water Facilities or for any one or any combination of lawful purposes as the City may from time to time determine.

H. Rebate Account.

(1) There is hereby created and established by the City a separate special fund to be designated the "City of Fort Morgan, Colorado, Water Revenue Refunding Bonds, Series 2015 Rebate Account" (the "2015 Rebate Account"), which shall be expended in accordance with the provisions hereof and the Tax Compliance Certificate. The City shall make deposits and disbursements from the Rebate Account in accordance with the Tax Compliance Certificate, shall invest the Rebate Account only in legal investments for funds of the City and pursuant to said Tax Compliance Certificate, and shall deposit income from said investments immediately upon receipt thereof in the Rebate Account, all as set forth in the Tax Compliance Certificate. The City shall make the calculations, deposits, disbursements and investments as may be required by the immediately preceding sentence, or, to the extent it deems necessary in order to ensure the tax-exempt status of interest on the Bonds, shall employ at its expense a person or firm with recognized expertise in the area of rebate calculation, to make such calculations. The Tax Compliance Certificate may be superseded or amended by a new Tax Compliance Certificate drafted by, and accompanied by an opinion of, nationally recognized bond counsel addressed to the City to the effect that the use of said new Tax Compliance Certificate will not cause the interest on the Bonds to become includible in gross income for purposes of federal income taxation.

(2) The City shall make the rebate deposit described in the Tax Compliance Certificate. Records of the determinations required by this Section 5H and the Tax Compliance Certificate shall be retained by the City until four years after the final retirement of the Bonds or, if later, any obligation issued or executed and delivered to refund the Bonds.

(3) Not later than 30 days after the end of the fifth Bond Year (i.e., the Bond Year ended December 1, 2019) and every five years thereafter, the City shall pay to the United States of America at least 90% of the amount required to be on deposit in the Rebate Account as of such payment date. Not later than 60 days after the final retirement of the Bonds, the City shall pay to the United States of America 100% of the balance remaining in the Rebate Account. Each payment required to be paid to the United States of America pursuant to this Section 5H shall be filed with the Internal Revenue Service Center, Ogden, Utah 84201. Each payment shall be accompanied by a copy of the

Internal Revenue Form 8038-G originally filed with respect to the Bonds, and a statement summarizing the determination of the amount to be paid to the United States of America.

I. Budget and Appropriation of Sums. The sums provided to make the payments specified in this Section 5 are hereby appropriated for said purposes, and said amounts for each year shall be included in the annual budget and the appropriation ordinance, resolution or measures to be adopted or passed by the Council in each year respectively while any of the Bonds, either as to principal or interest, are Outstanding and unpaid. No provisions of any constitution, 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 obligation of the Enterprise and the City to keep and perform the covenants contained in this Ordinance so long as any of the Bonds remain Outstanding and unpaid.

Section 6. General Administration of Funds.

A. Places and Times of Deposits. Each of the special funds or accounts adopted or created in Section 5 hereof shall be maintained in a Commercial Bank kept separate and apart from all other funds or accounts of the Enterprise as trust funds solely for the purposes herein designated. 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 Income. 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 a Saturday, a Sunday or a legal holiday, then such payment shall be made on or before the next preceding business day.

B. Investment of Funds. Any moneys in any fund or account described in Section 5 hereof may be invested, reinvested or deposited only in Permitted Investments. Securities or obligations purchased as such investments shall either be subject to redemption at any time at face value by the Owner thereof at the option of such Owner or shall mature at such time or times as shall most nearly coincide with the expected need for moneys from the fund or account in question. Securities or obligations so purchased as an investment of moneys in any such fund or account shall be deemed at all times to be a part of the applicable fund or account; provided that the interest accruing on such investments and any profit realized therefrom shall be credited to the Water Fund (except to the extent provided in the Tax Compliance Certificate), and any loss resulting from such investments shall be charged to the particular fund or account in question. The Enterprise shall present for redemption or sale on the prevailing market any securities or obligations so purchased as an investment of moneys in a given fund or account whenever it shall be necessary to do so in order to provide moneys to meet any required payment or transfer from such fund or account. The Enterprise shall not invest any moneys accounted for hereunder if any such investment would contravene the covenant contained in Section 8U hereof.

C. No Liability for Losses Incurred in Performing Terms of Ordinance. Neither the Enterprise nor any officer of the Enterprise shall be liable or responsible for any loss resulting from any investment or reinvestment made in accordance with this Ordinance.

D. Character of Funds. The moneys in any fund or account herein described shall consist of lawful money of the United States of America or Permitted Investments or both such money and Permitted Investments. Moneys deposited in a demand or time deposit account in or evidenced by a certificate of deposit of a Commercial Bank pursuant to Sections 6A and 6B hereof, secured according to the laws of the State, shall be deemed lawful money of the United States of America.

E. Accelerated Payments Optional. Nothing contained herein prevents the accumulation in any fund or account designated herein of any monetary requirements at a faster rate than the rate or minimum rate, as the case may be, provided therefor, but no payment shall be so accelerated if such acceleration shall cause a default in the payment of any obligation of the Enterprise pertaining to the Income.

Section 7. Priorities; Liens; Issuance of Additional Bonds.

A. First Lien on Net Pledged Revenues: Equality of Bonds. The Net Pledged Revenues shall be and hereby are irrevocably pledged and set aside to pay the Debt Service Requirements of the Bonds on a parity with any Additional Parity Bonds and Prior Parity Obligations.

The Bonds constitute an irrevocable and first lien (but not necessarily an exclusive first lien) upon the Net Pledged Revenues.

The Bonds, any Additional Parity Bonds and any Prior Parity Obligations issued and from time to time Outstanding shall be 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 thereof, it being the intention of the Board that there shall be no priority among the Bonds, any Additional Parity Bonds and Prior Parity Obligations, regardless of the fact that they may be actually issued and delivered at different times.

B. Issuance of Additional Parity Bonds. Nothing herein, except the limitations stated in Section 7F hereof, prevents the issuance by the Enterprise or the City of Additional Parity Bonds payable from the Net Pledged Revenues and constituting a lien on the Net Pledged Revenues on a parity with, but not prior or superior to, the lien thereon of the Bonds; but before any such Additional Parity Bonds are authorized or actually issued the following conditions shall be satisfied:

(1) Absence of Default. At the time of the issuance of the Additional Parity Bonds the Enterprise shall not be in default in making any payments required by Section 5 hereof.

(2) Application of Proceeds. The net proceeds of the Additional Parity Bonds shall be applied only to the redemption or defeasance, in whole or in part, of the Bonds or any other outstanding securities payable from the Net Pledged Revenues or for the acquisition, improvement or equipping of Water Facilities, in either case including the costs of issuing and securing such Additional Parity Bonds.

(3) Historic Revenues Tests. As certified by an Independent Accountant, the Net Pledged Revenues (excluding connection fees) for any 12 consecutive complete months out of the last 18 complete months prior to the issuance of the proposed Additional Parity Bonds must have been equal to at least 110% of the Debt Service Requirements of (a) the Prior Parity Obligations then Outstanding, the Bonds then Outstanding, any Additional Parity Bonds then Outstanding, and (b) the proposed Additional Parity Bonds to be issued, for the Maximum Debt Service Year. If any adjustment in water rates, fees, tolls or charges is made by the City during such 12-month period, the Independent Accountant shall adjust the calculation of the Net Pledged Revenues (excluding connection fees) to reflect the amount thereof that would have been received if such adjustment had been in effect throughout such 12-month period. For purposes of this Section 7B(3), when computing the average annual Debt Service Requirements for any issue of Securities bearing interest at a variable, adjustable, convertible or other similar rate which 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.

If Additional Parity Bonds are being issued for the purpose of refunding all or any portion of the Securities then Outstanding, the certificate described above in Section 7(B)(3) shall not be required but, instead, a certificate of the Mayor shall be required showing that the annual, aggregate Debt Service Requirements on the Bonds, the Additional Parity Bonds (including the proposed Refunding Bonds), and the Prior Parity Obligations Outstanding immediately following the refunding do not, in any Bond Year through and including the Maturity Date, exceed the annual, aggregate Debt Service Requirements on the Bonds, the Additional Parity Bonds (excluding the Refunding Bonds), and the Prior Parity Obligations Outstanding immediately prior to such refunding.

C. Certification of Revenues. Where certifications of revenues are required by this Ordinance, the specified and required written certifications of the Independent Accountant that revenues are sufficient to pay the required amounts shall be conclusively presumed to be accurate in determining the right of the Enterprise or the City to authorize issue, sell and deliver Additional Parity Bonds.

D. Subordinate Securities Permitted. Nothing herein, except the limitations stated in Section 7F hereof, prevents the Enterprise or the City from issuing Subordinate Securities for any lawful purpose.

E. Superior Securities Prohibited. Neither the Enterprise nor the City shall issue Superior Bonds or Superior Securities.

F. Supplemental Ordinances. Additional Parity Bonds or Subordinate Securities shall be issued only after authorization thereof by ordinance, supplemental ordinance or other instrument of the Board or the Council, stating the purpose or purposes of the issuance of such additional Securities, directing the application of the proceeds thereof to such purpose or purposes, directing the execution thereof, and fixing and determining the date, series designation, principal amount, maturity or maturities, maximum rate or rates of interest and prior redemption

privileges with respect thereto, and providing for payments to and from the Water Fund in accordance with this Ordinance. All additional Securities shall bear such date, shall be payable as to principal, and shall be subject to redemption prior to maturity on such terms and conditions, as may be provided, and shall bear interest at such rate or rates as may be fixed by ordinance, instrument or other document of the Board or the Council. Nothing herein shall preclude the Enterprise or the City from issuing Securities the interest on which is payable more often than semiannually.

#### Section 8. Covenants.

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 continuously until all of the Bonds have been fully paid and discharged:

A. Rate Maintenance. The City shall prescribe, revise, and collect water rates, fees, tolls and charges and tap fees which shall produce Income sufficient, together with any other moneys legally available therefor and credited to the Water Fund, to make the payments and accumulations required by this Ordinance and which shall produce Income sufficient, together with all other moneys legally available therefor and credited to the Water Fund after payment of Operation and Maintenance Expenses, to pay an amount at least equal to 100% of the Debt Service Requirements of the Outstanding Bonds and every other issue of Outstanding Additional Parity Bonds, Prior Parity Obligations or Subordinate Obligations, and any amounts required to meet then existing deficiencies pertaining to any fund or account relating to the Net Pledged Revenues or any Securities payable therefrom.

In the event that the water rates, fees, tolls and charges and tap fees at any time should not be sufficient to make all of the payments and accumulations required by this Ordinance, the City shall increase its water rates, fees, tolls and charges and tap fees to such extent as to ensure the payments and accumulations required by the provisions of this Ordinance.

B. Collection of Charges. The City shall cause all water rates, fees, tolls and charges and tap fees to be billed promptly and collected as soon as reasonable, shall prescribe and enforce rules and regulations or impose contractual obligations for the payment thereof, to the end that the Net Pledged Revenues shall be adequate to meet the requirements of this Ordinance and any other ordinance or instrument supplemental thereto. The water rates, fees, tolls and charges and tap fees shall be collected in any lawful manner.

C. Competent Management. The City shall employ competent management personnel for each component of the Water Facilities. If the Enterprise shall fail to pay the Debt Service Requirements of the Bonds promptly as the same become due, or if the Enterprise or the City shall fail to keep any of the covenants herein contained, and if such default shall continue for a period of 60 days, or if in any fiscal year the Net Pledged Revenues, together with any other moneys legally available therefor and credited to the Water Fund, should fail to equal at least the amount of the Debt Service Requirements of the Bonds and other Securities payable from the Net Pledged Revenues due in said fiscal year, the Enterprise shall retain a firm of competent

management Persons skilled in the operation of water facilities to assist in the management of the Water Facilities so long as such default or deficiency continues.

D. 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 Income and the Water Facilities required by the Constitution and laws of the State and the ordinances, resolutions and contracts of the City, including without limitation the proper segregation of the proceeds of the Bonds and the Income and their application from time to time to the respective funds provided therefor.

E. Costs of Issuance and of Performance. Except as otherwise specifically provided herein, all costs and expenses incurred in connection with the issuance of the Bonds, payment of the Debt Service Requirements or the performance of or compliance with any covenant or agreement contained in this Ordinance shall be paid exclusively (but only from the appropriate special fund in the manner authorized herein) from the proceeds of the Bonds, the Net Pledged Revenues, or other legally available moneys of the City, and in no event shall any of such costs or expenses be required to be paid out of or charged to the general fund of the City.

F. Contractual Obligations. The Enterprise shall perform all contractual obligations undertaken by it relating to the Bonds, the Income or the Water Facilities.

G. 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 necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights, the Net Pledged Revenues and other funds hereby pledged or assigned, or intended so to be, or which the Enterprise or the City may hereafter become bound to pledge or assign, or as may be reasonable and required to carry out the purposes of this Ordinance. The Enterprise, acting by and through its officers, or otherwise, shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Net Pledged Revenues and other funds and accounts pledged hereunder and all the rights of every Owner of any of the Bonds against all claims and demands of all Persons.

H. Conditions Precedent. Upon the date of issuance of any of the Bonds, all conditions, acts and things required by the Constitution or laws of the United States of America, the Constitution or laws of the State, the Charter, the Enterprise Ordinance and this Ordinance 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 Constitution or laws of the State, the Charter, the Enterprise Ordinance or the Ordinance.

I. Efficient Operation and Maintenance; No Free Service. The City shall at all times operate the Water Facilities properly and in a sound and economical manner. The City shall maintain, preserve and keep the Water Facilities 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 maintenance of the Water Facilities may be properly and advantageously conducted. All salaries, fees, wages and other compensation paid by the City in connection with the repair, maintenance and operation of the Water Facilities shall be fair and reasonable.

The City shall supply no free service to any Person. If the City shall use the Water Facilities as a customer, it shall pay a fair and reasonable amount for such service. In no event shall the City pay a greater amount than would be charged to a private Person for the same amount of service. The City shall include in its annual budgets and appropriation measures amounts sufficient to pay for service so furnished.

J. Records and Accounts. The City will keep proper books of record and account, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the funds referred to herein.

K. Rules, Regulations and Other Details. The City, acting by and through its officers, shall establish and enforce reasonable rules and regulations governing the construction, operation, care, repair, maintenance, management, control, and use of the Water Facilities. 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 directives of any legislative, executive, administrative or judicial body applicable to the Water Facilities or the City.

L. Payment of Governmental Charges. The Enterprise or the City shall pay or cause to be paid all taxes and assessments or other municipal or governmental charges, if any, lawfully levied or assessed upon or in respect of the Water Facilities, or upon any part thereof, or upon any portion of the Income, when the same shall become due, and shall duly observe and comply with all valid requirements of any municipal or governmental authority relative to the Water Facilities, 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 or charge upon the Water Facilities, or any part thereof, or upon the Income, except the pledge and lien created by this Ordinance for the payment of the Debt Service Requirements due in connection with 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 90 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 Water Facilities, or any part thereof, or the Income, but nothing herein requires the Enterprise or the City to pay or to 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.

M. 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 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 Bonds or other Securities payable from Net Pledged Revenues might be prejudicially and

materially impaired or diminished without the prior written consent of the Initial Purchaser and any such Owner.

N. Accumulation of Interest Claims. In order to prevent any accumulation of claims for interest after maturity, the Enterprise shall not directly or indirectly extend or assent to the extension of the time for the payment of any claim for interest on any of the Bonds or any other Securities payable from the Net Pledged Revenues; and the Enterprise shall not directly or indirectly be a party to or approve any arrangements for any such extension or for the purpose of keeping alive any of such claims for interest. If the time for the payment of any such installment of interest is extended in contravention of the foregoing provisions, such installment or installments of interest after such extension or arrangement shall not be entitled in case of default hereunder to the benefit or the security of this Ordinance, except upon the prior payment in full of the principal of all of the Bonds and any such Securities the payment of which has not been extended.

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

P. Use of Funds and Accounts. The fund and accounts described herein shall be used solely and only, and the moneys credited to such funds are hereby pledged, for the purposes described herein.

Q. Additional Securities. Neither the Enterprise nor the City shall hereafter issue any Securities relating to the Water Facilities and payable from the Net Pledged Revenues, other than the Bonds, without compliance with the requirements with respect to the issuance of Additional Parity Bonds or other Securities set forth herein to the extent applicable.

R. Other Liens. As of the date of the issuance of the Bonds, there will be no liens or encumbrances of any nature whatsoever on or against the Water Facilities or any part thereof or on or against the Net Pledged Revenues, except for those securing the Prior Parity Obligations.

S. Disposal of Water Facilities Prohibited. Subject to Section 8V hereof, except for the use of the Water Facilities and services pertaining thereto in the normal course of business, neither all nor a substantial part of the Water Facilities shall be sold, mortgaged, pledged, encumbered, alienated or otherwise disposed of, until all of the Bonds have been paid in full, as to all Debt Service Requirements, or until the Bonds have otherwise been redeemed, including, without limitation, the termination of the pledge as herein authorized. Subject to Section 8V hereof, the City shall not dispose of its title to the Water Facilities or to any useful part thereof, including any property necessary to the operation and use of the Water Facilities and the lands and interests in lands comprising the Water Facilities.

T. Surety Bonds. Each official or other person having custody of the Income or responsible for its handling, shall be fully bonded at all times with such bonds conditioned upon the proper application of said moneys. The cost of such bonds shall be considered an Operation and Maintenance Expense, unless otherwise provided by law.

U. Tax Matters.

(1) The Enterprise covenants for the benefit of the Owners of the Bonds that the Enterprise will not take or direct any action or omit to take or direct any action with respect to the Project, the Water Facilities, the Bonds, the proceeds thereof, or any other funds of the City if such action or omission (i) would cause the interest on the Bonds to lose its excludability from gross income of the Owners of the Bonds for federal income tax purposes under Section 103 of the Code; (ii) would cause interest on the Bonds to lose its excludability from alternative minimum taxable income as defined in Section 55(b)(2) of the Code except to the extent such interest is required to be included in the adjusted current earnings adjustment applicable to corporations under Section 56 of the Code in calculating corporate alternative minimum taxable income; (iii) would subject the City to any penalties under Section 148 of the Code; or (iv) would cause interest on the Bonds to lose its excludability from Colorado taxable income or Colorado alternative minimum taxable income under present Colorado law. The Enterprise further covenants, represents and warrants that the procedures set forth in any certificate signed by an officer of the Enterprise implementing the above covenant shall be complied with to the extent necessary to maintain the excludability of interest on the Bonds from federal income taxation or to avoid the application of any penalties under the Code (except to the extent noted in the foregoing provisions of this paragraph). All of the covenants contained in this Section shall remain in full force and effect, notwithstanding the payment in full or other defeasance of any of the Bonds, until all obligations of the Enterprise in fulfilling such covenants have been met.

(2) All of the amounts on deposit in the Water Fund or in any fund or account created under this Ordinance, and all amounts pledged to the payment of the Bonds, shall be invested in compliance with the requirements of Section 6B. Amounts on deposit in the Rebate Account shall be treated as committed for Operation and Maintenance Expenses, and shall not be subject to the lien and pledge of this Ordinance, to the extent that such amounts are required to be paid to the United States Treasury.

(3) The City shall withdraw from the Water Fund for deposit into the Rebate Account, as Operation and Maintenance Expenses, amounts required to be deposited into the Rebate Account from time to time. The City shall cause amounts on deposit in the Rebate Account to be forwarded to the United States Treasury at the times and in the amounts and manner set forth in the certificate implementing the covenants of this Section. Upon receipt of an opinion of nationally recognized bond counsel that the balance in the Rebate Account is in excess of the amount required by Section 5H to be included therein, such excess shall be transferred to the Bond Fund.

V. Disposal of Property. No part of the Water Facilities shall be sold, leased, mortgaged, pledged, encumbered or otherwise disposed of or otherwise alienated, until all of the Bonds have been paid in full, or unless provision has been made therefor, or until the Bonds have otherwise been redeemed; provided, however, that the City may sell, exchange or lease at any time and from time to time any property or facilities constituting part of the Water Facilities and not needed in the construction, reconstruction or operation thereof; but any proceeds of any such sale or exchange received and not used to replace such property so sold or exchanged shall be

deposited in the Water Fund, and any proceeds of any such lease received shall be deposited by the City as revenues of the Water Facilities.

W. Loss from Condemnation. If any part of the Water Facilities is taken by the exercise of a power of eminent domain, the amount of any award received by the City as a result of such taking shall be expended upon the improvement of the Water Facilities or shall be applied to the redemption of the Outstanding Bonds, any Outstanding Additional Parity Bonds and any Prior Parity Obligations Outstanding in accordance with the provisions hereof and of any other instrument pertaining to the issuance of any such Prior Parity Obligations at maturity or prior thereto if the authorizing ordinances authorize the prior redemption of such Securities, or shall be deposited in the Water Fund and held as a reserve for expenditure subsequently upon such capital improvements, or any combination thereof, as the Board and the Council may determine.

X. Inspection of Records. Any Owner of any of the Bonds or any other Securities payable from the Net Pledged Revenues or any duly authorized agent or agents of such Owner shall have the right at all reasonable times to inspect all records, accounts and data relating thereto, concerning the Water Facilities, or the Income to make copies of such records, accounts and data at the Owner's expense, and to inspect the Water Facilities and properties comprising the Water Facilities.

Y. 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 Enterprise 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 Water Facilities or the Income. All expenses incurred in the making of the audits and reports required by this subsection may be regarded and paid as an Operation and Maintenance Expense. So long as the Bonds are Outstanding, the City shall provide the following to the Owner or Owners of the Bonds at the times and in the manner provided: (a) within the earlier of two weeks following publication or 9 months after the end of each fiscal year, such audit prepared as discussed above; (b) as soon as available, but in no event later than 30 days after the start of each fiscal year, the City's annual budget for such fiscal year and, as soon as available, a copy of any proposed amendment thereto, if any; and (c) promptly upon request of the Owner or Owners, such other reports or information as the Owner or Owners may reasonably request.

Z. Insurance and Reconstruction. Except to the extent that the City elects to insure itself, the City shall at all times maintain with responsible insurers all such insurance reasonably required and obtainable within limits and at costs deemed reasonable by the City as is customarily maintained with respect to water facilities of like character against loss of or damage to the Water Facilities of the City and against public and other liability to the extent at least reasonably necessary to protect the interest of the City and of each Owner of Bonds or any other Security payable from the Net Pledged Revenues, except as herein otherwise provided. If any useful part of the Water Facilities shall be damaged or destroyed, the City shall, as expeditiously as possible, commence and diligently proceed with the repair or replacement of the damaged or destroyed property so as to restore the same to use. The proceeds of any insurance appertaining to the Water Facilities shall be payable to the City and (except for proceeds of 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 Water Fund as Income. If the costs of such repair and replacement of the damaged or destroyed property exceed the proceeds of such property insurance available for payment of the same, moneys in the Water Fund shall be used to the extent necessary for such purpose, as permitted by Section 5G hereof.

Section 9. Defeasance. When the principal of and interest on any Bonds have been duly paid, the pledge and lien and all obligations hereunder with respect to such Bonds shall be discharged, and such Bonds shall no longer be deemed to be Outstanding within the meaning of this Ordinance. There shall be deemed to be such due payment of any Bonds when the City has placed in escrow or in trust with a commercial bank, located within or without the State and exercising trust powers, an amount sufficient (including the known minimum yield from Federal Securities in which such amount wholly or in part may be initially invested) to meet all requirements of principal of and interest on such Bonds as the same become due to their final maturities (including any amounts due pursuant to any mandatory sinking fund redemption) or upon any optional redemption dates as of which the City shall have exercised or shall have obligated itself to exercise its prior redemption option. The Federal Securities shall become due at or prior to the respective times on which the proceeds thereof shall be needed, in accordance with a schedule established and agreed upon between the City and such bank at the time of the creation of the escrow or trust, or the Federal Securities shall be subject to redemption at the option of the holders thereof to assure such schedule. In the event that there is a defeasance of only part of the Bonds of any maturity, the Registrar shall, if requested by the City, institute a system to preserve the identity of the individual Bonds or portions thereof so defeased, regardless of changes in Bond numbers attributable to transfers and exchanges of Bonds; and the Registrar shall be entitled to reasonable compensation and reimbursement of expenses from the City in connection with such system.

Section 10. Default Provisions and Remedies of Bond Owners.

A. Events of Default. Each of the following events is hereby declared to be and to constitute an Event of Default:

(1) 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;

(2) Nonpayment of Interest. Payment of the interest on any of the Bonds is not made when the same becomes due and payable;

(3) Incapacity to Perform. The Enterprise or the City for any reason becomes incapable of fulfilling their obligations hereunder;

(4) Nonperformance of Duties. The Enterprise or the City shall have failed to carry out and to perform (or in good faith to begin the performance of) all acts and things lawfully required to be carried out or to be performed by it under any contract relating to the Income or to the Water Facilities or otherwise, including, without limitation, this Ordinance, and such failure shall continue for 60 days after receipt of

notice from the Owners of 25% in aggregate principal amount of the Bonds then Outstanding; provided that if such failure cannot be cured within such 60 days and if during that period corrective action has commenced to remedy such failure and subsequently is diligently pursued by the Enterprise or the City to the completion of such performance, an Event of Default shall not be deemed to have occurred;

(5) Failure to Reconstruct. The Enterprise or the City discontinues or unreasonably delays or fails to carry out with reasonable dispatch the reconstruction of any essential part of the Water Facilities which is condemned, destroyed or damaged and is not promptly repaired or replaced (whether such failure to repair the same is due to impracticality of such repair or replacement, or is due to a lack of moneys therefor, or for other reason);

(6) Appointment of Receiver. An order or decree is entered by a court of competent jurisdiction, with the consent or acquiescence of the Enterprise or the City, appointing a receiver or receivers for the Water Facilities or for the Income and any other moneys subject to the lien to secure the payment of the Bonds, or both the Water Facilities and such moneys, or if any order or decree, having been entered without the consent or acquiescence of the Enterprise or the City, is not vacated or discharged or stayed on appeal within 60 days after entry;

(7) Default of Any Provision. The Enterprise or the City makes any default 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, and if such default continues for 60 days after written notice, specifying such default and requiring the same to be remedied, is given to the Enterprise and the City by the Owners of 25% in aggregate principal amount of the Bonds then Outstanding; provided that if such default cannot be cured within such 60 days and if during that period corrective action has commenced to remedy such default and subsequently is diligently pursued to the completion of such performance, an Event of Default shall not be deemed to have occurred;

(8) Default on Parity Bonds. Any event of default occurs under any ordinance authorizing the issuance of the Prior Parity Obligations or any Additional Parity Bonds.

(9) Upon the occurrence of an Event of Default, the rate of interest shall be the Default Rate until such Event of Default is cured.

B. Remedies for Defaults. Upon the happening and continuance of any of the Events of Default, as provided in Section 10A hereof, then and in every case 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 Enterprise and their agents, officers and employees to protect and to enforce the rights of any Owner of Bonds under this Ordinance by mandatory injunction 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 an operating trustee or for the specific performance of any covenant or agreement

contained herein or for 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 Enterprise to act as if it were the trustee of an expressed trust, or any combination of such remedies, or as otherwise may be authorized by any statute or other provision of law. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Bonds, and any Additional Parity Bonds or Prior Parity Obligations then Outstanding. Any receiver or operating trustee appointed in any proceedings to protect the rights of such Owners hereunder may collect, receive and apply all Income arising after the appointment of such receiver or operating trustee in the same manner as the Enterprise itself might do. The consent to any such appointment is hereby expressly granted by the Enterprise.

C. 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, the City or any of their officers, agents or employees of any liability for failure to perform to carry out any duty, obligation or other commitment. Each right or privilege of any such Owner or trustee therefor 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. 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 statute except as provided in Sections 11A and 11B hereof, and subject to the applicable provisions concerning the Income and the proceeds of the Bonds. Nothing herein affects or impairs the right of any Owner of any Bond to enforce the payment of the Debt Service Requirements due in connection with such 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 such Bond.

D. Duties Upon Default. Upon the happening of any of the Events of Default as provided in Section 10A hereof, the Enterprise, in addition, will do and perform all proper acts on behalf of and for the Owners of the Outstanding Bonds to protect and to preserve the security created for the payment of their Bonds and to ensure the payment of the Debt Service Requirements promptly as the same become due. During any period of default, so long as any of the Bonds, as to any Debt Service Requirements, are Outstanding, except to the extent it may be unlawful to do so, all Net Pledged Revenues shall be paid into the Bond Fund on an equitable and prorated basis, and used for the purposes therein provided. If the Enterprise fails or refuses to proceed as in this Section 10D 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 Outstanding Bonds shall be subrogated to all rights of the Enterprise under any agreement or contract involving the Net Pledged Revenues entered into prior to the effective date of this Ordinance or thereafter while any of the Bonds are Outstanding. Nothing herein requires the Enterprise to proceed as provided herein if it determines in good faith and without any abuse of its discretion that if it so proceeds it is more likely than not to incur a net loss rather than a net gain or such action is likely to affect materially and prejudicially the Owners of the Outstanding Bonds and any Outstanding Prior Parity Obligations.

E. Evidence of Security Owners. Any request, consent or other instrument which this Ordinance may require or may permit to be signed and to be executed by the Owner of any Bonds or other Securities may be in one (1) instrument or more than one (1) instrument of similar tenor and shall be signed or may be executed by each Owner in person or by his attorney appointed in writing. Proof of the execution of any such instrument or of any instrument appointing any such attorney, or the ownership by any Person of the Securities, shall be sufficient for any purpose of this Ordinance (except as otherwise herein expressly provided) if made in the following manner:

(1) Proof of Execution. The fact and the date of the execution by any Owner of any Bonds or other Securities or his, her or its attorney of such instrument may be proved by the certificate, which need not be acknowledged or verified, of any officer of a bank or trust company satisfactory to the Paying Agent or 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 the 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 the 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

(2) Proof of Ownership. The amount of Bonds owned by any Person executing any instrument as an Owner of Bonds, and the numbers, date and other identification thereof, together with the date of his, her or its ownership of the Bonds, shall be determined from the registration books of the Enterprise. The amount of other Securities, if applicable, owned by any Person executing any instrument as an owner of such Securities, and the numbers, date and other identification thereof, together with the date of his, her or its ownership, if in bearer form, may be proved by a certificate which need not be acknowledged or verified, in form satisfactory to the Paying Agent, executed by a member of a financial firm or by an officer of a bank or trust company, insurance company or financial corporation or other depository satisfactory to the Paying Agent, or by 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, showing at the date therein mentioned that such Person exhibited to such member, officer, notary public or other officer so authorized to take acknowledgments of deeds or had on deposit with such depository the Securities described in such certificate or, if in registered form shall be determined from the related registration books; but the Paying Agent may nevertheless in her discretion require further or other proof in cases where she deems the same advisable.

F. Warranty Upon Issuance of Bonds. Any of the Bonds as herein provided, when duly executed, authenticated and registered for the purposes provided for in this Ordinance, shall constitute a warranty by and on behalf of the Enterprise for the benefit of each

and every future Owner of any of the Bonds that the Bonds have been issued for a valuable consideration in full conformity with law.

Section 11. Amendment of Ordinance.

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

- (1) To cure or correct any formal defect, ambiguity or inconsistent provision contained in this Ordinance;
- (2) To appoint successors to the Paying Agent, Registrar or Transfer Agent;
- (3) To designate a trustee for the Owners of the Bonds, to transfer custody and control of the Income to such trustee, and to provide for the rights and obligations of such trustee;
- (4) To add to the covenants and agreements of the Enterprise or the City or the limitations and restrictions on the Enterprise or the City set forth herein;
- (5) To pledge additional revenues, properties or collateral to the payment of the Bonds;
- (6) To cause this Ordinance to comply with the Trust Indenture Act of 1939, as amended from time to time; or
- (7) To effect any such other changes hereto which do not in the opinion of nationally recognized bond counsel materially adversely affect the interests of the Owners of the Bonds.

Whenever the Board has authorized the amendment or modification of this Ordinance under the provisions of this Section 11A it shall give notice of the amendment by mailing such notice to the Initial Purchaser, or to any successor thereof known to the Paying Agent, and to all Owners of Bonds at the addresses appearing on the registration books of the Enterprise. Such notice shall briefly set forth the nature of the amendment and shall state that a copy of the amendatory ordinance or other instrument is on file in the office of the Secretary for public inspection.

B. Amendment of Ordinance Requiring Consent of Bond Owners. Exclusive of the amendatory ordinances covered by Section 11A hereof and except as hereinafter provided, this Ordinance may be amended or modified by ordinances or other instruments duly adopted by the Board, without receipt by it or any additional consideration, but with the written consent of the Owners of sixty-six percent (66%) in aggregate principal amount of the Bonds then Outstanding at the time of the adoption of such amendatory ordinance, provided that no such amendatory ordinance shall permit:

(1) Changing Payment. A change in the Maturity Date or in the terms of redemption of the principal of any Outstanding Bond or any installment of interest thereon; or

(2) Reducing Return. A reduction in the principal amount of any Bond or the rate of interest thereon without the consent of the Owner of the Bond; or

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

(4) 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; or

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

(6) 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.

Whenever the Board proposes to amend or modify this Ordinance under the provisions of this Section 11B it shall give notice of the proposed amendment by mailing such notice to the Initial Purchaser, or to any successor thereof known to the Paying Agent, and to all Owners of Bonds at the addresses appearing on the registration books of the Enterprise. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy of the proposed amendatory ordinance or other instrument is on file in the office of the Secretary for public inspection.

C. Time for and Consent to Amendment. Whenever at any time within one year from the date of the completion of the notice required to be given by Section 11B hereof there shall be filed in the office of the Secretary an instrument or instruments executed by the Owners of at least the required 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 the required 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 Enterprise 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 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 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 at least the required 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.

D. 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 Enterprise and of the Owners of the Bonds may be modified or amended in any respect upon the adoption by the Enterprise and upon the filing with the Paying Agent 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 in Section 11C hereof; and no notice to Owners of Bonds shall be required as provided in Section 11B hereof, nor shall the time of consent be limited except as may be provided in such consent.

E. Exclusion of Bonds. At the time of any consent or of other action taken hereunder the Enterprise shall furnish to the Paying Agent a certificate, upon which the Paying Agent may rely, describing all Bonds owned by the Enterprise and 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.

F. Notation on Bonds. Any of the Bonds delivered after the effective date of any action taken as provided in Section 11B, 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, her or its Bond for such purpose at the principal office of the Enterprise, suitable notation shall be made on such Bond by the Paying Agent 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.

G. Proof of Instruments and Bonds. The fact and date of execution of any instrument under the provisions of this Section 11, the amount and number of the Bonds owned by any Person executing such instrument, and the date of his, her or its registering the same may be proved as provided by Section 10E hereof.

## Section 12. Miscellaneous.

A. Character of Agreement. None of the covenants, agreements, representations or warranties contained herein or in the Bonds shall ever impose or shall be

construed as imposing any pecuniary liability, obligation or charge against the Enterprise or the City (except for the special funds pledged therefor) or against the general credit of the Enterprise payable out of general funds or out of any funds derived from general property taxes.

B. No Pledge of Property. The payment of the Bonds is not secured by an encumbrance, mortgage or other pledge of property of the Enterprise except for the Net Pledged Revenues. No property of the Enterprise or the City, subject to such exception with respect to the Net Pledged Revenues, is pledged for the payment of the Bonds or shall be liable to be forfeited or taken in payment of the Bonds.

C. Statute of Limitations. No action or suit based upon any Bond or other obligation of the Enterprise or the City shall be commenced after it is barred by any statute of limitations pertaining thereto. Any moneys from whatever source derived remaining in any fund or account reserved, pledged or otherwise held for the payment of any such obligation, action or suit, the collection of which has been barred, shall revert to the Water Fund, unless the Board shall otherwise provide by resolution. Nothing herein prevents the payment of any such Bond or other obligation after an action or suit for its collection has been barred if the Board deems it in the best interests of the Enterprise, the City or the public so to do and orders such payment to be made.

D. Delegated Duties. Pursuant to the Supplemental Public Securities Act, as well as the City's powers as a home rule municipality under article XX of the Colorado Constitution, and in order to provide for the sale of the Bonds expeditiously and to the best financial advantage of the City, the Board hereby delegates to the Mayor the power and duty to determine and approve the final aggregate principal amount, annual principal maturities, mandatory sinking fund redemption provisions, optional redemption provisions and optional redemption premium, interest rates, and purchase price (i.e., premium, if any) of the Bonds, which determinations and approvals shall be consistent with the provisions of the Charter and with the parameters and restrictions of this Ordinance, and which determinations and approvals shall be evidenced by the execution by the Mayor of the Final Terms Certificate. As provided in Section 11-57-205, C.R.S., as amended, the delegations of authority provided in this Section 12D shall be effective for one year from the final adoption of this ordinance, and if the Bonds are not sold within such one-year period, the Bonds may not be sold without additional Board authorization (which authorization, together with other provisions supplemental to this Ordinance, may be by resolution adopted by the Board). The City hereby elects, pursuant to Section 11-57-204, C.R.S., to apply such portions of the Supplemental Public Securities Act as are relevant to and not inconsistent with the provisions of this Ordinance, including without limitation Sections 11-57-205, 11-57-206, 11-57-207, 11-57-208, 11-57-209, 11-57-210 and 11-57-212, C.R.S., as amended. The delegations provided for herein shall be in addition to the delegations to City officers provided for in other provisions of this Ordinance.

The officers of the City and the Enterprise are hereby authorized and directed to enter into such agreements and take all action necessary or appropriate to effectuate the provisions of this Ordinance and to comply with the requirements of law, including, without limitation:

(1) Printing of Bonds. The printing, preparation and delivery of the Bonds, duly certified by the Registrar, and, if necessary or desirable pending delivery of

printed Bonds, the preparation of one or more temporary typewritten Bonds in an aggregate principal amount equal to that of the Bonds, otherwise in substantially the same form and bearing the same terms, to be delivered to the Initial Purchaser and thereafter to be exchanged by the Initial Purchaser for printed Bonds when the same are received by the Enterprise;

(2) Execution, Authentication, Registration and Delivery of Bonds.

The execution, authentication and registration of the Bonds and the delivery of the Bonds to the Initial Purchaser pursuant to the provisions of this Ordinance;

(3) Maintain Tax-Exempt Status. Any action necessary or desirable

to maintain the tax-exempt status of the Bonds.

(4) Continuing Disclosure Undertaking and other Information. The

assembly and dissemination of financial and other information concerning the Enterprise, the City, the Project and the Bonds and the execution of appropriate agreements, if any, as to the City's continuing disclosure undertaking.

(5) Book-Entry System. The entering into and execution of

appropriate agreements as to the book-entry system for the Bonds, if applicable.

(6) Escrow Agreement, Closing Certificates and Other Documents.

The execution of the Escrow Agreement and such other documents and certificates as may be reasonably required by the Initial Purchaser including without limitation, relating, inter alia, to:

(a) The signing of the Bonds;

(b) The tenure and identity of the officials of the Enterprise and the City;

(c) If in accordance with fact, the absence of litigation, pending or threatened, affecting the validity of the Bonds;

(d) The tax treatment of interest on the Bonds under federal and State income tax laws, including the Tax Compliance Certificate; and

(e) The delivery of the Bonds and the receipt of the Bond purchase price.

(f) The completion and finalization of the Escrow Agreement.

E. Successors. Whenever herein the Enterprise or the City is named or is referred to, such provision shall be deemed to include any successors of the Enterprise or the City, whether so expressed or not. All of the covenants, stipulations, obligations and agreements by or on behalf of and other provisions for the benefit of the Enterprise or the City contained herein shall bind and inure to the benefit of any officer, board, district, commission, authority, agency, instrumentality or other Person or Persons to whom or to which there shall be transferred

by or in accordance with law any right, power or duty of the Enterprise or the City or of its respective successors, if any, the possession of which is necessary or appropriate in order to comply with any such covenants, stipulations, obligations, agreements or other provisions hereof.

F. Rights and Immunities. Except as herein otherwise expressly provided, nothing herein expressed or implied is intended or shall be construed to confer upon or to give to any Person, other than the Enterprise, the City and the Owners from time to time of the Bonds, any right, remedy or claim under or by reason hereof or any covenant, condition or stipulation hereof. All the covenants, stipulations, promises and agreements herein contained by and on behalf of the Enterprise or the City shall be for the sole and exclusive benefit of the Enterprise, the City and any Owner of any of the Bonds.

No recourse shall be had for the payment of the Debt Service Requirements of the Bonds or for any claim based thereon or otherwise upon this Ordinance authorizing their issuance or any other ordinance or instrument pertaining thereto, against any individual member of the Board or the Council, or any officer or other agent of the Enterprise or the City, past, present or future, either directly or indirectly through the Enterprise, the City or otherwise, whether by virtue of any constitution, statute or rule of law or by the enforcement of any penalty or otherwise, all such liability, if any, being by the acceptance of the Bonds and as a part of the consideration of their issuance specially waived and released.

G. Statutory Limitations Met. The Board hereby determines that the provisions and limitations of the Act and any other applicable law imposed on the issuance of the Bonds have been met.

H. Facsimile Signatures. Pursuant to the Uniform Facsimile Signature of Public Officials Act, part 1 of article 55 of title 11, Colorado Revised Statutes, as amended, the Chairman, the Secretary and the Treasurer shall forthwith, and in any event prior to the time the Bonds are delivered to the Initial Purchaser, file with the Colorado Secretary of State their manual signatures and the seal of the Enterprise certified by them under oath.

I. 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, subject to the provisions of Section 11 hereof, if any Bonds are in fact issued, shall be and shall remain irrepealable until the Bonds, as to all Debt Service Requirements, shall be fully paid, satisfied or discharged.

J. Ratification. All action not inconsistent with the provisions of this Ordinance heretofore taken by the Enterprise or its officers and otherwise by the Enterprise directed toward the refinancing of the Refunded Bonds and the issuance of the Bonds is hereby ratified, approved and confirmed.

K. 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.

L. 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.

INTRODUCED AND PASSED UPON FIRST READING this 19th day of MAY, 2015, for publication once in a newspaper of the City of Fort Morgan, Colorado, at least ten days before its final passage.

CITY OF FORT MORGAN, COLORADO  
WATER WORKS AND DISTRIBUTION  
ENTERPRISE

By:   
Chairman of the Board

ATTESTED AND AUTHENTICATED:

  
Secretary

FINALLY PASSED, ADOPTED AND APPROVED this 2nd day of June, 2015, for publication once in a newspaper of the City of Fort Morgan, Colorado, within five days of this final passage, to take effect five days after final publication.

CITY OF FORT MORGAN, COLORADO  
WATER WORKS AND DISTRIBUTION  
ENTERPRISE

By:   
Chairman of the Board

ATTESTED AND AUTHENTICATED:

  
Secretary

STATE OF COLORADO )  
COUNTY OF MORGAN ) ss.  
CITY OF FORT MORGAN )

I, John J. Brennan, the duly appointed, qualified and acting Secretary of the City of Fort Morgan, Colorado, Water Works and Distribution Enterprise do hereby certify that the foregoing Ordinance No. 1175 was, as a proposed ordinance duly and legally presented to the Board of the City of Fort Morgan, Colorado, Water Works and Distribution Enterprise on the 19th day of May, 2015. Said ordinance, as proposed, was duly read at length at said meeting and thereafter the same was, on the 23rd day of May, 2015, published in the FORT MORGAN TIMES, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado. Said proposed ordinance was again taken up and read a second time at a regular meeting of the Board held on the 2nd day of June, 2015; that the above and foregoing Ordinance No. 1175 was duly and legally passed, approved and adopted on said 2nd day of June, 2015, and thereafter published as an ordinance in the City in the said FORT MORGAN TIMES on the 4th day of June, 2015.

  
Secretary

STATE OF COLORADO )  
 )  
COUNTY OF MORGAN ) ss.

(Attach affidavit of publication of Ordinance in full before final passage.)