

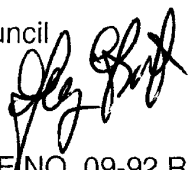


Colorado Springs Utilities
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Interoffice Memorandum

DATE: October 15, 2009

TO: Honorable Mayor and Members of City Council

FROM: Jerry Forte, P.E., Chief Executive Officer 

RE: AN ORDINANCE AMENDING ORDINANCE NO. 09-92 RELATING TO THE CITY OF COLORADO SPRINGS, COLORADO, UTILITIES SYSTEM REFUNDING REVENUE BONDS, SERIES 2009A; RATIFYING ACTION HERETOFORE TAKEN RELATING TO SUCH UTILITIES BONDS; AND PROVIDING OTHER MATTERS RELATING THERETO.

CITY STRATEGIC GOAL(S) THIS ITEM SUPPORTS:



UTILITIES' STRATEGIC GOAL(S) THIS ITEM SUPPORTS: S3: Maintain Financial Stability

SUMMARY: The attached Ordinance addresses the amendment of Ordinance 09-92 for Utilities System Refunding Revenue Bonds, Series 2009A to make certain administrative modifications to accommodate such 2009A Bonds maturing on the same date and bearing different rates of interest.

PREVIOUS COUNCIL ACTION: On July 28, 2009 City Council approved Ordinance 09-92 which authorized the issuance of the City of Colorado Springs, Colorado, Utilities System Refunding Revenue Bonds, Series 2009A.

BACKGROUND: The Long Term Financing Plan (Plan) was presented to the Utilities Board on May 21, 2003 and July 16, 2003. The Plan objectives include: minimize debt costs, maintain quality of credit ratings, balance risk/benefits and maintain flexibility. A Financial Risk Management Policy (Policy) was developed in accordance with the Plan and Executive Limitation (EL) 7 was revised on July 16, 2003 to conform to the Plan. The goal of the Policy is to contain the volatility in borrowing rates within predefined limits while achieving the lowest overall cost of capital.

FINANCIAL IMPLICATIONS: N/A

BOARD/COMMISSION RECOMMENDATION: N/A

STAKEHOLDER PROCESS: N/A

ALTERNATIVES: The Utilities could choose not to submit the amendment to the Ordinance. This alternative would not be advantageous to the Utilities at this time.

RECOMMENDATION: Move approval of proposed amendment to Ordinance 09-92.

PROPOSED MOTION: Approval of proposed ordinance.

c: Utilities' Officer Team

ORDINANCE NO. 09-____

AN ORDINANCE AMENDING ORDINANCE NO. 09-92 RELATING TO THE CITY OF COLORADO SPRINGS, COLORADO, UTILITIES SYSTEM REFUNDING REVENUE BONDS, SERIES 2009A; RATIFYING ACTION HERETOFORE TAKEN RELATING TO SUCH UTILITIES BONDS; AND PROVIDING OTHER MATTERS RELATING THERETO.

WHEREAS, the City of Colorado Springs, El Paso County, Colorado (the "City") is a municipal corporation duly organized and existing under the laws of the State of Colorado and in particular under the provisions of Article XX of the Constitution of the State of Colorado and the City's Charter (the "Charter"); and

WHEREAS, the City now owns and operates a municipal water system, electric light and power system, gas system, wastewater system and certain other systems heretofore designated by the City Council (the "Council") of the City, constituting the Utilities created by the Charter; and

WHEREAS, on July 28, 2009, the Council adopted and approved Ordinance No. 09-92 (the "2009A Bond Ordinance"), which authorized the issuance of the City of Colorado Springs, Colorado, Utilities System Refunding Revenue Bonds, Series 2009A (the "2009A Bonds"); and

WHEREAS, the 2009A Bonds were issued by the City on September 2, 2009; and

WHEREAS, certain 2009A Bonds mature on the same dates, but bear interest at different interest rates; and

WHEREAS, the City desires to amend the 2009A Bond Ordinance to make certain administrative modifications to accommodate such 2009A Bonds maturing on the same date and bearing different rates of interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. The final paragraph of Section 303 of the 2009A Bond Ordinance shall be amended to read as follows:

In the event that less than all of the Outstanding Bonds shall be redeemed as provided in this Section, the Bonds redeemed shall be redeemed from any maturity and interest rate specified by the City. If less than all of the Bonds of a single maturity and interest rate are to be redeemed, they shall be selected by lot in such manner as the Paying Agent may determine. The Paying Agent shall not be required to give notice of any such optional prior redemption unless it has received written instructions from the City in regard thereto at least 45 days prior to such Redemption Date.

Section 2. The last sentence of the final paragraph of Section 304 of the 2009A Bond Ordinance shall be amended to read as follows:

Except as provided in Section 310 hereof, upon surrender of any Bond redeemed in part only, the Paying Agent shall execute and deliver to the Owner thereof, at no expense to such Owner, a new Bond or Bonds of authorized denominations and of the same maturity and interest rate equal in aggregate principal amount to the unredeemed portion of the Bond surrendered.

Section 3. The first paragraph of Section 308 of the 2009A Bond Ordinance shall be amended to read as follows:

Any Bond may be transferred upon the records required to be kept pursuant to the provisions of Section 307 hereof by the Person in whose name it is registered, in person or by his or her duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a written instrument of transfer in a form approved by the Paying Agent, duly executed. Whenever any Bond or Bonds shall be surrendered for transfer, the Paying Agent shall authenticate and deliver a new Bond or Bonds for a like aggregate principal amount of Bonds of the same maturity and interest rate and of any authorized denominations. The Bonds may be exchanged by the Paying Agent for a like aggregate principal amount of Bonds of the same maturity and interest rate and of other authorized denominations. The execution by the City of any Bond of any denomination shall constitute full and due authorization of such denomination and the Paying Agent shall thereby be authorized to authenticate and deliver such Bond.

Section 4. The first sentence of Section 309 of the 2009A Bond Ordinance shall be amended to read as follows:

Upon receipt by the City and the Paying Agent of evidence satisfactory to them of the ownership of and the loss, theft, destruction or mutilation of any Bond and, in the case of a lost, stolen or destroyed Bond, of indemnity satisfactory to them, and in the case of a mutilated Bond upon surrender and cancellation of the Bond, (a) the City shall execute and the Paying Agent shall authenticate and deliver a new Bond of the same date, maturity, interest rate and denomination in lieu of such lost, stolen, destroyed or mutilated Bond or (b) if such lost, stolen, destroyed or mutilated Bond shall have matured or have been called for redemption, in lieu of executing and delivering a new Bond as aforesaid, the City may pay such Bond.

Section 5. The first sentence of the first paragraph of Section 310 of the 2009A Bond Ordinance shall be amended to read as follows:

Notwithstanding the provisions of Sections 307 and 308 hereof, the Bonds shall initially be evidenced by one Bond for each year and interest rate in which the Bonds mature and bear interest in denominations equal to the aggregate principal amount of the Bonds maturing in that year bearing that rate of interest.

Section 6. The first sentence of the second paragraph of Section 310 of the 2009A Bond Ordinance shall be amended to read as follows:

In the case of a transfer to a successor of DTC or its nominee as referred to in paragraph A above or designation of a new Depository pursuant to paragraph B above, upon receipt of the Bonds by the Paying Agent, together with written instructions for transfer

satisfactory to the Paying Agent, a new Bond for each maturity and interest rate of Bonds shall be issued to such successor or new Depository, as the case may be, or its nominee, as is specified in such written transfer instructions..

Section 7. All action heretofore taken (not inconsistent with the provisions of this ordinance) by the Council, the officers of the City and otherwise taken by the City directed toward the amendment of the 2009A Bond Ordinance be, and the same hereby is, ratified, approved and confirmed.

Section 8. If any section, paragraph, clause or provision of this ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

Section 9. All bylaws, orders, resolutions and ordinances, or parts hereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance, or part thereof.

Section 10. Except as amended hereby, the provisions of the 2009A Bond Ordinance are hereby ratified, approved and confirmed.

Section 11. This ordinance upon passage shall be entered upon the journal of the Council's proceedings, shall be kept in the book marked "Ordinance Record" and authenticated as required by the Charter, shall be published twice in a daily, legal newspaper of general circulation in the City in compliance with the requirements of the Charter with the first publication to be at least ten (10) days before final passage of this ordinance, and the second publication to be any time after its final passage. The Council hereby determines that it is appropriate that publication of this ordinance by title with a summary written by the City Clerk, together with a statement that this ordinance is available for public inspection and acquisition in the office of the City Clerk, shall be sufficient publication pursuant to Section 3-80 of the Charter and this ordinance shall be so published.

Section 12. This ordinance shall be in full force and effective five (5) days after its final publication.

INTRODUCED, PASSED, ON FIRST READING, APPROVED AND ORDERED PUBLISHED BY TITLE AND SUMMARY this 27th day of October, 2009.

Mayor

(SEAL)

ATTEST:

City Clerk

INTRODUCED, PASSED ON SECOND READING, APPROVED AND ORDERED
PUBLISHED BY TITLE AND SUMMARY this 10th day of November, 2009.

Mayor

(SEAL)

ATTEST:

City Clerk

EXHIBIT A

(Attach Affidavit of Publication, by Title and Summary, of
Ordinance No. 09-_____ after First Reading)

EXHIBIT B

(Attach Affidavit of Publication, by Title and Summary, of
Ordinance No. 09-_____ after Second Reading)