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AGENDA
Council Finance & Audit Committee Hybrid Meeting
April 4, 2024
4:00 - 6:00 pm
CIC Room
Zoom Meeting <https://zoom.us/j/8140111859>

Approval of Minutes from the March 20th, 2024, Council Finance Committee meeting.

- | | | |
|------------------------------------|----------|------------|
| 1. 2025-2026 Budget Process Review | | L. Pollack |
| Presentation: | 20 mins. | |
| Discussion: | 25 mins. | |
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2. EPIC Home Loan Bank Renewal | | B. Tholl |
| Presentation: | 10 mins. | G. Pease |
| Discussion: | 10 mins. | |

Council Finance Committee
2024 Agenda Planning Calendar
Revised 03/27/24 ts

April 4th	2024		
	2025-2026 Budget Process Review	45 min	L. Pollack
	EPIC Home Loan Bank Renewal	15 min	B. Tholl G. Pease

May 2nd	2024		
	TCEF Reimbursement with a Metro District	30 mins	M. Virata M. Martinez

June 6th	2024		
	Water Supply Requirements, Excess Water Use Surcharges, and Nonresidential Allotments	60 min	J.Dial

July 3rd	2024		

August 1st	2024		

Unscheduled Topics

Municipal Court Renovation and 215 N. Mason HVAC Update/Upgrade
September – Annual Adjustment Ordinance – Lawrence Pollack



Council Finance Committee Hybrid Meeting
CIC Room / Zoom
March 20, 2024
4:30- 7:00 pm

Council Attendees: Emily Francis, Kelly Ohlson, Tricia Canonico, Mayor Jeni Arndt via phone

Staff: Kelly DiMartino, Tyler Marr, Travis Storin, Dean Klingner, Leann Williams, Victoria Shaw

Denzel Maxwell, Lawrence Pollack, Ginny Sawyer, Adelle McDaniel, Brad Buckman, Brian Hergott, Brian Tholl, Cortney Geary, Dave Lenz, Jeff Rochford, Jill Wuertz, Zack Mozer, Tyler Stamey, Terri Runyan, SeonAh Kendall, Ryan Malarky, Peggy Streeter, Nina Bodenhamer, Monica Martinez, Mallory Gallegos, Lockie Woods, Jacob Castillo, Cortney Geary, Julia Feder, Chief Bergsten, Patti Forsythe, Chris Martinez, Carolyn Koontz

Others: Bill Salmon, PFA Board Member

Meeting called to order at 4:30 pm

Approval of minutes from February 23rd, 2024, Council Finance Committee Meeting.
Kelly Ohlson moved for approval of the minutes as presented. Emily Francis seconded the motion.
The minutes were approved unanimously via roll call by; Emily Francis, Kelly Ohlson.

A. 2024 Reappropriation

Lawrence Pollack, Budget Director

Review of the 2024 Reappropriation Ordinance to appropriate prior year reserves.

EXECUTIVE SUMMARY

The purpose of this item is to reappropriate monies in 2024 that were previously authorized by City Council for expenditures in 2023 for various purposes. The authorized expenditures were not spent or could not be encumbered in 2023 because:

- There was not sufficient time to complete bidding in 2023 and therefore, there was no known vendor or binding contract as required to expend or encumber the monies; or

- The project for which the dollars were originally appropriated by Council could not be completed during 2023 and reappropriation of those dollars is necessary for completion of the project in 2024.

Additionally, there may have been sufficient unspent dollars previously appropriated in 2023 to carry on programs, services, and facility improvements in 2024 for those specific purposes.

In the above circumstances, the unexpended and/or unencumbered monies lapsed into individual fund balances at the end of 2023 and reflect no change in Council policies.

Monies reappropriated for each City fund by this Ordinance are as follows:

General Fund	\$2,498,249
Cultural Services Fund	55,000
Recreation Fund	251,064
Museum Fund	61,265
Transportation Services Fund	1,288,625
Water Fund	52,500
Data & Communications Fund	390,600
Total	<u>\$4,597,303</u>

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

Does the Council Finance Committee support moving forward with the 2024 Reappropriation Ordinance on the Consent Agenda at the April 2, 2024 Council meeting?

BACKGROUND/DISCUSSION

The Executive Team has reviewed the Reappropriation requests to ensure alignment with organization priorities and the Budget staff reviewed the requests to verify that all met qualification requirements. The 2024 Reappropriation requests are as follows, by fund:

GENERAL FUND

City Clerk's Office

1) City Clerk Elections - \$188,375

Purpose for funds: This offer was developed to fund the 2023 regular municipal election on the presumption that a regular municipal election would occur in April of 2023 and would be conducted by the City Clerk's Office. City Council put a ballot question before the voters in November 2022 which changed the regular municipal election date to November in odd numbered years.

Reason funds not expensed in 2023: The 2023 election expenditures resulted in cost savings due to the election being coordinated with Larimer County in a November election and not conducted by the City.

The remaining funds are requested to be reappropriated to support the 2024 coordinated election, which will include the City's anticipated sales tax renewal ballot questions. A 2024 election was not fully budgeted in the 23-24 BFO cycle.

2) Legislative Management System Implementation - \$27,945

Purpose for funds: A legislative management system provides the backbone for how information about policy decisions gets to and from the City Council. Currently, the City uses an agenda management system

that is past its useful life for receiving ongoing support and updates from the vendor and is not as robust as newer solutions on the market. Implementation of a new legislative management system will provide the public with greater access to City legislative information, provide time savings for City staff and the Clerk's Office, and decrease demands on IT for setup and support.

Reason funds not expensed in 2023: The City's competitive selection process took place in the second half of 2023, resulting in a vendor engagement and the start of software implementation in the first quarter of 2024. Now with a vendor under contract, first-year costs have been priced at \$127,945, as compared to the original first-year project estimate of \$150,000 in 2023. No expenditures occurred in the first year of the project budget. This request is to reappropriate \$27,945 of the unspent \$150,000 to increase the 2024 budget to meet the new first-year software implementation cost. Year-two and annual ongoing costs of the Legislative Management System have been priced at \$89,600, as compared to the original project estimate budget of \$100,000 ongoing.

Community Development and Neighborhood Services

3) Administration of 1041 Regulations - \$320,000

Purpose for funds: Ordinance 2023-076 was adopted in June 2023 to ensure the City had adequate oversight of 1041 regulations by retaining the services of a third-party consultant to assist in the review of proposals and permit applications to conduct designated activities or develop within a designated area, and to conduct follow up inspections and monitoring related to issued permits.

Reason funds not expensed in 2023: Although several RFPs were initiated, followed by local vendor interviews, an RFP re-scoping exercise, direct outreach to out-of-state companies, and timeline extensions to the RFP, City Staff did not receive any proposals to contract services for this program. On January 4, 2024, the City Manager approved a hiring exception for a Classified FTE (1) for the purpose of administering 1041 regulations.

4) Rental Housing Services - \$65,000

Purpose for funds: Last year, City Council passed an ordinance that will require most housing providers to register their rental properties annually (exceptions are mobile home parks and owner-occupied rentals). They also approved staffing to develop educational opportunities and provide resources for both housing providers and tenants. This is an exciting opportunity for the City to be a partner to housing providers and tenants, and an active supporter of quality affordable rental housing in the community. This budget was designed to cover the startup costs of the program, including materials for new staff, for community consultants to build equity and inclusivity into the program, and to create communication materials for both housing providers and tenants.

Reason funds not expensed in 2023: Funding appropriation was delayed and hiring of the Rental Housing Manager was not complete until October of 2023, which left little time for expenditure of funds. These startup funds are critical for ensuring that the rental housing program is a success. If these funds are not appropriated, we will have reduced capacity for education and engagement with the thousands of community members who are part of the rental market. These funds are pivotal to the start-up phase of the program which was built to have higher hourly and consultant needs.

5) Digital Transformation (Licensing, Permitting, and Code Enforcement) - \$757,000

Purpose for funds: This project represents a vital opportunity to simplify, standardize, and improve processes in preparation for a dramatic and sustained increase in community demand for licensing and permitting. The current licensing and permitting environment relies on a patchwork of Accela-based

systems, spreadsheets, paper applications, and online forms. This means that customers must navigate multiple different systems and requirements depending on the specific license/permit they are seeking. In addition, process improvements and system changes within Accela currently require the investment of significant funding and rely on extensive IT support and use of third-party contractors. This initiative will include simplifying and standardizing business processes alongside the evaluation of optimal digital solutions to build a more holistic, customer-centered software ecosystem that incorporates a wider range of internal users. The result will be implementation of a more holistic, customer-centered software ecosystem to increase efficiency, advance accessibility, and improve the overall customer experience.

Reason funds not expensed in 2023: Project funds were partially encumbered (\$170,000) and spent (\$22,500) in 2023 to procure an additional contractor at the strong recommendation of the City's IT department, since the scope of the desired software functionality expanded significantly to include the needs of Utilities, Clerk, IT, and Community Development within this "digital transformation" priority. This contractor was utilized to synthesize needs from these multiple parties, to better ensure that the future software solution meets the project's vision, guiding principles, and key success factors, ultimately providing a more consistent user experience, and better internal coordination and efficiencies. With the expansion of the project scope, the selection contractors helped assemble a 600-page RFP which was released on January 12, 2024; and closed February 16, 2024. Initial vendor evaluation phase is in progress with procurement anticipated in May. The funds requested for reappropriation in 2024 are expected to be encumbered in 2024 with the selected vendor, and the work is expected to extend into 2025. The team anticipates that the remaining budget will be fully utilized for this phase of configuration and implementation. Future budget appropriations are anticipated for any expansion of the scope, additional implementation phases, necessary change management tasks, and ongoing maintenance and subscriptions for user and administrator accounts.

Economic Health Office

6) Placer AI Software - \$32,750

Purpose for funds: Placer AI is a location-based analytics company. Charting both foot and vehicular traffic, Placer data provides insight into how people move through the City. This data will be used to better understand and mitigate capital project construction impacts on local business, as well as assist in other economic development efforts like site selection and business retention.

Reason funds not expensed in 2023: This reappropriation is necessary because contract negotiations between Placer AI, City Purchasing, and CAO were not completed before the end of 2023.

7) Small Business Revolving Loan Fund - \$25,000

Purpose for funds: The accumulated economic development fund was set aside to create the City of Fort Collins Revolving Loan Fund for Small Businesses and Startup companies operating in Fort Collins. The City will use the funds to support program access to capital for small businesses in Fort Collins city limits, including those that have historically not had access to traditional financial capital markets.

Reason funds not expensed in 2023: \$25,000 is set aside each year to cover administrative and marketing costs of the third-party and City Economic Health Office. The Revolving Loan Fund was not launched at the end of Q4, 2023, so these funds need to be reappropriated and held for a Q1/Q2 2024 launch of the fund.

Emergency Preparedness and Security (EPS)

8) Security Technology for Emergency Preparedness - \$13,456

Purpose for funds: This offer provides funding for security technology upgrades to Community Services public facilities, with priorities being set by Community Services staff in conjunction with EPS. Specifically, this reappropriation request is to finish security camera infrastructure projects at Northside Aztlan, Museum of Discovery, and the Lincoln Center.

Reason funds not expensed in 2023: Security cable installation at the three forementioned public facilities was planned and contracted in 2023. However, the projects were not completed until late 2023 and early 2024 due to schedule coordination with contractors. Three invoices for the completed work have been received and are scheduled to be paid in 2024, totaling \$13,456.

Environmental Services

9) CivicSpark Fellowship for Our Climate Future - \$22,800

Purpose for funds: This Fellowship provides an opportunity for an early-career professional to work full-time in local government, partially subsidized by the federal AmeriCorps program, through a nonprofit called CivicWell. The City's contribution is roughly the same as what has been historically allocated for a part-time program assistant, thanks to the partnership with CivicWell. Typically, the 11-month Fellowship runs from September to August of the following year and there is a slight discount if the funds are paid in full at the start of the contract period.

Reason funds not expensed in 2023: This cycle, the placement was shortened to a three-quarter placement, beginning in January 2024. This resulted in a timing issue for funding held in 2023 for the 2023-24 cohort. We are requesting the 2023 funds be reappropriated to support the original request that historically would have been funded in full beginning in Q4, 2023.

Municipal Court

10) Larimer County Jail Contract - \$18,260

Purpose for funds: Through an annual contract with Larimer County, the City of Fort Collins is provided joint use of the Jail and Larimer County Sheriff services. Instead of paying per bed space used, per bond issued at the jail, and per in-custody hearing held, the City pays a set price for the use of these services. In 2023, City reserved two bed spaces per day to ensure there was space available if a Municipal Court defendant upon conviction of an applicable municipal ordinances or a finding of contempt of court by a Judge was sentenced to serve jail. The Court held approximately 140 in-custody hearings involving over 800 cases and used approximately 900 jail bed spaces in 2023. Accordingly, the City's reserved bed spaces for 2024 has increased from two to three bed spaces per day, as it had been prior to 2023.

Reason funds not expensed in 2023: The 2023 Annual Jail Services contract with Larimer County totaled \$106,500, while the Municipal Court budgeted \$125,000 in 2023 for this service. For 2024, the contract was raised to \$195,000 while our budget is only \$130,000. To offset this difference, we are requesting the 2023 savings to be reappropriated to the 2024 budget.

11) Opioid Relief Fund - \$75,000

Purpose for funds: To date, the City has received a total of \$170,169 as part of a national opioid settlement. The Council Finance Committee and City Council supported an appropriation of \$75,000 in August 2023 to establish a municipal drug court program that would provide evidence based problem-solving court practices. No expenditure occurred in 2023 as part of the new Drug Court program.

Reason funds not expensed in 2023: Municipal Court is in the process of hiring 1 FTE Probation Officer. Because this program is one of the first in its kind for a Municipal Court in Colorado, the Court is carefully

vetting potential candidates and their qualifications to make sure that the creation of this program is considered a best practice from the start. The position was originally planned to start in 2023 but is now anticipated to start in the second quarter of 2024.

Police Information Systems

12) Northern Colorado Regional Communication Network (NCRCN) Radio Redundancy- \$30,000

Purpose for funds: This reappropriation is for additional needed radio infrastructure to create redundancy to the communication system within the Northern Colorado Radio Communication Network.

Reason funds not expensed in 2023: In 2023, ORD 41 was approved to fund needed repairs on the radio towers on top of Poudre Valley Hospital and just north of Horsetooth Mountain, however, there is a final phase of this project that is necessary to close weaknesses in the communication system. This last phase will create redundancy between the 911 call center and Platte River Power Authority so that communication could continue if the existing fiber node wasn't functioning. This will be completed by Q3 of 2024.

Police Office of the Chief

13) City Give - Rifle Plates - \$102,563

Purpose for funds: This reappropriation is for the remaining portion of a charitable gift designated by the donor as a demonstration of appreciation for Police Services to be used toward personal protection equipment.

Reason funds not expensed in 2023: In 2022 and 2023 Police Services purchased personal protection equipment for all applicable officers. The Chief of Police continues to explore ways to spend the remaining amount that will meet the current needs of Police Services and also honor the donor's designated intent.

14) Santa Cops Donation - \$500

Purpose for funds: In 2023 ORD 093 was approved by Council as a part of the City Give program. This donation was made by Santa Cops to help purchase gifts for kids in need during the holidays.

Reason funds not expensed in 2023: Changes in programming resulted in the donation not being deployed in 2023. The funds will be used in 2024 per the designated intent.

Police Patrol

15) Police Handheld Radios - \$620,000

Purpose for funds: In 2023 ORD 108 was approved by Council in September to purchase handheld radios for Police Services as a critical piece of equipment to be effective in providing safety for the community.

Reason funds not expensed in 2023: Because of the size of the order that was placed in the later part of 2023 and the extensive process to get all of the radios ready for use, the payment will not be made until the early part of 2024.

Social Sustainability

16) Electrical Vehicle (EV) Infrastructure Offset Credits - \$199,600

Purpose for funds: These funds address the cost differential between current Colorado Housing and Finance Authority requirements and the updated Building Code requirements for Electric Vehicle (EV) infrastructure for affordable developments. The program provides cost-sharing of these additional infrastructure requirements by providing credits of flat fees calculated per project based on eligible parking spaces.

Reason funds not expensed in 2023: Two developments were awarded these EV credits in 2023. All future affordable housing developments will be built to the standards in the 2021 Building Code and will therefore qualify for this incentive. Amounts will vary depending on the number of parking spaces per development.

CULTURAL SERVICES & FACILITIES FUND

Cultural Services – Gardens on Spring Creek

17) The Gardens on Spring Creek Nutrien Donation - \$55,000

Purpose for funds: Nutrien donated \$100,000 to The Gardens on Spring Creek in 2023 which is designated for supporting healthy eating programs, including exterior capital improvements of the Outdoor Teaching Kitchen at The Gardens.

Reason funds not expensed in 2023: The donation from Nutrien was appropriated in April 2023. The donor did not place a deadline for expending the funds. In some cases, in 2023, purchases were held up trying to get pricing quotes from vendors. Gardens staff have been looking at best uses for the funds going forward.

In 2023 The Gardens used the donation funds to hold cooking classes for adults and for summer camp, purchased supplies for the outdoor kitchen, and completed minor capital work including new locks, concrete and engraving work, and water heater and weather-stripping repairs. The Gardens is working with City Give so that the next time a donation of this type is received the funds will be put into a non-lapsing business unit.

RECREATION FUND

Recreation

18) EPIC Asset Repair & Replacement - \$251,064

Purpose for funds: 2023 Offer 43.16 proposed three projects to address severe facility maintenance issues at EPIC. The offer was then scaled down to include only one of the projects to address drainage of the EPIC Pool deck. Low spots and inadequate slopes cause water to create puddles and not drain properly. To improve the safety and comfort of pool users it is necessary to rework the deck tile so water that splashes onto the deck will flow to one of the existing deck drains. EPIC was designed to be a competitive pool, but because of this issue some outside groups no longer want to use EPIC for swim meets as it does not meet their standards.

While the pool deck remains a high priority, further assessment is needed to capture the full scope of repairs that are necessary along with budgeting for the total repair. We would like to shift these funds in 2024 to the second priority listed in Offer 43.16 of replacing the flooring that surrounds the ice rinks.

Reason funds not expensed in 2023: Project became underfunded due to escalated costs in 2023. \$13,316 had been spent on Project Management fees assessing the deck in 2023.

MUSEUM FUND

Cultural Services – FC Museum of Discovery

19) The Museum of Discovery Artifact Housing Furniture - \$61,265

Purpose for funds: This offer will provide funds to purchase and install a collections storage system and special archival quality equipment and supplies at the Fort Collins Museum of Discovery (FCMoD). This enhancement includes a one-time expense for the purchase, delivery and installation of shelving and cabinetry custom designed for specific types of artifacts and contract staff to move and rehouse artifacts using specialized supplies including general conservation materials such as ethafoam, buffered tissue, and acid free archival boxes.

As the artifact collection continues to grow the need to complete the buildout of the storage furniture is reaching critical mass. Approximately half of the collection's storage furniture is installed and is safely housing historical collections owned by the City of Fort Collins. It is important to properly house historic collections like the one held at FCMoD to industry standards to preserve history and to help the community to tell stories of all and our place in time. The Archive & Collections are a valuable community resource, they are accessible and free for any member of the public.

Reason funds not expensed in 2023: The furniture was received in late 2023 and the Museum needs to use the remaining funds for staffing to set up the new furniture and make sure that all artifacts are properly handled and stored.

TRANSPORTATION FUND

Streets

20) Roof Replacement for Salt Barn - \$185,000

Purpose for funds: The purpose of this request is to reappropriate \$185,000 for the Streets Department Salt Barn roof replacement. The existing EPDM (ethylene propylene diene terpolymer) roof has been leaking, the membrane has become de-laminated from the substrate, and the roof is well past its life. Additionally, the interior leaks of the roof at the perimeter; the scuppers and downspout collector heads are also leaking. These leaks and the freeze/thaw cycling during the winter months are causing damage to the interior and exterior of the brick structure of the historic building.

Reason funds not expensed in 2023: The Streets Department and Operation Services conducted a thorough review of concerns arising from the roof of the Salt Barn due to the severe weather events during the Spring and Summer of 2023. The structural age of the facility required an asbestos test prior to obtaining a quote, adding additional time to the project. Once the quotes were received the total cost of the roof exceeded the Request For Proposal (RFP) work order on-call max of \$120,000. As a result, an RFP or bidding process needs to be completed for the roof which could not be completed by the end of 2023.

21) Centre Avenue Paving Project - \$657,000

Purpose for funds: The purpose of this request is to reappropriate \$657,000 from the 2023 Street Maintenance Program (SMP) budget to cover the costs of the Centre Avenue project which was scheduled to be completed in 2023. This project includes an asphalt overlay of three streets: Centre Avenue between Prospect Road and Worthington Circle, Worthington Avenue between Centre Avenue and Drake Road, and Research Boulevard between Centre Avenue and Drake Road.

Reason funds not expensed in 2023: The Centre Avenue project was scheduled to be repaved in 2023 during the summer when CSU was on break to minimize the impact to the students and faculty since this project is adjacent to the CSU campus. The project was postponed to 2024 to coordinate with the pedestrian and bicycle underpass project that goes under Prospect Road (just west of Centre Avenue). The Prospect Road underpass project was delayed and completed as CSU returned to school in August. To minimize the traffic impact to CSU, the Centre Avenue project was postponed to the following year.

22) MAX/BRT Bus Line Pavement Upgrade - \$366,625

Purpose for funds: The purpose of this request is to reappropriate \$366,625 from the 2023 Street Maintenance Program (SMP) budget to cover the costs of the Mason BRT/ MAX project which was scheduled to be completed in 2023. The work was not completed north of Mountain Avenue to Maple Street in 2023.

Reason funds not expensed in 2023: This project was delayed due to contract negotiations with BNSF. Work ceased as the winter and colder temperatures shut down the project towards the end of the 2023 construction season. This final phase of the project includes an asphalt overlay and concrete improvements on Mason Street between Mountain Avenue and Maple Street. These last two blocks of work will complete the approved 2023 Asset Management Enhancement Offer 7.12 – Street Maintenance Program – MAX/ BRT Bus Line – Downtown Concrete Pavement Upgrade project.

Traffic

23) Neighborhood Traffic Mitigation Program Project Construction - \$80,000

Purpose for funds: Traffic in neighborhoods can affect the quality of life for residents, bicycles, pedestrians, as well as drivers. The Neighborhood Traffic Mitigation Program is a collaborative effort between neighborhoods and City staff to implement traffic calming options. In 2023, Traffic received \$150,000 funding for traffic calming devices and an additional \$65,000 funding for medians and/or pedestrian refuge islands, sidewalk curb extensions and traffic diverters in order to achieve a more "complete streets" approach to traffic calming. The offer included funding for professional (consulting) services and funding for the construction of traffic mitigation devices on neighborhood streets. Traffic is requesting \$80,000 to be re-appropriated from the 2023 budget to construct these mitigation improvements.

Reason funds not expensed in 2023: Due to staffing changes and consultant availability, design of the mitigation improvements for Stuart and Stover was not started until fall. Survey and design will be completed in the Spring of 2024, and the construction will start in the summer/fall.

WATER FUND

Utilities Water Resources

24) Northern Integrated Supply Project (NISP) Response & Engagement - \$52,500

Purpose for funds: Since 2008, the City has developed and contributed science-based input to the various planning stages of the Northern Integrated Supply Project (NISP) project with the goal of minimizing adverse impacts on the Poudre River and the Fort Collins community. The City's efforts have resulted in positive changes to this project which are reflected in the NISP operations and mitigation plan. Funding from this 2022 offer is intended to provide technical consulting and engineering support to inform the City's engagement in future NISP planning efforts. Specifically, City staff will engage in NISP adaptive management and master planning stakeholder processes; however, additional technical and consulting support will be needed to achieve the desired outcomes. Funds from this offer would support: 1) Water resources engineering and analysis to advise the NISP flow operations and ensure the proposed flow mitigation program is realized; 2) Advisement for the development of NISP's proposed Master Plan and Adaptive Management Program; and 3) Additional discipline-specific representation on technical advisory groups and input for project infrastructure proposed within the City limits.

Reason funds not expensed in 2023: The NISP project Record of Decision (ROD) was released in late 2022, and Northern Water's Adaptive Management and River master Planning discussions with Poudre basin stakeholders did not commence until Q3 of 2023. To date, however, there has only been one meeting to restart the planning process. More active engagement is expected in 2024, per communication from Northern Water. City staff will continue to respond to the project timeline and engagement process that Northern Water develops for their project. Funds from this budget offer will be used for the original intended purpose of developing science-based input with the assistance from technical and engineering consultants, on how the NISP project impacts should be managed, mitigated and monitored.

DATA AND COMMUNICATIONS FUND

Information Technology

25) GIS Cloud Modernization - \$90,600

Purpose for funds: The GIS Cloud Modernization support efforts to modernize the existing ArcGIS Enterprise Portal implementation. This work will simplify and stabilize the existing platform in order to reduce the support required from IT to maintain this system. This also frees resources to focus on higher value work. The modernization will reduce the support needed for the GIS infrastructure while ensuring the stability, availability, and security of the environment for its 1121 users. Migrating existing solutions onto ArcGIS Online where appropriate, establishing GIS Governance, implementing advanced monitoring, deprecating outdated applications, and upgrading to current versions of software will allow for reduced confusion and application fatigue. There is a need to work with other teams, including IT Security, to make sure this solution meets all requirements.

Reason funds not expensed in 2023: These funds were not fully expended in 2023, as the team spent the beginning of the year focusing on procuring an Esri Advantage Program that provides guidance and assistance with accomplishing the identified modernization efforts. Efforts in 2023 were focused on the first stage of upgrading the ArcGIS Enterprise platform to the current version. As this is a planned multi-year project, activities in 2024 will be focused on establishing governance for GIS, implementing advanced monitoring of the system, deprecating the use of applications that are no longer supported by Esri, and continuing the process to upgrading to the current versions of all applications on the platform.

26) ERP System Replacement - \$300,000

Purpose for funds: This offer will identify the components necessary for the City to implement a modernized ERP ecosystem, accounting for all readiness components, and will focus on the first two phases necessary to transform our business processes into a modern solution while minimizing customizations that exponentially increase implementation and support costs. To succeed this must become a business-led, technology-enabled transformation and we must plan this modernization in six key phases: 1) discovery and planning, 2) business process transformation, 3) design and development, 4) change management and training, 5) testing and implementation, and 6) operational support. Maintaining our current platform amplifies the need for high-touch, manual support. A new ERP solution will implement industry best practices necessary to standardize and streamline processes, reduce costly customization, address talent resiliency while improving our risk management, and disaster recovery practices, and ensure compliance with our pending end-of-life support. Also, implementing a standard solution will reduce the 32+ interfaces necessary to support today.

Reason funds not expensed in 2023: These funds were not expended in 2023, as the team was focusing efforts on aligning with the following statement from the original offer: "To succeed, this must become a business-led, technology-enabled transformation...". Efforts in 2023 were focused on transforming this into a business-led plan by coordinating with outside vendors and multiple counties and municipalities, such as Alight, Denver, Boulder, and Kitsap County, who walked Finance, HR, and IT staff through their unique experiences with previous implementations to help the City prepare for ERP preparation and replacement, before the City spends any of the allocated and future funds.

For 2024, continuation of this work includes hiring a consultant to facilitate a collaboration effort between the key City departments to provide strategic planning, readiness, change management planning, business process review, data considerations, and other key initiatives required to develop and support the business processes to be served by a future ERP system.

FINANCIAL/ECONOMIC IMPACTS

This Ordinance increases 2024 appropriations by \$4,597,303. A total of \$2,498,249 is requested for reappropriation from the General Fund, \$1,288,625 is requested from the Transportation Fund, and \$810,429 from other funds. Reappropriation requests represent amounts budgeted in 2023 that could not be encumbered at year-end. The appropriations are from prior year reserves.

Discussion / Next Steps;

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

Does the Council Finance Committee support moving forward with the 2024 Reappropriation Ordinance on the Consent Agenda at the April 2, 2024 Council meeting?

Kelly Ohlson; a very clear and well done presentation – I am good with it- thank you.

Emily Francis; Larimer County Jail Contract (see below) why is it different?

Municipal Court

1) Larimer County Jail Contract - \$18,260

Purpose for funds: Through an annual contract with Larimer County, the City of Fort Collins is provided joint use of the Jail and Larimer County Sheriff services. Instead of paying per bed space used, per bond issued at the jail, and per in-custody hearing held, the City pays a set price for the use of these services. In 2023, City reserved two bed spaces per day to ensure there was space available if a Municipal Court defendant upon conviction of an applicable municipal ordinances or a finding of contempt of court by a Judge was sentenced to serve jail. The Court held approximately 140 in-custody hearings involving over 800 cases and used approximately 900 jail bed spaces in 2023. Accordingly, the City's reserved bed spaces for 2024 has increased from two to three bed spaces per day, as it had been prior to 2023.

Reason funds not expensed in 2023: The 2023 Annual Jail Services contract with Larimer County totaled \$106,500, while the Municipal Court budgeted \$125,000 in 2023 for this service. For 2024, the contract was raised to \$195,000 while our budget is only \$130,000. To offset this difference, we are requesting the 2023 savings to be reappropriated to the 2024 budget.

Lawrence Pollack; it is due to the number of beds – our utilization required more beds – usage has gone up

Emily Francis; for the Administration of the 1041 regulations (see below) – RFP to hiring someone \$350K

Community Development and Neighborhood Services

1) Administration of 1041 Regulations - \$320,000

Purpose for funds: Ordinance 2023-076 was adopted in June 2023 to ensure the City had adequate oversight of 1041 regulations by retaining the services of a third-party consultant to assist in the review of proposals and permit applications to conduct designated activities or develop within a designated area, and to conduct follow up inspections and monitoring related to issued permits.

Reason funds not expensed in 2023: Although several RFPs were initiated, followed by local vendor interviews, an RFP re-scoping exercise, direct outreach to out-of-state companies, and timeline extensions to the RFP, City Staff did not receive any proposals to contract services for this program. On January 4,

2024, the City Manager approved a hiring exception for a Classified FTE (1) for the purpose of administering 1041 regulations.

Tyler Marr; we brought that to Council as part of the 1041 Regulations being able to use a variety of external consultants to help with various components of 1041. Around Lawrence's point of it not all being personnel, being able to pull on an existing contracts that other pockets of the organization have, and yet, in part because of the expected work with NISP, we did not get the degree of response we would have expected for 1041, so we really had to pivot to a funded (ongoing for the first two years to see how it goes) contractual position – the model did shift from what was intended to be all 3rd party consultant work to needing to have someone in house and to leverage other existing contracts.

Tricia Canonico; re: Small Business Revolving Loan Fund (see below). Why was it not launched in Q4?

7) Small Business Revolving Loan Fund - \$25,000

Purpose for funds: The accumulated economic development fund was set aside to create the City of Fort Collins Revolving Loan Fund for Small Businesses and Startup companies operating in Fort Collins. The City will use the funds to support program access to capital for small businesses in Fort Collins city limits, including those that have historically not had access to traditional financial capital markets.

Reason funds not expensed in 2023: \$25,000 is set aside each year to cover administrative and marketing costs of the third-party and City Economic Health Office. The Revolving Loan Fund was not launched at the end of Q4, 2023, so these funds need to be reappropriated and held for a Q1/Q2 2024 launch of the fund.

Tyler Marr; the vendor said they could not provide the whole service. We are still interested in moving it forward with the loan fund and are looking for ways to proceed. We were down the road, very close to implementation and found out there was a fatal flaw in how they would ultimately deliver the program.

Travis Storin; we will move this forward to the full Council. This typically lands on the Consent Calendar and it is scheduled for April 2nd.

B. 2050 Tax Appropriations for 2024

Lawrence Pollack, Budget Director
Jacob Castillo, Chief Sustainability Officer

SUBJECT FOR DISCUSSION

2024 appropriation of the first year of the 2050 Tax for Parks, Recreation, Transit and Climate (2050 Tax)

EXECUTIVE SUMMARY

The purpose of this item is to appropriate the first year of the new 2050 Tax. In November 2023, Fort Collins voters approved this 0.5% Sales & Use Tax increase, which is dedicated to the areas of Parks, Recreation, Transit and Climate. This tax begins in 2024 and expires at the end of 2050.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

- What questions does the Council Finance Committee have about the proposed projects for the first year of the new tax?
- Does the Committee support moving this item forward to the full Council for a work session scheduled for April 9, 2024?

BACKGROUND/DISCUSSION

At the December 2021 Council Finance Committee (CFC) meeting staff presented an item to discuss specific identified revenue needs and potential funding options. Multiple conversations occurred throughout 2022 at various CFC meetings. In 2023 the areas of need were focused on Parks, Recreation, Transit, Climate and Housing. Estimated annual shortfalls ranged from eight to nearly fifteen million per area, as follows:

- Parks & Recreation - \$8 to \$12M annual shortfall (Parks & Recreation Master Plan)
- Transit - \$8M to \$14.7M annual shortfall (Transit Master Plan)
- Climate - \$9.5M+ annual shortfall (Our Climate Future Plan)
- Housing - \$8M to \$9.5M annual shortfall (Housing Strategic Plan)

This topic eventually came in front of the full Council in 2023 and after a few Work Sessions, proposed funding for these items was determined. Council approved two ballot items to be referred to the voters of Fort Collins to fund these areas. Parks, Recreation, Transit and Climate were proposed to be funded from a dedicated 0.5% Sales Tax increase. In a departure from previous tax initiatives and renewals, this item was proposed for a 27-year period beginning in 2024 and expiring at the end of 2050. The other referral was for Housing needs, which were proposed to be funded by a Property Tax increase.

In November 2023, the voters of Fort Collins approved one of those initiatives, specifically the 0.5% Sales Tax outlined as follows:

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**2023 Ballot Language:**

SHALL CITY OF FORT COLLINS TAXES BE INCREASED BY \$23,800,000 IN THE FIRST FULL FISCAL YEAR (2024), AND BY SUCH AMOUNTS COLLECTED ANNUALLY THEREAFTER, FROM A .50% SALES AND USE TAX BEGINNING JANUARY 1, 2024, AND ENDING AT MIDNIGHT ON DECEMBER 31, 2050, WITH THE TAX REVENUES SPENT ONLY FOR THE FOLLOWING:

- 50% FOR THE REPLACEMENT, UPGRADE, MAINTENANCE, AND ACCESSIBILITY OF PARKS FACILITIES AND FOR THE REPLACEMENT AND CONSTRUCTION OF INDOOR AND OUTDOOR RECREATION AND POOL FACILITIES,
- 25% FOR PROGRAMS AND PROJECTS ADVANCING GREENHOUSE GAS AND AIR POLLUTION REDUCTION, THE CITY'S 2030 GOAL OF 100% RENEWABLE ELECTRICITY, AND THE CITY'S 2050 GOAL OF COMMUNITY-WIDE CARBON NEUTRALITY, AND
- 25% FOR THE CITY'S TRANSIT SYSTEM, INCLUDING, WITHOUT LIMITATION, INFRASTRUCTURE IMPROVEMENTS, PURCHASE OF EQUIPMENT, AND UPGRADED AND EXPANDED SERVICES;

AND WHILE CITY COUNCIL MAY EXERCISE ITS DISCRETION IN DECIDING THE TIMING OF SPENDING FOR EACH CATEGORY, THAT SPENDING SHALL SUPPLEMENT AND NOT REPLACE THE CURRENT CITY FUNDING FOR THE SPECIFIED PURPOSES AND SHALL BE RECONCILED TO THE STATED PERCENTAGES BY THE END OF 2030, 2040, AND WHEN THE LAST REVENUES COLLECTED FROM THE TAX ARE SPENT, BUT THIS TAX SHALL NOT APPLY TO:

- ITEMS EXEMPT UNDER THE CITY CODE FROM CITY SALES AND USE TAX;
- FOOD FOR HOME CONSUMPTION; AND
- MANUFACTURING EQUIPMENT, BUT FOR THE USE TAX ONLY;

AND WITH ALL THE TAX REVENUES, AND INVESTMENT EARNINGS THEREON, TO BE COLLECTED, RETAINED, AND SPENT AS A VOTER-APPROVED REVENUE CHANGE NOTWITHSTANDING THE SPENDING AND REVENUE LIMITATIONS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

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Given the timing of the vote relative to the 2024 Annual Appropriation (2024 Budget) process, it was determined that the 2024 appropriation for the approved Sales Tax increase would be discussed as its own item early in the year. Staff has worked to identify specific projects for the first year of this tax, as detailed in the attached list of proposed projects. Knowing that staff is concurrently working on the 2025-26 City Manager's Recommended Budget to come to Council later this year, many of the proposed projects are one-time in nature, targeted to be substantially completed in 2024. Proposals of an ongoing nature are primarily for the staff needed to start this work and be positioned to execute the projects approved as part of the 2025-26 Budget.

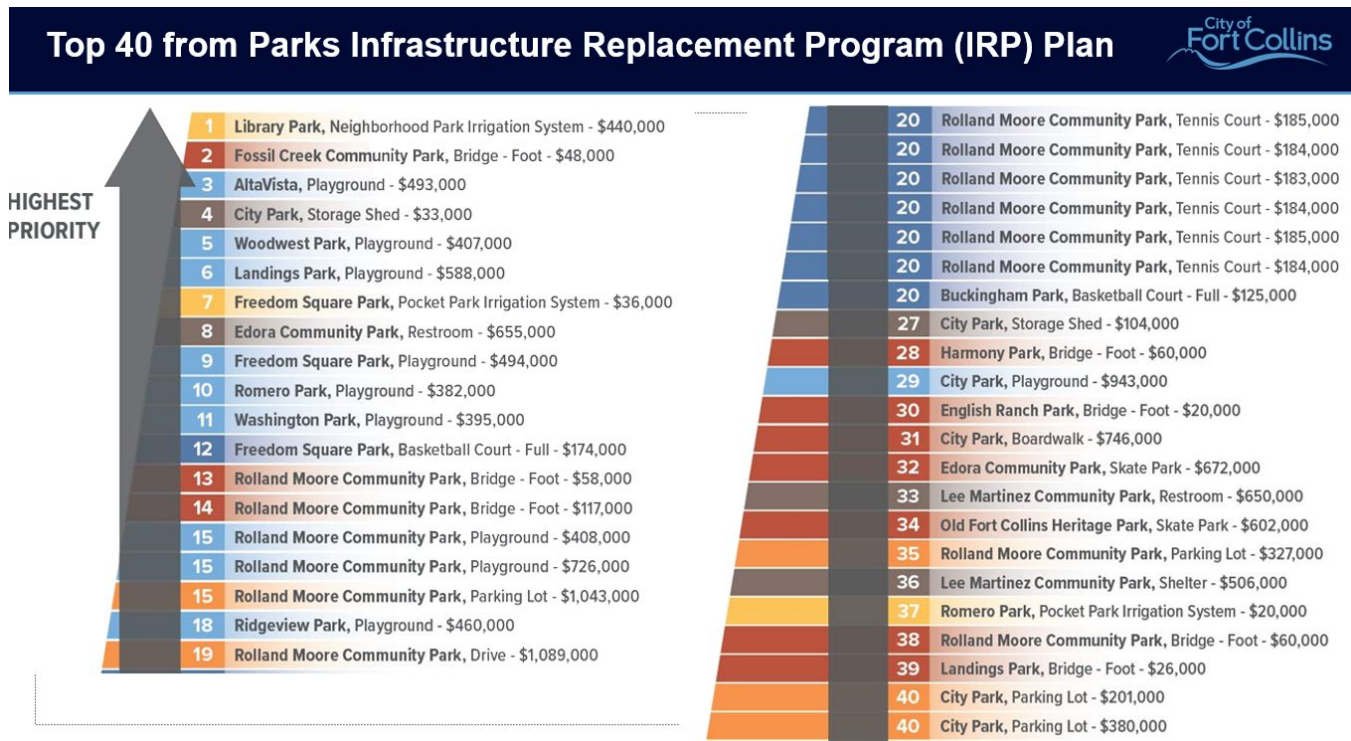
Discussion / Next Steps;

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

- What questions does the Council Finance Committee have about the proposed projects for the first year of the new tax?
- Does the Committee support moving this item forward to the full Council for a work session scheduled for April 9, 2024?

Travis Storin; West Elizabeth TRT is going to be a very different project financially than MAX was – MAX was \$87M and the city went out of pocket less than \$4M. Most of our local match requirements were met by right of way and land contributions. West Elizabeth will be much more cash intensive – probably a \$100M project for which we will go out of pocket at least \$20M. The play here is a set aside of a lot of this transit money for a period of 4-5 years in preparation for the West Elizabeth project.

Kelly Ohlson; love the parks chart (slide #17 - see below). What does the chart add up to? Looks like \$16M -



Dean Klingner; Lots of the Top 40 are relatively small projects. This data is from a much more detailed infrastructure replacement plan that shows the annual needs over decades.

Victoria Shaw; our current deferred gap is approximately \$30M - Top 40 prioritized under the criteria we currently have.

Kelly Ohlson; a bit of good news – is staffing stays constant and we don't have the supply chain issues we have had in the past, these should move pretty fast – this is 3-year list. There is a lot that is going to be seen in the first few years of the project. Things will be happening pretty rapidly - this isn't going to take 5-10 years.

Dean Klingner; in the offer that is proposed for Parks there is a dual approach to get things out the door that you can, staffing to start ramping up a program - excited about these things happening quickly –

Travis Storin; geographic sprawl as well - trying to hit all the corners of the community.

Kelly Ohlson; what is on the recreation list?

Leann Williams; the recreation list will be just as expensive with the age of our assets - we are coming up with our plan that lays out priority projects. The Senior Center is aging, our ice system is the original from the 80s as well. That is not a cheap system to replace in terms of the chillers.

Foothills Activity Center

- Multipurpose room gymnasium door

Senior Center

☐ Partner projects with Ops Services:

- Lobby flooring & office security door

Pottery Studio

- Kiln replacement

The Farm

- Make 2024 BFO offer whole

City Park Pool

- Design for slide and play structure replacement

Rolland Moore Tennis Complex

☐ Partner project with Parks:

- Pro shop and restroom replacement

EPIC

- Ice Flooring
- Dasher boards

☐ Partner projects with Ops Services:

- Pool shell
- Pool deck
- ICE chiller system upgrade and replacement
- Staff office security door

NACC

- Front Desk Renovation
- Volleyball Nets

7

Lawrence Pollack; depending on the debt service rate, amount and duration terms for the bonding - debt service could cost anywhere from \$1.4 -0 \$3M depending. We need to make sure we are conscious of that so we have this dedicated funding source.

Leeann Williams; we plan to have a prioritized list like Parks within the next year. We plan to hire a 3rd party just like Parks did – could take up to a year to look at and evaluate all of our assets. Once we get the funding and get a consultant on board hopefully by the end of this year and then have our plan in place within the next year.

Tricia Canonico; I appreciate the thoughtful approach.
Are we calling it the SE Recreation or SE Community Center?

LeeAnn Williams; we have been referring it to as the SE Community Center as we are full partners with the Library and with PSD.

Mayor Arndt; back to transit - Are we considering micro transit, smaller buses that are more nimble and can move people around quickly and maybe don't require a CDL?

Kaley Zeisel; we are in the process of launching an optimization study assessing our current service as well as the Transit Master Plan to determine the most optimal way to deliver service to the community with an emphasis on micro transit. How we could potentially leverage micro transit to potentially expand our options.

Tyler Marr; Council was intentional last night as you adopted the Strategic Plan around the objective for Transfort specifically and how we are going to optimize to achieve that objective.

Emily Francis; the infrastructure replacement program is helpful to see. Rolland Moore Park has been an issue- dedicating some funding to addressing those issues would be a priority of mine. When we get to the work session, it will be good to look at what is equitable as far as infrastructure or a more holistic approach. I would like to see more detail in the budget offer. The offers for Climate and Transit are a little more detailed about what the money would be going toward. I know the concern about geographic sprawl, but north Fort Collins is quite older than south Fort Collins so I would expect to see heavier funding to north Fort Collins where the infrastructure is older. I see that Rolland Moore makes up about 1/3 of the list. North FoCo has missed out on a lot of updates.

Tricia Canonico; I met with Kaley in the fall and remembered a mention of a micro transit grant of around \$60K.

Kaley Zeisel; we have a \$60K micro transit grant and that will be a portion of the funding for the optimization study which we are rolling in with the micro transit study to take a holistic approach.

Kelly Ohlson; \$20M of local dollars along with federal dollars. What is going to be different for the average person in Fort Collins because we are dropping \$20M of local dollars. Can someone give me a high level response of how the world will change with the equivalent of MAX but on South Elizabeth

Travis Storin; West Elizabeth is by far the most dense in terms of residents in Fort Collins and the bus usage demand is higher there than any other part of town and our data tells us that. Multiple full buses go by while people are still waiting. Kaley may want to speak to the design and the guideway principles and the frequency of service in a way that compares the existing service on West Elizabeth with what we have been able to achieve on Mason St.

Kaley Zeisel; in terms of frequency, our most frequent service along that corridor is currently 15 minutes. This will have at its peak times, 7-minute headways. It is not just transit infrastructure, it is also bike and pedestrian improvements, safety and intersection improvements. At the western most terminus, we will have the Foothills Station. Right now we have multiple routes that go through that corridor and they often loop around as there is not a good way to turn around at the end so it will be realignments as well. Increased bike, pedestrian and transit infrastructure as well as increased frequency.

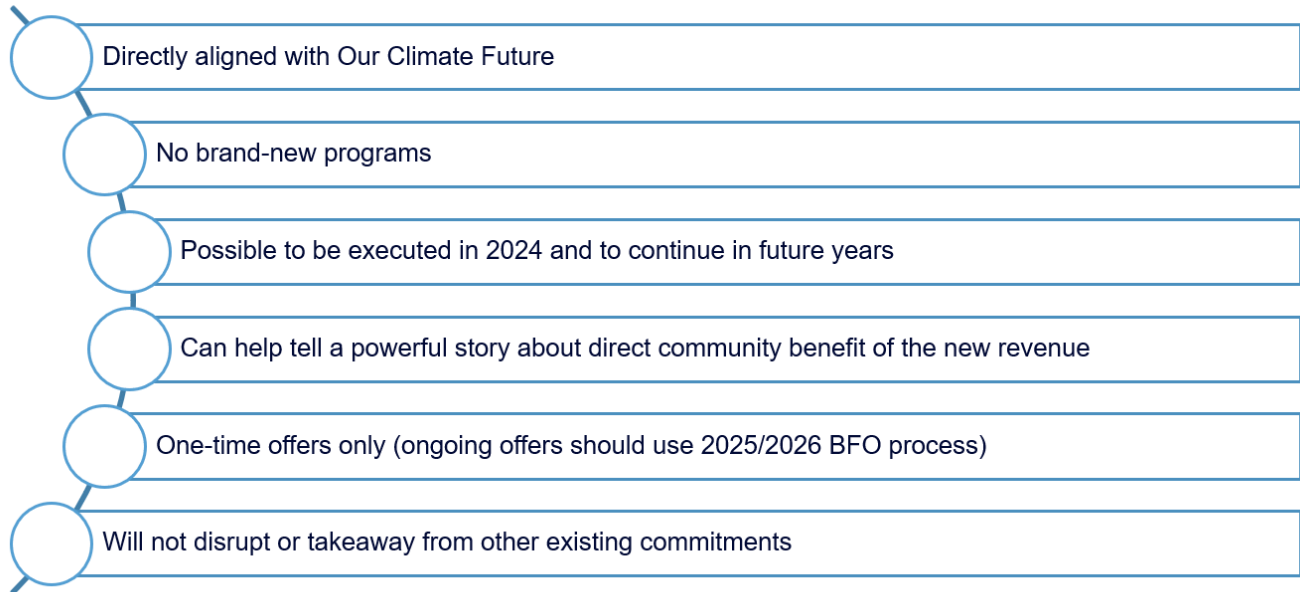
Tyler Marr; I think we are close to 100% design on the project and I know visuals can be so helpful. Kaley, I think you could do a really good staff report at a work session so the full council understands what this 9 figure project looks like and what we are marching toward.

April 9th Work Session – We will see how feasible it is to do a geo map around parks. We heard loud and clear about defining equity.

CLIMATE

Jacob Castillo

Climate Funds Criteria



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Recommended project funding



Recommended Offers by Big Move	Recommended 2024 Funding
4 - Convenient Transportation Choices	\$ 632,000
Implement bicycle infrastructure as determined in the Active Modes plan (Centre Ave)	\$ 350,000
Mobility Hubs Plan development	\$ 200,000
Implement bicycle infrastructure as determined in the Active Modes plan (Laporte Ave)	\$ 57,000
Transportation Emissions Reduction Strategy Tool development	\$ 25,000
6 - Efficient, Emissions Free Buildings	\$ 1,650,000
Introduce new capital for utilities Epic Loans program	\$ 600,000
Comprehensive exterior lighting retrofits at City Recreation Centers	\$ 500,000
Fund Healthy Homes Program	\$ 250,000
Expand Mobile Home Park Mini-grant through Neighborhood Services	\$ 200,000
Identify and determine critical support needed to upgrade under-resourced buildings, focusing on commercial /MF buildings	\$ 100,000
7 - Healthy, Affordable Housing	\$ 400,000
Launch grants to offset utility fees for affordable housing development, particularly electric and water	\$ 400,000
9 - Healthy Local Economy and Jobs	\$ 35,000
Expand Scholarship Program for Builders and Building Industry to meet new industry techniques and future codes	\$ 35,000
10 - Zero Waste Economy	\$ 75,000
Business support for plastic and styrofoam transition through NocoBIZ Connect	\$ 75,000
12 - 100% Renewable Electricity	\$ 250,000
Repair Riverside Community Solar Array	\$ 250,000
13 - Electric cars and fleets	\$ 200,000
Replace existing Parks Utility Carts with electric Utility carts	\$ 200,000
Grand Total	\$ 3,242,000

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Discussion / Next Steps for Climate:

See slide #16 below

Kelly Ohlson; why are some of the ones I like the most on the elective list? The Poudre River Health Assessment as an example. This is not competing. It was a ballot approved measure so why the elective offers?

Jacob Castillo; when we applied the criteria, the other 14 items scored higher but we knew these had high value and may be of interest to Council. We wanted to make sure you saw everything that was considered and leave it to your prerogative to advance these should you so choose.

Kelly Ohlson; solid waste, recycling and reuse and reducing – huge part of my policy life and you can barely see it on the chart.

Honore Depew; we are thinking about those investments that could be needed in the context of the regional waste shed conversation you will be having next week as well as the council priority for accelerating zero waste policies and infrastructure. Based on the criteria for what is shovel ready within the next 6 months. Some of the projects did not meet that criteria.

Kelly Ohlson; I was the one who suggested the indoor air quality things many years ago. I am confused as it says to have ongoing funding for the program but we currently have the program so I am missing something.

Honore Depew; this is about scaling up the award winning and very effective Healthy Homes program and air quality. The ballot language speaks to reducing climate pollution, greenhouse gas emissions and air pollution so it stays true to both of those. This is about accelerating and scaling up.

“Elective” funding opportunities



Elective Offers	2024 Recommended funding	
11 - Healthy Natural Spaces	\$	385,000
Poudre River Health Assessment	\$	300,000
Soapstone Prairie Grazing Plan	\$	35,000
Update trash/recycle cans in the City of Fort Collins Natural Areas, to wildlife safe cans.	\$	50,000
12 - 100% Renewable Electricity	\$	250,000
Add Solar PV System at City Facility - new fueling canopy and shop expansion at Wood Street	\$	250,000
Grand Total	\$	635,000

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Kelly Ohlson; the big Laporte Ave project but we didn't include the painting of stripes for bikes - \$57K

Cortney Geary; the project from Fishback Ave. west to Sunset St. includes raised and separated bike lanes. This project that we are proposing for funding would be to the east of that from Fishback Ave to Wood St. so will fill in the final gap and bike facilities on Laporte Ave.

Emily Francis; The Poudre River Assessment - for the work session, I don't understand how it meets the language of advancing reduction of greenhouse gases reduction and renewable -

Julia Feder; the river health assessment framework is a tool that has been developed to help give us a snapshot of river condition and we are coordinated so we are doing this from the headwaters to the confluence with the South Platt River. Locally in Fort Collins, we use this as our primary tool to help us to prioritize what sections of the river are going to be up for restoration. The restoration work primarily focuses on increasing riparian habitat including that important river canopy and the forest surrounding it. We are focused on how we look at carbon sequestration as one of those measures over time and what we are doing to increase carbon capture. The example that was given was the work that was done at Kingfisher Point Natural Area. This is a project that was done within the last 10 years. We have already had a 70% increase in soil carbon rates and our goal is to have a 300% increase by 2030.

Kelly Ohlson; it might be good to bring this type of information to work session so the council can see how it fits with the ballot language.

Emily Francis; in Denver, when they did the rebate program for e-bikes, their climate tax was very popular. Did we consider doing something similar?

Honore Depew; that has definitely been in the conversation, and we know it was really popular and it can drive some of that mode shift away from single occupancy vehicles for those short trips around town and with the battery powered bikes you can get a little more distance than you can – we also tried within this first mini BFO offer.

Emily Francis; is there something we would need to fund to prepare for a rebate program like that?

NOTE: due to audio issues, I could not hear what Emily said next.

Travis Storin; we do have the e bike program set up on the Get FoCo app – I don't have the particulars such as eligibility off hand though. Cortney - could this be a viable candidate for a 2025-26 BFO offer?

Cortney Geary; we have done e-bike giveaways at a smaller scale all through funding from the state through the Colorado Energy Office – we have facilitated the state rebate program that is also available for low-income residents – we realize that some of the programs have shifted capacity away from other projects. I would want to take back to the team to evaluate to determine if we would need any additional staff capacity. We weren't prepared to apply for this year as a shovel ready project.

C. Poudre Fire Authority Intergovernmental Agreement

Dave Lenz, FP&A Director

SUBJECT FOR DISCUSSION

Update to the Amended and Restated Intergovernmental Agreement between the City of Fort Collins and the Poudre Valley Fire Protection District (dated July 15, 2014) that established the Poudre Fire Authority.

EXECUTIVE SUMMARY

The City of Fort Collins ("City") and the Poudre Valley Fire Protection District ("District") established the Poudre Fire Authority ("PFA") with an Intergovernmental Agreement ("IGA") in 1981. This agreement was further adjusted in 1983 and 1987 to include a revenue allocation formula ("RAF"). This agreement was further amended and restated in 2014 to include an update to the RAF and Support Services provided to PFA by the City. The full 2014 amended and restated IGA including the RAF (Exhibit A) and Support Services provided (Exhibit B) is included as Attachment 1.

In early 2023, the City and PFA began discussions about revisiting the agreement to update the understanding of the costs and details of the services provided under the terms of the agreement. The intent is to update the existing Support Services provided (Exhibit B), with detailed understanding of the cost of services being provided either in kind or through direct charges. Additionally, the goal is to make adjustments as necessary to the RAF (Exhibit A) to reflect the updated level of services provided, and to account for changes impacting the underlying Property Tax and Sales Tax funding sources. This includes an updated analysis of the relative risk sharing of the funding mechanisms. Staff intend for agreed upon updates to the IGA be completed for inclusion in the 2025/26 Budgeting for Outcomes (BFO) cycle.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

What questions does the committee have related to the update of the IGA, the RAF or the Support Services provided?

Does the committee have additional items that they would like to see included or discussed in the update of the full IGA?

BACKGROUND/DISCUSSION

During the second quarter of 2023, City and PFA staff began the joint review of the Support Services Provided in Exhibit B. This effort involved over 30 collaborative meetings with both City and PFA personnel. The interviews and analysis involved investigation on the scope of services being provided by City personnel, including support areas that were not specifically outlined in Exhibit B as services to be provided. Additionally, certain services had transitioned to PFA over the ensuing time since the agreement update in 2014. In all instances, efforts were made to identify the time and costs involved in each City or PFA department providing the support.

Preliminary costing of the services provided indicates the City provides PFA with approximately \$728,000 annually of in-kind costs and an additional \$3.5 million in direct charges (\$3.0 million is for Benefits and Wellness). PFA's cost of services provided is estimated at approximately \$452,000 annually (\$320,000 is for two positions – IT Analyst III and Battalion Chief - Emergency Management). Functional breakout of the costs is highlighted below.

Preliminary - Cost of City Services to PFA			
Service Area	Annual In-Kind Costs	Annual Charged	Total Cost of Services Provided
Finance	\$182,115	\$18,402	\$200,517
Human Resources	\$145,963	\$2,969,712	\$3,115,675
Information Technology	\$191,481	\$47,000	\$238,481
Police - Dispatch	\$159,462	\$207,229	\$366,691
Op Services	\$5,390	\$194,643	\$200,033
All Other	\$43,215	\$20,000	\$63,215
Total	\$727,626	\$3,456,986	\$4,184,611

Preliminary - Cost of Services Absorbed by PFA	
Service	Cost
Emergency Management	\$176,214
Finance	\$12,976
Risk Management	\$23,296
Human Resources	\$91,402
Information Technology	\$144,275
Miscellaneous	\$3,576
Total	\$451,739

The RAF specifies how both the City and the District make contributions to the PFA. The district's contribution is annually through the mill levy and the City's contribution is through a combination of a portion of the City's base sales and use tax revenue and 67.5% of the City's property tax revenue. The City's contributions are based on the biennial budgeted amounts for Sales/use and property taxes. These amounts are not adjusted for actual collections (*please refer to Exhibit A of the IGA for the RAF calculation details*).

In the 2023 Budget, the City's contributed approximately \$35.9 million in revenue sharing to PFA (\$19.2 million in property tax and \$16.9 million in sales/use tax, less \$0.2 million for PFA contribution agreements). For the 2024 budget, the revenue contribution increased to approximately \$38.7 million (\$21.7 million in property tax and \$17.3 million in sales/use tax, less \$0.3 million in PFA contribution adjustments). The District contributed \$8.8 million in 2023 and \$12.4 million in 2024.

City and PFA staff have begun evaluating the existing RAF. Goals of this evaluation are to align the updated costs of service with the existing funding mechanism, memorialize the Keep Fort Collins Great (KFCG) 0.6% base rate increase, consider the concept of a "risk corridor" to share revenue risks and opportunities, and add further definition around future growth and annexations.

The work plan is centered fostering agreement between city and PFA staff on the scope and structure of the services to be provided in Exhibit B, determination of the of the form and extent of compensation for both parties, identifying needed service level agreements, and the adjustments needed to the RAF. Work to date has highlighted the desire to create named administrators from each party to the agreement and to include more specificity as to the timing and structure of future agreement updates (i.e. – contract re-openers).

NEXT STEPS/PATH FORWARD

The goal is to complete the update of the IGA for inclusion in the 2025/26 BFO Cycle. City and PFA staff are working jointly to reach common understanding on terms and conditions to include in an update to bring to both the City Council and District Board for approval. Tentative schedule for moving forward:

April 23, 2024: Work Session with City Council and District Board - inputs
June 6, 2024: Council Finance Committee - recommendation
June 18, 2024: City Council Adoption consideration - 1st reading
July 2, 2024: City Council Adoption consideration - 2nd reading

Concurrent with this schedule are regular updates by PFA to the District Board.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

What questions does the committee have related to the update of the IGA, the RAF or the Support Services provided?

Does the committee have additional items that they would like to see included or discussed in the update of the full IGA?

Discussion / Next Steps

Kelly Ohlson; I have wanted this discussion for a long time. I proudly served on the board for 4 years and chaired it as well. I think the goal should be clarity and fairness on what we charge each party and what their responsibilities are. I don't like the windfall not being somewhat shared on the property tax and some of the other things in funding. I would like to focus on the fair share payment. I don't know how the Library District works but the preliminary costs of city services to PFA are approximately \$727K so that is not recovered. One of the reasons I don't think that is fair is that the Natural Areas is not an enterprise fund, yet they are charged for all of these things, which has been a point of contention for me since 1993. Natural Areas are charged for most things on this list even though they are not an enterprise fund which is hypocritical – not about PFA but it is about the city organization. Yet, here is another organization, which technically is not part of the city that

wanted to separate from the city at one point and join the district. If Natural Areas has to pay all of these things, some entity that isn't part of the city should have to pay their fair share.

Cost of services absorbed by PFA (see slide #s 10 and 11 below)

Exhibit B Update: Cost of City Services



Preliminary - Cost of City Services to PFA			
Service Area	Annual In-Kind Costs	Annual Charged	Total Cost of Services Provided
Finance	\$182,115	\$18,402	\$200,517
Human Resources	\$145,963	\$2,969,712	\$3,115,675
Information Technology	\$191,481	\$47,000	\$238,481
Police - Dispatch	\$159,462	\$207,229	\$366,691
Op Services	\$5,390	\$194,643	\$200,033
All Other	\$43,215	\$20,000	\$63,215
Total	\$727,626	\$3,456,986	\$4,184,611

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Exhibit B Update: Cost of Services Absorbed by PFA



Preliminary - Cost of Services Absorbed by PFA	
Service	Cost
Emergency Management	\$176,214
Finance	\$12,976
Risk Management	\$23,296
Human Resources	\$91,402
Information Technology	\$144,275
Miscellaneous	\$3,576
Total	\$451,739

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If they need extra Information Technology (IT) for their organization as they are not part of the city. I don't understand why that cost is absorbed by PFA if that is a cost of doing business. Why would that be something that counts in their benefit.

Dave Lenz; these are preliminary and we are working with both sides on final costs. We are looking at the position that was added and if there are similar services that are provided to other groups like the Police or is it very specific to a fire application. We are still working on that item.

Kelly Ohlson; Police is part of the city and PFA is not part of the city - I would prefer it be part of the city but it is not, so I am not understanding...

Travis Storin; on the overall backdrop of your comments, what you are observing are some of the reasons we are bringing this to you. I think both sides are acknowledging that there are things in this agreement that made sense in 1981 and do not make sense now. In 1981 we entered into an agreement that said the City will continue doing your technology needs as well as your personnel and administration needs. Those needs have undoubtedly evolved over the last 43 years. They have taken on additional expertise and the agreement says all else equal we would have been providing those services – missing out on 43 years of technological evolution.

Kelly Ohlson; I just want a fairness level of who should be paying for what since they are not art of the city. What arrangement do we have with the Library District? Do we absorb costs that the Library District should be paying?

Travis Storin; the IGA agreement with the Library District is written with them paying costs on an estimated basis similar to the techniques with PFA. They pay for the privilege of using our email servers, our benefits portfolio and our financial systems at cost.

Kelly Ohlson; they asked to not be part of the city so, why would the city be subsidizing them?

Travis Storin; we are recovering all of our costs.

Kelly Ohlson; if we ended up owing them money every year, I would be for that. I just want some balance sheet items figured out. I read that the District can adjust the mil levy – I thought mil levy adjustments required a vote.

Patti Forsythe; the district voters voted for an adjustment. The IGA states that 10.595 is the base mil and the district is contributing more to PFA with the mil levy adjustment.

Emily Francis; we had an agreement that has been updated since 2014. In that agreement the city said it would provide human resources services, but the city could not add the capacity that they needed, so they had to hire their own human resources. The calculation hasn't been updated in awhile to accurately reflect the cost sharing which is what we are doing now. Is that accurate?

Travis Storin; that is fair to say – there are questions of origin within your statement. For example, PFA has a different retirement package and our HR team said that was a level of complexity we don't support for the rest of the city organization. So it is a question of who is bearing that cost and right now, you are spot on, the agreement says we will do it but have not been able to so they have taken on costs.

Kelly Ohlson; I think it is a good thing that we are examining this agreement.

Travis Storin; we have a similar environment set up on April 23rd with the two boards. That will be the front bookend of the dialog because a lot more work needs to take place. We plan to bring legal documents for Council and Board approval over the mid-summer timeframe.

Emily Francis; I did have one more question around the work session with the district - traditionally we don't have IGA discussions in public.

Travis Storin; these IGAs, particularly this one are really tricky from a staff standpoint to get everyone's permission that, yes it is ok that we are going to do this work. Each entity is to be defending their own interests. This is to bring this above board and to say, we are doing this work right now. Is it going to be a surprise when we say we want to look at who pays for what or who shares in which revenue? To be honest, it has been extraordinarily tricky in the past to navigate that.

Kelly Ohlson; we are doing this because it wasn't all done necessarily correctly – maybe it fit the time. We could use all kinds of analogies to different groups in the country who have not been treated fairly and now we know better. Maybe it worked then – but not now – we want to make it a 2024 agreement and I want to make it clear that we are only here because PFA is agreeing with this effort and wanting to get this right. The Chief has been very supportive of making this right and fair. Thank you for that. I also look forward to seeing more detail around the dollars. How close are we to right on the Library District? We are not after perfection, but are we close to recovering our costs? They wanted to be separate and with separate you get responsibilities as well as benefits. Would like to add to our plate sometime, looking at the old Natural Area thing –they not an enterprise fund, but they get charged for many of these things on this list which I have never understood.

Emily Francis; is Natural Areas the only other department?

Travis Storin; I could provide a list - it is not all departments but basically departments that have an independent revenue stream. You look at areas that are heavily tax payer funded, for example recreation is not charged to the same degree as the Golf Fund and Utilities as those are enterprise funds.

Emily Francis; would like to see those details – more holistic – how we determine those costs, etc.

Chief Bergsten; I want to thank Travis and Dave and before that Sheena. Initially, Kirsten who is ill and was not able to be here this evening and Patti had over 40 meetings with city staff. The transparency and the willingness to work together with Travis and his team has been really refreshing. We want to do this right and create instances where we can update this on a regular basis. There are a lot of things that have transpired over the last 10 years that just aren't relevant or the service demand has increased and the city hasn't been able to meet so we have filled in and some of the things the city has picked up we haven't been able to. It is good to be going through this process. This gives our district board a sense of security that everyone is being open and that we want the best for both organizations. Going forward, when we do something new I want to make sure it aligns as much as we can with the city. Originally, this was a city department and it merged with the district for efficiency for delivering services to the residents and for economy of scale –the right amount of money for the services being provided.

D. CCIP & Streets Maintenance Tax Renewals

Travis Storin, Chief Financial Officer

Ginny Sawyer, Policy & Project Manager

EXECUTIVE SUMMARY

Staff provided the full Council an overview of the history, use, and timelines of both the Street Maintenance Program (SMP) and the Community Capital Improvement Program (CCIP) taxes at the February 13, 2024 regular meeting. That meeting outlined the meeting cadence associated with referring these renewals to the November 2024 ballot. Multiple meetings with the Council Finance Committee (CFC) were included.

This first meeting of the CFC will focus on any questions the committee may have, the term of the SMP tax, and the process of developing a CCIP project list.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

What questions or concerns do CFC committee members have regarding possible extension of the term of the SMP tax to 15 or 20 years?

What questions or suggestions do CFC committee members have for developing a future CCIP project package for consideration?

Do CFC committee members support considering taking the CCIP renewal in 2025?

BACKGROUND/DISCUSSION

The City of Fort Collins has a 40+ year history of utilizing voter approved sales tax initiatives to fund major capital projects and to achieve and maintain an extensive transportation system. Starting in 1973, with a 7-year, one-cent tax that helped fund the Downtown Library, the Lincoln Center, City Hall, Mulberry Pool and other improvements, residents have continued to support sales tax capital programs to create the city we enjoy today.

The current initiatives, CCIP and the SMP, will expire on December 31, 2025. With only one annual election opportunity (November), staff had recommended seeking these tax renewals in 2024. Both programs are a dedicated ¼-cent sales tax which equated to 25 cents on a \$100 purchase. Over the 10-year program (2016-2025) each ¼-cent is estimated to generate approximately \$80.0 million for community-wide investments.

Staff continues to recommend referring the SMP in 2024, however, after considering the timeline on a number of possible projects staff would like to discuss the possible advantages of referring the CCIP in 2025. Advantages include a longer timeline for public engagement and time for further conversation and decisions on waste shed projects, the site plan for the Hughes property, and additional feasibility of both a bike park and additional pickleball facilities.

Elements of a Successful CCIP Package

The City of Fort Collins has had a successful track record of referring (and getting approval) of capital improvement dedicated taxes. The last two measures passed with 80% voter approval. Staff attributes this success to:

- Advancing projects from Master Plans that have been informed by community input.
- The items put forth represent community desires and priorities across broad geography, types of services, and personal passions.

- Community engagement helps to prioritize projects and programming.

There have also been lessons learned over time to mitigate risks, including:

- Adjusting for inflation and adding on years of operation and maintenance until a program/facility is established.
- Balancing flexibility and specificity to ensure voters get what the ballot promised while allowing for measured leeway to take advantage of unforeseen opportunities (grants, development, etc.)
- Avoiding singular projects that would absorb a majority of the funding.
- Solidifying a plan far enough in advance of referral to ensure adequate budgeting analysis and community awareness.

Next Steps

Based on CFC discussion and suggestions, staff will outline future agenda content and an engagement plan for public outreach.

Future Council engagement includes:

April 23 work session: Bring CFC recommendations of referral dates, SMP tax term. Review of engagement plan.

May CFC meeting: Confirm SMP referral actions. Start CCIP package development.

June 11 work session: Confirm SMP referral details. Consider CCIP progress.

July 16 work session: TBD

August 20 regular meeting: Refer ballot language for any 2024 measures.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

What questions or concerns do CFC committee members have regarding possible extension of the term of the SMP tax to 15 or 20 years?

What questions or suggestions do CFC committee members have for developing a future CCIP project package for consideration?

Do CFC committee members support considering taking the CCIP renewal in 2025?

Discussion / Next Steps

Tricia Canonico: For the time being, I don't know if I would want Hughes to play a part here because it has been so dividing for our community. We saw that with the large emitter fee as an example, some of our community members not wanting to support that tax.

Do we know when the county is looking at putting the childcare tax on the ballot this year?

Kelly DiMartino; I think they are – there is a group and they call themselves the sandbox, which includes all of the interested parties. They have come together and I think they are getting close.

Tricia Canonico; I support moving it out to 2025 as it sounds like there may be too many competing tax measures on the ballot.

Emily Francis; I agree with Tricia. Hughes – not knowing what it is and the engagement around it - I would be worried about the timeline and just adding it in. I think 2025 makes sense. I think the things that we have heard support for like the bike park and pickleball, larger ideas could go on there. The childcare and then also under the Council priority of operationalizing housing sustainable funding is one of the things to look at and so, how would that play into potential funding and a tax?

Ginny Sawyer; a separate initiative or within a bucket in CCIP?

Emily Francis; I would say that to date, CCIP funding for affordable housing has not been sufficient. I was also looking at some of the capital type projects like Linden Street and thinking about council's priority of adaptive reuse in community hubs in neighborhoods. One of the big barriers to redeveloping that has been funding –and bringing those up to current standards – funding has been a huge barrier to get anything updated. Is there a way for CCIP to rejuvenate those neighborhood hubs that have not been updated for some time?

Travis Storin; when we talk about the engineering bucket that Ginny was referring to. We look at that as a viable way to address that piece. It is a very good question on housing. What could more CCIP funding do there relative to the \$4M over 10 years that we put in, which, when you think about the sustainable funding conversation last year now years later it sounds pretty scant

Emily Francis; I think it would be worth bringing in the affordable housing providers. Seeing what the gap is and what the city's responsibility is and if this is appropriate.

Kelly Ohlson; I think street maintenance would pass if we put it into perpetuity. I don't care if it is 20 or 25. A minimum of 20 – I would be fine with 25 – people like their streets maintained. Kelly Ohlson; I will support whatever the full Council comes up - 20 or 25. Regarding Hughes, it is all over the map – more than two sides to that particular issue.

Travis Storin; we know it is a council priority to have a site plan.

Ginny Sawyer; full site plan - soft trail and trail connections to the site –

Early Idea List



Transportation/Engineering:

- Arterial improvements
- Bike infrastructure
- Sidewalk/ADA improvements
- Bus stop improvements and bus replacement
- Howes (street conversions)

Other Funds:

- Affordable Housing
- Nature in the City
- Active Mode Infrastructure

Capital Projects:

- Civic Center advancement
- Car (Trolley) Barn advancement
- Park Improvements (Martinez)
- Downtown Parks Shop
- Transfort maintenance site
- Lincoln Center (catering kitchen)
- Composting facility
- Trail strategic plan components
- River masterplan (another reach)
- LaPorte Avenue re-design
- Children's Garden renovation
- Mountain biking facility, site TBD
- Mulberry Pool Replacement
- Pickleball expansion

10

Slide #10 above

Kelly Ohlson; a composting facility - should be solid waste – might be things that are a higher priority. I think it was a little broader on the list. I can't argue with your logic of 2025 to get it right even though if we put something on the ballot – it might be as refined. Citizens group is renewing by the imitative method the natural areas tax in 2025- so this would be on the ballot too. I think they are complementary and not contradictory. You can build a positive momentum to put it in a framework. In 2014 which was not a pretty election cycle for things like this, the county tax, open space renewal – approximately 90% of districts in Fort Collins voted for natural areas. I just want people to have all of the information. In 1997, there were 3 taxes including street maintenance and we combined them all together and they passed overwhelmingly. I think your logic is sound.

Tricia Canonico; one question on street maintenance – are we going to hamstring ourselves by extending it too far or can we add to it to allow for a gradual increase in the tax, so it continues to be adequate?

Travis Storin; so, you are surfacing what I think is going to be a very interesting staff discussion. When we talk about perpetuity, in some respects, it could feel limiting if we don't think the current tax is going to meet the needs. There might actually still be an argument to stick with 20 which would allow us to reevaluate the toolkit- to determine if we need a different amount or different taxation. I think we are going to have a very lively debate on that question.

Tricia Canonico; are we looking at the amount that we are going after?

Travis Storin; on staff – we are a bit reluctant in practical terms, whether going for over ¼ cent would be advisable. A big part of that is the TABOR language. When we go with ¼ cent, we get to say 'without raising taxes'. If we went with a nickel more, it says will you approve this tax increase?

Meeting adjourned

COUNCIL FINANCE COMMITTEE AGENDA ITEM SUMMARY

Staff:

Travis Storin, Chief Information Officer
Jennifer Poznanovic, Revenue Manager
Chris Martinez, FP&A Manager
Kelley Vodden, Compensation, Benefits and Wellbeing Director
Lawrence Pollack, Budget Director

Date: April 4, 2024

SUBJECT FOR DISCUSSION (a short title)

2024 BFO Assumptions for funding availability, expense pressures, salary adjustments, and changes to benefits costs in the 2025-26 Budget

EXECUTIVE SUMMARY (a brief paragraph or two that succinctly summarizes important points that are covered in more detail in the body of the AIS.)

The City will again use the Budgeting for Outcomes (BFO) process to prepare the City Manager's Recommended 2025-26 Biennial Budget. Key assumptions are established early in the process and reviewed with the Council Finance Committee.

1. **Funding Sources:** The sales and use tax forecast is an important revenue stream necessary to support ongoing costs. General Fund sales and use tax is allocated across all seven Outcomes, while the voter approved dedicated tax forecasts are allocated to specific Outcomes where applicable Offers can utilize that funding, per ballot language requirements. Likewise, in the enterprise funds, utility rate increases are necessary to address inflationary costs, infrastructure replacement needs, and maintain service delivery. Available reserves can also be used to fund offers, typically for one-time types of expenses.
2. **Expense Pressures** are numerous, including the ongoing impacts of significant inflation over the past couple years. Further, given natural financial constraints, there are challenges to taking care of existing City assets versus investments in new programs and services that could benefit the community.
3. **Salary and Benefits:** The 2025-26 Budget includes a preliminary 3.5% average salary pool increase for both 2025 and 2026, which will be reflected in offers. Employee benefit cost changes have also been entered into the City's budgeting software and are used to calculate total employee compensation for 2025-26.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

What questions do Committee members have about the assumptions for the 2025-26 Biennial Budget?

BACKGROUND/DISCUSSION

All background information is contained in the attachments and will be discussed in detail during the meeting.

ATTACHMENTS (numbered Attachment 1, 2, 3,...)
Attachment 1 - Presentation



Assumptions for the 2025-26 Biennial Budget

Council Finance Committee – 4 April 2024

- **Funding Sources - Major Taxes and Utility Rates**
- **Expense Pressures**
- **Initial Salary and Benefits Assumptions**
- **2024 BFO Calendar**

2023 Governmental Revenue – Preliminary Unaudited Results



Governmental Funds (without Internal Service Funds)

\$ in thousands

December 2023 Revenue

Percent of Year: 100%

Year to Date							
	Budget 2023	Actual 2023	Over/(Under) Budget	% Annual Bud Recvd	2022 Actual	Inc/(Dec) 2022	% Current Act vs. Prior Act
Sales & Use Tax	176,457	178,049	1,592	101%	173,968	4,080	102%
Property Taxes	35,965	35,393	(572)	98%	35,335	58	100%
Intergovt. Shared Revenues	14,572	15,485	913	106%	16,041	(556)	97%
Culture, Parks, Rec & Nat A. Fees	18,861	19,860	999	105%	18,131	1,729	110%
Payment in Lieu of Taxes	12,369	12,572	204	102%	12,194	378	103%
General Government Fees	17,558	16,643	(915)	95%	12,456	4,187	134%
Transportation Fees	4,796	9,510	4,715	198%	7,077	2,433	134%
Interest Revenue	2,609	5,451	2,842	209%	3,071	2,380	178%
Other Miscellaneous	35,741	36,130	389	101%	24,184	11,946	149%
TOTAL BEFORE UNREALIZED GAINS/LOSSES	318,927	329,093	10,167	103%	302,457	26,637	109%
Unrealized Invst. Gains/Losses	0	7,320	7,320	0%	(11,334)	18,654	-65%
GRAND TOTAL	318,927	336,414	17,487	105%	291,123	45,291	116%

2023 Sales Tax (excluding Use Tax) was actually under budget by 0.7% approximately \$1.0M

Gross Domestic Product

- In 2023, growth increased to an estimated 2.4% as the economy remained resilient in the face of rising interest rates in response to easing—but historically high—inflation.
- The continued impacts of high interest rates could slow growth in 2024 to 1.4%.

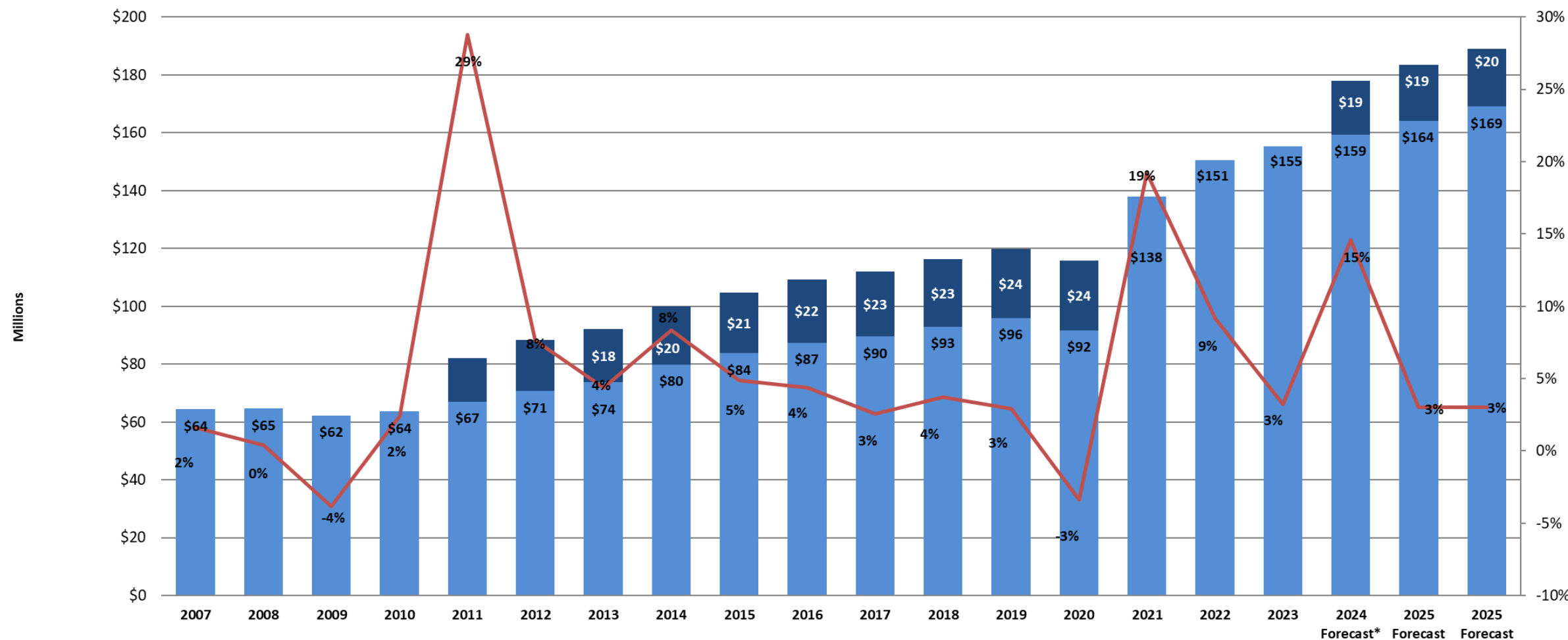
Inflation

- U.S. CPI forecast at 2.9 percent in 2024, 2.4 percent in 2025, and 2.3 percent in 2026.
- Denver CPI growth for 2025 and 2026 forecast at 2.8 percent and 2.6 percent.

Retail Sales

- Colorado retail sales are expected to start outperforming the U.S. with 3.9 percent and 5.6 percent retail growth in 2025 and 2026.
- Retail sales gradually returning to pre-pandemic spending patterns entering 2025.

Sales Tax History

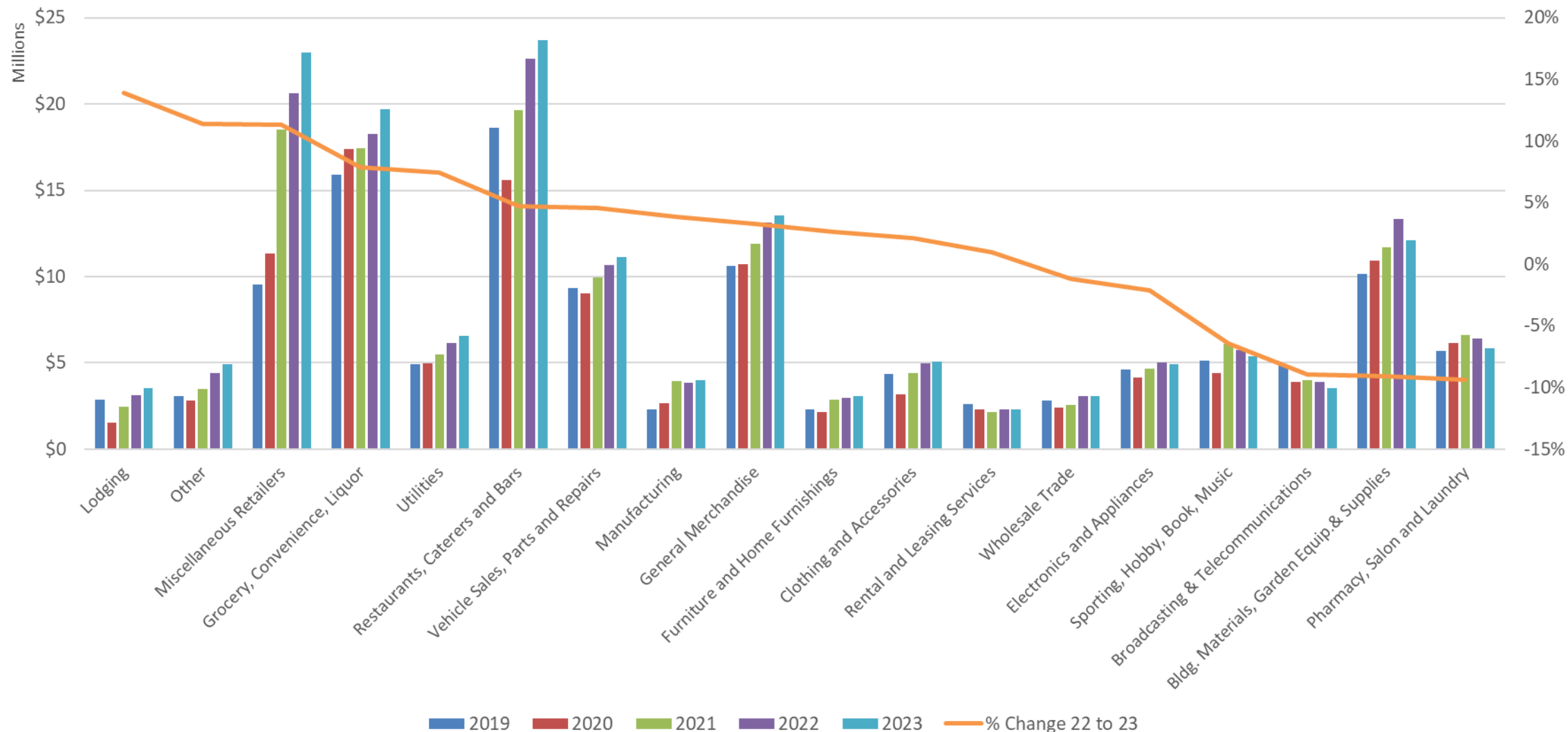


*2024 Budget \$177.8M

3.0% Sales Tax KFCG or 2050 Tax Sales Tax Growth

Sales Tax is projected to return to pre-pandemic growth trends

Sales Tax by Category



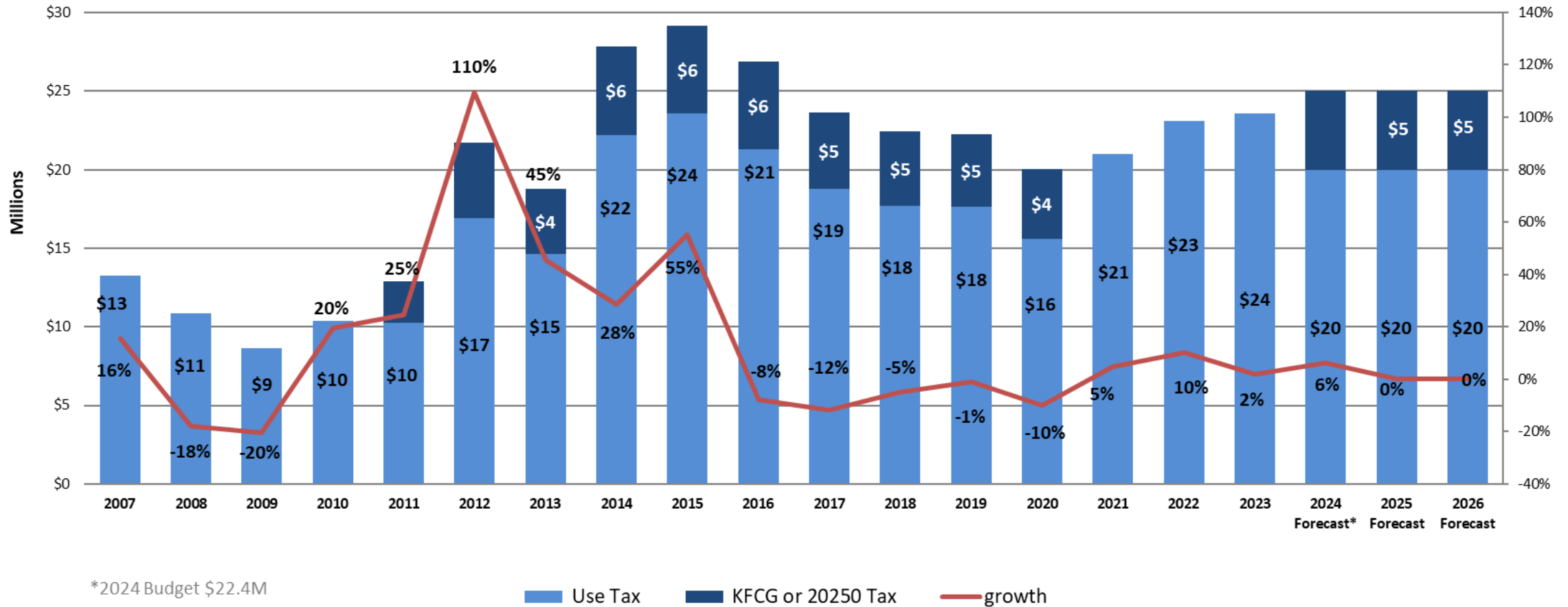
Sales Tax Recommendation

'24 Budget	'24 Forecast	2025	2026
3.9% (originally 2.5%)	2.9%	3%	3%

- Currently forecasting 2.9% growth for 2024. 3.9% growth is needed over 2023 to reach the 2024 budget
- Historically Fort Collins Sales Tax follows the same trend as US GDP, Colorado Personal Income, US CPI and Denver-Aurora-Lakewood CPI
- Retail growth is expected to settle into pre-pandemic trends
- The continued impacts of high interest rates could slow growth in 2024
- Softening growth in 2nd half of 2023 anticipated into 2024, then return to historic trends in 2025 and 2026



Use Tax History

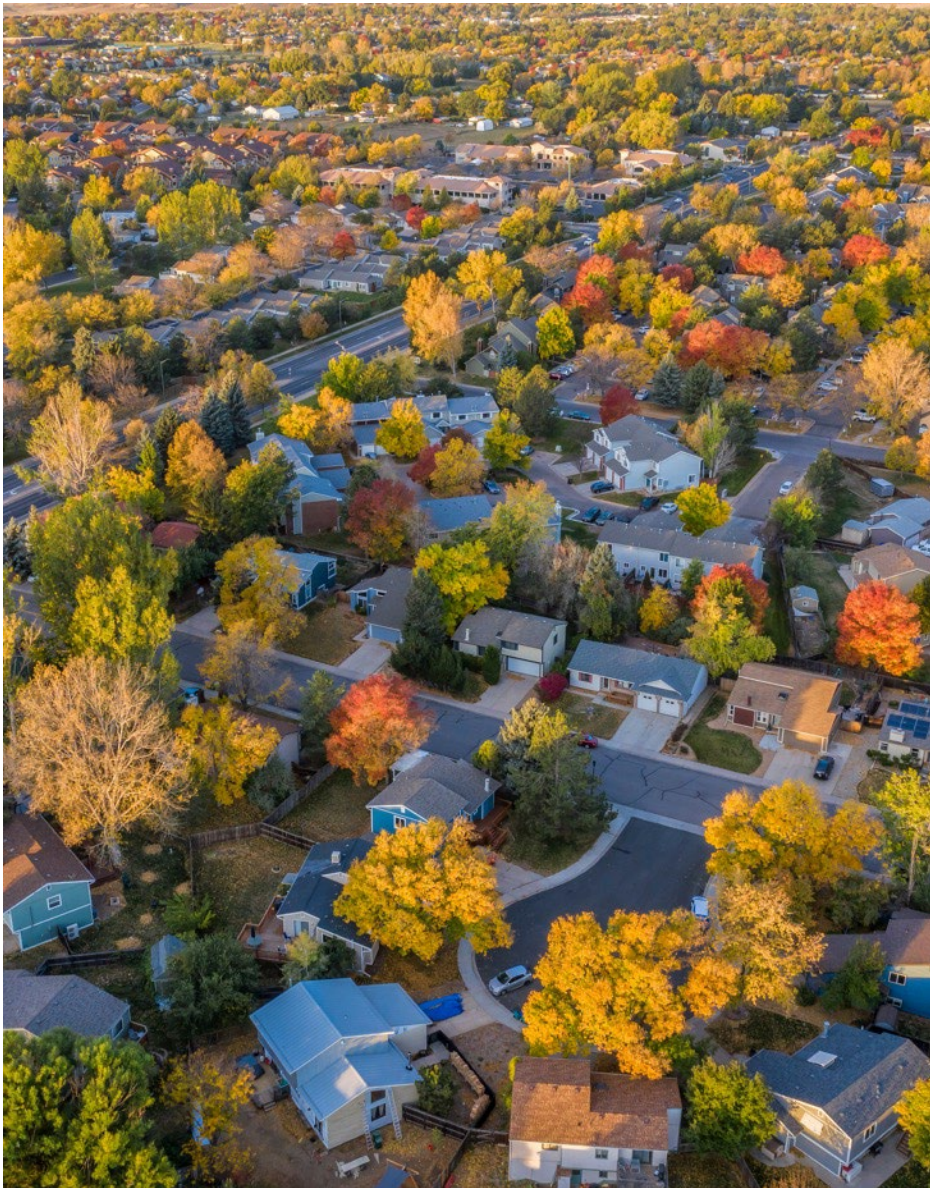


Use Tax is volatile and difficult to forecast, driven largely by development and business investment

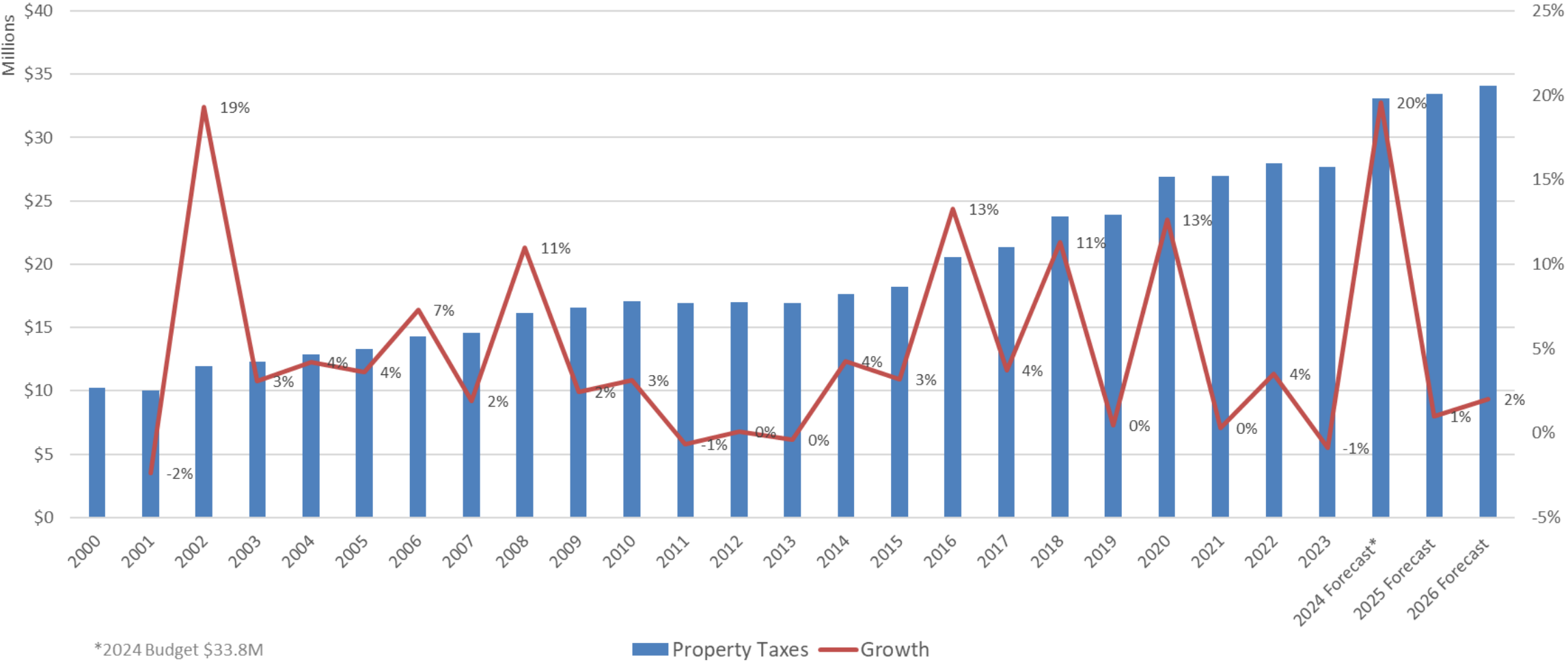
Use Tax Recommendation

'24 Budget without 2050 tax	'24 Forecast without 2050 tax	2025	2026
\$20M	\$23M	\$25M	\$25M

- Use tax on building permits on par with pervious years
- Increase in car tax, but a decline in return tax
- 2024 expected to be in line with recent year actuals
- Flat growth for 2025 and 2026 based on updated 2024 forecast



Property Tax History



After recent significant growth in property values, slow to flat growth is expected

Property Tax Recommendation



2025	2026
1%	2%

- Recommendation is based on preliminary 2024 valuations and discussions with the Larimer County Assessor’s Office
- Between tax year 2021 and 2023, significant growth in property values led to legislative action to provide tax relief in the form of lower assessment rates and expanded exemptions
- Looking at flat growth over the next two years with new construction being the only anticipated change (subject to change based on any legislative action)
- PFA receives 67% of the city’s portion of property tax via an IGA



2023 Utility Services Revenue – Preliminary Unaudited Results



Utility Services

\$ in thousands

December 2023 Revenue

Percent of Year: 100%

Year to Date

	Budget 2023	Actual 2023	Over/(Under) Budget	% Annual Bud Recvd	2022 Actual	Inc/(Dec) 2022	% Current Act vs. Prior Act
Electric Charges for Services	152,890	155,139	2,249	101%	149,902	5,237	103%
Water Charges for Services	32,785	31,505	(1,280)	96%	34,244	(2,738)	92%
Wastewater Charges for Services	23,910	24,633	723	103%	23,852	781	103%
Stormwater Charges for Services	18,600	19,042	442	102%	18,022	1,020	106%
Customer Srv & Admin Fund Charges	20,512	20,517	5	100%	16,891	3,625	121%
Interest Revenue	2,615	5,354	2,740	205%	2,955	2,400	181%
Other Miscellaneous	2,495	3,780	1,285	151%	3,748	31	101%
Development Fees/PIFs/Contributions	6,585	7,765	1,180	118%	13,117	(5,352)	59%
TOTAL BEFORE UNREALIZED GAINS/LOSSES	260,392	267,734	7,343	103%	262,732	5,003	102%
Unrealized Invst. Gains/Losses	0	5,294	5,294	0%	(11,144)	16,438	-48%
GRAND TOTAL	260,392	273,029	12,637	105%	251,588	21,441	109%

2023 was a wetter than average summer, impacting the Water Utility. Light & Power and the other wet Utilities came in slightly above budget for the year.

Proposed Utility Rate Changes

Utility Rate	2024	2025	2026
Water	4.0%	7.0%	9.0%
Wastewater	4.0%	6.0%	8.0%
Stormwater	3.0%	6.0%	6.0%
Electric	5.0%	6.0%	5.0%

- Rate increases were previously discussed at CFC in Dec 2023 and Feb 2024
- In general, the increases are necessary to support asset renewal and replacement across all 4 funds
- The electric rate increases also include estimated wholesale purchase power increases from Platte River Power Authority (PRPA); final PRPA increases including updated Integrated Resource Plan (IRP) are TBD

- **The significant inflation experienced over the last couple years is subsiding; but the higher costs don't decline to previous levels, which impacts specific commodities substantially**
- **Federal Reserve rate increases have subsided; anticipating minimal changes in 2024**
- **Staff is proposing to budget an average of 2.5% inflation in 2025 and 2026 for non-personnel service expenses**
- **To be market competitive, personnel expenses are proposed to be higher than the average cost increases of 2.5%**
- **Ongoing funding for ARPA programs ends in 2024; no additional funding source exists for those programs; many of which will sunset in 2025**

Initial Compensation and Benefits Assumptions

- We attract and retain exceptional talent by offering attractive, competitive benefits as part of our overall culture of wellbeing
- As an employer of choice and industry leader, we educate and engage employees and their families, in their health and financial wellness as a component of the City's Total Compensation strategy
- We collaborate with colleagues, City Council, and strategic partners to continually evaluate and improve employee benefits while also responsibly stewarding City resources



Medical Per Employee Per Month (PEPM) Increase Recommendations

- 2025 and 2026: City - Employer (ER) 7% / Employee (EE): 5.5%
- Annual increases of 7% -8.5% (ER) to stepladder to plan equilibrium

Benefit Plan Cost Drivers

- Medical 7-7.5% / Rx 11% / **Combined Trend: 8-8.5%**
- Stop Loss: 20% Increase projection (\$550k)
- Additional FAML I administration expense

Dental PEPM Recommendation

- 2025: 2% Increase for both employer and employee
- 2026: 3.5% Increase for both employer and employee

Projected Budgeted Use of Benefits Reserves

- **2025: \$450k 2026: \$250k**

Employer Contributions

Benefits		2025	2026
Medical	Full Time	\$1,039.55/month; \$12,475/year	\$1,112.35/month; \$13,348/year
	Part Time	\$991.35/month; \$11,896/year	\$1,060.75/month; \$12,729/year
Dental	Full Time	\$54.60/month; \$655/year	\$56.50/month; \$678/year
	Part Time	\$43.25/month; \$519/year	\$44.75/month; \$537/year
Life		.105/\$1,000 x annual salary x 12	.105/\$1,000 x annual salary x 12
Long Term Disability (LTD)		.34/\$100 covered monthly salary	.34/\$100 covered monthly salary
FPPA (Police Only)		3.8% x salary	4.0% x salary
Retirement (401/457)		Varies by classification	Varies by classification
GERP		10.5% x salary	10.5% x salary
FICA	Social Security	6.2% x salary	6.2% x salary
	Medicare	1.45% x salary	1.45% x salary
Workers Compensation		WC Rate x salary (see WC Table)	WC Rate x salary (see WC Table)

Medical / Dental PEPM History

	Medical PEPM	Medical % Increase	Dental PEPM	Dental % Increase
2016	\$ 775	4.0%	\$ 47	4.4%
2017	\$ 902	16.4%	\$ 49	4.3%
2018	\$ 947	5.0%	\$ 51	4.1%
2019	\$ 947	0.0%	\$ 51	0.0%
2020	\$ 852	-10.1%	\$ 51	0.0%
2021	\$ 852	0.0%	\$ 51	0.0%
2022	\$ 912	7.0%	\$ 51	0.0%
2023	\$ 952	4.5%	\$ 51	0.0%
2024	\$ 971	2.0%	\$ 54	0.0%
2025	\$ 1,040	7.0%	\$ 55	2.0%
2026	\$ 1,112	7.0%	\$ 57	3.5%

- No increases from 2019 through 2021 due to plan performance and pandemic
- Benefits team plans to stepladder rate increases back to plan equilibrium
- Forecast 4 – 5 year stepladder plan, strategic use of reserves
- Current Dental PEPM rates are in equilibrium; rate increases match industry increases



The City's compensation philosophy is to provide pay that is externally competitive in both the public and private sectors and delivered within a sustainable financial model.

Current Compensation Assumptions Will Be Validated

Current BFO Compensation Assumptions:
3.5% in 2025 and 3.5% in 2026

"Best Guess" 2025 3.5% - 4.25%

How We Will Know:

- Economic Indicator Analysis
- External Market Data
- Internal Pay Analysis
- Pay Equity Study
- Cost of Living Analysis
- Recruitment and Retention Analysis

"Look Back" Average Merit Increase:
4.65% in 2024 and 3.31% in 2023

	2024	2023
Total Salary Budget Increase	5.0%	5.75%
Total Merit Increase Allocation	4.5%	3.25%
Pay Range Movement	2.5%	2.5%



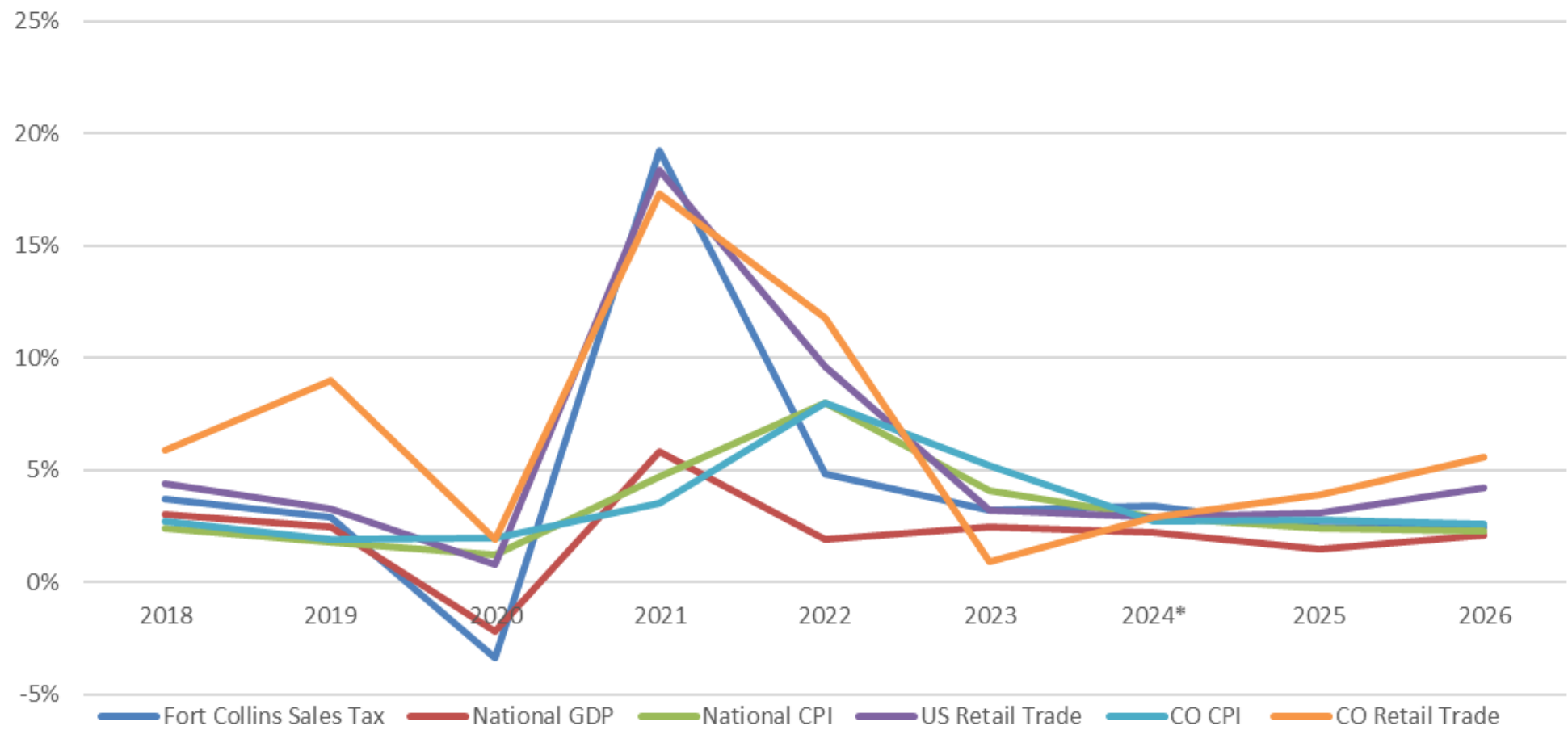
Key 2024 BFO Dates

6 May - 28 June	BFO Teams prioritize offers by Outcome
8 July - 31 July	Executive Team deliberates & makes final recommendations
25 June	Council work session to solicit input for the executive team
30 August	City Manager's 2025-26 Recommended Budget published
10 Sept	Council Work Session #1
17 Sept	Council Meeting - Public Hearing #1
24 Sept	Council Work Session #2
1 Oct	Council Meeting - Public Hearing #2
8 Oct	Council Work Session #3
TBD early Nov	Council Meeting - First Reading of the Budget Ordinance - LPT indicated an interest in scheduling for a non-election day
19 Nov	Council Meeting - Second Reading of the Budget Ordinance

What questions do Committee members have about these assumptions for the 2025-26 Biennial Budget?

Back-up Slides

Sales Tax: Key Indicators



*Percent change without 20250 tax

US GDP, Colorado Personal Income, US CPI & CO CPI historically follow the same trend as Fort Collins Sales Tax

COUNCIL FINANCE COMMITTEE AGENDA ITEM SUMMARY

Staff: Brian Tholl and Glenn Pease

Date: April 4th, 2024

SUBJECT FOR DISCUSSION: Renewal of Epic Homes Loan Program Third-Party Capital Agreements

EXECUTIVE SUMMARY

The purpose of this item is to update Council Finance regarding the capital sources for Utilities on-bill loan financing component, Epic Homes Loan, and to seek support for presenting US Bank and Vectra Bank capital agreement renewals to the Electric Utility Enterprise Board for approval. The blended public and private capital strategy of Epic Loans supports the Our Climate Future plan and the council priority of reducing climate pollution and air pollution through electrification.

The existing US Bank agreement expires on May 31, 2024, and staff is proposing to renew the Vectra Bank agreement in parallel to reduce administrative efforts and to continue success with program participation.

Staff recommend renewal of the proposed US Bank and Vectra Bank capital agreements as a key component of the ongoing implementation of Epic Homes Loan.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

- What questions does Council Finance Committee have on the Epic Homes Loan program?
- Does the Committee support bringing the proposed third-party capital agreements to the Electric Utility Enterprise Board for approval?

BACKGROUND/DISCUSSION

Epic Homes

Epic Homes is a comprehensive program to help Fort Collins Utilities customers achieve more efficient, comfortable, and healthy home living environments for homeowners and renters alike. The program encompasses various offerings, including:

- Discounted home energy assessments

- Equipment rebates on home upgrades and renewable energy projects supporting the Our Climate Future goals
- Participating contractors
- Quality assurance
- Attractive on-bill financing options (Epic Homes Loans)
- Certificates that document energy improvements

In October 2018, Fort Collins became a winner of the 2018 Bloomberg Mayors Challenge and the associated \$1M prize. The 2018 Bloomberg Mayors Challenge involved over 300 cities proposing ideas to address important issues in their community. The City's proposal was selected as a winner for its innovative approach to providing health and equity benefits to residents, specifically for low-to-moderate income renters, by improving the energy efficiency of homes. Residential property owners can take advantage of Epic Homes' easy, streamlined steps to make their homes more comfortable, healthy, and efficient. Partnering with Colorado State University, Fort Collins also established a research study which links the health and well-being indicators of improved indoor environmental quality from efficiency upgrades.

Epic Homes provides non-energy benefits in addition to efficiency, such as increased comfort, health, and safety.

Epic Homes Loan

Epic Homes Loan is Fort Collins' Utilities on-bill finance program. It is a component of the program portfolio which supports community priorities for energy efficiency, renewables, electrification, reduced greenhouse gas emissions, and increased equity and well-being for residents. Providing a simple, low-cost financial tool with Epic Homes Loan helps to meet these objectives by helping property owners undertake comprehensive efficiency improvements. This is especially important for older, less efficient rental properties, which make up a significant percentage of the City's housing stock.

Detailed information regarding the Epic Homes Loan program and loan terms can be found at <https://www.fcgov.com/utilities/epicloan>. The program operates under authorization in Code and the Financial Officer's Rules and Regulations, as updated periodically. The program operates with a neutral balance sheet impact as the obligations to the third-party capital providers are balanced by the obligations of customers to repay on their monthly utility bills.

The original on-bill finance program started issuing loans in 2013. The program was then paused in 2016 when the program's success resulted in reaching the cap of maximum outstanding loan balance funded through Light & Power reserves (\$1.6 million). Building on this success, on-bill finance was revitalized as Epic Homes Loan in August 2018 during the Champions Phase of the Bloomberg Mayors Challenge. The City was awarded grants from the Colorado Energy Office (\$200,000) and from Bloomberg Philanthropies (\$688,350 of the \$1M) for the Epic Loan Program.

One of the workstreams of the Bloomberg Mayors Challenge project was to secure third-party capital as a strategy to enable scaling of the program. In 2019, the Utilities entered into a \$2.5M line of credit loan agreement with U.S. Bank to provide up to 10-year capital for the Epic Homes Loan Program. This line of credit term ended in December 2021 and will again in May 2024. In 2020, an additional \$2.5M line of credit loan agreement was signed with Vectra Bank Colorado

to provide 15-year capital. This line of credit is nearing its cap but will not term out until July 2025. A revision to the agreement to increase the limit is being proposed to sustain the growth of the program. Both of these agreements are structured as lines of credit which are periodically converted into fixed rate term loans. (See Table 1 for a summary of the program's capital stack.)

Through 2023, Fort Collins Utilities has serviced 536 on-bill loans to support energy efficiency upgrades in residential homes and to help property owners overcome financial barriers for making these important upgrades. The blending of zero cost capital (reserves and grants) with low interest third-party capital is what enables the program to offer attractive and competitive interest rates and terms for Utilities customers. With the enterprise fund as the borrower, the program is able to extend the benefits of the high credit rating of the organization to individual customers. These rates are periodically adjusted based on the blended cost of capital. See Table 2 for current interest rates and Table 3 for program results.

An ongoing and attractive financing structure to support energy efficiency retrofits is a critical element for success moving forward. The low rates and scalability of these third-party agreements align with the programmatic objectives and financial requirements of the City.

Table 1. Summary of Proposed Epic Homes Loan Capital Stack

Capital Type	Provider	Term	Rate	Amount
Internal & Grant				
	Previously authorized Light & Power reserves	Ongoing	0%	\$1,600,000
	Bloomberg Philanthropies	Grant	0%	\$688,350
	Colorado Energy Office – Grant	Grant	0%	\$200,000
	Internal Subtotal			\$2,488,350
External Market				
	Colorado Energy Office – Loan	15 year	0%	\$800,000
	U. S. Bank	5 & 10 year	LOC: 1-Month SOFR + 1.05% Term: COF + 1.65% for 3 yr or COF + 1.85% for 8yr (Currently 6.88% and 7.14%)	Up to \$2,500,000
	Vectra Bank Colorado	15 year	LOC 10y T note + 2.75% (Currently 6.89 %) Term 10y T note (Currently 4.14%)	Up to \$3,500,000
	External Subtotal			\$6,800,000
Total				\$9,288,350

Table 2. Customer Interest Rates

Loan Term	Customer Rate (Effective June 2023)
3 or 5 years	5.25%
7 or 10 years	5.55%
15 years	5.95%

Note: Customer interest rates are evaluated at a minimum of every 6 months, but usually quarterly when in a rate changing market

Table 3. Program Results

Number of Loans Issued	536
Number of Outstanding Loans	355
Number of Loans Paid in Full	181
Total Amount Funded	\$8,994,010
Amount Outstanding	\$5,634,529
Total Amount of Interest Payments	\$580,428
Median Loan Amount	\$14,985
Median Monthly Principal Payment	\$102.50
Median Monthly Interest Payment	\$35.84

Third-Party Capital Agreement Summaries:

The terms of the previous US Bank agreement, concluding on May 31, 2024 include:

- Amount: Up to \$2,500,000
- Length: 10-years inclusive of draw period
- Draw period: Up to 2 years, with draw timing and amounts based on program / customer demand
- Line of Credit rate: 76% of the Prime Rate (6.46% as of March 2024); Rate set at time of loan closing
- Term rates: Cost of funds (COF) plus 1.65% for 3-year terms, and COF plus 1.85% for 8-year terms.
- Collateral: None
- Pre-pay: The loan may be prepaid, in whole or in part, at the option of the Enterprise with no penalty.
- Repayment position: Senior pledge on customer loan repayments and subordinate position on Electric Utility revenues, after the more senior pledge held by revenue bondholders

US Bank agreement, revised terms for extension to conclude in November of 2025:

- Line of Credit rate: 1M Secured Overnight Financing Rate (SOFR) + 1.05% for 1 –1.5 year term or 1M SOFR + 1.68% for 2-2.5 year term. (Currently 6.36% and 6.99% respectively)
- Term rates: Cost of funds (COF) plus 1.65% for 3-year terms, and COF plus 1.85% for 8-year terms.
- Remaining terms carryforward from existing agreement.

The terms of the previous Vectra Bank agreement, which concludes in July 2025, include:

- Amount: Up to \$2,500,000
- Length: 15 years inclusive of draw period
- Draw period: Up to 2 years, with draw timing and amounts based on program / customer demand
- Fixed rate: 10 yr Treasury +2.75%. Yr 1 \$1,012,000 at 5.56%; Yr 2 6.908%
- Collateral: None
- Pre-pay: City may pre-pay in whole or in part after 2027 with no penalty. No prepayment is allowed prior to 2025, and between 2025 and 2027 there is a 1% prepayment fee.
- Repayment position: Senior pledge on customer loan repayments and subordinate position on Electric Utility revenues, after the more senior pledge held by revenue bondholders

The proposed revisions to the Vectra Bank agreement will be:

- Amount: from up to \$2,500,000 to up to \$3,500,000
- Expiry Date: From July 2025 to July 2026

**Vectra Agreement still under internal review at Vectra and is subject to change. US Bank and Vectra Agreements. Pending review and recommendations from City Attorney's office*

Next Steps

- Staff seeks support from Council Finance Committee to proceed with Electric Utility Enterprise Board consideration of the proposed agreements.
- If supported, staff will finalize agreements and associated term sheets.
- Staff will present the agreements at soonest possible Council meeting.
- Continue with program operations and financial transactions.
- Continue to explore strategies for scaling the program to present to Council as part of seeking expansion of program limits in Fall of 2024

ATTACHMENTS

Attachment 1: Epic Loans Third-Party Capital Agreement CFC March 2024 power point

Attachment 2: US Bank 2022 Agreement

Attachment 3: Vectra 2022 Agreement

Epic Loans: Renewal of Third-Party Capital Agreements

Brian Tholl
Energy Services Senior Manager

Glenn Pease
Energy Services Program Manager





What questions does Council Finance Committee have on the Epic Homes Loan program?



Does the Committee support bringing the proposed third-party capital agreements to the Electric Utility Enterprise Board?



Big Move 6: Efficient Emissions Free Buildings

Additionally:

- ✓ Centers community with an integrated approach to local partnerships.
- ✓ Centers equity by increasing focus on rental properties.

A 2022 program evaluation found that Epic Loans allow customers to complete larger, more comprehensive projects than they would have without loans.

What is an Epic Home?

Epic Homes helps customers achieve more efficient, comfortable, and healthy living for homeowners and renters alike



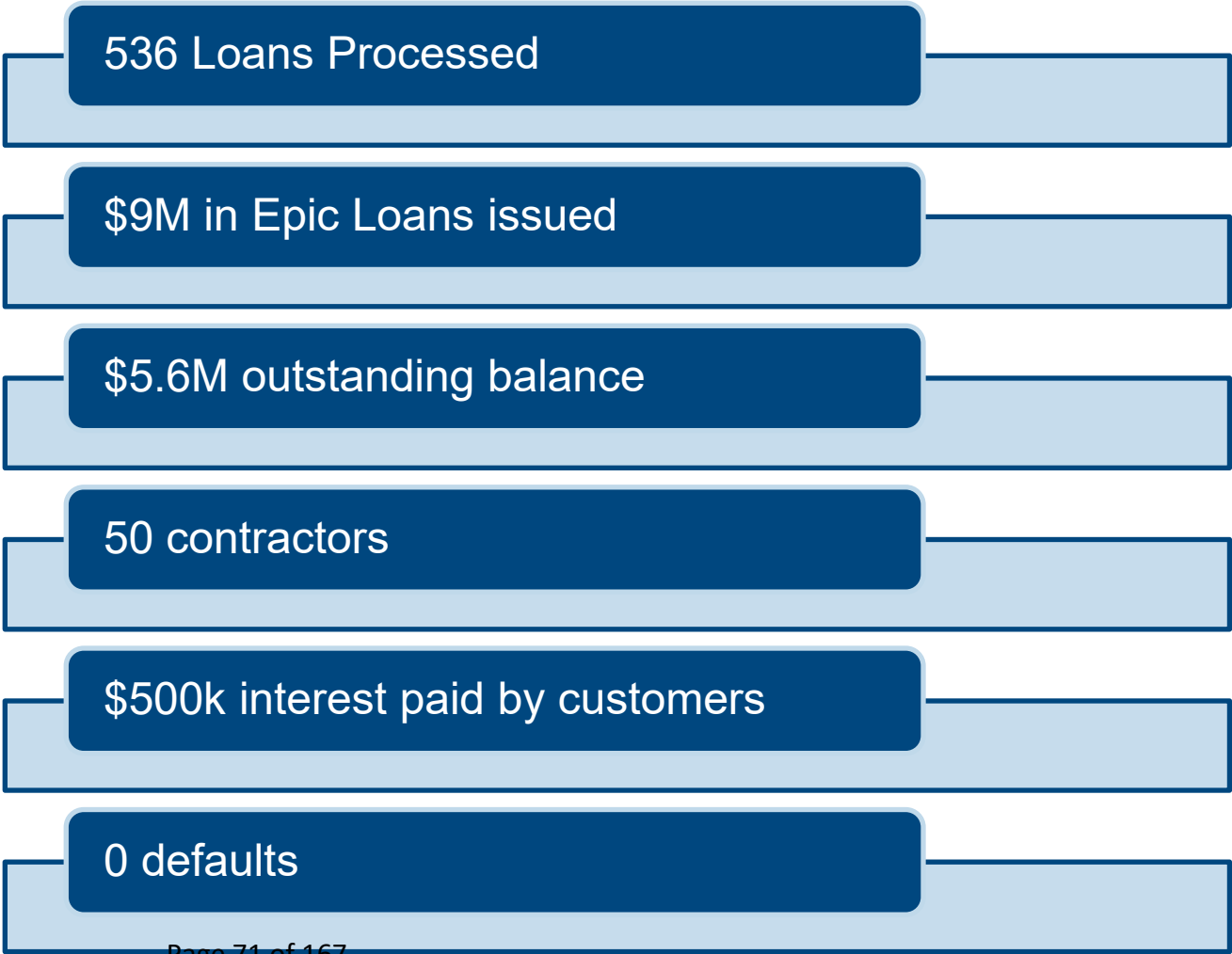
Discounted home energy assessments

Substantial rebates on electrification and efficiency improvement projects

Attractive financing options

Certificates that document energy improvements

Epic Homes Loans offers competitive rates with no money down.



Q1

- Renew Bank agreements with similar terms
- Explore expanding capital stack with 2050 Tax funding

Q2

- Risk assessment and refine cash expectations
- Explore 3rd party loan managers to help scale

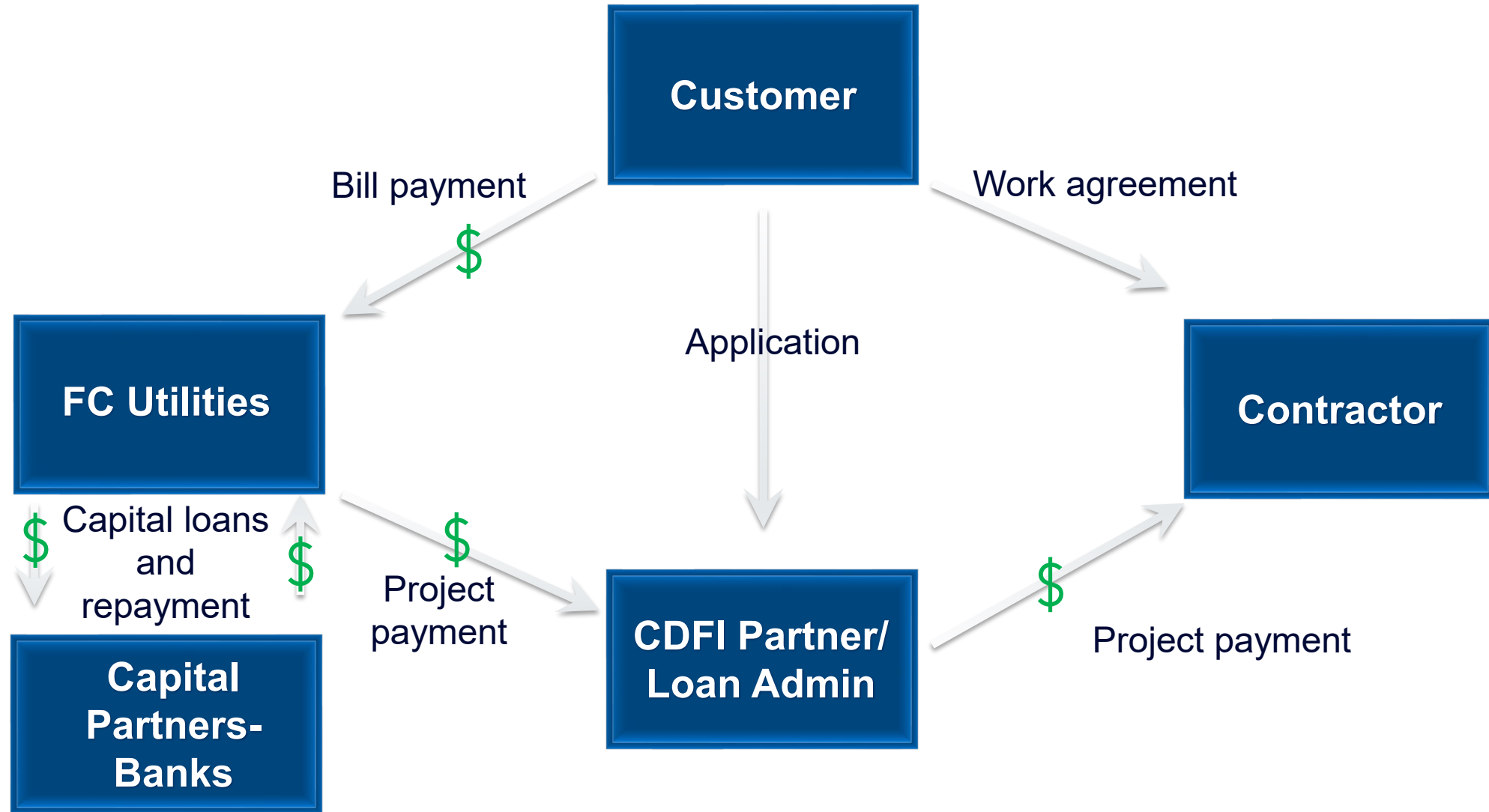
Q3

- Explore new capital (2050 Tax, Grant, federal funds, 3rd party capital RFP)

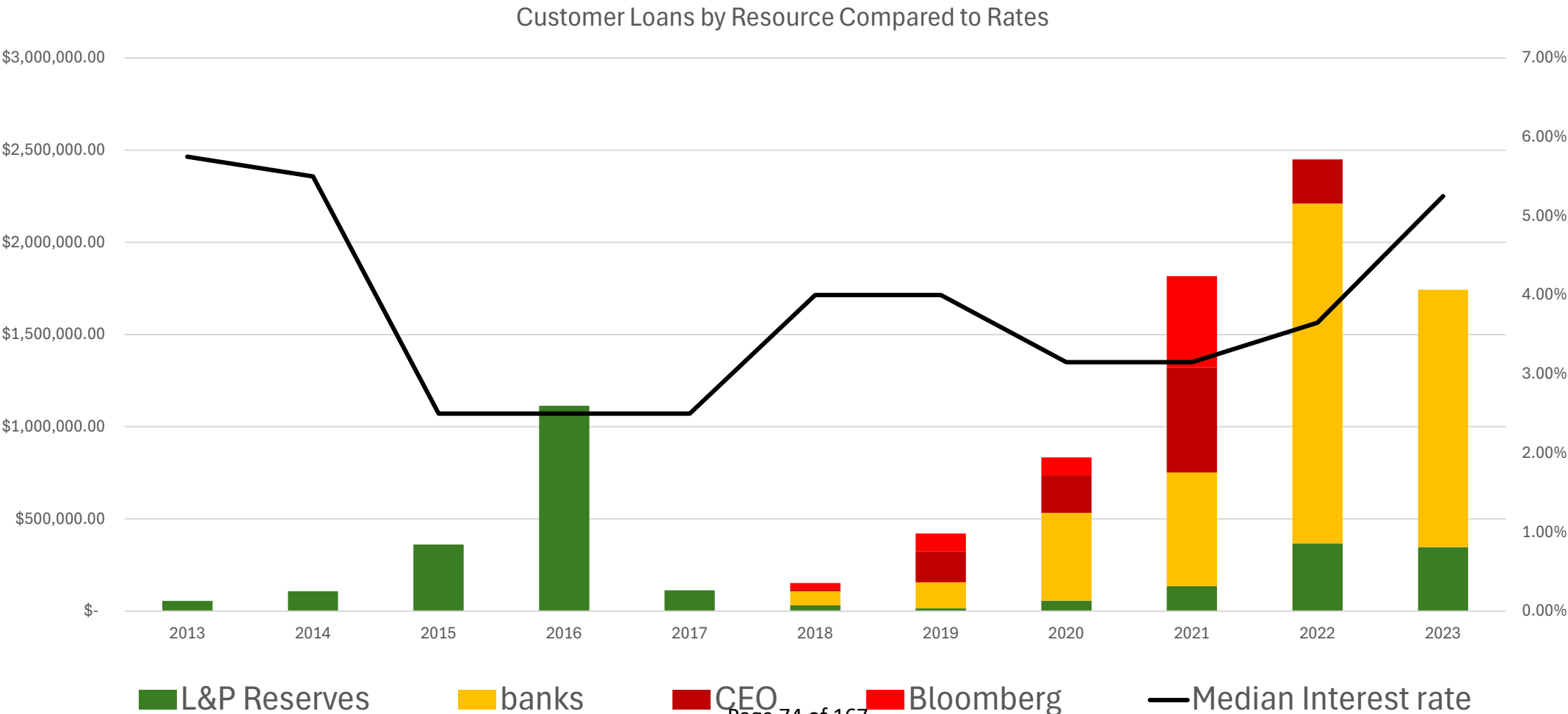
Q4

- Seek council interest in expanding outstanding principal balance for program growth

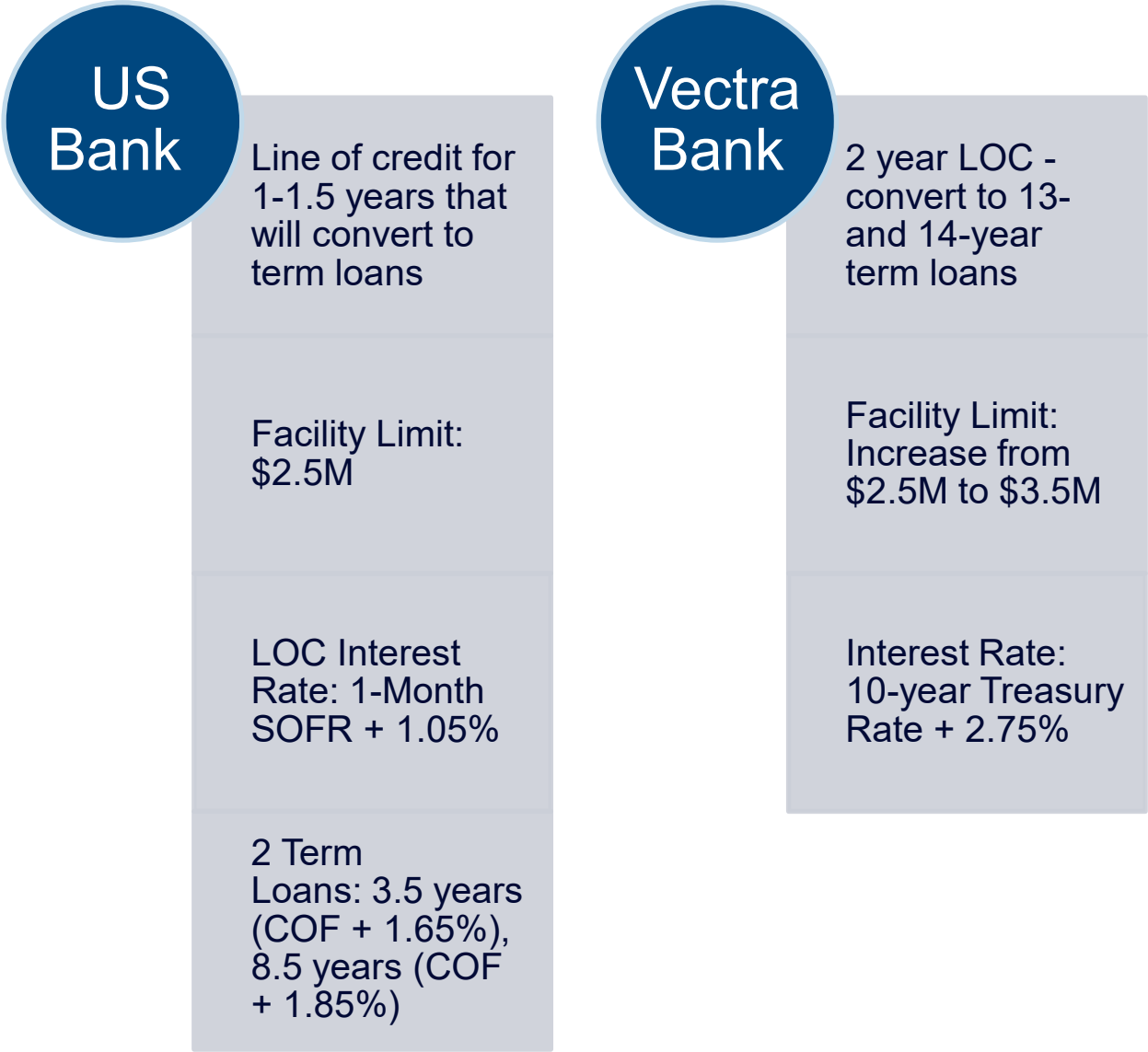
High Level Mechanics of Epic Homes Loan



Relationship of Rates + Capital and Reserve Blending on Participation



Proposed Third-Party Renewals*



** Pending complete review and recommendations on bank agreements from City Attorney's office*

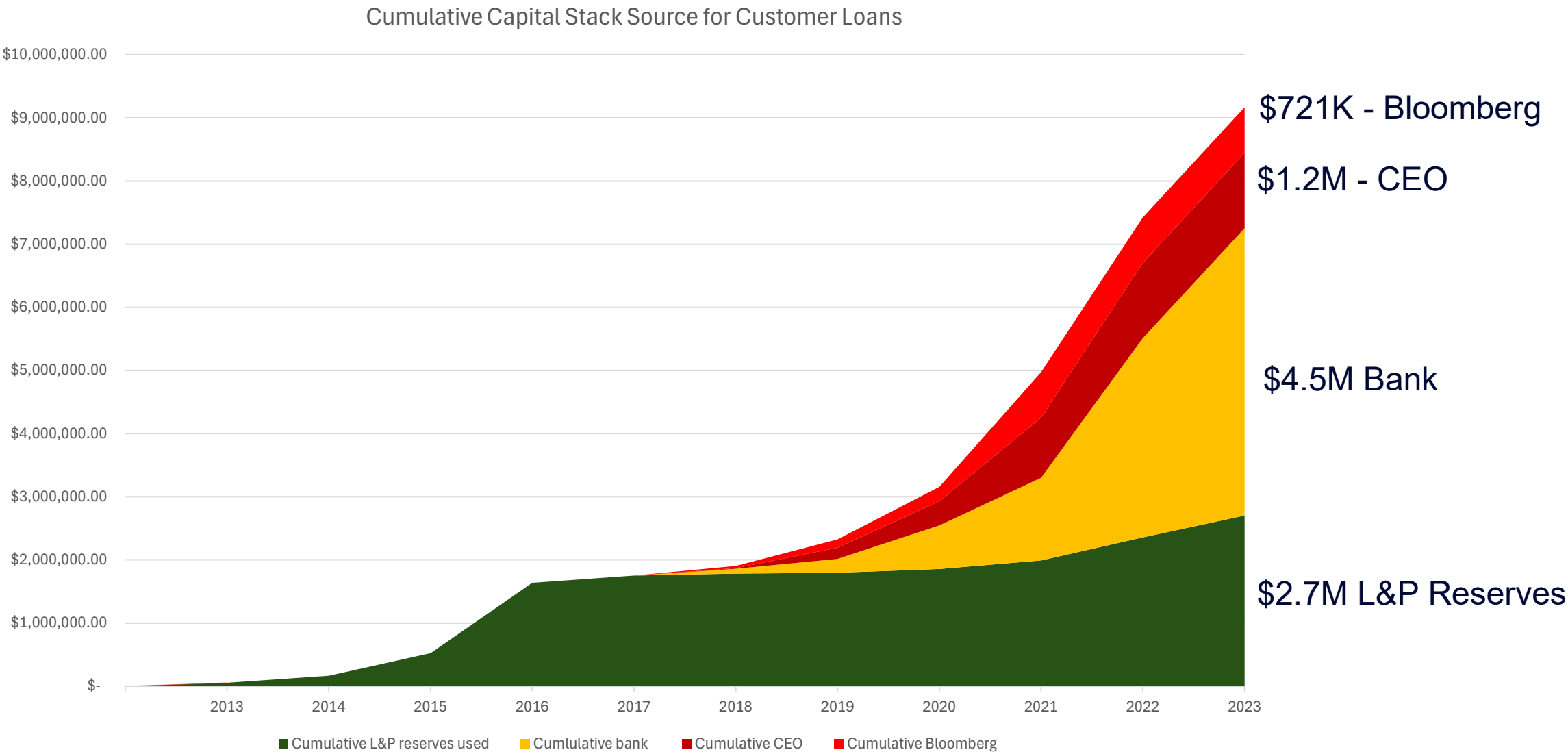


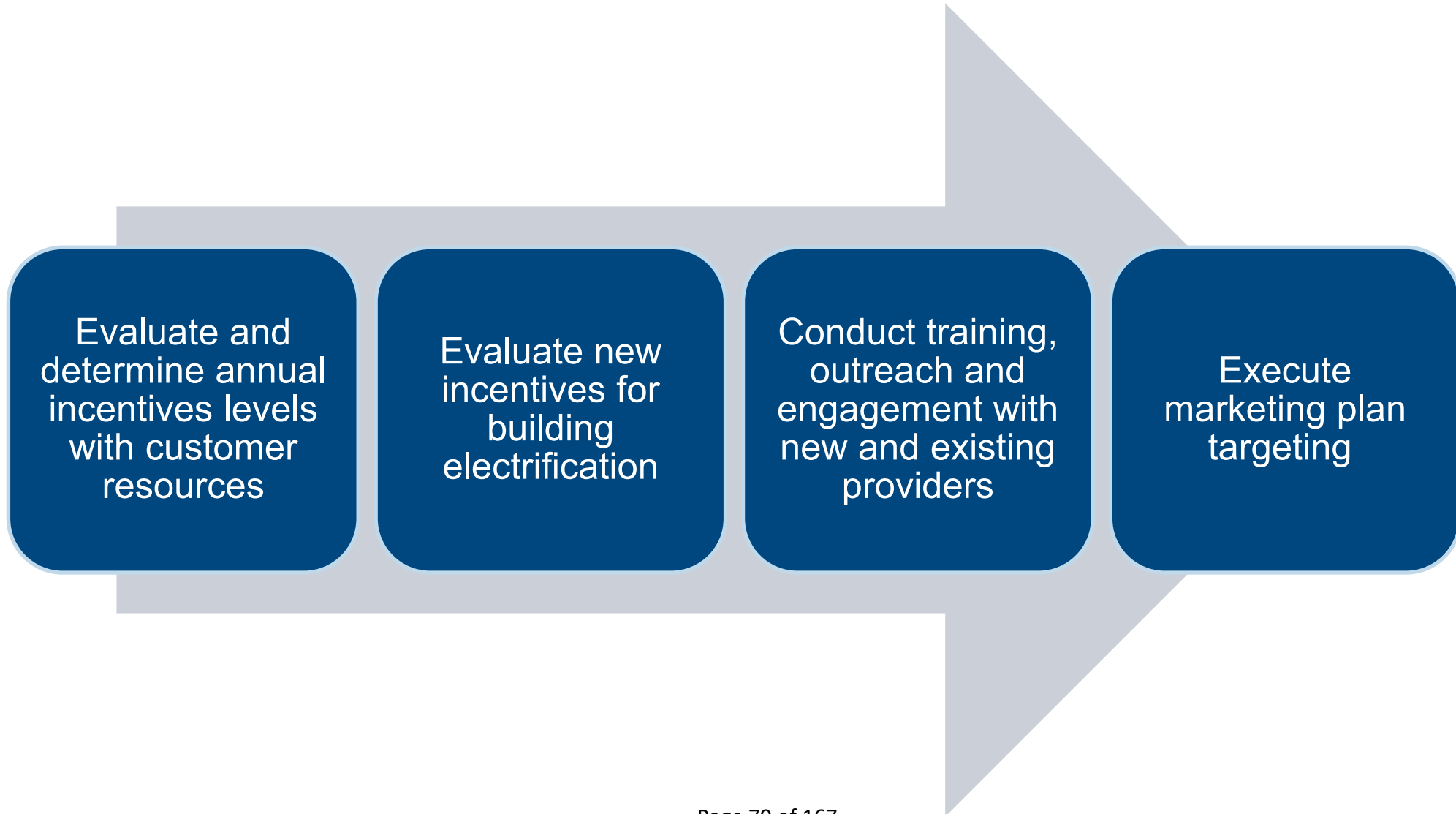
What questions does Council Finance Committee have on the Epic Homes Loan program?



Does the Committee support bringing the proposed third-party capital agreements to the Electric Utility Enterprise Board?

Growing Demand Calls for Growing Bank Capital to fill Gaps





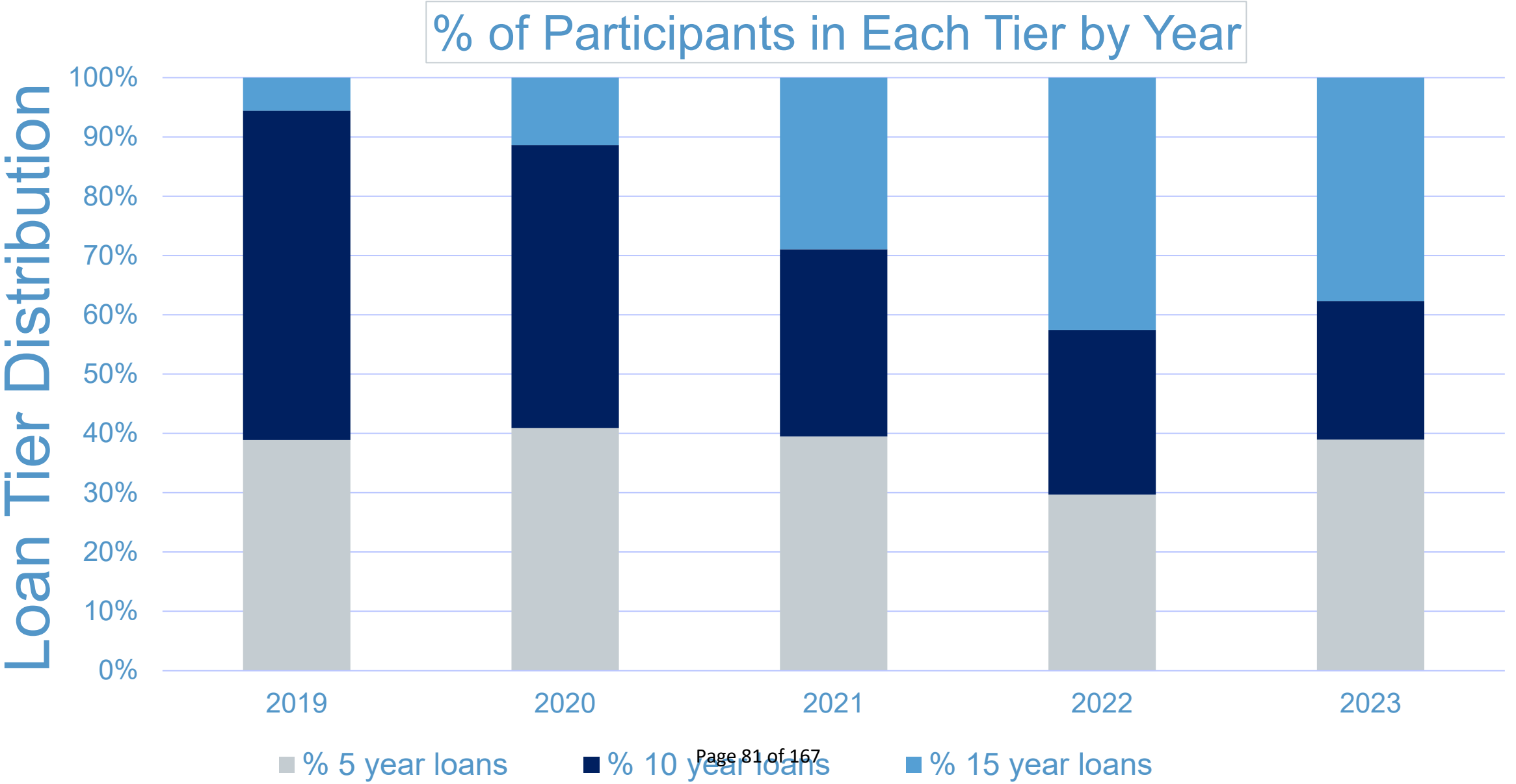
Loan Portfolio Management

- Interest rate target: blended cost of capital, plus admin and risk premium
 - **Maintain 0.75% - 1.00% buffer between blended source cost of capital and lending rates**
- Parity in length of term borrowed vs. length of term loaned

Other Critical Considerations

- Minimize impact on Light & Power planned future debt offerings
- Protect Utilities credit rating & broadband's coverage covenants

15 Year Loan Growth Increase Over 5 Years



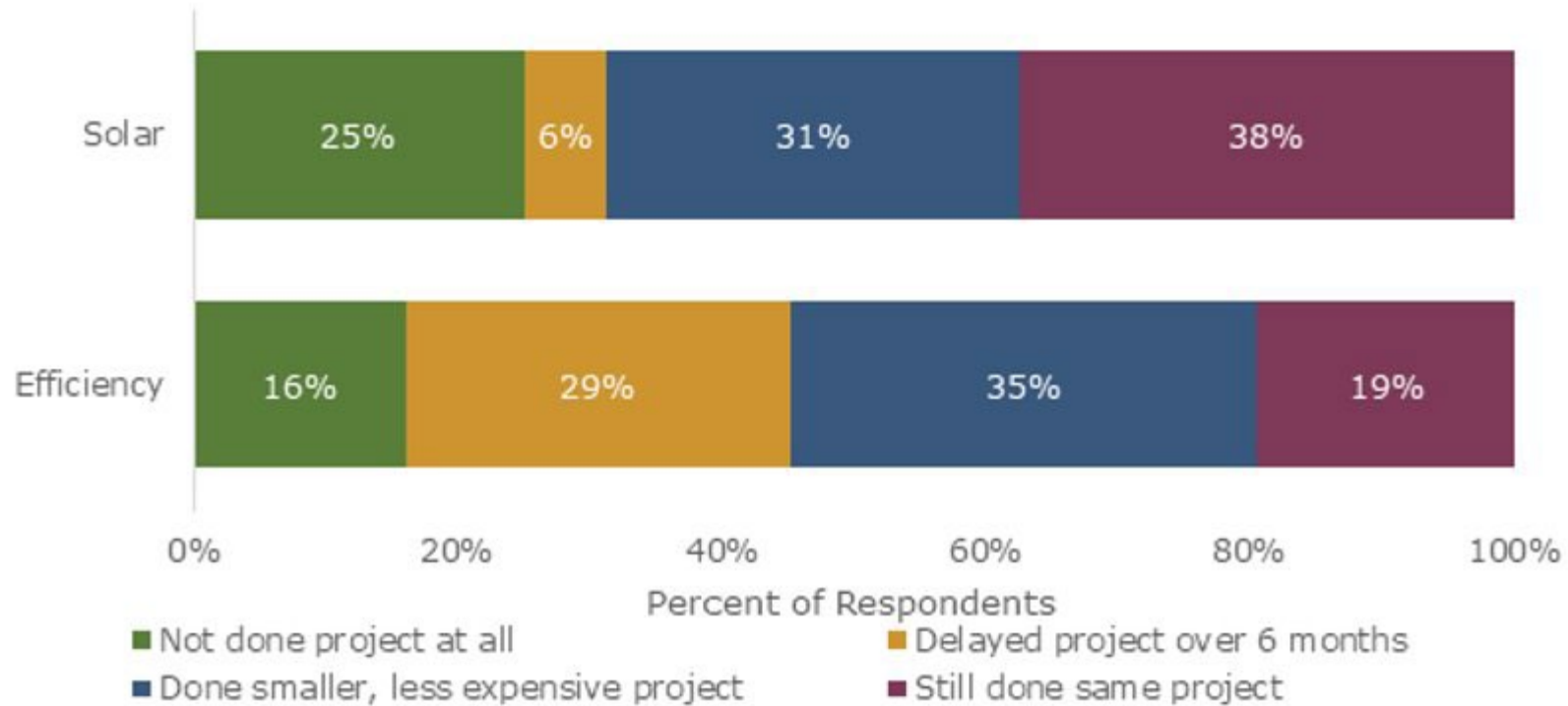
Complete cash flow & modeling scenarios

Source capital that could contribute to program

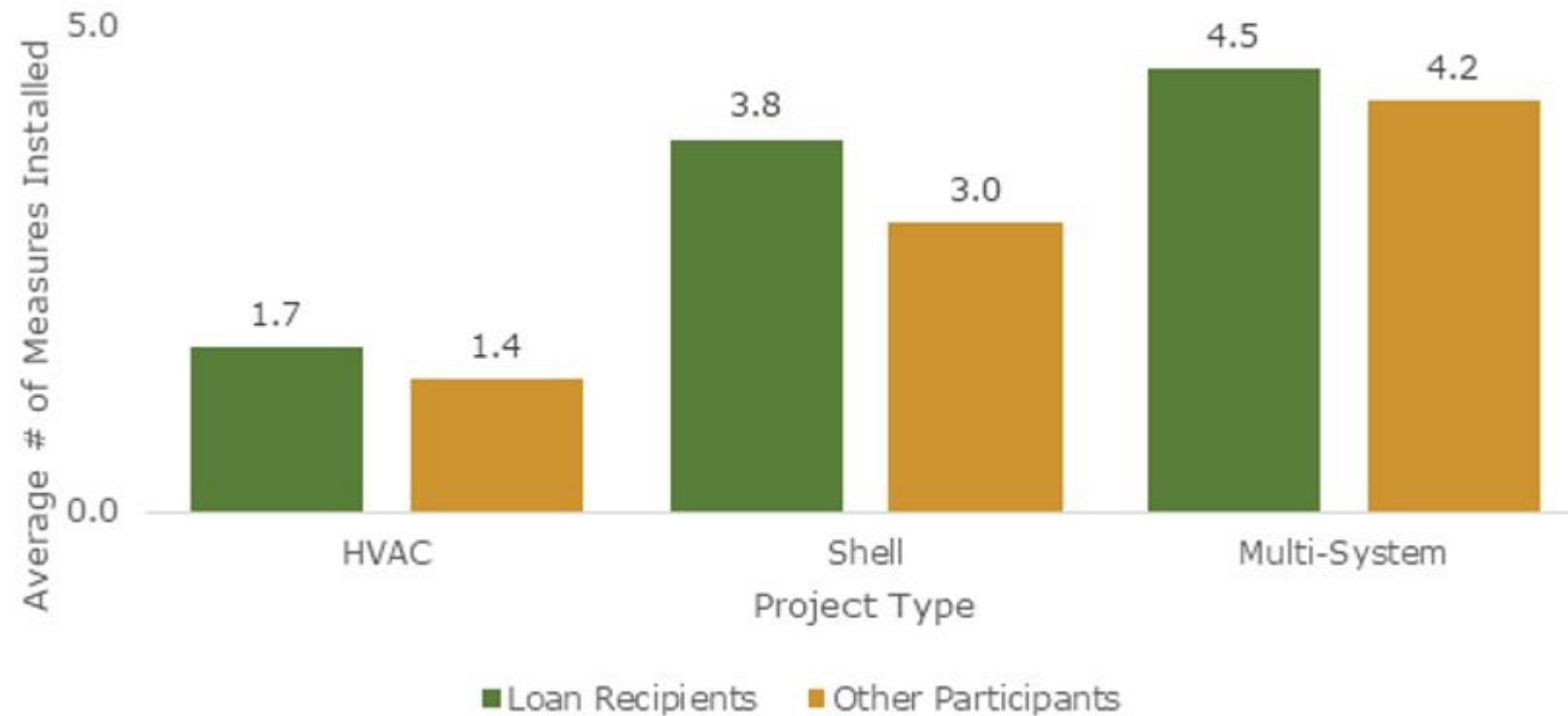
Optimize capital stack management and associated tiered interest rates

Manage capital stack and lending based on City expectations for yield and other requirements

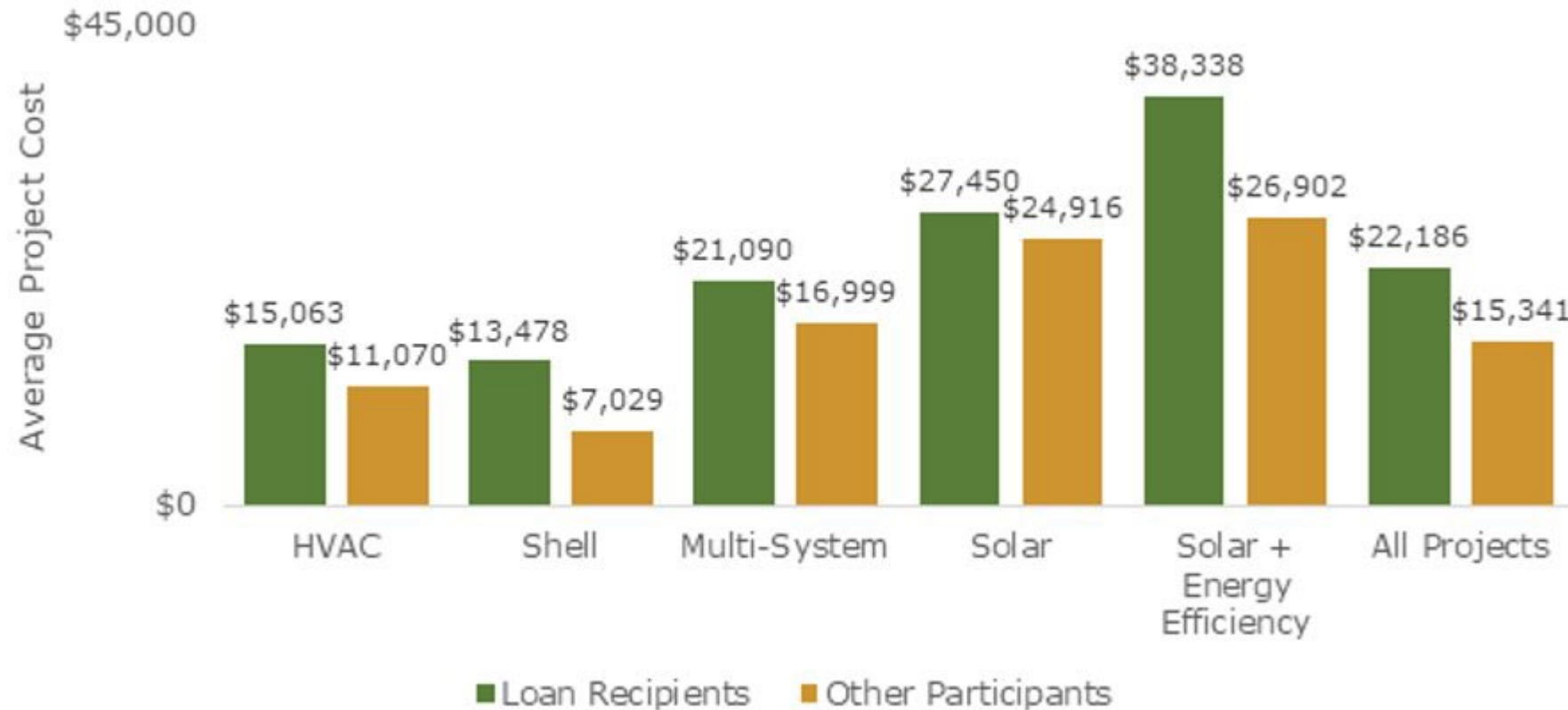
The Epic Homes Loan accelerates comprehensive upgrades



The Epic Homes Loan participants install more equipment with loan



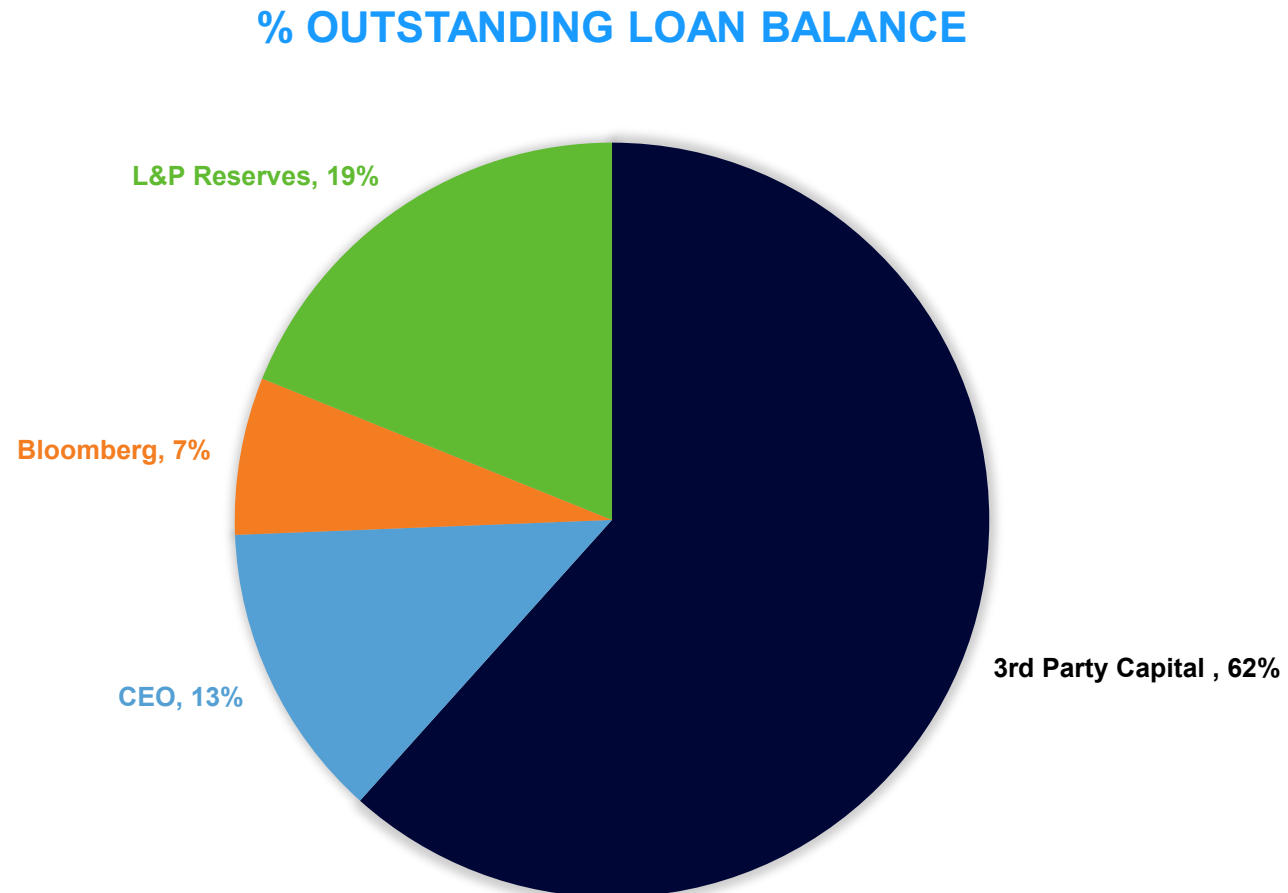
The Epic Homes Loan participants invest more in their home with loan



Comparing Capital Sources

	Amount	Agreement Terms	Rate	Revolving	Admin
CEO Loan	\$800k	All Funds Used	0%	Limited	High
Grant Dollars	\$850k	N/A	0%	Yes	High
Vectra	\$1.5M and Seeking + \$1M	4/2020 4/2022 7/2025	variable	Yes	Medium
US Bank	\$2.5M	12/2019 5/2022 5/2024	Variable	Yes	Medium
L&P Reserve	\$2.0M	N/A	0%	Yes	Low

Third Party Capital accounts for 62% of outstanding loan balances

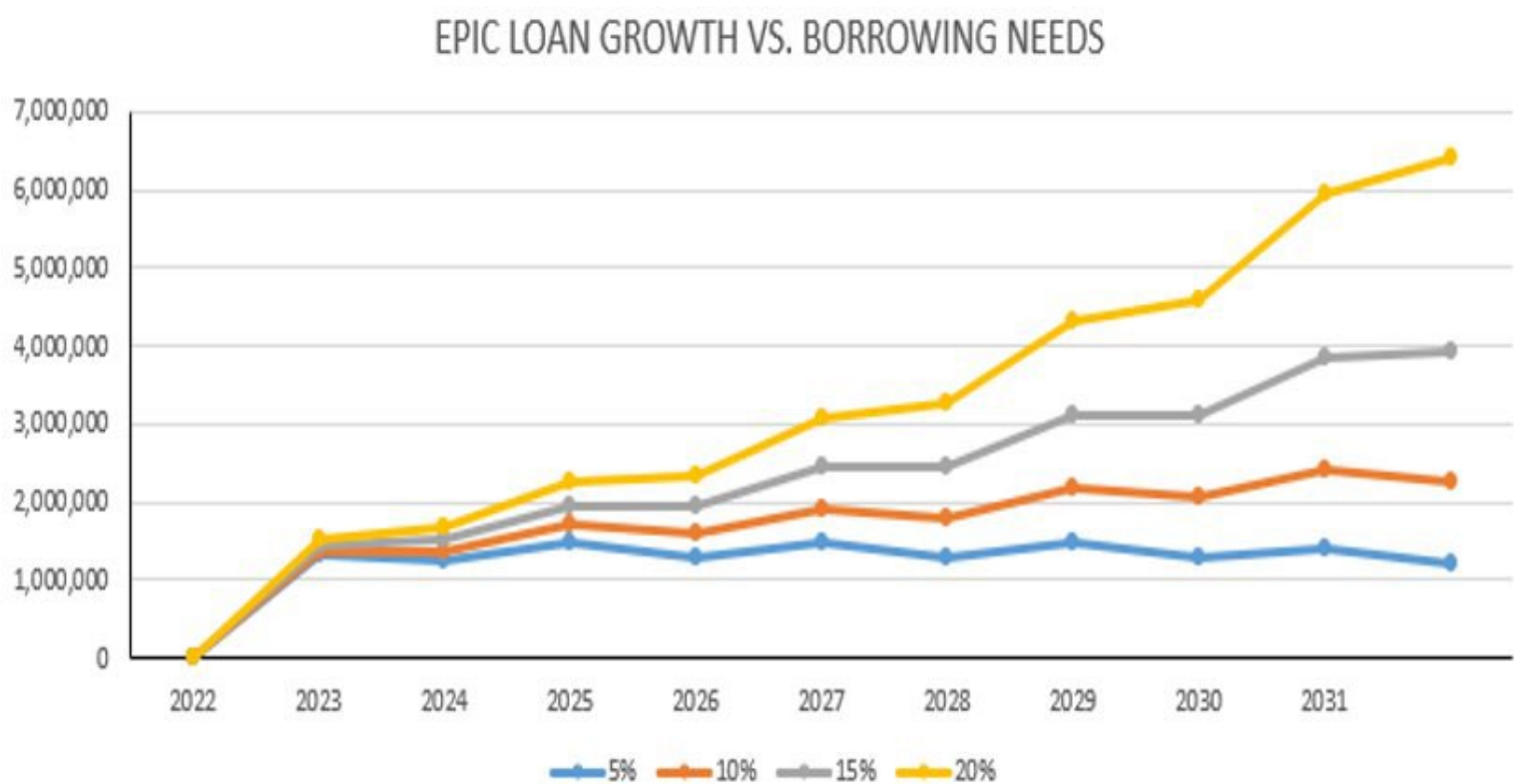


Epic Loan Growth vs. Borrowing Needs



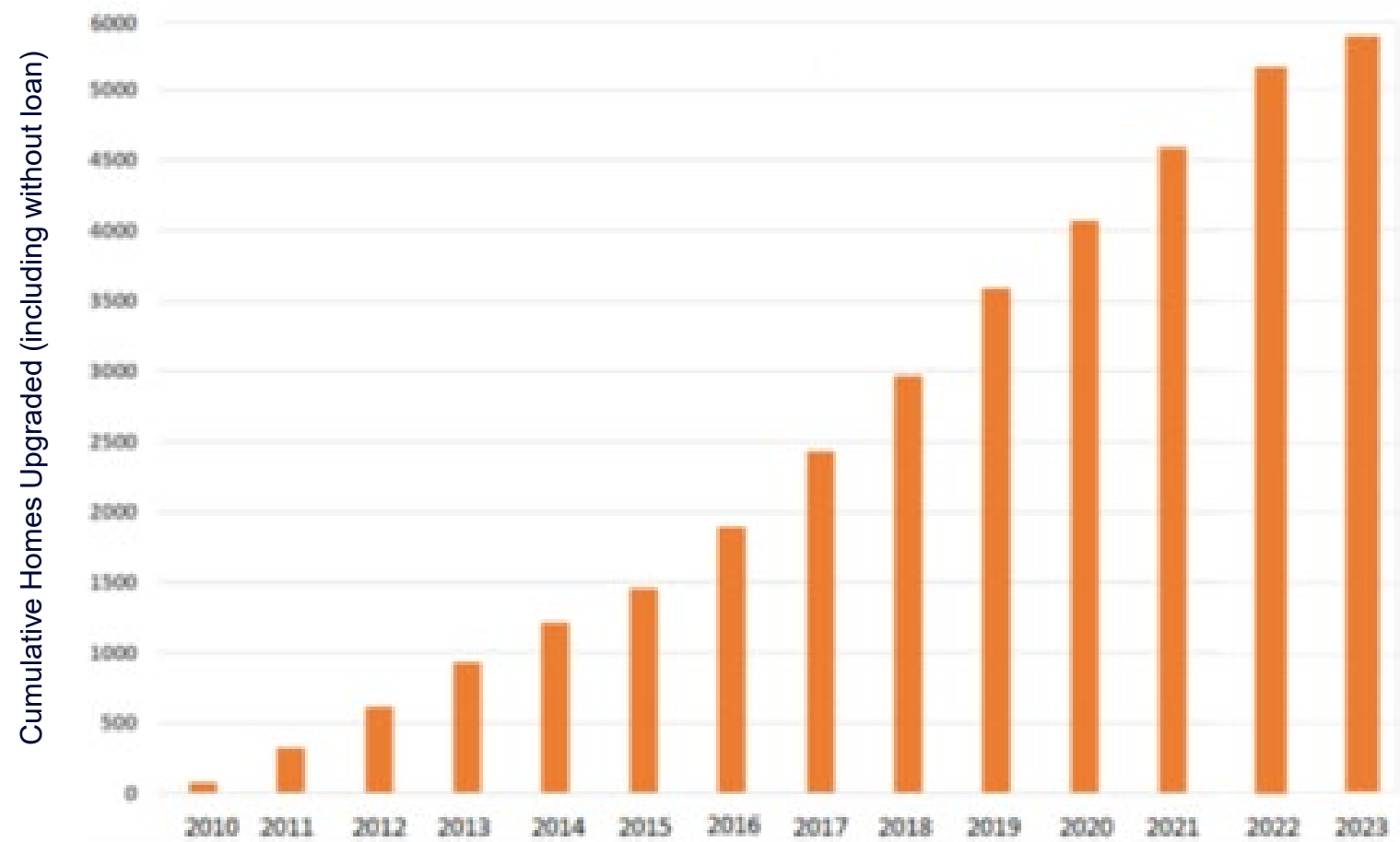
Staff anticipates 10% growth over next 2-4 years

The increase in Epic loan growth will drive up the borrowing needs.



Loan Growth Rate	Average Borrowing Needs	
5%	\$	1,347,633
10%	\$	1,872,288
15%	\$	2,584,590
20%	\$	3,547,130

Epic Homes cumulative participation



Epic Homes Program Year

LOAN AGREEMENT

by and between

CITY OF FORT COLLINS, COLORADO, ELECTRIC UTILITY ENTERPRISE

AND

U.S. BANK NATIONAL ASSOCIATION

Relating to:

Not to exceed \$2,500,000 2022 Taxable Subordinate Lien Revenue Note

Dated as of May 31, 2022

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LOAN AGREEMENT

THIS LOAN AGREEMENT (this “Agreement”) is made and entered into as of May 31, 2022, by and between **CITY OF FORT COLLINS, COLORADO, ELECTRIC UTILITY ENTERPRISE**, an enterprise established and existing pursuant to the home rule charter of the City of Fort Collins, Colorado (the “Enterprise”), and **U.S. BANK NATIONAL ASSOCIATION**, a national banking association, in its capacity as lender (the “Bank”).

W I T N E S S E T H :

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

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

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

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

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

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

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

WHEREAS, the Enterprise has previously incurred the following financial obligations which are payable from and secured by a lien on the Net Pledged Revenues (as herein defined): its “City of Fort Collins, Colorado, Electric Utility Enterprise, Tax-Exempt Revenue Bonds, Series 2018A” (the “2018A Bonds”), its “City of Fort Collins, Colorado, Electric Utility Enterprise, Taxable Revenue Bonds, Series 2018B” (the “2018B Bonds” and, together with the 2018A Bonds, the “2018 Bonds”), a Loan Agreement with U.S. Bank National Association, dated December 17, 2019, as amended (the “2019 Loan Agreement”), a Loan Agreement with ZB, N.A., DBA Vectra Bank Colorado, dated as of April 17, 2020 (the “2020 Loan Agreement”), and a Loan Agreement

with the State of Colorado, Colorado Energy Office, with a start date of April 20, 2020 (the “2020 State Loan Agreement, and together with the 2018 Bonds, the 2019 Loan Agreement, and the 2020 Loan Agreement, the “Prior Obligations”); and

WHEREAS, except for the Prior Obligations, neither the City nor the Enterprise has pledged or hypothecated the Gross Net Pledged Revenues (as herein defined) to the payment of any bonds or for any other purpose, with the result that the Net Pledged Revenues may now be pledged lawfully and irrevocably to the payment of the Loan which pledge will be subordinate to the pledge of Net Pledged Revenues to the payment of the 2018 Bonds and on a parity with the 2019 Loan Agreement, the 2020 Loan Agreement, and the 2020 State Loan Agreement; and

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

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

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

ARTICLE I

DEFINITIONS

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

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

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

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

“*2019 Loan Agreement*” means the Loan Agreement with U.S. Bank National Association, dated December 17, 2019, as amended

“*2020 Loan Agreement*” means the Loan Agreement with ZB, N.A., DBA Vectra Bank Colorado, dated as of April 17, 2020.

“*2022 Note*” or “*Note*” means the City of Fort Collins, Colorado, Electric Utility Enterprise not to exceed \$2,500,000 2022 Taxable Subordinate Lien Revenue Note evidencing the Loan from the Enterprise, as maker, to the Bank, as payee.

“*2020 State Loan Agreement*” means the Loan Agreement with the State of Colorado, Colorado Energy Office, with a start date of April 20, 2020.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Gross Pledged Revenues” means all rates, fees, charges and revenues derived directly or indirectly by the City from the operation and use of and otherwise pertaining to the System, or any part thereof, whether resulting from Capital Improvements or otherwise, and includes all rates, fees, charges and revenues received by the City from the System, including without limitation:

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

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

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

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

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

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

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

“Interest Payment Date” means, for Advances, the first Business Day of each month, commencing the first such day occurring after the Initial Advance, and continuing through and including the Advance Maturity Date and, for Term Loans, June 1 and December 1, commencing the first such day occurring after an Advance has been converted to a Term Loan continuing through and including the Term Loan Maturity Date.

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

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

“Loan” means all Advances and Term Loans.

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

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

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

“Maximum Advance Amount” means, with respect to the 2022 Note, \$2,500,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Operation and Maintenance Expenses” does not include:

(a) Any allowance for depreciation;

- (b) Any costs of reconstruction, improvement, extensions, or betterments, including without limitation any costs of Capital Improvements;
- (c) Any accumulation of reserves for capital replacements;
- (d) Any reserves for operation, maintenance, or repair of the System;
- (e) Any allowance for the redemption of any bonds or other securities payable from the Net Pledged Revenues or the payment of any interest thereon;
- (f) Any liabilities incurred in the acquisition of any properties comprising the System; and
- (g) Any other ground of legal liability not based on contract.

“*Parity Debt*” means the 2019 Loan Agreement, the 2020 Loan Agreement, the 2020 State Loan Agreement, and any other obligations of the Enterprise payable from and with a lien on the Net Pledged Revenues on a parity basis with the 2022 Note.

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

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

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

“*Principal Payment Date*” means for Advances the Advance Maturity Date and for Term Loans, December 1 of each year, commencing on the first such date occurring after the Conversion Date and continuing through and including the Term Loan Maturity Date.

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

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

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

City boundaries, used in connection with such system of the City, and in any way appertaining thereto, including all present or future improvements, extensions, enlargements, betterments, replacements or additions thereof or thereto and administrative facilities.

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

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

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

ARTICLE II

LOAN

Section 2.01. Loan.

(a) ***Agreement to Make Loan.*** The Bank hereby agrees to extend the Loan to the Enterprise in the maximum aggregate principal amount of \$2,500,000 subject to the terms and conditions of this Agreement. The Loan shall be evidenced by the 2022 Note, the form of which is set forth in Exhibit A attached hereto.

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

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

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

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

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

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

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

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

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

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

(d) ***Prepayment***. The Loan may be prepaid, in whole or in part, at the option of the Enterprise, at a prepayment price equal to the principal amount so prepaid, plus accrued

interest to the prepayment date, with no prepayment fee. Any prepayment under this paragraph shall only be made after the Enterprise gives two Business Days written notice to the Bank.

(e) **Obligations Unconditional.** The Enterprise's obligation to repay the Loan hereunder and all of its other obligations under this Agreement shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment which the Enterprise may have against the Bank or any other Person, including, without limitation, any defense based on the failure of any nonapplication or misapplication of the proceeds of the Loan hereunder, and irrespective of the legality, validity, regularity or enforceability of all or any of the Financing Documents, and notwithstanding any amendment or waiver of (other than an amendment or waiver signed by the Bank explicitly reciting the release or discharge of any such obligation), or any consent to, or departure from, all or any of the Financing Documents or any exchange, release, or nonperfection of any collateral securing the obligations of the Enterprise hereunder and any other circumstances or happening whatsoever, whether or not similar to any of the foregoing; provided, however, that nothing contained in this Section 2.02(e) shall abrogate or otherwise affect the rights of the Enterprise pursuant to Section 8.05 hereof.

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

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

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

(i) ***Maximum Interest Rate.*** If the interest due and payable on any obligation hereunder computed at the applicable rate as provided in Section 2.02 hereof is in excess of 9.5% (the “Maximum Rate”), the difference between what would have been the interest payable on such amounts had they accrued interest at the rate provided in Section 2.02 and the Maximum Rate (the “Interest Differential”) shall remain an obligation of the Enterprise. Notwithstanding anything herein or in the Financing Documents to the contrary, if at any time there is an Interest Differential owed to the Bank, any reduction in interest rate that would result from the application of the Maximum Rate to the Default Interest Rate, shall not reduce the rate of interest below the Maximum Rate until the total amount due has been paid to the Bank as if the applicable rate computed as provided in Section 2.02 hereof had at all times been utilized.

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

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

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

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

(b) the Bank has received a certified copy of the Authorizing Ordinance of the Enterprise, which shall be in form and content satisfactory to the Bank and authorize the Enterprise to finance the Project, obtain the Loan and perform all acts contemplated by this Agreement and all other Financing Documents; and a certified copy of all other ordinances, resolutions and proceedings taken by the Enterprise authorizing the Enterprise to finance the Project, obtain the Loan and the execution, delivery and performance of this Agreement and the other Financing Documents and the transactions contemplated hereunder and thereunder, together with such other certifications as to the specimen signatures of the officers of the Enterprise authorized to sign this Agreement and the other Financing Documents to be delivered by the Enterprise hereunder and as to other matters of fact as shall reasonably be requested by the Bank;

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

(d) the Enterprise has provided a certificate certifying that the only Senior Debt outstanding as of the Closing Date is the 2018A Bonds and the 2018B Bonds and that the only Parity Debt outstanding as of the Closing Date is the 2019 Loan Agreement, the 2020 Loan Agreement, and the 2020 State Loan Agreement;

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

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

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

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

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

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

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

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

Section 2.06. Procedure for Requesting and Funding Advances.

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

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

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

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

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

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

(vi) *Material Adverse Changes.* Since December 31, 2020, there has been no change in the business, property, prospects, condition (financial or otherwise) or results of operations of the Enterprise which could reasonably be expected to have a Material Adverse Effect.

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

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

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

ARTICLE III

FUNDS AND ACCOUNTS

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

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE ENTERPRISE

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

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

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

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

Section 4.04. Consents. The Enterprise has obtained all consents, permits, licenses and approvals of, and has made all registrations and declarations with any governmental authority or

regulatory body required for the execution, delivery and performance by the Enterprise of this Agreement and the other Financing Documents.

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

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

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

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

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

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

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

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

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

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

Section 4.15. Outstanding Debt. Upon the execution and delivery of this Agreement, except for the Financing Documents and the 2018A Bonds, the 2018B Bonds, the 2019 Loan Agreement, the 2020 Loan Agreement, and the 2020 State Loan Agreement, the Enterprise will have no other Debt outstanding payable from or secured by the Net Pledged Revenues or any portion thereof. The Enterprise represents and warrants that it will incur additional Debt only in accordance with the provisions of Section 5.23 of this Agreement.

ARTICLE V

COVENANTS OF THE ENTERPRISE

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

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

the Loan, the Note, this Agreement, and the other Financing Documents are and will be valid and enforceable obligations of the Enterprise according to the terms hereof and thereof.

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

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

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

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

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

discharged or to make provision for any such tax, assessment, lien or charge, so long as the validity thereof is contested in good faith and by appropriate legal proceedings.

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

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

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

Section 5.10. Other Liens. Other than the 2018A Bonds, the 2018B Bonds, the 2019 Loan Agreement, the 2020 Loan Agreement, and the 2020 State Loan Agreement, there are no liens or encumbrances of any nature whatsoever on or against the System, or any part thereof, or on or against the Net Pledged Revenues on a parity with or superior to the lien thereon of this Agreement and the Note.

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

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

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

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

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

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

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

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

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

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

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

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

Section 5.20. Proper Books and Records. The Enterprise shall keep or cause to be kept adequate and proper records and books of account in which complete and correct entries shall be

made with respect to the Enterprise, the Net Pledged Revenues and all of the funds and accounts established or maintained pursuant to any of the Financing Documents. The Enterprise shall (a) maintain accounting records in accordance with generally recognized and accepted principles of accounting consistently applied throughout the accounting periods involved; (b) provide the Bank with such information concerning the business affairs and financial condition (including insurance coverage) of Enterprise as the Bank may request; and (c) without request, provide the Bank with the information set forth below.

Section 5.21. Reporting Requirements.

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

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

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

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

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

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

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

Section 5.23. Additional Debt. The Enterprise may issue Debt with a lien on the Net Pledged Revenues that is on a parity with or subordinate to the lien of this Agreement, without the Bank's prior written consent. The Enterprise may issue Debt with a lien on the Net Pledged

Revenues that is senior to the lien of this Agreement, without the Bank's prior written consent, if such Debt is issued pursuant to the provisions of the 2018 Bond Ordinance.

ARTICLE VI

INVESTMENTS

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

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.01. Events of Default. The occurrence of any one or more of the following events or the existence of any one or more of the following conditions shall constitute an Event of Default under this Agreement (whatever the reason for such event or condition and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree, rule, regulation or order of any court or any administrative or governmental body):

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

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

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

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

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

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

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

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

(i) the Enterprise shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it or seeking to adjudicate it insolvent or a bankrupt or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts; or (B) seeking appointment of a receiver, trustee, custodian or other similar official for itself or for any substantial part of its property, or the Enterprise shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against the Enterprise any case, proceeding or other action of a nature referred to in clause (i) and the same shall remain undismissed; or (iii) there shall be commenced against the Enterprise any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its property which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal, within 60 days from the entry thereof; (iv) the Enterprise shall take action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii) or (iii) above; or (v) the Enterprise shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due;

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

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

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

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

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

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

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

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

ARTICLE VIII

MISCELLANEOUS

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

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

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

to Enterprise: City of Fort Collins
P.O. Box 580
Fort Collins, CO 80522
Attn: City Manager

with a copy to: City of Fort Collins
P.O. Box 580
Fort Collins, CO 80522
Attn: City Attorney

to Bank: U.S. Bank National Association
400 S. Howes Street
Fort Collins, CO 80521
Attn: Greg Metzo

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

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

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

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

OTHER CREDIT AGREEMENT NOW IN EFFECT BETWEEN THE ENTERPRISE AND THE BANK, WHICH OCCURS AFTER RECEIPT BY THE ENTERPRISE OF THIS NOTICE, MAY BE MADE ONLY BY ANOTHER WRITTEN INSTRUMENT. ORAL OR IMPLIED MODIFICATIONS TO ANY SUCH CREDIT AGREEMENT IS NOT ENFORCEABLE AND SHOULD NOT BE RELIED UPON.

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

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

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

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

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

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

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

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

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

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

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

remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

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


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

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

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

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

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

By 
Name Dan Clements
Title Vice President

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

By _____
President

[ENTERPRISE SEAL]

Attest:

By _____
Secretary

[Signature Page to Loan Agreement]

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

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

By _____

Name _____

Title _____



[ENTERPRISE SEAL]

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

By _____

President

Attest:

By _____

Assistant Secretary

[Signature Page to Loan Agreement]

EXHIBIT A

FORM OF 2022 NOTE

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

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

2022 TAXABLE SUBORDINATE LIEN REVENUE NOTE

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

Advances Not to Exceed US \$2,500,000 _____, 2022

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CITY OF FORT COLLINS, COLORADO,
ELECTRIC UTILITY ENTERPRISE

By _____
President

[SEAL]

Attest:

By _____
Secretary

EXHIBIT B

FORM OF ADVANCE REQUEST

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

The undersigned certifies that he/she is an Authorized Person under that certain Loan Agreement dated as of May 31, 2022 (the "Agreement") by and between City of Fort Collins, Colorado, Electric Utility Enterprise and U.S. Bank National Association (the "Bank"). All capitalized terms used in this Advance Request ("Advance Request") shall have the respective meanings assigned in the Agreement.

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

- (i) The amount of the Advance so requested is \$_____.
- (ii) Upon the funding of such Advance, the sum of all Advances will not exceed the Maximum Advance Amount of the Loan.
- (iii) At the time the requested Advance is to be made and as a result thereof, immediately thereafter, all representations and warranties of the Enterprise set forth in Article IV of the Loan Agreement are true and correct as though made on the date hereof and will be true and correct as though made on the Advance Date and no Event of Default shall have occurred and be continuing on the date hereof and on the Advance Date and no litigation is currently pending or threatened concerning the Enterprise's authority to pledge the Net Pledged Revenues as provided in the Loan Agreement.
- (iv) The outstanding Senior Debt is rated in one of its four highest rating categories by a national recognized organization which regularly rates obligations such as the Senior Debt
- (v) The requested Advance shall be made by the Bank by ACH batch transfer to the Enterprise in accordance with the instructions set forth below:

[Insert wire instructions]

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

CITY OF FORT COLLINS, COLORADO,
ELECTRIC UTILITY ENTERPRISE

By _____
Authorized Person

EXHIBIT C

FORM OF CONVERSION NOTICE

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

The undersigned certifies that he/she is an Authorized Person under that certain Loan Agreement dated as of May 31, 2022 (the "Agreement") by and between City of Fort Collins, Colorado, Electric Utility Enterprise and U.S. Bank National Association (the "Bank"). All capitalized terms used in this Conversion Notice have the respective meanings assigned in the Agreement.

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

Advance Date

Outstanding Principal Amount

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

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

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

CITY OF FORT COLLINS, COLORADO,
ELECTRIC UTILITY ENTERPRISE

By _____
Authorized Person

LOAN AGREEMENT

by and between

CITY OF FORT COLLINS, COLORADO, ELECTRIC UTILITY ENTERPRISE

AND

ZB, N.A., DBA VECTRA BANK COLORADO

Relating to:

Not to exceed \$1,800,000 2022 Taxable Subordinate Lien Revenue Note

Dated as of July 13, 2022

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LOAN AGREEMENT

THIS LOAN AGREEMENT (this “Agreement”) is made and entered into as of July 13, 2022, by and between **CITY OF FORT COLLINS, COLORADO, ELECTRIC UTILITY ENTERPRISE**, an enterprise established and existing pursuant to the home rule charter of the City of Fort Collins, Colorado (the “Enterprise”), and **ZB, N.A., DBA VECTRA BANK COLORADO**, a national banking association, in its capacity as lender (the “Bank”).

WITNESSETH:

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

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

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

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

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

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

WHEREAS, the Board has determined that in order to finance Epic Loans (the “Project”), it is necessary and advisable and in the best interests of the Enterprise (i) to enter into this Agreement with the Bank pursuant to which the Bank shall loan the Enterprise an amount of not to exceed \$1,800,000 (the “Loan”) for such purposes, and (ii) to issue a promissory note (the “Note”) to the Bank to evidence the Enterprise’s repayment obligations under this Agreement; and

WHEREAS, the Enterprise has previously incurred the following financial obligations which are payable from and secured by a lien on the Net Pledged Revenues (as hereafter defined): (i) its “City of Fort Collins, Colorado, Electric Utility Enterprise, Tax-Exempt Revenue Bonds, Series 2018A” (the “2018A Bonds”) and its “City of Fort Collins, Colorado, Electric Utility Enterprise, Taxable Revenue Bonds, Series 2018B” (the “2018B Bonds” and, together with the 2018A Bonds, the “2018 Bonds”), (ii) a Loan Agreement with U.S. Bank National Association dated December 17, 2019, as amended (the “2019 Loan Agreement”), (iii) a Loan Agreement with ZB, N.A., DBA Vectra Bank Colorado, dated April 17, 2020 (the “2020 Loan Agreement”), (iv)

a Loan Agreement with the State of Colorado, Colorado Energy Office, with a start date of April 20, 2020 (the “2020 State Loan Agreement”), and (v) a Loan Agreement with U. S. Bank National Association dated May 31, 2022 (the “2022 Loan Agreement,” and together with the 2018 Bonds, the 2019 Loan Agreement, the 2020 Loan Agreement, and the 2020 State Loan Agreement, the “Prior Obligations”) ; and

WHEREAS, except for the Prior Obligations, neither the City nor the Enterprise has pledged or hypothecated the Gross Net Pledged Revenues (as herein defined) to the payment of any bonds or for any other purpose, with the result that the Net Pledged Revenues may now be pledged lawfully and irrevocably to the payment of the Loan which pledge will be subordinate to the pledge of Net Pledged Revenues to the payment of the 2018 Bonds and on a parity with the 2019 Loan Agreement, the 2020 Loan Agreement, the 2020 State Loan Agreement, and the 2022 Loan Agreement; and

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

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

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

ARTICLE I

DEFINITIONS

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

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

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

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

“*2019 Loan Agreement*” means the Enterprise’s Loan Agreement with U. S. Bank National Association dated December 17, 2019, as amended.

“*2020 Loan Agreement*” means the Enterprise’s Loan Agreement with ZB, N.A., DBA Vectra Bank Colorado dated April 17, 2020.

“*2020 State Loan Agreement*” means the Enterprise’s Loan Agreement with the State of Colorado, Colorado Energy Office, with a start date of April 20, 2020.

"2022 Loan Agreement" means the Enterprise's Loan Agreement with U. S. Bank National Association dated May 31, 2022.

"2022 Note" or "Note" means the City of Fort Collins, Colorado, Electric Utility Enterprise 2022 Taxable Subordinate Lien Revenue Note evidencing the Loan from the Enterprise, as maker, to the Bank, as payee, in an aggregate principal amount not to exceed \$1,800,000.

"Advance" means a disbursement of proceeds of the Unfunded Portion of the Loan pursuant to the terms hereof.

"Advance Period" means the period commencing on the date of the Closing Date and terminating on the third anniversary of the Closing Date unless terminated or extended as provided herein.

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

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

"Authorizing Ordinance" means the Ordinance adopted by the Board on May 3, 2022, authorizing the Enterprise to finance the Project, enter into the Loan and execute and deliver the Note, this Agreement, and the other Financing Documents.

"Bank" means ZB, N.A., dba Vectra Bank Colorado, a national banking association, in its capacity as lender of the Loan.

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

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

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

"Closing Date" means date of the Closing for the Loan.

"Commitment Fee" has the meaning set forth in Section 2.01(d) hereof. *"C.R.S."* means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

"Debt" means, without duplication, all of the following obligations of the Enterprise for the payment of which the Enterprise has promised or is required to pay from the Net Pledged

Revenues: (a) borrowed money of any kind; (b) obligations evidenced by bonds, debentures, notes or similar instruments; (c) obligations upon which interest charges are customarily paid; (d) obligations arising from guarantees made by the Enterprise; (e) obligations as an account party in respect of letters of credit and bankers' acceptances or similar obligations issued in respect of the Enterprise; and (f) obligations evidenced by any interest rate exchange agreement; provided that notwithstanding the foregoing, the term "Debt" does not include obligations issued for any purpose, the repayment of which is contingent upon the Enterprise's annual determination to appropriate moneys therefore.

"Default Interest Rate" means a rate per annum equal to the lesser of the sum of the Wall Street Journal Prime Rate plus 4% or the Maximum Rate.

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

"Event of Default" has the meaning set forth in Section 7.01 hereof.

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

"First Anniversary Advance Maturity Date" means the first anniversary of the Closing Date.

"First Anniversary Advance Period" means the period commencing on the Closing Date and terminating on the first anniversary of the Closing Date unless terminated or extended as provided herein.

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

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

"Gross Pledged Revenues" means all rates, fees, charges and revenues derived directly or indirectly by the City from the operation and use of and otherwise pertaining to the System, or any part thereof, whether resulting from Capital Improvements or otherwise, and includes all rates, fees, charges and revenues received by the City from the System, including without limitation:

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

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

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

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

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

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

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

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

“Interest Rate” means for Advances the interest rate set as provided in Section 2.07 and for Term Loans the interest rate set as provided in Section 2.08.

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

“Loan” means all Advances and Term Loans.

“Loan Amount” means, with respect to the Loan, a maximum amount of One Million Eight Hundred Thousand and 00/100 U.S. Dollars (\$1,800,000), or such lesser amount that has been Advanced by the Bank from time to time in accordance with the terms and provisions of this Agreement.

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

“Maturity Date” means April 17, 2037.

“Maximum Advance Amount” means, with respect to the 2022 Note, \$1,800,000.

“Maximum Rate” means 18% per annum.

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

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

- (a) All payments made to the Platte River Power Authority, a wholesale electricity provider that acquires, constructs and operates generation capacity for the City, or its successor in function;
- (b) Engineering, auditing, legal and other overhead expenses directly related and reasonably allocable to the administration, operation and maintenance of the System;
- (c) Insurance and surety bond premiums appertaining to the System;
- (d) The reasonable charges of any paying agent, registrar, transfer agent, depository or escrow agent appertaining to the System or any bonds or other securities issued therefor;
- (e) Annual payments to pension, retirement, health and hospitalization funds appertaining to the System;
- (f) Any taxes, assessments, franchise fees or other charges or payments in lieu of the foregoing;
- (g) Ordinary and current rentals of equipment or other property;
- (h) Contractual services, professional services, salaries, administrative expenses, and costs of labor appertaining to the System and the cost of materials and supplies used for current operation of the System;
- (i) The costs incurred in the billing and collection of all or any part of the Gross Pledged Revenues; and
- (j) Any costs of utility services furnished to the System by the City or otherwise.

“Operation and Maintenance Expenses” does not include:

- (a) Any allowance for depreciation;
- (b) Any costs of reconstruction, improvement, extensions, or betterments, including without limitation any costs of Capital Improvements;
- (c) Any accumulation of reserves for capital replacements;
- (d) Any reserves for operation, maintenance, or repair of the System;

- (e) Any allowance for the redemption of any bonds or other securities payable from the Net Pledged Revenues or the payment of any interest thereon;
- (f) Any liabilities incurred in the acquisition of any properties comprising the System; and
- (g) Any other ground of legal liability not based on contract.

“Parity Debt” means the 2019 Loan Agreement, the 2020 Loan Agreement, the 2020 State Loan Agreement, the 2022 Loan Agreement, and any other obligations of the Enterprise payable from and with a lien on the Net Pledged Revenues on a parity basis with the 2022 Note.

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

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

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

“Principal and Interest Payment Date” means for each Term Loan the first Business Day of each month, commencing the first such day occurring after the conversion to a Term Loan pursuant to Section 2.08 hereof and continuing through and including the Term Loan Maturity Date.

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

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

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

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

“System” means the City’s electric distribution system that furnishes electricity and related services and excludes the City’s telecommunications system Connexion using fiber-optic technology. The System consists of all properties, real, personal, mixed and otherwise, now owned or hereafter acquired by the City, through purchase, construction and otherwise, and used in connection with such system of the City, and in any way pertaining thereto and consisting of all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the City,

whether situated within or without the City boundaries, used in connection with such system of the City, and in any way appertaining thereto, including all present or future improvements, extensions, enlargements, betterments, replacements or additions thereof or thereto and administrative facilities.

“Term Loan” has the meaning specified in Section 2.08.

“Term Loan Maturity Date” means the Maturity Date.

“Third Anniversary Advance Maturity Date” means the third anniversary of the Closing Date.

“Third Anniversary Advance Period” means the period commencing on the Second Anniversary Advance Maturity Date and terminating on the third anniversary of the Closing Date unless terminated or extended as provided herein.

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

“Wall Street Journal Prime Rate” means the Wall Street Journal Prime Rate quoted by the Bank from the Wall Street Journal or any successor thereto.

ARTICLE II

LOAN

Section 2.01. Loan.

(a) ***Agreement to Make Loan.*** The Bank hereby agrees to extend the Loan to the Enterprise in the maximum aggregate principal amount of \$1,800,000 subject to the terms and conditions of this Agreement. The Loan shall be evidenced by the 2022 Note, the form of which is set forth in **Exhibit A** attached hereto.

(b) ***Advances.*** Subject to the terms and conditions of this Agreement, including without limitation satisfaction of the conditions set forth in Section 2.06 hereof and upon delivery to the Bank of an Advance Request in the form of **Exhibit B** hereto, the Bank hereby agrees to make Advances to the Enterprise from time to time during the Advance Period in the aggregate original principal amounts not to exceed \$1,800,000 with respect to the Loan (as more particularly defined in Article I hereof, the “Maximum Advance Amount”). On the Advance Termination Date, the Unfunded Portion shall be reduced to zero and no further Advances will be made hereunder.

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

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

(d) **Commitment Fee.** The Enterprise shall pay to the Bank a nonrefundable fee (the "Commitment Fee"), which shall be in the amount of 0.005% (\$9,000) of the maximum aggregate principal amount of the Loan. The Commitment Fee shall be paid on the Closing Date.

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

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

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

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

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

(c) **Prepayment.** The Loan may be prepaid, in whole or in part, at the option of the Enterprise, at a prepayment price equal to the principal amount so prepaid, plus accrued interest to the prepayment date and the prepayment fee set forth below. Any prepayment under this paragraph shall only be made after the Enterprise gives two Business Days written notice to the Bank. The following prepayment fee shall apply:

(i) From July 13, 2025, to July 13, 2027, a prepayment fee equal to 1% of the outstanding balance of the Loan; and

(ii) On any date after July 13, 2027, no prepayment fee shall be due.

Notwithstanding the foregoing, if on December 2 of each year any revenue of the EPIC Program applicable to Long-Term portion of the EPIC Program is available for repayment of the Loan, the Enterprise may deem such amounts "excess revenue" and prepay the Loan without Penalty on or Before December 15 of each year upon written notice to the Bank two Business Days in advance of such prepayment.

(d) **Obligations Unconditional.** The Enterprise's obligation to repay the Loan hereunder and all of its other obligations under this Agreement shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment which the Enterprise may have against the Bank or any other Person, including, without limitation, any defense based on the failure of any nonapplication or misapplication of the proceeds of the Loan hereunder, and irrespective of the legality, validity, regularity or enforceability of all or any of the Financing Documents, and notwithstanding any amendment or waiver of (other than an amendment or waiver signed by the Bank explicitly reciting the release or discharge of any such obligation), or any consent to, or departure from, all or any of the Financing Documents or any exchange, release, or non-perfection of any collateral securing the obligations of the Enterprise hereunder and any other circumstances or happening whatsoever, whether or not similar to any of the foregoing; provided, however, that nothing contained in this Section 2.02(d) shall abrogate or otherwise affect the rights of the Enterprise pursuant to Section 8.05 hereof.

(e) **Waivers, Etc.** To the full extent permitted by law: (i) the Enterprise hereby waives (A) presentment, demand, notice of demand, protest, notice of protest, notice of dishonor and notice of nonpayment; (B) to the extent the Bank is not in default hereunder, the right, if any, to the benefit of, or to direct application of, any security hypothecated to the Bank until all obligations of the Enterprise to the Bank hereunder, howsoever arising, have been paid; (C) the right to require the Bank to proceed against the Enterprise hereunder, or against any Person under any guaranty or similar arrangement, or under any agreement between the Bank and any Person or to pursue any other remedy in the Bank's power; and (D) any defense arising out of the election by the Bank to foreclose on any security by one or more non-judicial or judicial sales; (ii) the Bank may exercise any other right or remedy, even though any such election operates to impair or extinguish the Enterprise's right to repayment from, or any other right or remedy it may have against, any Person,

or any security; and (iii) the Enterprise agrees that the Bank may proceed against the Enterprise or any Person directly and independently of any other, and that any forbearance, change of rate of interest, or acceptance, release or substitution of any security, guaranty, or loan or change of any term or condition thereunder or under any Financing Document (other than by mutual agreement between the Enterprise and the Bank) shall not in any way affect the liability of the Enterprise hereunder.

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

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

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

Section 2.04. Pledge. The Enterprise hereby pledges, assigns and grants to the Bank a lien in the Net Pledged Revenues, which is subordinate to the lien which is pledged to secure the payment of Senior Debt but on a pari passu basis with the Parity Debt, to secure its obligations to the Bank

hereunder and under the other Financing Documents. The lien of the Bank on the Net Pledged Revenues hereunder shall be subject to no other liens except those liens granted on the Net Pledged Revenues to any Senior Debt heretofore or hereafter issued in accordance with the terms hereof and the Subordinate Debt. The Enterprise represents and warrants that, except for the Senior Debt, the Net Pledged Revenues is not and shall not be subject to any other lien or encumbrance without the prior written consent of the Bank except as otherwise permitted pursuant to this Agreement.

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

- (a) all Financing Documents and other instruments applicable to the Loan are in form and content satisfactory to the Bank and have been duly executed and delivered in form and substance satisfactory to the Bank and shall have not been modified, amended or rescinded, shall be in full force and effect on and as of the Closing Date and executed original or certified copies of each thereof shall have been delivered to the Bank;
- (b) the Bank has received a certified copy of the Authorizing Ordinance of the Enterprise, which shall be in form and content satisfactory to the Bank and authorize the Enterprise to finance the Project, obtain the Loan and perform all acts contemplated by this Agreement and all other Financing Documents; and a certified copy of all other ordinances, resolutions and proceedings taken by the Enterprise authorizing the Enterprise to finance the Project, obtain the Loan and the execution, delivery and performance of this Agreement and the other Financing Documents and the transactions contemplated hereunder and thereunder, together with such other certifications as to the specimen signatures of the officers of the Enterprise authorized to sign this Agreement and the other Financing Documents to be delivered by the Enterprise hereunder and as to other matters of fact as shall reasonably be requested by the Bank;
- (c) the Enterprise has provided a certificate certifying that on the Closing Date each representation and warranty on the part of the Enterprise contained in this Agreement and in any other Financing Document is true and correct and no Event of Default, or event which would, with the passage of time or the giving of notice, constitute an Event of Default, has occurred and is continuing and no default exists under any other Financing Documents, or under any other agreements by and between the Enterprise and the Bank and certifying as to such other matters as the Bank might reasonably request;
- (d) the Enterprise has provided a certificate certifying that the only Senior Debt outstanding as of the Closing Date is the 2018A Bonds and the 2018B Bonds and that the only outstanding Parity Debt as of the Closing Date is the 2019 Loan Agreement, the 2020 Loan Agreement, the 2020 State Loan Agreement, and the 2022 Loan Agreement;
- (e) all proceedings taken in connection with the transactions contemplated by this Agreement, and all instruments, authorizations and other documents applicable thereto, are satisfactory to the Bank and its counsel;
- (f) no law, regulation, ruling or other action of the United States, the State of Colorado or any political subdivision or authority therein or thereof shall be in effect or shall have occurred, the

effect of which would be to prevent the Enterprise from fulfilling its obligations under this Agreement or the other Financing Documents;

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

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

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

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

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

Section 2.06. Procedure for Requesting and Funding Advances.

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

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

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

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

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

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

(vi) *Material Adverse Changes.* Since December 31, 2021, there has been no change in the business, property, prospects, condition (financial or otherwise) or results of operations of the Enterprise which could reasonably be expected to have a Material Adverse Effect.

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

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

Section 2.07. Setting Interest Rate on Advances. For all Advances made to the Enterprise during the First Anniversary Advance Period, the Interest Rate shall be the rate of interest of the United States 10-Year Treasury Note at the end of the Business Day on the date of the first Advance made to the Enterprise during the First Anniversary Advance Period plus 2.75%. For all Advances made to the Enterprise during the Second Anniversary Advance Period, the Interest Rate shall be the rate of interest of the United States 10-Year Treasury Note at the end of the Business Day on the date of the first Advance made to the Enterprise during the Second Anniversary Advance Period plus 2.75%. For all Advances made to the Enterprise during the Third Anniversary Advance Period, the Interest Rate shall be the rate of interest of the United States 10-Year Treasury Note at the end of the Business Day on the date of the first Advance made to the Enterprise during the Third Anniversary Advance Period plus 2.75%.

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

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

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

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

ARTICLE III

FUNDS AND ACCOUNTS

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

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE ENTERPRISE

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

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

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

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

delivered, or its ability to pay in full in a timely fashion the obligations of the Enterprise under this Agreement or the other Financing Documents.

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

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

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

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

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

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

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

Section 4.11. Regulations U and X. The Enterprise is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation

U or X issued by the Board of Governors of the Federal Reserve System); and no proceeds of the Loan will be or have been used to extend credit to others for the purpose of purchasing or carrying any margin stock.

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

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

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

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

ARTICLE V

COVENANTS OF THE ENTERPRISE

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

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

and delivery of the Note, this Agreement, and the other Financing Documents has been duly and effectively taken and will be duly taken as provided herein, and that the Loan, the Note, this Agreement, and the other Financing Documents are and will be valid and enforceable obligations of the Enterprise according to the terms hereof and thereof.

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

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

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

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

Section 5.06. Payment of Governmental Charges. The Enterprise shall pay or cause to be paid all taxes and assessments or other governmental charges, if any, lawfully levied or assessed upon or in respect of the System, or upon any part thereof, or upon any portion of the Gross Pledged Revenues, when the same shall become due, and shall duly observe and comply with all valid requirements of any governmental authority relative to the System or any part thereof, except for any period during which the same are being contested in good faith by proper legal proceedings. The Enterprise shall not create or suffer to be created any lien upon the System, or any part thereof, or upon the Gross Pledged Revenues, except the pledge and lien created by for Senior Debt and Parity Debt and except as herein otherwise permitted. The Enterprise shall pay or cause to be discharged or shall make adequate provision to satisfy and to discharge, within 60 days after the same shall become payable, all lawful claims and demands for labor, materials, supplies or other

objects which, if unpaid, might by law become a lien upon the System, or any part thereof, or the Gross Pledged Revenues; but nothing herein requires the Enterprise to pay or cause to be discharged or to make provision for any such tax, assessment, lien or charge, so long as the validity thereof is contested in good faith and by appropriate legal proceedings.

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

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

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

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

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

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

- (a) ***Operation and Maintenance Expenses.*** amount equal to the annual Operation and Maintenance Expenses for such Fiscal Year that are payable from the Gross Pledged Revenues
- (b) ***Principal and Interest.*** An amount equal to 125% of the debt service requirements on the Senior Debt and any Parity Debt then outstanding in that Fiscal Year (excluding the reserves therefor), and
- (c) ***Deficiencies.*** All sums, if any, due and owing to meet then existing deficiencies pertaining to any fund or account relating to the Gross Pledged Revenues or any securities payable therefrom.

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

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

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

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

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

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

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

Section 5.20. Proper Books and Records. The Enterprise shall keep or cause to be kept adequate and proper records and books of account in which complete and correct entries shall be made with respect to the Enterprise, the Net Pledged Revenues and all of the funds and accounts established or maintained pursuant to any of the Financing Documents. The Enterprise shall (a) maintain

accounting records in accordance with generally recognized and accepted principles of accounting consistently applied throughout the accounting periods involved; (b) provide the Bank with such information concerning the business affairs and financial condition (including insurance coverage) of Enterprise as the Bank may request; and (c) without request, provide the Bank with the information set forth below.

Section 5.21. Reporting Requirements.

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

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

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

(ii) within 30 days of each calendar year's quarter end, the Enterprise's financial statements with respect to the collection of revenue of the EPIC Program; and

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

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

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

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

Section 5.23. Additional Debt. The Enterprise may issue Debt with a lien on the Net Pledged Revenues that is on a parity with or subordinate to the lien of this Agreement, without the Bank's

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

ARTICLE VI

INVESTMENTS

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

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.01. Events of Default. The occurrence of any one or more of the following events or the existence of any one or more of the following conditions shall constitute an Event of Default under this Agreement (whatever the reason for such event or condition and whether it shall be voluntary or involuntary or be affected by operation of law or pursuant to any judgment, decree, rule, regulation or order of any court or any administrative or governmental body):

- (a) the Enterprise fails to pay the principal of or interest on the Note or any Parity Debt when due;
- (b) the Enterprise fails to pay when due any other amounts due and payable to the Bank under this Agreement or any other Financing Documents;
- (c) the Enterprise fails to observe or perform any other of the covenants, agreements or conditions on the part of the Enterprise in this Agreement, the Note, or the Authorizing Ordinance and the Enterprise fails to remedy the same within 30 days after the Bank has provided the Enterprise with notice thereof;
- (d) any representation or warranty made by the Enterprise in this Agreement or in any other Financing Document or any certificate, instrument, financial or other statement furnished by the Enterprise to the Bank, proves to have been untrue or incomplete in any material respect when made or deemed made;
- (e) the pledge of the collateral or any other security interest created hereunder fails to be fully enforceable with the priority required hereunder or thereunder;
- (f) any judgment or court order for the payment of money exceeding any applicable insurance coverage by more than \$100,000 in the aggregate is rendered against the Enterprise and the Enterprise fails to vacate, bond, stay, contest, pay or satisfy such judgment or court order for 60 days;
- (g) the Enterprise shall initiate, acquiesce or consent to any proceedings to dissolve the Enterprise or to consolidate the Enterprise with other similar entities into a single entity or the Enterprise shall otherwise cease to exist;

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

(i) the Enterprise shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it or seeking to adjudicate it insolvent or a bankrupt or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts; or (B) seeking appointment of a receiver, trustee, custodian or other similar official for itself or for any substantial part of its property, or the Enterprise shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against the Enterprise any case, proceeding or other action of a nature referred to in clause (i) and the same shall remain undismissed; or (iii) there shall be commenced against the Enterprise any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its property which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal, within 60 days from the entry thereof; (iv) the Enterprise shall take action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii) or (iii) above; or (v) the Enterprise shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due;

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

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

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

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

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

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

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

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

ARTICLE VIII

MISCELLANEOUS

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

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

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

to Enterprise: City of Fort Collins
P.O. Box 580
Fort Collins, CO 80522
Attn: City Manager

with a copy to: City of Fort Collins
P.O. Box 580
Fort Collins, CO 80522
Attn: City Attorney

to Bank: ZB, N.A., dba Vectra Bank Colorado
2000 S. Colorado Boulevard
Suite 2-1200
Denver, CO 80222
Attention: Conrad Freeman
Email: conrad.freeman@vectrabank.com
Telephone: (720) 947-8802

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

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

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

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING, EXPRESSING CONSIDERATION AND SIGNED BY THE PARTIES ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN

CONTRACT MAY BE LEGALLY ENFORCED. THE TERMS OF THIS AGREEMENT MAY ONLY BE CHANGED BY ANOTHER WRITTEN AGREEMENT. THIS NOTICE SHALL ALSO BE EFFECTIVE WITH RESPECT TO ALL OTHER CREDIT AGREEMENTS NOW IN EFFECT BETWEEN THE ENTERPRISE AND THE BANK. A MODIFICATION OF ANY OTHER CREDIT AGREEMENT NOW IN EFFECT BETWEEN THE ENTERPRISE AND THE BANK, WHICH OCCURS AFTER RECEIPT BY THE ENTERPRISE OF THIS NOTICE, MAY BE MADE ONLY BY ANOTHER WRITTEN INSTRUMENT. ORAL OR IMPLIED MODIFICATIONS TO ANY SUCH CREDIT AGREEMENT IS NOT ENFORCEABLE AND SHOULD NOT BE RELIED UPON.

Section 8.07. Waiver of Jury Trial; Class Action Waiver. As permitted by applicable law, each party waives their respective rights to a trial before a jury in connection with any Dispute (as "Dispute" is hereinafter defined), and Disputes shall be resolved by a judge sitting without a jury. If a court determines that this provision is not enforceable for any reason and at any time prior to trial of the Dispute, but not later than 30 days after entry of the order determining this provision is unenforceable, any party shall be entitled to move the court for an order compelling arbitration and staying or dismissing such litigation pending arbitration ("Arbitration Order"). To the extent permitted by applicable law, each party also waives the right to litigate in court or an arbitration proceeding any Dispute as a class action, either as a member of a class or as a representative, or to act as a private attorney general.

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

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

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

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

Section 8.12. Pledge of Revenues. The creation, perfection, enforcement, and priority of the pledge of revenues to secure or pay the Loan provided herein shall be governed by

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

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

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

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

Section 8.16. Execution in Counterparts; Electronic Storage. This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same Agreement. The parties hereto agree that the transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic

files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

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

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

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

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

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

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

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

By  _____

Name Conrad Freeman

Title Senior Vice President



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

By  _____
President

Attest:

By  _____

Secretary

[Signature Page to Loan Agreement]

EXHIBIT A

FORM OF 2022 NOTE

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

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

2022 TAXABLE SUBORDINATE LIEN REVENUE NOTE

**IN THE AGGREGATE PRINCIPAL AMOUNT OF
NOT TO EXCEED \$1,800,000**

Advances Not to Exceed US \$1,800,000

July 13, 2022

FOR VALUE RECEIVED, CITY OF FORT COLLINS, COLORADO, ELECTRIC UTILITY ENTERPRISE, an enterprise of the City of Fort Collins, Colorado, (hereinafter referred to as "Maker"), promises to pay to the order of ZB, N.A., DBA VECTRA BANK COLORADO, a national banking association, its successors and assigns (hereinafter referred to as "Payee"), at the office of Payee or its agent, designee, or assignee at 2000 South Colorado Blvd., Denver, Colorado 80222, or at such place as Payee or its agent, designee, or assignee may from time to time designate in writing, all Advances made in an amount not to exceed the principal sum of ONE MILLION EIGHT HUNDRED THOUSAND AND NO/100 DOLLARS (US \$1,800,000) (this "Note") pursuant to the terms of the Loan Agreement dated of even date herewith by and between Maker and Payee (the "Loan Agreement"), in lawful money of the United States of America.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CITY OF FORT COLLINS, COLORADO,
ELECTRIC UTILITY ENTERPRISE

By _____
President

[SEAL]

Attest:

By _____
Secretary

EXHIBIT B

FORM OF ADVANCE REQUEST

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

The undersigned certifies that he/she is an Authorized Person under that certain Loan Agreement dated as of [INSERT DATE] (the "Agreement") by and between City of Fort Collins, Colorado, Electric Utility Enterprise and ZB, N.A., dba Vectra Bank Colorado (the "Bank"). All capitalized terms used in this Advance Request ("Advance Request") shall have the respective meanings assigned in the Agreement.

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

- (i) The amount of the Advance so requested is \$_____.
- (ii) Upon the funding of such Advance, the sum of all Advances will not exceed the Maximum Advance Amount of the Loan.
- (iii) At the time the requested Advance is to be made and as a result thereof, immediately thereafter, all representations and warranties of the Enterprise set forth in Article IV of the Loan Agreement are true and correct as though made on the date hereof and will be true and correct as though made on the Advance Date and no Event of Default shall have occurred and be continuing on the date hereof and on the Advance Date and no litigation is currently pending or threatened concerning the Enterprise's authority to pledge the Net Pledged Revenues as provided in the Loan Agreement.
- (iv) The outstanding Senior Debt is rated in one of its four highest rating categories by a national recognized organization which regularly rates obligations such as the Senior Debt.
- (v) The requested Advance shall be made by the Bank by ACH batch transfer to the Enterprise in accordance with the instructions set forth below:

[Insert wire instructions]

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 20____.
CITY OF FORT COLLINS, COLORADO,
ELECTRIC UTILITY ENTERPRISE

By _____
Authorized Person