

\_\_\_\_\_, 2022

City of Commerce City, Colorado

\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

Re: Forward Fixed Rate Lock Letter

Dear \_\_\_\_\_:

The City of Commerce City, Colorado (the “City”) has requested that CN Financing, Inc. (the “Bank”) provide the City with forward rate commitments (the “Forward Rates”) for the City’s (i) City of Commerce City, Colorado Sales and Use Tax Revenue Bonds, Series 2022A (the “Series 2022A Bonds”), (ii) City of Commerce City, Colorado Taxable (Convertible to Tax-Exempt) Sales and Use Tax Revenue Refunding Bonds, Series 2022B (the “Series 2022B Bonds”) and (iii) City of Commerce City, Colorado Taxable (Convertible to Tax-Exempt) Sales and Use Tax Revenue Refunding Bonds, Series 2022C (the “Series 2022C Bonds” and together with the Series 2022A Bonds and the Series 2022B Bonds, collectively referred to herein as the “Bonds”). The Forward Rate with respect to the Series 2022A Bonds is offered at a tax-exempt fixed rate of \_\_\_\_\_ percent (\_\_\_\_%) per annum for a principal amount of \$\_\_\_\_\_. The Forward Rate with respect to the Series 2022B Bonds is offered at a taxable fixed rate of \_\_\_\_\_ percent (\_\_\_\_%) per annum and a tax-exempt fixed rate of \_\_\_\_\_ percent (\_\_\_\_%) per annum for a principal amount of \$\_\_\_\_\_. The Forward Rate with respect to the Series 2022C Bonds is offered at a taxable fixed rate of \_\_\_\_\_ percent (\_\_\_\_%) per annum and a tax-exempt fixed rate of \_\_\_\_\_ percent (\_\_\_\_%) per annum for a principal amount of \$\_\_\_\_\_. The Forward Rate related to each series of Bonds shall begin no later than \_\_\_\_\_, 2022 (the “Rate Lock Expiration Date”). The Bonds shall amortize in accordance with the amortization schedule set forth in Exhibit A hereto.

The Bank is willing to commit to the Forward Rates upon the terms and conditions specified herein, subject to the receipt of internal credit approval and the execution and delivery of the definitive documentation for the Bonds in form and content satisfactory to the Bank and satisfaction of the other terms and conditions as are set forth in such definitive documentation. The documentation must be executed and delivered and funding of the Bonds must occur by a date (the “Closing Date”) which is no later than the Rate Lock Expiration Date.

By accepting this letter, the City agrees that in the event that for any reason the Closing Date does not occur on or before the Rate Lock Expiration Date, the Bank shall not be obligated to provide the Forward Rates and the City shall pay to the Bank the amount, if any, as calculated in accordance with the terms of Exhibit B Attached hereto. Such payment shall be due two (2)

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business days after the Bank gives notice to the City of the amount thereof, setting forth in reasonable detail the basis for the calculation thereof. A certificate by the Bank as to such amount shall be conclusive if made in good faith. The City acknowledges and agrees that such amount represents reasonable compensation for loss of bargain and is not a penalty. Any amounts payable hereunder by the City shall be payable solely from Pledged Revenues (as defined in Ordinance No. \_\_\_\_\_ adopted by the City Council on March 7, 2022).

This letter is governed by the laws of the State of Colorado. No modification or waiver of any of the terms of this letter will be valid unless agreed to in writing by the Bank. When accepted, this letter will constitute the entire agreement between the Bank and the City concerning the Forward Rates and shall supersede all prior and contemporaneous understandings and agreements (written or oral) relating thereto.

[Signature Pages Follow]

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To accept this letter, please sign the enclosed copy where indicated below and return it to the Bank no later than the Bank's close of business on \_\_\_\_\_, 2022. If this letter is not accepted by said date, this letter will automatically terminate without liability or further obligation of the Bank.

Very truly yours,

CN FINANCING, INC.

By: \_\_\_\_\_

Name: Kenneth Haber

Title: Senior Vice President

ACCEPTANCE

The City hereby agrees to the above provisions, intending to be legally bound hereby. The City understands that the above provisions may obligate the City to make a significant payment to the Bank in the event the Closing Date does not occur by the Rate Lock Expiration Date, and the amount of any such payment cannot be predicted in advance of such event. Any amounts payable hereunder by the City shall be payable solely from Pledged Revenues (as defined in Ordinance No. \_\_\_\_\_ adopted by the City Council on March 7, 2022). The City is fully informed of and is capable of evaluating, and has evaluated, the potential financial risks and benefits and the appropriateness in light of its individual circumstances, of this letter. The City is entering into this letter in reliance only upon its own judgment, and is not relying upon any representations, warranty, views or advice of the Bank.

CITY OF COMMERCE CITY, COLORADO

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Exhibit A

Series 2022A Amortization

Series 2022B Amortization

Series 2022C Amortization

## Exhibit A

### MAKE-WHOLE AMOUNT

*Section 1.01. No Make-Whole Amount Owed.* If on the Rate-Lock Break Date the Yield is equal to or greater than the Yield on the Rate Lock Date, no fee pursuant to Section 1.02 below shall be due to the Bank.

*Section 1.02 Make-Whole Formulation.* If on the Rate-Lock Break Date the Yield is less than the Yield on the Rate Lock Date, the City shall pay to the Bank a fee equal to the following formula:

(Principal Amount Not Funded) x (Decline in Yield) x (Remaining Term) x (Factor); or one (1) percent of the principal balance not funded, whichever is greater.

*Section 1.03 Definitions.* For purposes of the calculations set forth in this Exhibit A, the follow terms have the meanings set forth below:

“*Factor*” means an approximation of the effect of discounting future interest; which is:

- (i) 0.8 if the Remaining Term is five (5) years or less;
- (ii) 0.7 if the Remaining Term is greater than five (5) years but less than then (10) years.
- (iii) 0.5 if the Remaining Term is ten (10) years or greater.

“*Rate End Date*” means \_\_\_\_\_.

“*Rate Lock Break Date*” means the earlier of (i) the Rate Lock Expiration Date, to the extent all of the principal amount of the Bonds is not issued and sold to the Bank by such day and (ii) the date the City irrevocably gives notice to the Bank in writing that they no longer intend to issue and sell to the Bank any of the principal amount of the Bonds by the Rate Lock Expiration Date.

“*Rate Lock Date*” means \_\_\_\_\_, 2022.

“*Rate Term*” means the length of the current interest rate period, commencing with the Rate Lock Date and ending with the Rate End Date.

“*Remaining Term*” means the number of days to the Rate End Date divided by 360.

“*Yield*” means the Ask Yield for Treasury Securities maturing closest to the Rate End Date, excluding "inflation indexed" Treasury Securities and Treasury Securities listed in one (1) entry as maturing in more than one (1) year, as published in the Wall Street Journal (Western Edition).

If more than one (1) Yield is published for a particular maturity, the Bank will use the Yield closest to the Yield at the Rate Lock Date. If for any reason, the Yield is no longer published in the Wall Street Journal or otherwise becomes unavailable, the Bank will select as its successor any other index not prohibited by law.